UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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 29, 2023**

NRG ENERGY, INC.
(Exact name of Registrant as specified in its charter)

Delaware	**001-15891**	**41-1724239**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

910 Louisiana Street Houston Texas 77002
(Address of principal executive offices, including zip code)

(713) 537-3000
(Registrant's telephone number, including area code)

N/A
(Former name or former address, if changed since last report)

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:

☐ 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 exchange on which registered**
Common Stock, par value $0.01	NRG	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.

On August 29, 2023, Alexander Funding Trust II, a newly-formed Delaware statutory trust (the "Trust"), completed the sale of 500,000 of its pre-capitalized trust securities redeemable July 31, 2028 (the "P-Caps") for an aggregate purchase price of $500.0 million to certain qualified institutional buyers, and who are also "qualified purchasers" (as defined in the Investment Company Act of 1940), pursuant to the terms of the purchase agreement, dated August 15, 2023, among the Trust, NRG Energy, Inc. ("NRG"), the guarantors named therein and the initial purchasers party thereto. The Trust invested the proceeds from the sale of the P-Caps in a portfolio of principal and interest strips of U.S. Treasury securities (the "Eligible Treasury Assets"), and NRG agreed to reimburse the Trust for trustees' fees and the Trust's other expenses in connection with the transaction. The rights of the holders of the P-Caps with respect to the assets of the Trust are subject to the terms of the Trust's amended and restated declaration of trust dated August 29, 2023 (the "Trust Declaration"). The P-Caps will replace NRG's existing pre-capitalized trust securities redeemable 2023 issued by Alexander Funding Trust, which mature on November 15, 2023.

In connection with the sale of the P-Caps, NRG and the guarantors named therein entered into a facility agreement, dated August 29, 2023 (the "Facility Agreement"), with the Trust and Deutsche Bank Trust Company Americas, as notes trustee (the "Notes Trustee"). Under the Facility Agreement, NRG has the right, from time to time, to issue to the Trust and to require the Trust to purchase from NRG, on one or more occasions (the "Issuance Right"), up to $500.0 million aggregate principal amount of NRG's 7.467% Senior Secured First Lien Notes due 2028 (the "Notes") in exchange for all or a portion of the Eligible Treasury Assets corresponding to the portion of the Issuance Right under the Facility Agreement being exercised at such time. NRG will pay a semi-annual facility fee to the Trust, calculated at a rate of 3.13427% per annum applied to the unexercised portion of the Issuance Right.

The Issuance Right will be exercised automatically in full (1) if NRG fails to pay the facility fee when due or any amount due and owing under the trust expense reimbursement agreement or fails to purchase and pay for any Eligible Treasury Assets that are due and not paid on their payment date and such failure is not cured within 30 days, or (2) upon certain bankruptcy events of NRG. NRG will be required to mandatorily exercise the Issuance Right if certain mandatory exercise events occur upon the terms and conditions set forth in the Facility Agreement.

In lieu of issuing some or all of the Notes as to which NRG has voluntarily or mandatorily exercised the Issuance Right, NRG may elect to make a cash payment to the Trust in an amount equal to the redemption price of such Notes, plus accrued and unpaid interest on such Notes to, but excluding, the date of payment, in exchange for a corresponding portion of the Eligible Treasury Assets. If NRG makes this election or redeems Notes held by the Trust, the Trust will redeem a corresponding amount of the P-Caps and the maximum amount of Notes that NRG may thereafter issue and sell to the Trust will be reduced by that amount.

In connection with the issuance of the P-Caps, on August 29, 2023, NRG entered into a new facility agreement for the issuance of letters of credit (the "LC Agreement") and Deutsche Bank Trust Company Americas, as collateral agent (the "Collateral Agent") and administrative agent, pursuant to which certain financial institutions (the "LC Issuers") are permitted to join with commitments to provide letters of credit in an aggregate amount not to exceed $485.0 million to support the operations of NRG and its subsidiaries and minority investments.

In addition, on August 29, 2023, the Trust entered into a pledge and control agreement (the "Pledge Agreement"), among NRG, the Trust and the Collateral Agent for the LC Issuers, under which the Trust agreed to grant a pledge over the Eligible Treasury Assets in favor of the Collateral Agent for the benefit of the LC Issuers. Pursuant to the LC Agreement and the Pledge Agreement, the Collateral Agent is entitled to withdraw Eligible Treasury Assets from the Trust's pledged account, following notice to NRG, in the event NRG has failed to reimburse amounts drawn under any letter of credit issued pursuant to the LC Agreement, and the LC Issuers have the right to instruct the Collateral Agent to enforce the pledge over the Eligible Treasury Assets upon the occurrence of any event of default under the LC Agreement.

The P-Caps are to be redeemed by the Trust on July 31, 2028 or earlier upon an early redemption of the Notes. Following any distribution of Notes to the holders of the P-Caps, NRG may similarly redeem such Notes, in whole or in part, at the redemption price described below, plus accrued but unpaid interest to, but excluding, the date of redemption. Any Notes outstanding and held by the Trust as a result of the exercise of the Issuance Right that remain outstanding will also mature on July 31, 2028.

The Notes that may be sold to the Trust from time to time will be governed by the base indenture, dated August 29, 2023 (the "Base Indenture"), between NRG and the Notes Trustee, as supplemented by the supplemental indenture, dated August 29, 2023 (the "Supplemental Indenture" and, together with the Base Indenture, the "Indenture"), among NRG, the guarantors named therein and the Notes Trustee.

The Notes will, if sold to the Trust, be (a) guaranteed by each of NRG's current and future subsidiaries that guarantee indebtedness under its credit agreement and (b) secured by a first priority security interest in the same collateral that is pledged for the benefit of the lenders under NRG's credit agreement and existing senior secured notes, which collateral consists of a substantial portion of the property and assets owned by NRG and the guarantors. The collateral securing the Notes will be released at NRG's request if, among other conditions, the senior unsecured long-term debt securities of NRG are rated investment grade by any two of the three rating agencies, subject to reversion if such rating agencies withdraw such investment grade rating or downgrade such rating below investment grade.

The foregoing descriptions do not purport to be complete and are qualified in their entirety by reference to the full text of the Facility Agreement, the LC Agreement, the Trust Declaration, the Base Indenture, the Supplemental Indenture and the forms of the Notes, copies of which are filed as Exhibits 4.1, 4.2, 4.3, 4.4, 4.5 and 4.6 respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

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

The disclosures under Item 1.01 of this Current Report on Form 8-K are also responsive to this Item 2.03 and are incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Document
4.1	Facility Agreement, dated August 29, 2023, among NRG Energy, Inc., the guarantors party thereto, Alexander Funding Trust II and Deutsche Bank Trust Company Americas, as the notes trustee
4.2	Letter of Credit Facility Agreement, dated August 29, 2023, among NRG Energy, Inc., the financial institutions from time to time party thereto as letter of credit issuers, and Deutsche Bank Trust Company Americas, as administrative agent and as collateral agent
4.3	Amended and Restated Declaration of Trust of Alexander Funding Trust II, dated August 29, 2023, among NRG Energy, Inc. as depositor and in its own capacity, Deutsche Bank Trust Company Americas, as trustee, and Deutsche Bank Trust Company Delaware, as Delaware trustee
4.4	Indenture, dated August 29, 2023, between NRG Energy, Inc. and Deutsche Bank Trust Company Americas, as trustee, pertaining to the Notes
4.5	Supplemental Indenture, dated August 29, 2023, among NRG Energy, Inc., the guarantors named therein and Deutsche Bank Trust Company Americas, as trustee, pertaining to the Notes
4.6	Form of 7.467% Senior Secured First Lien Notes due 2023 (incorporated by reference to Exhibit 4.5 filed herewith)
104	Cover Page Interactive Data File – the cover page XBRL tags are embedded within the IXBRL document.

SIGNATURES

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

Dated: August 29, 2023

NRG Energy, Inc.
(Registrant)

By: /s/ Christine A. Zoino
Christine A. Zoino
Corporate Secretary

Exhibit 4.1

Execution Version

FACILITY AGREEMENT

dated as of August 29, 2023

among

NRG ENERGY, INC.,

THE GUARANTORS PARTY HERETO,

ALEXANDER FUNDING TRUST II,

and

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Notes Trustee

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This FACILITY AGREEMENT, dated as of August 29, 2023 (this "*Agreement*"), among NRG ENERGY, INC., a Delaware corporation ("*NRG*"), the subsidiaries of NRG listed on the signature pages hereto (the "*Guarantors*"), ALEXANDER FUNDING TRUST II, a Delaware statutory trust (the "*Trust*"), and DEUTSCHE BANK TRUST COMPANY AMERICAS, as Notes Trustee (as defined below).

WHEREAS, NRG is entering into a new facility agreement (the "*LC Agreement*") for the issuance of letters of credit by certain financial institutions (the "*LC Issuers*") to support the operations of NRG;

WHEREAS, pursuant to the LC Agreement and the Pledge Agreement, NRG will agree with the LC Issuers to collateralize its obligations under the LC Agreement by directing the Trust, in accordance with this Agreement, to grant a first priority security interest in certain Eligible Treasury Assets in favor of Deutsche Bank Trust Company Americas, as the collateral agent (the "*Collateral Agent*") for the LC Issuers and other secured parties under the LC Agreement, to secure reimbursement obligations under the LC Agreement and, with respect to any Eligible Treasury Assets not required to be pledged to the Collateral Agent, in favor of NRG to secure the obligations of the Trust to pay the Notes Purchase Price under the Issuance Right, in each case pursuant to a pledge and control agreement to be entered into among the Trust, the Securities Intermediary, the Collateral Agent and NRG (the "*Pledge Agreement*");

WHEREAS, NRG wishes to have the right to require the Trust to purchase up to $500.0 million aggregate principal amount of its 7.467% Senior Secured First Lien Notes due 2028 (the "*Senior Notes*"), issued under the Indenture, dated as of the date hereof (the "*Base Indenture*"), between NRG and Deutsche Bank Trust Company Americas, as trustee (the "*Notes Trustee*"), as amended and supplemented by the first supplemental indenture thereto, dated as of the date hereof (the "*First Supplemental Indenture*" and the Base Indenture, as amended and supplemented by the First Supplemental Indenture, the "*Notes Indenture*");

WHEREAS, the Guarantors will unconditionally guarantee all of NRG's obligations under the Senior Notes and the Notes Indenture on the terms and conditions set forth therein;

WHEREAS, the Trust has been authorized to purchase the Senior Notes from NRG on the terms and conditions set forth herein;

WHEREAS, NRG and the Trust desire to enter into a binding agreement pursuant to which NRG will have the right, and in certain circumstances the obligation, to sell the Senior Notes, when and if issued and outstanding, in a maximum aggregate principal amount not to exceed the Maximum Amount to the Trust, and the Trust will have an obligation to purchase such Senior Notes, if and when issued and outstanding, upon the voluntary, mandatory or automatic exercise of such right, and upon satisfaction of the other terms and conditions specified herein and NRG will have the right from time to time in certain circumstances to repurchase Senior Notes then held by the Trust in whole or in part; and

WHEREAS, simultaneously with the execution and delivery of this Agreement, NRG is ordering the Notes Trustee to authenticate and deliver the Initial Note Certificate to the Trust to evidence any Senior Notes sold to the Trust from time to time upon the exercise of the right granted by and in accordance with the terms of this Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Definitions.

(a) Unless the context otherwise requires, in this Agreement (including in the Recitals):

"*Accounting Change*" means any change in GAAP that has been adopted by NRG and is effective for accounting periods ending after the date hereof.

"*Applicable Percentage*" means (i) in the case of any Voluntary Exercise of the Issuance Right, a percentage equal to the Designated Amount specified in the applicable Issuance Notice divided by the Available Amount at the date of such notice, (ii) in the case of any Collateral Enforcement Event, a percentage equal to the Removed Collateral Amount specified in the applicable Automatic Exercise Notice divided by the aggregate amount of Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) held by the Trust on or immediately prior to such Collateral Enforcement Event, as determined by the Calculation Agent or such other agent that is reasonably acceptable to the Calculation Agent, the Trust and NRG, (iii) in the case of the occurrence of a Change of Control Offer Expiration Date, a percentage equal to the Change of Control Offer Issuance Amount divided by the Available Amount at the date of such notice and (iv) 100% in the case of any Automatic Exercise Event or Mandatory Exercise Event (other than a Collateral Enforcement Event or the occurrence of a Change of Control Offer Expiration Date).

"*Automatic Exercise Event*" means:

(i) NRG fails to pay any Facility Fee when due or any amount due and owing under the Trust Expense Reimbursement Agreement on any Distribution Date or fails on any Distribution Date to pay for any Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 4.3 by 5:00 p.m. on such Distribution Date and in each case, such failure is not cured (including payment in full of the Special Facility Fee due as a result of such failure) within 30 days of such Distribution Date; or

(ii) a Bankruptcy Event in respect of NRG has occurred.

"*Available Amount*" means, at any time, the Maximum Amount *minus* (i) the aggregate original principal amount of Senior Notes that have been issued and sold to the Trust pursuant to Section 2.1 and not repurchased by NRG pursuant to Section 2.2 for which the Settlement Date has occurred prior to such time and (ii) the aggregate Designated Amount of Senior Notes for which Issuance Notices have been delivered at or prior to such time but for which the Settlement Date has not yet occurred.

"*Bankruptcy Event*" in respect of a Person means that (i) such Person (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 custodian of it or for all or substantially all of its property, (D) makes a general assignment for the benefit of its creditors, or (E) generally is not paying its debts as they become due or (ii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (A) is for relief against such Person; (B) appoints a custodian of such Person; or (C) orders the liquidation of such Person, and the order or decree remains unstayed and in effect for 60 consecutive days.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"*Beneficial Owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"*Calculation Agent*" means Mizuho Securities USA LLC, in its capacity as calculation agent under the Calculation Agency Agreement, or any successor thereto in such capacity.

"*Capital Stock*" means:

1. in the case of a corporation, corporate stock;

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

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

4. any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

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

1. the sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of NRG and its Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d) of the Exchange Act, but excluding any employee benefit plan of NRG or any of its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of such plan); or

2. the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), other than a corporation owned directly or indirectly by the stockholders of NRG in substantially the same proportion as their ownership of stock of NRG prior to such transaction, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of NRG, measured by voting power rather than number of shares.

"*Change of Control Offer Expiration Date*" means the third Business Day preceding the Change of Control Payment Date.

"*Change of Control Offer Issuance Amount*" has the meaning set forth in Section 3.1(b).

"*Change of Control Payment Date*" means the date specified in the notice to each Holder regarding the Change of Control Offer.

"*Change of Control Triggering Event*" has the meaning set forth in the Trust Declaration.

"*Collateral Enforcement Amount*" has the meaning set forth in the definition of "*Mandatory Exercise Event*."

"*Collateral Enforcement Event*" means any withdrawal of Eligible Treasury Assets by the Collateral Agent from the Trust Collateral Account pursuant to, and subject to the conditions and other requirements set forth in, the LC Agreement and the Pledge Agreement.

"*Consolidated Net Worth*" means the consolidated stockholders' equity of NRG determined in accordance with GAAP but excluding (i) accumulated other comprehensive income (or loss), (ii) equity of non-controlling interests attributable thereto and (iii) treasury stock at cost.

"*Deutsche Bank DE*" means Deutsche Bank Trust Company Delaware, a Delaware corporation.

"*Deutsche Bank NY*" means Deutsche Bank Trust Company Americas, a New York banking corporation.

"*Exchange Act*" means the Securities Exchange Act of 1934 (together with any other securities laws and regulations thereunder).

"*GAAP*" means generally accepted accounting principles 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 have been approved by a significant segment of the accounting profession, which are in effect from time to time; *provided* that any lease that would not be considered a capital lease pursuant to GAAP prior to the effectiveness of Accounting Standards Codification 842 (whether or not such lease was in effect on such date) shall be treated as an operating lease for all purposes hereunder and shall not be deemed to constitute a capitalized lease or indebtedness hereunder.

"*Issuance Notice*" means a written notice substantially in the form attached as *Annex A.*

"*Lien*" means, with respect to any asset, any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset.

"*Mandatory Exercise Event*" means:

1. NRG's Consolidated Net Worth has fallen below the Minimum Threshold;

2. an Event of Default under (and as defined in) the Notes Indenture has occurred and is continuing or would have occurred and be continuing had the Senior Notes been outstanding;

3. NRG breaches the Senior Notes issuance capacity covenant in Section 2.7;

4. a Collateral Enforcement Event has occurred;

5. a Change of Control Offer Expiration Date has occurred; or

6. (A) NRG determines that an Investment Company Act Event is reasonably likely to occur or has occurred and (B)(x) within five Business Days of such determination, the Transaction Agreements have not been amended to prevent or cease such event, or (y) NRG has reasonably determined that no such amendment is possible.

"*Maximum Amount*" means, at any time, in respect of the Senior Notes, $500.0 million aggregate principal amount of Senior Notes less the aggregate principal amount of Senior Notes, if any, that NRG has previously redeemed or as to which NRG has paid the Cash Settlement Amount.

"*Minimum Threshold*" means $2.0 billion, subject to adjustment as set forth in Section 2.4.

"*Notes Purchase Price"* means the Applicable Percentage of each series of securities constituting Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) held by the Trust on the Settlement Date (excluding any such Eligible Treasury Assets that are scheduled to mature on such date) with respect to an exercise of the Issuance Right (and, in the event such Eligible Treasury Assets are or have been liquidated, any proceeds received with respect thereto shall be treated for purposes of determining the Notes Purchase Price as equal to the face amount of such Eligible Treasury Assets, with the effect that Holders of the P-Caps will have no exposure to changes in value, if any, of the Eligible Treasury Assets).

"*P-Caps Final Distribution Date*" means July 31, 2028 or, if such day is not a Business Day, the following Business Day.

"*Reorganization*" means any consolidation, merger or sale of all or substantially all assets of NRG or any similar transaction, or acquisition or disposition of any subsidiary of NRG (whether a direct or indirect subsidiary).

"*Retained Eligible Treasury Assets*" means any Blocked Eligible Treasury Assets and any other Eligible Treasury Assets held by the Trust at the direction and on behalf of NRG after a Mandatory Exercise or Automatic Exercise of the Issuance Right.

"*SEC*" means the United States Securities and Exchange Commission.

"*Securities Act*" means the United States Securities Act of 1933.

"*Settlement Date*" means the date on which the relevant exercise of the Issuance Right is settled.

"*Special Facility Fee*" means, with respect to any Overdue Amount, a premium equal to the excess, if any, of (i) the amount due and payable on the Eligible Treasury Assets (other than Retained Eligible Treasury Assets) or under this Agreement as of the applicable Distribution Date, plus interest thereon at a rate of 7.467% *per annum*, from and including the Business Day immediately following the applicable Distribution Date to, but excluding, the relevant Special Facility Fee Payment Date, calculated on a 30/360 Basis, *over* (ii) the amounts otherwise actually received by the Trust in respect of such Eligible Treasury Assets (including the purchase price of any Defaulted Eligible Treasury Assets but excluding any Retained Eligible Treasury Assets) or in respect of such Overdue Amounts (including overdue interest on Defaulted Eligible Treasury Assets other than any Retained Eligible Treasury Assets), except that the "*Special Facility Fee*" with respect to any Overdue Amount paid after the Trust Dissolution Date shall be equal to the amount equal to interest at a rate of 7.467% *per annum*, from and including the Trust Dissolution Date to, but excluding, the relevant Special Facility Fee Payment Date, calculated on a 30/360 Basis on a notional amount equal to the excess of (i) the amount due and payable on the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) or under this Agreement as of the Trust Dissolution Date *over* (ii) the amounts otherwise actually received by the Trust in respect of such Eligible Treasury Assets (including the purchase price of any Defaulted Eligible Treasury Assets but excluding any Retained Eligible Treasury Assets) or in respect of such Overdue Amounts (including overdue interest on Defaulted Eligible Treasury Assets).

"*Statutory Trust Act*" means Chapter 38 of Title 12 of the Delaware Code, 12 *Del. C.* Section 3801 *et seq*.

"*Subsidiary*" means, with respect to any Person:

1. any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that person (or a combination thereof); and

2. any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"*Trust Declaration*" means the Amended and Restated Declaration of Trust, dated as of the date hereof, among NRG, in its individual capacity and as depositor, Deutsche Bank NY, as trustee, and Deutsche Bank DE, as Delaware trustee.

"*Trust Expense Reimbursement Agreement*" means the Trust Expense Reimbursement Agreement, dated as of the date hereof, between NRG and the Trust.

"*Voluntary Exercise*" means any exercise of the Issuance Right that is not an Automatic Exercise or a Mandatory Exercise.

"*Voting Stock*" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the board of directors of such Person.

(b) As used herein (including in the Recitals), each of the following terms shall have the meaning set forth in the Section of this Agreement or in the other document set forth opposite such term in the table below, unless the context otherwise requires:

30/360 Basis	Trust Declaration
Agreement	Preamble
Aggregate Collateral Amount	LC Agreement
Authorized Officer	Pledge Agreement
Automatic Exercise	Section 2.1(a)
Automatic Exercise Notice	Section 3.2(a)
Base Indenture	Recitals
Blocked Eligible Treasury Assets	Section 3.3(e)
Business Day	Trust Declaration
Calculation Agency Agreement	Trust Declaration
Cash Settlement Amount	Section 2.1(b)
Cash Settlement Election	Section 2.1(b)
Change of Control Offer	Trust Declaration
Change of Control Offer Issuance Amount	Section 3.1(b)
Change of Control Payment	Trust Declaration
Collateral	LC Agreement
Collateral Agent	Recitals
Collateral Enforcement Amount	Section 3.1(b)
Defaulted Eligible Treasury Assets	Trust Declaration
Delaware Trustee	Trust Declaration
Designated Amount	Section 3.1(a)
Distribution Date	Trust Declaration
Distribution Period	Trust Declaration
Eligible Treasury Assets	Trust Declaration
Enforceability Exceptions	Section 6.1(e)
Event of Default	Base Indenture
Facility Fee	Section 4.1
First Supplemental Indenture	Recitals
Guarantor	Preamble

Holder	Trust Declaration
Initial Note Certificate	Section 2.1(d)(i)
Investment Company Act Event	Trust Declaration
Issuance Right	Section 2.1(a)
Issuer Joinder Agreement	LC Agreement
LC Agreement	Recitals
LC Issuers	Recitals
LC Facility Secured Parties	Pledge Agreement
L/C Reimbursement Amount	LC Agreement
Letter of Credit	LC Agreement
Majority of Holders	Trust Declaration
Mandatory Exercise	Section 2.1(a)
Minimum Collateral Base	LC Agreement
Notes Indenture	Recitals
Notes Trustee	Recitals
NRG	Preamble
NRG Collateral Account	Pledge Agreement
Notes Indenture	Recitals
Notes Purchase Agreement	Section 6.2(h)
Obligations	LC Agreement
Offering Memorandum	Trust Declaration
Officer’s Certificate	Base Indenture
Optional Redemption Price	Senior Notes
Overdue Amounts	Section 4.2
P-Caps Tax Event	Trust Declaration
Permitted Liens	LC Agreement
Person	Trust Declaration
Pledge Agreement	Recitals
Pledged Property Accounts	Pledge Agreement
Proceedings	Section 7.8
Redemption Price	Trust Declaration
Removed Collateral Amount	Section 3.1(a)
Repurchase	Section 2.2(a)
Repurchase Price	Section 2.2(a)
Repurchase Right	Section 2.2(a)
Repurchase Settlement Date	Section 2.2(c)
Securities Intermediary	Pledge Agreement
Security Register	Base Indenture
Senior Notes	Recitals
Senior Notes Issuance Capacity Covenant	Section 2.7
Special Facility Fee Payment Date	Section 4.2
Transaction Agreements	Trust Declaration
Trust	Preamble
Trust Collateral Account	Pledge Agreement
Trust Dissolution Date	Trust Declaration
Trust Securities	Trust Declaration
Trustee	Trust Declaration

Section 1.2 *Interpretation*. Unless the context otherwise requires, in this Agreement (including in the Recitals):

(a) any reference to this Agreement or any other agreement or document shall be construed as a reference to this Agreement or such other agreement or document, as applicable, as the same may have been, or may from time to time be, amended, varied, novated or supplemented in accordance with its terms;

(b) any reference to a statute or regulation shall be construed as a reference to such statute or regulation or any successor or replacement statute or regulation, in each case as the same may have been, or may from time to time be, amended, varied or supplemented in accordance with its terms;

(c) any reference to time is to New York City time;

(d) the words "*herein*", "*hereof*" and "*hereunder*" and other words of similar import refer to this Agreement as a whole and not to any particular section, clause or other subdivision, and references to "*Articles*", "*Sections*" and "*Annexes*" refer to Articles or Sections of, or Annexes to, this Agreement except as otherwise expressly provided;

(e) the word "*including*" shall be deemed to be followed by the words "*without limitation*";

(f) any definition shall be equally applicable to both the singular and plural forms of the defined term;

(g) headings contained in this Agreement are inserted for convenience of reference only and do not affect the interpretation of this Agreement or any provision hereof; and

(h) whenever in this Agreement any Person is named or referred to, the successors and assigns of such Persons shall be deemed to be included, and all covenants and agreements in this Agreement by NRG, the Trust and the Notes Trustee shall bind and inure to the benefit of their respective successors and assigns, whether or not so expressed.

ARTICLE II
ISSUANCE RIGHT; REPURCHASE RIGHT; TERM

Section 2.1 *Grant of Issuance Right*.

(a) The Trust hereby grants to NRG the right to require the Trust to purchase, on one or more occasions, up to the Maximum Amount of Senior Notes on the terms specified in this Agreement (the "*Issuance Right*"). The exercise of the Issuance Right shall be in the sole discretion of NRG, *provided* that at any time that the Trust holds Eligible Treasury Assets (other than Retained Eligible Treasury Assets), (i) NRG shall be required to exercise the Issuance Right for the entire Available Amount upon the occurrence of a Mandatory Exercise Event (other than a Collateral Enforcement Event or the occurrence of a Change of Control Offer Expiration Date and as provided for in the definition of "Mandatory Exercise Event" above), (ii) NRG shall be required to exercise the Issuance Right for the Collateral Enforcement Amount upon the occurrence of a Mandatory Exercise Event constituting a Collateral Enforcement Event, (iii) NRG shall be required to exercise the Issuance Right for the Change of Control Offer Issuance Amount upon the occurrence of a Mandatory Exercise Event constituting a Change of Control Offer Expiration Date (any such exercise pursuant to this clause (iii) or clause (i) or (ii) above, a "*Mandatory Exercise*"), and (iv) the exercise of the Issuance Right for the entire Available Amount shall occur automatically (such exercise, an "*Automatic Exercise*") upon the occurrence of an Automatic Exercise Event. Neither the Notes Trustee nor the Trust shall have any duty to calculate, monitor or track the Available Amount.

(b) NRG may, in connection with any Voluntary Exercise or Mandatory Exercise, make an election (a "*Cash Settlement Election*") to deliver on the Settlement Date, in lieu of Senior Notes, by wire transfer in immediately available funds, an amount equal to the Optional Redemption Price (or, in the case of the occurrence of the Change of Control Offer Expiration Date, the Change of Control Payment), including accrued and unpaid interest through, but excluding, the date of payment, as determined pursuant to the Senior Notes (the "*Cash Settlement Amount*"), that would be payable if NRG had sold such Senior Notes to the Trust and redeemed them (or, in the case of the occurrence of the Change of Control Offer Expiration Date, been required to redeem them) on such Settlement Date, *provided* that a Cash Settlement Election solely in connection with a Voluntary Exercise, may be made only with respect to an integral multiple of $50.0 million principal amount of Senior Notes (or in the event that the Available Amount is less than $50.0 million, for the Available Amount).

(c) The Trust agrees that it shall purchase Senior Notes from NRG (or, if NRG has made a Cash Settlement Election with respect to such Senior Notes, receive the applicable Cash Settlement Amount) in exchange for the Notes Purchase Price upon each exercise of the Issuance Right, in whole or in part, as provided in Article III, in accordance with any Issuance Notice or upon an Automatic Exercise and subject to the terms and conditions set forth herein.

(d) The parties acknowledge and agree that:

(i) on the date hereof, NRG is issuing to the Trust a Senior Note with an initial principal amount of $0 (the "*Initial Note Certificate*");

(ii) any delivery of Senior Notes by NRG to the Trust as contemplated by this Agreement upon any Voluntary Exercise, Automatic Exercise or Mandatory Exercise shall be effected by increasing the principal amount of the Initial Note Certificate and recording such increase in the Security Register; and

(iii) any redemption of Senior Notes held by the Trust and any delivery of Senior Notes by the Trust to NRG upon NRG's exercise of the Repurchase Right shall be effected by decreasing the principal amount of the Initial Note Certificate and recording such decrease in the Security Register.

Section 2.2 Repurchase Right.

(a) Subject to Section 2.2(b), NRG shall have the right to repurchase, on one or more occasions, Senior Notes then outstanding and held by the Trust, in whole or in part, at any time in exchange for Eligible Treasury Assets that entitle the Trust to receive, on each subsequent Distribution Date through and including the P-Caps Final Distribution Date, payments of principal and interest that are in the same amounts as the Trust would have received on each such Distribution Date on the Eligible Treasury Assets that it delivered to NRG, or to the Collateral Agent, as the case may be, upon the exercise of the Issuance Right in respect of the Senior Notes to be so repurchased (the "*Repurchase Price*"). The repurchase right described in this Section 2.2(a) is referred to herein as a "*Repurchase Right*" and any such repurchase is referred to herein as a "*Repurchase*".

(b) The Repurchase Right shall terminate upon the earliest to occur of (i) an Automatic Exercise Event, (ii) a Mandatory Exercise Event pursuant to which the Available Amount is reduced to zero, or (iii) NRG's delivery of a notice substantially in a form of *Annex B* to the Trust and the Notes Trustee irrevocably waiving its right to exercise the Repurchase Right. NRG may not effect a Repurchase of any Senior Notes for which NRG has delivered a notice of redemption pursuant to the Notes Indenture.

(c) NRG may exercise the Repurchase Right by delivering to the Trust and the Notes Trustee a notice substantially in the form of *Annex C*, which notice shall specify the settlement date (the "*Repurchase Settlement Date*"), which shall be a Business Day that is prior to the Trust Dissolution Date and at least three Business Days after NRG delivers such notice. On the Repurchase Settlement Date, NRG shall deliver the Repurchase Price to the Trust against delivery of the Senior Notes by the Trust to NRG or its designee. Each of NRG and the Trust hereby covenants and agrees that its delivery of the Repurchase Price or the Senior Notes, respectively, pursuant to this Section 2.2 shall be made free and clear of any adverse claims, together with all transfer and registration documents (or all notices, instructions or other communications) as are necessary to convey title to the Repurchase Price or the Senior Notes to the Trust or NRG (or its designee), as the case may be and cause them to be a protected purchaser (within the meaning of the New York Uniform Commercial Code) of the Repurchase Price or the Senior Notes, as the case may be.

Section 2.3 Termination of Facility Agreement. The Issuance Right, the Repurchase Right and this Agreement shall terminate on the Trust Dissolution Date, except with respect to obligations that have accrued hereunder prior to such date.

Section 2.4 Consolidated Net Worth.

(a) *Consolidated Net Worth.* No later than five Business Days after each date on which NRG's annual or quarterly financial statements are required to be filed on Form 10-K or Form 10-Q with the SEC, including without limitation any applicable extensions thereof, or if NRG is not required to file such financial statements with the SEC, the date on which NRG would be required to file such financial statements if NRG continued to be subject to SEC filing requirements, NRG shall notify the Trust of its Consolidated Net Worth as of the last day of the immediately preceding fiscal year or quarter, as the case may be, and state whether or not a Mandatory Exercise Event has occurred. Such notice shall briefly describe any Reorganization or Accounting Change resulting in a change in the Minimum Threshold pursuant to clauses (b), (c) and (d) of this Section since the later of (i) the date of this Agreement or (ii) the most recent such notice and specify (A) the adjustment to the Minimum Threshold caused by such Reorganization or Accounting Change, including the calculation of such adjustment, and (B) the effective date of such adjustment.

(b) *Reorganizations*. In the event of a Reorganization of NRG that would result in a change in its Consolidated Net Worth, after giving effect to such Reorganization, of 15% or more of its Consolidated Net Worth immediately prior to such Reorganization, the Minimum Threshold shall be adjusted by multiplying the Minimum Threshold applicable immediately prior to such Reorganization by a fraction, the numerator of which is the Consolidated Net Worth after giving effect to such Reorganization, and the denominator of which is the Consolidated Net Worth immediately prior to the Reorganization.

(c) *Change of Accounting Policies*. If at any time an Accounting Change would affect the computation of Consolidated Net Worth resulting in a change in the Consolidated Net Worth, after giving effect to such Accounting Change, of 15% or more of the Consolidated Net Worth immediately prior to such Accounting Change, the Minimum Threshold shall be adjusted by multiplying the Minimum Threshold applicable immediately prior to the Accounting Change by a fraction, the numerator of which is the Consolidated Net Worth after giving effect to the Accounting Change, and the denominator of which is the Consolidated Net Worth immediately prior to the Accounting Change.

(d) *Calculation of the Consolidated Net Worth*. For purposes of this Section 2.4, the Consolidated Net Worth immediately prior to a Reorganization or an Accounting Change shall be calculated based on the most recent annual or quarterly consolidated financial statements of NRG that are available at the time of determination of such Consolidated Net Worth. NRG shall report any changes in the Minimum Threshold, the basis for such change and the calculation thereof in a notice to the Trust.

Section 2.5 *Exercisability of the Issuance Right*. The Issuance Right shall be exercisable in accordance with Section 2.1 notwithstanding any failure to pay any amount due under this Agreement, and no such failure shall constitute a breach of or a default under this Agreement unless, by the end of the 30th day following the applicable Distribution Date on which amounts are due from NRG to the Trust, such failure has not been remedied (whether (i) by NRG paying the unpaid amount to the Trust or (ii) by NRG delivering an Issuance Notice with respect to the entire Available Amount, for settlement prior to such 30th day, and such amounts being set-off against the Notes Purchase Price in respect thereof (with the Eligible Treasury Assets included in the Notes Purchase Price being valued for the purpose of such set-off based on the proceeds received therefor by the Trust)).

Section 2.6 *Mandatory Exercise Events*. NRG shall give prompt written notice to the Trust of the occurrence of any Mandatory Exercise Event.

Section 2.7 *Senior Notes Issuance Capacity*. NRG shall ensure at all times that the issuance of an aggregate principal amount of the Senior Notes in an amount up to the Available Amount would not result in a breach or violation of, or constitute a default under, any material agreement or instrument to which NRG is a party or by which NRG is bound (such provision, the "*Senior Notes Issuance Capacity Covenant*").

Section 2.8 *Directions by NRG to the Trust*. Pursuant to Section 2.1 of the Pledge Agreement and Sections 4(b), 5(a) and 15(b)(v) of the LC Agreement, NRG hereby irrevocably and unconditionally directs the Trust to (a)(i) enter into the Pledge Agreement with the Securities Intermediary and the Collateral Agent, (ii) grant to the Collateral Agent for the benefit of the LC Facility Secured Parties, a first-priority lien (subject to Permitted Liens) on and security interest in, all of the Trust's right, title and interest in, to and under the Pledged Property Accounts of the Trust as set forth in the Pledge Agreement and (iii) acknowledge the LC Issuers party to the LC Agreement as of the date hereof and, after the date hereof, to acknowledge the joinder of new LC Issuers to the LC Agreement pursuant to any Issuer Joinder Agreements entered into from time to time, (b) authorize and direct the Collateral Agent to charge the Trust Collateral Account (i) upon and after the drawing of any Letter of Credit for the full amount of the L/C Reimbursement Amount, to the extent NRG has failed to reimburse the applicable LC Issuer in accordance with Section 4(a) of the LC Agreement, and (ii) from time to time for any other Obligations not paid within five (5) Business Days after the due date thereof, and (c) upon request by the Collateral Agent and as applicable, execute and consent to all notices and directions given by the Collateral Agent to the Securities Intermediary, including transferring all Collateral to accounts maintained solely in the name of the Collateral Agent. The Trust acknowledges such direction and agrees that it has been formed for the purpose of, among other things, entering into the transactions contemplated by this Agreement, the LC Agreement and the Pledge Agreement.

ARTICLE III
EXERCISE OF THE ISSUANCE RIGHT

Section 3.1 *Exercise of the Issuance Right by NRG*.

(a) The Issuance Right shall be exercisable upon delivery by NRG of an Issuance Notice to the Trust and the Notes Trustee. The Issuance Notice shall specify (i) whether such exercise is a Mandatory Exercise, (ii) the Settlement Date, which shall be a Business Day that is on or prior to the Trust Dissolution Date and at least two Business Days after the date such notice is received by the Trust and the Notes Trustee, and if NRG is making a Cash Settlement Election, at least 10 days but not more than 60 days following the date such notice is received by the Trust and the Notes Trustee; *provided* that in the case of a Mandatory Exercise, the Settlement Date shall be the second Business Day after the date of receipt, (iii) whether the Settlement Date is the Trust Dissolution Date, (iv) the principal amount of Senior Notes with respect to which NRG is exercising the Issuance Right (the "*Designated Amount*"), which shall be an integral multiple of $50.0 million or a portion thereof, when the Available Amount is less than $50.0 million at the time the Issuance Right is exercised, or, in the case of a Mandatory Exercise, the entire Available Amount (in respect of a Mandatory Exercise Event occurring under paragraphs (1), (2), (3) or (6) of the definition of "Mandatory Exercise Event"), the Collateral Enforcement Amount (in respect of a Mandatory Exercise Event occurring under paragraph (4) of the definition of "Mandatory Exercise Event") or the Change of Control Offer Issuance Amount (in respect of a Mandatory Exercise Event occurring under paragraph (5) of the definition of "Mandatory Exercise Event"), (v) in the case of a Voluntary Exercise or Mandatory Exercise, the principal amount of Senior Notes, if any, as to which NRG has made a Cash Settlement Election, (vi) in the case of any Mandatory Exercise Event constituting a Collateral Enforcement Event, the amount of Eligible Treasury Assets that have been withdrawn by the Collateral Agent from the Trust Collateral Account (the "*Removed Collateral Amount*"), (vii) the remaining Available Amount, immediately after giving effect to the exercise of the Issuance Right pursuant to the applicable Issuance Notice and (viii) whether all or any portion of the Notes Purchase Price will be retained as Retained Eligible Treasury Assets. On the Settlement Date, (x) the Notes Trustee shall deliver the Designated Amount of the Senior Notes or (y) with respect to any Senior Notes as to which NRG has made a Cash Settlement Election, NRG shall deliver the Cash Settlement Amount to the Trust against delivery of the Notes Purchase Price by the Trust to NRG. Subject to Section 3.3(e), upon the occurrence of a Mandatory Exercise Event, the Eligible Treasury Assets will be delivered to NRG by the Trust. Any Eligible Treasury Assets delivered to NRG by the Trust pursuant to this Agreement will, subject to Section 3.3(e), (i) prior to the termination of the LC Agreement, at NRG's written instruction, either (x) be credited to the applicable NRG Collateral Account, which has been pledged in favor of the Collateral Agent in accordance with the terms of the LC Agreement and the Pledge Agreement, or (y) with respect to any Mandatory Exercise or Automatic Exercise, continue to be held by the Trust as Retained Eligible Treasury Assets, which has been pledged in favor of the Collateral Agent in accordance with the terms of the LC Agreement and the Pledge Agreement, and (ii) at any time after the termination of the LC Agreement, be delivered or credited to such account of NRG as NRG may specify in a written notice to the Trust. In addition, to the extent that the Aggregate Collateral Amount exceeds the Minimum Collateral Base at any time, upon written request of NRG, any such excess amount, as certified by NRG, shall be released from any Lien created under the Pledge Agreement and NRG shall be permitted to withdraw such excess funds from the applicable NRG Collateral Account, and shall be permitted to withdraw such excess assets from the Trust Collateral Account in connection with any permitted exercise of the Issuance Right under this Agreement , in accordance with Section 5(a) of the LC Agreement. This Agreement will terminate on the Trust Dissolution Date, except with respect to obligations that have already accrued thereunder prior to the Trust Dissolution Date.

(b) Upon a Mandatory Exercise Event occurring under paragraph (1), (2), (3) or (6) of the definition of "Mandatory Exercise Event," NRG will be required to promptly notify the Trustee and to sell to the Trust the Available Amount of the Senior Notes. Upon a Mandatory Exercise Event occurring under paragraph (4) of the definition of "Mandatory Exercise Event," NRG will be required to sell to the Trust an amount of Senior Notes (rounded up to the nearest $1 million), the ratio of such Senior Notes to the Available Amount being equal to the ratio of the Removed Collateral Amount to the amount of Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) held by the Trust, as determined by the Calculation Agent or such other agent that is reasonably acceptable to the Calculation Agent, the Trust and NRG (the "*Collateral Enforcement Amount*"). Upon a Mandatory Exercise Event occurring under paragraph (5) of the definition of "Mandatory Exercise Event," NRG will be required to sell to the Trust Senior Notes in a principal amount equal to the excess of the initial purchase price of the Trust Securities that have accepted the Change of Control Offer over the principal amount of Senior Notes held by the Trust (the "*Change of Control Offer Issuance Amount*"). NRG will be required to notify the Trustee of a Change of Control Triggering Event.

Section 3.2 Automatic Exercise of the Issuance Right.

(a) The Trust shall deliver a notice substantially in the form of *Annex D* (such notice, an "*Automatic Exercise Notice*") to the Notes Trustee and NRG within two Business Days after obtaining actual knowledge of any Automatic Exercise Event that is not a Bankruptcy Event, and the Settlement Date of such Automatic Exercise shall be the second Business Day after the date such notice is received by the Notes Trustee, *provided* that if the Notes Trustee receives notice that a Bankruptcy Event with respect to NRG has occurred before such Settlement Date, the Settlement Date shall be determined pursuant to Section 3.2(b).

(b) NRG shall deliver an Automatic Exercise Notice to the Trust and the Notes Trustee promptly upon becoming aware of any Bankruptcy Event with respect to NRG and provide the Notes Trustee and the Trust with either an order of the court administering its bankruptcy, liquidation or similar proceeding authorizing the issuance and sale of the Senior Notes to the Trust or an opinion of counsel that the Senior Notes may be issued and sold to the Trust without obtaining any such order. The Settlement Date of such Automatic Exercise shall be the second Business Day after such order or opinion of counsel is received by the Trust and the Notes Trustee or, if later, the date required by such order.

(c) On the Settlement Date of an Automatic Exercise, the Notes Trustee shall deliver the entire Available Amount of the Senior Notes to or upon the order of the Trust against delivery of the Notes Purchase Price by the Trust to NRG. Subject to Section 3.3(e), upon the Settlement Date of an Automatic Exercise Event, the Eligible Treasury Assets will be delivered to NRG by the Trust. Any Eligible Treasury Assets delivered to NRG by the Trust pursuant to this Agreement will be credited (i) prior to the termination of the LC Agreement, to the applicable NRG Collateral Account, which has been pledged in favor of the Collateral Agent in accordance with the terms of the LC Agreement and (ii) at any time after the termination of the LC Agreement, to such account of NRG as NRG may specify in a written notice to the Trust.

Section 3.3 Settlement and Delivery.

(a) Delivery of the Senior Notes (or the Cash Settlement Amount, in respect of any Senior Notes as to which NRG has made a Cash Settlement Election) and the Notes Purchase Price, in respect of any exercise of the Issuance Right shall take place prior to 3:00 p.m. on the applicable Settlement Date. Unless otherwise changed by a prior written notice to the Trust by NRG (including, without limitation, an Issuance Notice), on the applicable Settlement Date, subject to the receipt of the Senior Notes (or such Cash Settlement Amount), the Notes Purchase Price shall be delivered to or upon the order of NRG according to the delivery instructions provided by NRG. For the avoidance of doubt, any delay in delivery of any Senior Notes or Cash Settlement Amount or the Notes Purchase Price shall not extinguish the rights of NRG or the Trust to receive the Notes Purchase Price or any Cash Settlement Amount or Senior Notes, as the case may be, following the exercise of the Issuance Right.

(b) Payment of the Notes Purchase Price shall be subject to set-off against any amounts due and unpaid by NRG to the Trust on the applicable Settlement Date pursuant to this Agreement, the Trust Declaration or the Trust Expense Reimbursement Agreement and such setoff shall be deemed to satisfy the Trust's obligation to pay the Notes Purchase Price with respect to such set-off amounts (with the Eligible Treasury Assets included in the Notes Purchase Price being valued for the purpose of such set-off based on the proceeds received therefor by the Trust). Except as set forth in the immediately preceding sentence, payment of the Notes Purchase Price by the Trust shall be made as provided in this Article III without setoff, claim, recoupment, deduction or counterclaim. For the avoidance of doubt, the delivery of Eligible Treasury Assets to the Collateral Agent in connection with a Collateral Enforcement Event shall constitute payment of the relevant portion of the Notes Purchase Price by the Trust for the issuance of Senior Notes in connection with the related Mandatory Exercise.

(c) Each of NRG and the Trust hereby covenants and agrees that its delivery of the Senior Notes or the Notes Purchase Price, respectively, pursuant to this Article III shall be made free and clear of any adverse claims (other than (i) the claims of the Collateral Agent on the Note Purchase Price delivered to the NRG Collateral Account or (ii) that arise as a result of the actions of, or claims against, another party hereto), together with all transfer and registration documents (or all notices, instructions or other communications) as are necessary to convey title to the Senior Notes or the Notes Purchase Price to the Trust or NRG (or its nominee), as the case may be and cause them to be a protected purchaser (within the meaning of the New York Uniform Commercial Code) of the Senior Notes or the Notes Purchase Price, as the case may be. Regardless of when they are issued and sold to the Trust, and whether they are issued and sold to the Trust pursuant to one exercise or several exercises, all Senior Notes issued shall consist of a single series of securities under the Notes Indenture.

(d) Prior to the termination of the LC Agreement, following any Mandatory Exercise or Automatic Exercise of the Issuance Right, in lieu of receiving the Eligible Treasury Assets from the Trust, NRG has the right to require the Trust to continue to hold such Eligible Treasury Assets, which shall be pledged to the Collateral Agent in favor of the LC Issuers pursuant to the terms of the Pledge Agreement as Retained Eligible Treasury Assets. However, the Holders of the Trust Securities will have no interest in and no rights to receive delivery of any Retained Eligible Treasury Assets or proceeds thereof.

(e) Notwithstanding anything to the contrary, prior to termination of the LC Agreement, Eligible Treasury Assets that are pledged to the Collateral Agent pursuant to the Pledge Agreement shall only be delivered to NRG by the Trust if, upon the delivery of such Eligible Treasury Assets to NRG (i) such Eligible Treasury Assets will continue to be pledged to the Collateral Agent pursuant to the Pledge Agreement and (ii) no default would exist or result under the LC Agreement or the Pledge Agreement from the delivery of such Eligible Treasury Assets (any Eligible Treasury Assets retained by the Trust after the exercise of the Issuance Right pursuant to such limitation, the "*Blocked Eligible Treasury Assets*"). The Trust and the Trustee may conclusively rely on the statements of NRG in any Issuance Notice or any Mandatory Exercise Notice as to whether any Eligible Treasury Assets are Retained Eligible Treasury Assets.

ARTICLE IV
Facility Fee and Purchase of Eligible Treasury Assets

Section 4.1 *Facility Fee*. In consideration of the Trust's agreement to purchase the Senior Notes upon the exercise of the Issuance Right in accordance with the terms of this Agreement, NRG shall pay to the Trust, by wire transfer in immediately available funds, by 11:00 a.m. on each Distribution Date in arrears in respect of the Distribution Period ending on such Distribution Date, a premium (the "*Facility Fee*") in an amount equal to 3.13427% *per annum* applied to the Maximum Amount *minus* the aggregate principal amount of Senior Notes then outstanding and held by the Trust as of the close of business on the Business Day immediately preceding such Distribution Date, as applicable, calculated on a 30/360 Basis.

Section 4.2 *Special Facility Fee*. In the event (x) the Trust has not received all payments due on any Distribution Date with respect to the Eligible Treasury Assets (other than Retained Eligible Treasury Assets) and NRG has not paid for all Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 4.3 by 5:00 p.m. on such Distribution Date or (y) NRG has failed to pay any amount due under this Agreement, the Trust Expense Reimbursement Agreement or the Senior Notes, by 5:00 p.m. on any Distribution Date (such amounts in clauses (x) or (y) above, the "*Overdue Amounts*"), NRG shall pay to the Trust, by wire transfer in immediately available funds, the Special Facility Fee no later than 11:00 a.m. on the earliest of (i) the date on which the Trust is required to distribute any Overdue Amount pursuant to Section 5.8(d) of the Trust Declaration, (ii) the Settlement Date of the exercise of the entire Available Amount after such Distribution Date and (iii) the date on which any Overdue Amount is paid in respect of any amounts payable on the Trust Dissolution Date (the "*Special Facility Fee Payment Date*").

Section 4.3 *Purchase of Defaulted Eligible Treasury Assets*. NRG hereby agrees to purchase from the Trust on any Distribution Date any Defaulted Eligible Treasury Assets (or the proceeds thereof) for an amount equal to their face amount by wire transfer in immediately available funds.

ARTICLE V
OBLIGATIONS ABSOLUTE

Section 5.1 *Obligations Absolute*. The Trust acknowledges that the obligations of the Trust undertaken under this Agreement are absolute, irrevocable and unconditional irrespective of any circumstances whatsoever, including any defense otherwise available to the Trust, in equity or at law, including the defense of fraud, any defense based on the failure of NRG to disclose any matter, whether or not material, to the Trust or any other Person, and any defense of breach of warranty or misrepresentation, and irrespective of any other circumstance that might otherwise constitute a legal or equitable discharge or defense under any and all circumstances whatsoever. The enforceability and effectiveness of this Agreement and the liability of the Trust, and the rights, remedies, powers and privileges of NRG under this Agreement shall not be affected, limited, reduced, discharged or terminated, and the Trust hereby expressly waives, to the fullest extent permitted by applicable law, any defense now or in the future arising by reason of:

(i) the illegality, invalidity or unenforceability of all or any part of the Trust Declaration;

(ii) any action taken, or omission to act, by NRG;

(iii) any change in the direct or indirect ownership or control of NRG or of any shares or ownership interests thereof; and

(iv) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of or for the Trust; *provided* that, notwithstanding the provisions of this Section 5.1, the Trust shall have no further obligations hereunder after this Agreement is terminated. The breach of any covenant, representation or warranty made in this Agreement by the Trust or NRG shall not result in the termination of the Issuance Right or limit the rights of the Trust or NRG hereunder.

Other than as specifically set forth herein, neither the Trust nor the Trustee shall be entitled to receive from NRG any certificate, opinion or other document in connection with the exercise of the Issuance Right.

Section 5.2 *No Waiver*. For the avoidance of doubt, so long as the Issuance Right has not terminated, no failure or delay by NRG in exercising its rights hereunder shall operate as a waiver of its rights hereunder except as specifically provided in this Agreement.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES

Section 6.1 *Representations of the Trust*. The Trust represents and warrants to NRG that, as of the date hereof:

(a) the Trust is duly organized and validly existing under the Statutory Trust Act and has the power and authority to own its assets and to conduct its activities;

(b) its entry into, exercise of its rights and performance of or compliance with its obligations under this Agreement do not and will not violate (i) any law to which it is subject, (ii) any of its constituent documents, or (iii) any agreement to which it is a party or which is binding on it or its assets;

(c) it has the power to enter into, and to exercise its rights and perform and comply with its obligations under, this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

(d) it will obtain and maintain in effect and comply with the terms of all necessary consents, registrations and the like of or with any government or other regulatory body or authority applicable to this Agreement;

(e) its obligations under this Agreement are valid, binding and enforceable at law, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law) (the "*Enforceability Exceptions*");

(f) it is not in default under any agreement to which it is a party or by which it or its assets is or are bound and no litigation, arbitration or administrative proceedings are current or pending, which default, litigation, arbitration or administrative proceedings would be material in the context of this Agreement; and

(g) no consent, approval, authorization or order of any court or governmental authority, agency, commission or commissioner or other regulatory authority is required for the consummation by the Trust of the transactions contemplated by this Agreement.

Section 6.2 *Representations of NRG*. NRG represents and warrants to the Trust that, as of the date hereof:

(a) it is duly incorporated and validly existing under the laws of the state of Delaware, with the corporate power and authority to own its property and to conduct its business as described in the Offering Memorandum;

(b) the execution and delivery by NRG of, and the performance by NRG of its obligations under, this Agreement will not contravene (i) any provision of the certificate or articles of incorporation, or bylaws of NRG, (ii) any agreement or other instrument binding upon NRG or any of its subsidiaries that is material to NRG and its subsidiaries, taken as a whole, or (iii) any applicable law or judgment, order or decree of any governmental body, agency or court having jurisdiction over NRG or any subsidiary except that, in the case of clauses (ii) and (iii), for any contravention that would not have a material adverse effect on the business or results of operations of the Company and its subsidiaries, taken as a whole (a "*Material Adverse Effect*") or a material adverse effect on the ability of NRG to consummate the transactions contemplated hereby;

(c) it has the corporate power to enter into, and to exercise its rights and perform and comply with its obligations under, this Agreement and this Agreement has been duly authorized, executed and delivered by it;

(d) its obligations under this Agreement are valid, binding and enforceable against NRG in accordance with the terms of this Agreement, subject to the Enforceability Exceptions;

(e) it is not in default under any agreement to which it is a party or by which it or its assets is or are bound, except for any default that would not have a Material Adverse Effect;

(f) there are no legal or governmental proceedings pending or, to the knowledge of NRG, threatened to which NRG or any of its Subsidiaries is a party or to which any of the properties of NRG or any of its subsidiaries is subject other than proceedings that are disclosed or described in the Offering Memorandum and proceedings that are not reasonably expected to have a Material Adverse Effect;

(g) no consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body having jurisdiction over NRG, any of its Subsidiaries or any of its or their respective properties is required for the execution and performance by NRG of its obligations under this Agreement which consent, approval, authorization, order, registration or qualification would be material relative to the expected benefits to the parties to this Agreement, except (x) such as have been, or will have been prior to the time of delivery of the Senior Notes, obtained or where failure to do so would not have a Material Adverse Effect or a material adverse effect on the ability of NRG to consummate the transactions contemplated hereby;

(h) assuming the accuracy of the representations, warranties and agreements of the Trust herein and the several initial purchasers in Section 5 of the Purchase Agreement, dated as of August 15, 2023, by and among NRG, the Trust, Mizuho Securities USA LLC and RBC Capital Markets, LLC, as representatives of the several initial purchasers named in Schedule I thereto (the "*Notes Purchase Agreement*"), it is not necessary in connection with the sale and delivery of the Senior Notes by NRG to the Trust, pursuant to the terms hereof in accordance with and in the manner contemplated by the Notes Purchase Agreement, this Agreement and the Offering Memorandum, to register the Senior Notes under the Securities Act; and

(i) the Senior Notes have been duly authorized by NRG and, when executed and authenticated in accordance with the provisions of the Notes Indenture and delivered in accordance with the terms of this Agreement, will be valid and binding obligations of NRG, enforceable against NRG in accordance with their terms, subject to the Enforceability Exceptions, and will be entitled to the benefit of the Notes Indenture.

ARTICLE VII
MISCELLANEOUS

Section 7.1 *Inconsistency*. If there is any inconsistency between any provision of this Agreement and any other Transaction Agreement, the provisions of this Agreement shall prevail to the extent of such inconsistency but not otherwise.

Section 7.2 *Binding Effect*. All agreements contained in this Agreement shall bind the successors, assigns, receivers, trustees and representatives of the Trust, NRG, the Notes Trustee and the Holders of the Trust Securities.

Section 7.3 *Amendments*. This Agreement may be amended by NRG and the Trust with the consent of at least a Majority of Holders, except that (x) the unanimous consent of the Holders of the Trust Securities is required for any change in the payment terms in the definition of "Special Facility Fee", Section 2.2, Article III or Article IV that would affect the timing or amount of any distribution by the Trust pursuant to the Trust Declaration and (y) the consent of the Collateral Agent is required for any amendment to Section 3.3(e).

Notwithstanding the foregoing, no such consent of Holders shall be required for any amendment to this Agreement:

(a) to cure any ambiguity or correct any mistake or conform the terms of this Agreement to the description thereof in the Offering Memorandum;

(b) to correct or supplement any provision of this Agreement that may be defective or inconsistent with any other provision of this Agreement or the Trust Declaration;

(c) as determined in good faith by an Authorized Officer of NRG in an Officer's Certificate delivered to the Notes Trustee, to make any change that does not adversely affect the rights of any Holder in any material respect; or

(d) to make any other change that may in the reasonable judgment of NRG be necessary or appropriate to prevent the occurrence of any Investment Company Act Event or P-Caps Tax Event or that would not be adverse to the interests of the Holders,

provided that such change would not change the timing or amount of any distribution to the Holders of the Trust Securities or the U.S. federal income tax treatment of the Holders as the owners of indebtedness of NRG, either held directly or held through the Trust and would not otherwise reasonably be expected to have a material adverse effect on Holders. The consent of the Notes Trustee is required for any amendment that affects the rights, duties or immunities of the Notes Trustee under this Agreement or otherwise.

Section 7.4 Assignment. Neither the Trust nor NRG may assign its rights or obligations under this Agreement to any other Person, except that NRG may assign its rights and obligations under this Agreement to any Person to whom it assigns its rights and obligations under the Notes Indenture, which Person shall assume all of such rights and obligations under this Agreement either by operation of law or by express agreement. Any purported assignment in violation of this Section 7.4 shall be void. For the avoidance of doubt, this Agreement does not prohibit NRG from entering into a merger, consolidation or sale of all or substantially all of its assets.

Section 7.5 Third-Party Beneficiary. The Collateral Agent is an intended third-party beneficiary of this Agreement and may enforce Sections 3.3(e) and 7.3 of this Agreement as if it were a party hereto.

Section 7.6 Notices.

(a) Any notice, request or other communication required or permitted to be given hereunder shall be given in writing by delivering the same against receipt therefor in person, by registered or certified mail, by nationally recognized overnight courier or as a pdf. attachment to an email, addressed as follows:

If to NRG at:

NRG Energy, Inc.
804 Carnegie Place
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel
E-Mail: ogc@nrg.com and LoanCompliance@nrg.com

with a copy to:

White & Case LLP
1221 Avenue of the Americas
New York, NY 10020
Attention: Daniel Nam, Esq.
Email: dnam@whitecase.com

If to the Trust at:

Alexander Funding Trust II
c/o Deutsche Bank Trust Company Americas, as Trustee
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

If to the Notes Trustee at:

Deutsche Bank Trust Company Americas, as Notes Trustee
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

(b) Any such notice shall be effective upon delivery, if delivered in person; upon acknowledgement of receipt (in writing or orally), if delivered by email; on the fifth day after deposited in the mail, postage prepaid, if delivered by registered or certified mail; and on the day after deposit with a nationally recognized overnight courier, if delivered by overnight courier.

(c) Any party hereto may change its address, email address or telephone number for notices and other communications hereunder by notice to the other parties hereto in accordance with this Section 7.6.

(d) The Notes Trustee agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured email or other similar unsecured electronic methods. The Notes Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Notes Trustee's reliance upon and compliance with such instructions or directions notwithstanding such instructions or directions conflict or are inconsistent with a subsequent written instruction or direction or if the subsequent written instruction or direction is never received. Subject to the standard of care applicable to the Notes Trustee under the Notes Indenture, the party providing instructions or directions by unsecured email or other similar unsecured electronic methods, as aforesaid, agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Notes Trustee, including, without limitation, the risk of the Notes Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 7.7 *Governing Law*. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Section 7.8 *Jurisdiction*. Each of the parties hereto agrees that any legal suit, action or proceeding arising out of or in connection with or based upon this Agreement ("*Proceedings*") may be instituted in any state or Federal court in the Borough of Manhattan, The City of New York, New York, United States of America; waives, to the extent it may effectively do so, any objection that it may have now or hereafter to the laying of the venue of any such suit, action or proceeding; and irrevocably submits to the exclusive jurisdiction of any such court in any such suit, action or proceeding. Each of the parties hereto agrees that process shall be deemed served if sent to it at the address given for notices under this Agreement and that nothing in this Agreement shall affect any party's right to serve process in any other manner permitted by law. Each of the parties hereto agree that final judgment against it in any Proceeding shall be enforceable in any other jurisdiction within or outside the United States by suit on the judgment. Each of the parties hereby irrevocably waives, to the extent permitted by law, any immunity to jurisdiction to which it may otherwise be entitled (including immunity to pre-judgment attachment, post-judgment attachment and execution) in any Proceeding. The provisions of this Section 7.8 are intended to be effective upon the execution of this Agreement without any further action by any of the parties and the introduction of a true copy of this Agreement into evidence shall be conclusive and final evidence as to such matters.

Section 7.9 *WAIVER OF TRIAL BY JURY*. EACH OF NRG, THE TRUST AND THE NOTES 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 AGREEMENT, THE SENIOR NOTES OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

Section 7.10 *Counterparts*. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument. The words "execution", "signed", "signature", and words of like import in this Agreement including, without limitation, with respect to addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications, shall include electronic signatures (including without limitation, Diligent, DocuSign and AdobeSign or any other similar platform identified by NRG and reasonably available at no undue burden or expense to the Notes Trustee, with respect to the signatures of the Notes Trustee) with respect to this Agreement and all notices or other documents to be delivered in connection herewith. The exchange of copies of this Agreement and of signature pages by facsimile or email transmission of PDF files shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement for all purposes. Signatures of the parties hereto transmitted by facsimile or email transmission of PDF files shall be deemed to be their original signatures for all purposes.

Section 7.11 *Severability*. If any one or more of the provisions contained herein, or the application thereof in any circumstances, is invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired or affected, it being intended that all of the Trust's, NRG's and the Notes Trustee's rights, immunities and privileges shall be enforceable to the fullest extent permitted by law, *provided* that, if the omission of such provision would alter the fundamental expectations of the parties hereto, such provision shall not be severable.

Section 7.12 *Limitation of Liability*. It is expressly understood that (i) this Agreement is executed and delivered by Deutsche Bank NY, as Trustee, not individually or personally but solely as Trustee, in the exercise of the powers and authority conferred and vested in it under the Trust Declaration, (ii) each of the representations, undertakings and agreements herein made on the part of the Trust is made and intended not as a personal representation, undertaking or agreement by Deutsche Bank NY, but is made and intended for the purpose for binding only the Trust, (iii) nothing herein contained shall be construed as creating any liability on Deutsche Bank NY, as Trustee, or Deutsche Bank DE, as Delaware Trustee, of the Trust, individually or personally, to perform any covenant either expressed or implied contained herein of the Trust, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto, (iv) Deutsche Bank NY has made no investigation as to the accuracy or completeness of any representations and warranties made by the Trust in this Agreement and (v) under no circumstances shall Deutsche Bank NY be personally liable for the payment of any indebtedness or expenses of the Trust or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Trust under this Agreement or any other related documents. The Trustee shall not be responsible for making any calculation with respect to any matter under this Agreement and shall have no duty to monitor or investigate NRG's compliance with any representation, warranty, covenant or agreement made by it under this Agreement or any other agreement relating hereto.

Section 7.13 *The Notes Trustee*.

(a) In entering into and performing its duties under this Agreement as Notes Trustee, Deutsche Bank NY is acting in its capacity as Notes Trustee under the Notes Indenture and shall be entitled to all of the exculpations, protections, immunities, indemnities and standard of care available to it thereunder. Without limiting the foregoing, the Notes Trustee (i) may conclusively rely and shall be protected in acting upon any Issuance Notice or Automatic Exercise Notice believed by it to be genuine and to have been signed or presented by the proper party or parties and may conclusively rely on the truth and correctness of any statement contained therein, including, without limitation, as to the proper principal amount of Senior Notes to be authenticated and delivered, (ii) in authenticating and delivering any Senior Notes hereunder, shall not be responsible for determining whether the related Notes Purchase Price has been delivered by the Trust to NRG or whether the Notes Purchase Price, when so delivered, is in the proper amount, (iii) undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants, duties or obligations shall be read into this Agreement against the Notes Trustee, (iv) shall not be charged with notice or knowledge of an Automatic Exercise Event unless notified of such event under Section 3.2, and (v) shall not be deemed to owe any fiduciary duty to the holders of the Trust Securities.

(b) The Notes Trustee shall not be responsible for making any calculation with respect to any matter under this Agreement and shall have no duty to monitor or investigate NRG's or the Trust's compliance with any representation, warranty, covenant, or agreement made by either of them under this Agreement or any other agreement relating hereto.

Section 7.14 Intended Tax Treatment. The parties hereto agree that the offering of the Trust Securities by the Trust coupled with the arrangements and agreements under the Transaction Agreements is intended to be treated for United States federal income tax purposes as a financing wherein NRG directly owns the assets held by the Trust and issues indebtedness directly to the Holders of the Trust Securities. Accordingly, the parties hereto agree for United States federal income tax purposes to treat the Holders of the Trust Securities' interests in the Trust Securities as indebtedness of NRG.

[*Signature Pages Follow*]

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

ALEXANDER FUNDING TRUST II

By: DEUTSCHE BANK TRUST COMPANY AMERICAS, not in its individual capacity but solely as Trustee

By: /s/ Robert Peschler
Name: Robert Peschler
Title: Vice President

By: /s/ Sebastian Hidalgo
Name: Sebastian Hidalgo
Title: Assistant Vice President

[*Signature Page to Facility Agreement*]

NRG ENERGY, INC.

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Sr. Vice President, Treasurer & Head of Investor Relations

[*Signature Page to Facility Agreement*]

GUARANTORS:

ASTORIA GAS TURBINE POWER LLC
CARBON MANAGEMENT SOLUTIONS LLC
DUNKIRK POWER LLC
ENERGY CHOICE SOLUTIONS LLC
HUNTLEY POWER LLC
INDIAN RIVER POWER LLC
NORWALK POWER LLC
NRG BUSINESS SERVICES LLC
NRG CEDAR BAYOU DEVELOPMENT COMPANY, LLC
NRG DISTRIBUTED ENERGY RESOURCES HOLDINGS LLC
NRG ECOKAP HOLDINGS LLC
NRG ENERGY SERVICES GROUP LLC
NRG HQ DG LLC
NRG INTERNATIONAL LLC
NRG RETAIL LLC
NRG RETAIL NORTHEAST LLC
NRG ROCKFORD ACQUISITION LLC
NRG WEST COAST LLC
SOMERSET POWER LLC
VIENNA POWER LLC

NRG ENERGY, INC., Sole Member

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Sr. Vice President, Treasurer & Head of Investor Relations

AIRTRON, INC.
AWHR AMERICA'S WATER HEATER RENTALS, L.L.C.
BOUNCE ENERGY, INC.
CPL RETAIL ENERGY L.P.
DIRECT ENERGY CONNECTED HOME US INC.
DIRECT ENERGY GP, LLC
DIRECT ENERGY HOLDCO GP LLC
DIRECT ENERGY LEASING, LLC
DIRECT ENERGY MARKETING INC.
DIRECT ENERGY OPERATIONS, LLC
DIRECT ENERGY SERVICES, LLC
DIRECT ENERGY US HOLDINGS INC.
DIRECT ENERGY, LP
FIRST CHOICE POWER, LLC
GATEWAY ENERGY SERVICES CORPORATION
HOME WARRANTY HOLDINGS CORP.
MASTERS, INC.
RSG HOLDING CORP.
WTU RETAIL ENERGY L.P.
NRG BUSINESS MARKETING LLC

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Vice President

ACE ENERGY, INC.
CABRILLO POWER I LLC
CABRILLO POWER II LLC
CIRRO ENERGY SERVICES, INC.
CIRRO GROUP, INC.
EASTERN SIERRA ENERGY COMPANY LLC
EL SEGUNDO POWER II LLC
EL SEGUNDO POWER, LLC
ENERGY PLUS HOLDINGS LLC
ENERGY PLUS NATURAL GAS LLC
EVERYTHING ENERGY LLC
FORWARD HOME SECURITY, LLC
GCP FUNDING COMPANY, LLC
GREEN MOUNTAIN ENERGY COMPANY
GREGORY PARTNERS, LLC
GREGORY POWER PARTNERS LLC
INDEPENDENCE ENERGY ALLIANCE LLC
INDEPENDENCE ENERGY GROUP LLC
INDEPENDENCE ENERGY NATURAL GAS LLC
INDIAN RIVER OPERATIONS INC.
MERIDEN GAS TURBINES LLC
NEO CORPORATION
NEW GENCO GP, LLC
NRG AFFILIATE SERVICES INC.
NRG ARTHUR KILL OPERATIONS INC.
NRG CABRILLO POWER OPERATIONS INC.
NRG CONNECTED HOME LLC
NRG CONTROLLABLE LOAD SERVICES LLC
NRG CURTAILMENT SOLUTIONS, INC.

NRG DEVELOPMENT COMPANY INC.
NRG DISPATCH SERVICES LLC
NRG DISTRIBUTED GENERATION PR LLC
NRG DUNKIRK OPERATIONS INC.
NRG ENERGY LABOR SERVICES LLC
NRG GENERATION HOLDINGS INC.
NRG HOME & BUSINESS SOLUTIONS LLC
NRG HOME SOLUTIONS LLC
NRG HOME SOLUTIONS PRODUCT LLC
NRG HOMER CITY SERVICES LLC
NRG HUNTLEY OPERATIONS INC.
NRG IDENTITY PROTECT LLC
NRG MEXTRANS INC.
NRG NORWALK HARBOR OPERATIONS INC.
NRG PORTABLE POWER LLC
NRG RENTER'S PROTECTION LLC
NRG SAGUARO OPERATIONS INC.
NRG SECURITY LLC
NRG SERVICES CORPORATION
NRG SIMPLYSMART SOLUTIONS LLC
NRG TEXAS GREGORY LLC
NRG TEXAS HOLDING INC.
NRG TEXAS LLC
NRG TEXAS POWER LLC
NRG WARRANTY SERVICES LLC
NRG WESTERN AFFILIATE SERVICES INC.
RELIANT ENERGY NORTHEAST LLC
RELIANT ENERGY POWER SUPPLY, LLC
RELIANT ENERGY RETAIL HOLDINGS, LLC
RELIANT ENERGY RETAIL SERVICES, LLC
RERH HOLDINGS, LLC
SAGUARO POWER LLC
SGE ENERGY SOURCING, LLC
SGE TEXAS HOLDCO, LLC
SOMERSET OPERATIONS INC.
STREAM ENERGY COLUMBIA, LLC
STREAM ENERGY DELAWARE, LLC
STREAM ENERGY ILLINOIS, LLC
STREAM ENERGY MARYLAND, LLC
STREAM ENERGY NEW JERSEY, LLC
STREAM ENERGY NEW YORK, LLC
STREAM ENERGY PENNSYLVANIA, LLC
STREAM GEORGIA GAS SPE, LLC
STREAM OHIO GAS & ELECTRIC, LLC
STREAM SPE GP, LLC
TEXAS GENCO GP, LLC

TEXAS GENCO HOLDINGS, INC.
TEXAS GENCO LP, LLC
TEXAS GENCO SERVICES, LP
US RETAILERS LLC
VIENNA OPERATIONS INC.
WCP (GENERATION) HOLDINGS LLC
WEST COAST POWER LLC
XOOM ALBERTA HOLDINGS, LLC
XOOM ENERGY GLOBAL HOLDINGS LLC
XOOM ENERGY, LLC
XOOM ONTARIO HOLDINGS, LLC
XOOM SOLAR, LLC

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Treasurer

ALLIED HOME WARRANTY GP LLC
ALLIED WARRANTY LLC
DIRECT ENERGY BUSINESS, LLC
NRG HOME SERVICES LLC
NRG HOME SOLUTIONS LLC
NRG PROTECTS INC.
XOOM ENERGY CALIFORNIA, LLC

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Vice President and Treasurer

NRG SOUTH TEXAS LP

TEXAS GENCO GP, LLC, General Partner

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Vice President and Treasurer

STREAM SPE, LTD.

STREAM SPE GP, LLC, General Partner

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Treasurer

XOOM BRITISH COLUMBIA HOLDINGS, LLC
XOOM ENERGY CONNECTICUT, LLC
XOOM ENERGY DELAWARE, LLC
XOOM ENERGY GEORGIA, LLC
XOOM ENERGY ILLINOIS, LLC
XOOM ENERGY INDIANA, LLC
XOOM ENERGY KENTUCKY, LLC
XOOM ENERGY MAINE, LLC
XOOM ENERGY MARYLAND, LLC
XOOM ENERGY MASSACHUSETTS, LLC
XOOM ENERGY MICHIGAN, LLC
XOOM ENERGY NEW HAMPSHIRE, LLC
XOOM ENERGY NEW JERSEY, LLC
XOOM ENERGY NEW YORK, LLC
XOOM ENERGY OHIO, LLC
XOOM ENERGY PENNSYLVANIA, LLC
XOOM ENERGY RHODE ISLAND, LLC
XOOM ENERGY TEXAS, LLC
XOOM ENERGY VIRGINIA, LLC
XOOM ENERGY WASHINGTON D.C., LLC

XOOM ENERGY LLC, Sole Member

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Treasurer

NRG CALIFORNIA PEAKER OPERATIONS LLC
NRG OPERATING SERVICES, INC.

By: /s/ Matthew J. Pistner
Name: Matthew J. Pistner
Title: President

NRG ASTORIA GAS TURBINE OPERATIONS INC.
NRG EL SEGUNDO OPERATIONS INC.

By: /s/ Matthew J. Pistner
Name: Matthew J. Pistner
Title: Vice President

ENERGY ALTERNATIVES WHOLESALE, LLC

By: /s/ Robert J. Gaudette
Name: Robert J. Gaudette
Title: Vice President

NRG CONSTRUCTION LLC
NRG ENERGY SERVICES LLC
NRG MAINTENANCE SERVICES LLC
NRG RELIABILITY SOLUTIONS LLC

By: /s/ Linda Weigand
Name: Linda Weigand
Title: Treasurer

DEUTSCHE BANK TRUST COMPANY AMERICAS, not in its individual capacity but solely as Notes Trustee

By: /s/ Robert Peschler
Name: Robert Peschler
Title: Vice President

By: /s/ Sebastian Hidalgo
Name: Sebastian Hidalgo
Title: Assistant Vice President

ANNEX A

FORM OF ISSUANCE NOTICE

To: Alexander Funding Trust II
c/o Deutsche Bank Trust Company Americas, as Trustee
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

To: Deutsche Bank Trust Company Americas,
as Notes Trustee under the Indenture Relating to the Senior Notes referred to below
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

Date:

Re: Notice of Exercise of Right to Issue NRG Energy 7.467% Senior Secured First Lien Notes due 2028 (the "*Senior Notes*") under the Facility Agreement

Ladies and Gentlemen:

This notice is an Issuance Notice for the purposes of Section 3.1(a) of the Facility Agreement, dated as of August 29, 2023 (the "*Facility Agreement*"), among NRG Energy, Inc., Alexander Funding Trust II (the "*Trust*") and Deutsche Bank Trust Company Americas, as Notes Trustee. Capitalized terms used and not defined herein shall have the respective meanings given to such terms in the Facility Agreement.

The exercise of the Issuance Right pursuant to this Issuance Notice [is][is not] a Mandatory Exercise.

The **Designated Amount** with respect to this exercise shall be $_____,[1] and the remaining **Available Amount** immediately after giving effect to the exercise of the Issuance Right pursuant to this Issuance Notice shall be $_____.

The **Settlement Date** with respect to this exercise shall be _____.[2]

Include only for if a Cash Settlement Election is made — **[**We hereby make a **Cash Settlement Election** with respect to $_____[3] principal amount of Senior Notes subject to this exercise.**]**

[The Removed Collateral Amount is $ _____].[4]

[Upon the occurrence of a Mandatory Exercise Event, [the Eligible Treasury Assets will be delivered to NRG by the Trust][the Eligible Treasury Assets will constitute Retained Eligible Treasury Assets and will continue to be held by the Trust]][5].

The Settlement Date [is][is not] the Trust Dissolution Date under the Trust's Amended and Restated Declaration of Trust.[6]

We hereby direct the Trust and [Deutsche Bank NY], as trustee thereof (the "*Trustee*"), to deliver the Notes Purchase Price as provided in Article III of the Facility Agreement, to [the NRG Collateral Account, which has been pledged in favor of the Collateral Agent in accordance with the terms of the LC Agreement][7] [the following account: _____][8].

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1 This must be an integral multiple of $50,000,000 in the case of a Voluntary Exercise or a portion thereof, when the Available Amount is less than $50,000,000 at the time the Issuance Right is exercised, and must be the entire Available Amount in the case of a Mandatory Exercise (other than as specified in the definition of "Mandatory Exercise Event").

2 This must be a Business Day on or prior the Trust Dissolution Date under the Trust's Amended and Restated Trust Declaration of Trust and at least two Business Days after the date this Issuance Notice is received by the Trust and the Notes Trustee, or if a Cash Settlement Election is being made, at least 10 days but not more than 60 days following the date this Issuance Notice is received by the Trust and the Notes Trustee, or in the case of a Mandatory Exercise, the second Business Day after the date this Issuance Notice is received by the Trust and the Notes Trustee.

3 In connection with a Mandatory Exercise, this must be $[ ] or an integral multiple thereof not in excess of the Designated Amount.

4 Include only for a Collateral Enforcement Event.

5 Do not include if Eligible Treasury Assets are delivered in connection with a Collateral Enforcement Event.

6 See Section 8.1(a) of the Amended and Restated Declaration of Trust

7 Include if LC Agreement is still in effect.

8 Select if the LC Agreement is no longer in effect.

If the Settlement Date is not the Trust Dissolution Date and a Cash Settlement Election is not made with respect to the entire Designated Amount — [We hereby instruct Deutsche Bank Trust Company Americas, as Registrar under the Notes Indenture, to increase the outstanding principal amount of the Senior Notes registered in the name of the Trust on its books and records by $_____[9] on the Settlement Date.]

If the Settlement Date is the Trust Dissolution Date — **[**We hereby instruct Deutsche Bank Trust Company Americas, as Notes Trustee under the Notes Indenture, [to (i) transfer the principal balance and any accrued interest under the Initial Note Certificate to the Global Securities and cancel the Initial Note Certificate referred to in the Company Order, dated August 29, 2023, a copy of which is attached hereto as Exhibit 1, (ii) cause DTC to allocate the Global Securities to Holders of the Trust Securities and (iii) provide prompt written confirmation of such actions to the Trustee and NRG][10].**]**

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9 Insert the Designated Amount less the principal amount of Senior Notes, if any, as to which a Cash Settlement Election is made.

10 If, at the time this notice is delivered, NRG determines that the Securities will not be eligible for delivery through DTC on the Trust Dissolution Date, substitute "to cancel the Initial Note Certificate and to authenticate and deliver individual Securities as provided in the Company Order accompanying this notice."

NRG ENERGY, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT 1 TO ANNEX A

COMPANY ORDER

ANNEX B

FORM OF WAIVER OF REPURCHASE RIGHT

To: Alexander Funding Trust II
c/o Deutsche Bank Trust Company Americas, as Trustee
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

To: Deutsche Bank Trust Company Americas,
as Notes Trustee under the Indenture Relating to the Senior Notes referred to below
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

Date:

Re: Notice of Waiver of the Repurchase Right under the Facility Agreement

Ladies and Gentlemen:

We hereby irrevocably waive the Repurchase Right, as defined in and pursuant to the Facility Agreement, dated as of August 29, 2023, among NRG Energy, Inc., Alexander Funding Trust II, and Deutsche Bank Trust Company Americas, as Notes Trustee.

NRG ENERGY, INC.

By: _____
Name:
Title:

ANNEX C

FORM OF REPURCHASE NOTICE

To: Alexander Funding Trust II
c/o Deutsche Bank Trust Company Americas, as Trustee
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

To: Deutsche Bank Trust Company Americas,
as Notes Trustee under the Indenture Relating to the Senior Notes referred to below
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

Date:

Re: Notice of the Exercise of the Repurchase Right under the Facility Agreement

Ladies and Gentlemen:

We refer to the Facility Agreement, dated as of August 29, 2023 (the "*Facility Agreement*"), among NRG Energy, Inc. ("*NRG*"), Alexander Funding Trust II (the "*Trust*") and Deutsche Bank Trust Company Americas, as Notes Trustee. Capitalized terms used and not defined herein shall have the respective meanings given to such terms in the Facility Agreement.

Pursuant to Section 2.2 of the Facility Agreement, we hereby exercise the Repurchase Right with respect U.S.$_____ principal amount of the 7.467% Senior Secured First Lien Notes due 2028 (the "*Senior Notes*") held by the Trust. The Repurchase Settlement Date shall be _____.[11]

[11] This must be at least three Business Days after the date this notice is delivered to the Trust and the Notes Trustee.

We hereby instruct Deutsche Bank Trust Company Americas, as Registrar under the Notes Indenture, to reduce the outstanding principal amount of Senior Notes registered in the name of the Trust on its books and records by the above principal amount on the Repurchase Settlement Date.

Yours faithfully,

NRG ENERGY, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

ANNEX D

FORM OF AUTOMATIC EXERCISE NOTICE

To:[12] Deutsche Bank Trust Company Americas,
as Notes Trustee under the Indenture Relating to the Senior Notes Referred to Below
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

To: NRG Energy, Inc.
804 Carnegie Place
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel

To: Alexander Funding Trust II
c/o Deutsche Bank Trust Company Americas, as Trustee
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

Date:

Re: Notice of Automatic Exercise Event under the Facility Agreement

Ladies and Gentlemen:

We refer to the Facility Agreement, dated as of August 29, 2023 (the "*Facility Agreement*"), among NRG Energy, Inc. ("*NRG*"), Alexander Funding Trust II and Deutsche Bank Trust Company Americas, as Notes Trustee. Capitalized terms used and not defined herein shall have the respective meanings given to such terms in the Facility Agreement.

[**If delivered by the Trust:** An Automatic Exercise Event as set forth in clauses [(i)/(ii)] of the definition thereof has occurred; therefore, the Issuance Right for the entire Available Amount (which is $_____) is automatically exercised pursuant to Section 3.2 of the Facility Agreement and the Settlement Date shall occur on **[**insert second Business Day following receipt of this notice by the Notes Trustee], unless otherwise determined pursuant to Section 3.2(b) of the Facility Agreement.

[12] Include bracketed language if all of the Senior Notes have not already been issued.

[**If delivered by NRG**: A Bankruptcy Event in respect of NRG has occurred. The Settlement Date for the related Automatic Exercise will be determined pursuant to Section 3.2(b) of the Facility Agreement **[**and the entire Available Amount (which is $_____) is automatically exercised pursuant to said Section 3.2(b)][13].]

[**If delivered by NRG**: We hereby instruct Deutsche Bank Trust Company Americas, as Notes Trustee under the Notes Indenture, [to (i) transfer the principal balance and any accrued interest under the Initial Note Certificate to the Global Securities and cancel the Initial Note Certificate referred to in the Company Order, dated August 29, 2023, a copy of which is attached hereto as Exhibit 1, (ii) cause DTC to allocate the Global Securities to Holders of the Trust Securities and (iii) provide prompt written confirmation of such actions to the Trustee and NRG][14].]

Upon the occurrence of an Automatic Exercise Event, the [Eligible Treasury Assets will be delivered to NRG by the Trust][the Eligible Treasury Assets will constitute Retained Eligible Treasury Assets and will continue to be held by the Trust].

Yours faithfully,

ALEXANDER FUNDING TRUST II,
by Deutsche Bank Trust Company Americas, not in its individual capacity but solely as Trustee

By _____
Name:
Title:

[NRG ENERGY, INC.

By _____
Name:
Title:

By _____
Name:
Title:]

13 If, at the time this notice is delivered, NRG determines that the Securities will not be eligible for delivery through DTC on the Trust Dissolution Date, substitute "to cancel the Initial Note Certificate and to authenticate and deliver individual Securities as provided in the Company Order accompanying this notice."

14 If, at the time this notice is delivered, NRG determines that the Securities will not be eligible for delivery through DTC on the Trust Dissolution Date, substitute "to cancel the Initial Note Certificate and to authenticate and deliver individual Securities as provided in the Company Order accompanying this notice."

Exhibit 4.2

EXECUTION VERSION

LETTER OF CREDIT FACILITY AGREEMENT

This Letter of Credit Facility Agreement (this "Agreement"), dated as of August 29, 2023, is by and among NRG ENERGY, INC., a Delaware corporation (the "Applicant"), the financial institutions from time to time party hereto, each in its capacity as an issuer of Letters of Credit issued by it hereunder (such financial institutions, together with their respective successors and permitted assigns, are referred to hereinafter each, individually, as an "Issuer" and, collectively, as the "Issuers"), and Deutsche Bank Trust Company Americas, as administrative agent for the Issuers (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent").

WHEREAS, each Issuer shall, subject to the terms and conditions set forth herein, issue one or more letters of credit denominated in U.S. dollars, in a form reasonably satisfactory to such Issuer for the account of the Applicant or for the account of any Subsidiary of the Applicant or any Minority Investment and for the benefit of one or more Persons (each, a "Beneficiary");

WHEREAS, the Applicant has established, on or prior to the date hereof, and is the owner of, a securities account holding Eligible UST Assets, Account No. AA5672-001.1, and a deposit account holding cash, Account No. AA5672-001.2, each maintained with Deutsche Bank Trust Company Americas (in its capacities as a securities intermediary and a depository bank (respectively), collectively, the "Securities Intermediary" and such accounts, together with any renumbered or replacement accounts, collectively, the "NRG Collateral Accounts"), to which the Applicant may credit or into which the Applicant may deposit, or from which the Applicant may withdraw, Eligible UST Assets and/or cash (as applicable) from time to time after the Effective Date on, and subject to, the terms set forth herein;

WHEREAS, the Applicant has granted, on or prior to the date hereof, and as a condition to the Effective Date, pursuant to the terms and conditions set forth in the Pledge Agreement, a security interest to the Collateral Agent, for the benefit of the Secured Parties, in the NRG Collateral Accounts and all Collateral on deposit therein or credited thereto;

WHEREAS, the Applicant has entered, on or prior to the date hereof, into a Facility Agreement, dated as of the date hereof (the "Facility Agreement"), with Alexander Funding Trust II, a Delaware statutory trust (the "Trust"), and Deutsche Bank Trust Company Americas, pursuant to which the Trust has agreed to act as an unconditional source of liquid assets for the Applicant on the terms and conditions set forth therein;

WHEREAS, the Trust has established, on or prior to the date hereof, and is the owner of, a securities account holding Eligible UST Assets, Account No. AA5672.2, maintained with the Securities Intermediary (such account, together with any renumbered or replacement account, the "Trust Collateral Account") to which the Trust may credit, or from which the Trust may withdraw, Eligible UST Assets from time to time after the Effective Date on, and subject to, the terms set forth herein;

WHEREAS, substantially concurrently with the Effective Date, Eligible UST Assets in an amount at least equal to the Minimum Collateral Base shall have been deposited in or credited to the Trust Collateral Account;

WHEREAS, the Applicant has, on or prior to the date hereof, and as a condition to the Effective Date, pursuant to the Facility Agreement and the Pledge Agreement, directed and caused the Trust to grant a security interest to the Collateral Agent, for the benefit of the Secured Parties, in the Trust Collateral Account and all Collateral on deposit therein or credited thereto; and

WHEREAS, the Applicant and the Issuers desire to set forth the terms and conditions that shall apply to the Letters of Credit issued hereunder and certain related matters in connection therewith.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Applicant, the Collateral Agent and the Issuers hereby agree as follows:

1. Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

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

"Agents" has the meaning specified in Section 17.

"Agent-Related Persons" means each Agent, together with its affiliates, and the officers, directors, employees, counsel, representatives, agents and attorneys-in-fact of each Agent and such affiliates.

"Aggregate Availability" means, at any time, the lesser of (i) an amount equal to the sum of (a) 97.18% of the Net Asset Value of the Eligible UST Assets credited to the Collateral Accounts at such time and (b) 100% of the Net Asset Value of all cash on deposit in the Collateral Accounts at such time and (ii) the Facility Amount.

"Aggregate Collateral Amount" has the meaning specified in Section 5(a).

"Agreement" means this Letter of Credit Facility Agreement, as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time in accordance with the terms hereof.

"Amendment" has the meaning specified in Section 3.

"Amendment Request" has the meaning specified in Section 3.

"Anti-Corruption Laws" means the United States Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act 2010 and, to the extent applicable, other similar legislation in any other jurisdictions.

"Anti-Terrorism Laws" means (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) the PATRIOT Act.

"Applicant" has the meaning specified in the preamble hereof.

"Base Rate" means, with respect to any amount payable hereunder, for any day, a rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to the higher of (a) the Prime Rate in effect on such day and (b) the Federal Funds Rate in effect on such day plus 1/2 of 1.00%.

The Base Rate is an index rate and is not necessarily intended to be the lowest or best rate of interest charged to other customers in connection with extensions of credit to customers or to other banks. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds Rate shall be effective as of the opening of business on the day of such change in the Prime Rate or the Federal Funds Rate, respectively.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Beneficiary" has the meaning specified in the recitals hereto.

"Board of Directors" means (a) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board; (b) with respect to a partnership, the board of directors of the general partner of the partnership; (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

"Business Day" means a day other than a Saturday, a Sunday or any other day on which banks are authorized or required by law to close in New York City.

"Calculation Agency Agreement" means that certain Calculation Agency Agreement, dated as of the date hereof, between the Applicant and Mizuho Bank, Ltd., as the calculation agent.

"Capital Stock" means (a) in the case of a corporation, corporate stock; (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (c) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"Change of Control" means the occurrence of any of the following after the date hereof:

(a) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Applicant and its Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d) of the Exchange Act, but excluding any employee benefit plan of the Applicant or any of its Subsidiaries, and any Person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of such plan); or

(b) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), other than a corporation owned directly or indirectly by the stockholders of the Applicant in substantially the same proportion as their ownership of stock of the Applicant prior to such transaction, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Applicant, measured by voting power rather than number of shares.

"Change of Control Triggering Event" means (i) a Change of Control has occurred and (ii) the P-Caps and/or the Senior Secured P-Caps Notes are downgraded by two or more Rating Agencies on any date during the 60-day period commencing after the earlier of (a) the occurrence of a Change of Control and (b) public disclosure by the Applicant of the occurrence of a Change of Control or the Applicant's intention to effect a Change of Control; provided, however, that a particular reduction in rating will not be deemed to have occurred in respect of a particular Change of Control (and thus will not constitute a Change of Control Triggering Event) if the Rating Agencies making the reduction in rating to which this definition would otherwise apply do not announce or publicly confirm or inform the Administrative Agent in writing at the Applicant's or the Administrative Agent's request that such downgrade was the result of the applicable Change of Control (whether or not the applicable Change of Control has occurred at the time of such downgrade); provided, further, that no Change of Control Triggering Event shall occur if following such downgrade, (x) the P-Caps and the Senior Secured P-Caps Notes are rated Investment Grade by at least two of the Rating Agencies or (y) the ratings of the P-Caps and the Senior Secured P-Caps Notes by each of the Rating Agencies are equal to or better than their respective ratings on the issue date thereof.

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

"Collateral" has the meaning given to the term "LC Facility Collateral" in the Pledge Agreement.

"Collateral Accounts" means, collectively, the NRG Collateral Accounts and the Trust Collateral Account.

"Collateral Agent" has the meaning specified in the preamble hereof.

"Collateral Valuation Date" means (i) each date on which the Applicant delivers a Request or an Amendment Request to an Issuer, (ii) the date that is three (3) Business Days prior to each L/C Roll Determination Date, to the extent requested by the applicable Issuer on such date, (iii) each date on which the Collateral Agent withdraws cash and/or Eligible UST Assets from one or more Collateral Accounts in accordance with Section 4(b), (iv) the effective date of a Commitment reduction pursuant to Section 31(b), to the extent requested by the Applicant, and (v) the last Business Day of each of March, June, September and December.

"Commitment" means, at any time with respect to an Issuer, the amount set forth beside such Issuer's name under the heading "Commitment" on Schedule I attached to this Agreement (as such Schedule may be amended from time to time with respect to any Issuer with the written consent of the Applicant and such Issuer, it being understood and agreed that no other consent will be required hereunder to establish, increase or decrease the commitment of an Issuer and only the consent of the Applicant and such Issuer will be required to establish, increase or decrease such commitment). "Commitments" means, collectively, the aggregate amount of the commitments of all the Issuers.

"Declaration of Trust" has the meaning specified in Section 11(a)(ii).

"Default" means any event or condition which upon notice, lapse of time (pursuant to Section 15 or otherwise) or both would constitute an Event of Default.

"Defaulting Issuer" means, at any time, any Issuer that, at such time, has (a) notified the Applicant or the Administrative Agent, in writing, or has made a public statement, to the effect that it does not intend or expect to comply with any of its Letter of Credit issuance, continuance or Amendment obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Issuer's good faith determination that a condition precedent thereto (specifically identified and, if available to such Issuer, supported by reasonable background information provided by such Issuer) cannot be satisfied) or generally its funding obligations under other agreements in which it commits to extend credit, (b) failed, within three Business Days after request by the Administrative Agent or Applicant, in each case, acting in good faith, to provide a certification in writing from an authorized officer of such Issuer that it will comply with its Letter of Credit issuance, continuance or Amendment obligations; provided that, such Issuer shall cease to be a Defaulting Issuer pursuant to this clause (b) upon receipt by the Administrative Agent or the Applicable of such written certification, or (c) taken any action or become the subject of an Issuer Insolvency Event with respect to such Issuer or its Parent Company; provided that, an Issuer shall not be a Defaulting Issuer pursuant to this clause (c) solely by virtue of the ownership or acquisition of any equity interest in such Issuer or its Parent Company by a Governmental Authority or agency thereof. A determination, if any, by the Administrative Agent (it being understood and agreed that (A) the Administrative Agent may, but shall be under no obligation to, make any such determination and (B) a determination by the Administrative Agent shall not be required for an Issuer to become a Defaulting Issuer if the requirements of this definition are otherwise satisfied) that an Issuer is a Defaulting Issuer under any of clauses (a) through and including (c) above will be conclusive and binding absent manifest error, and, if any such a determination is made, such Issuer shall be deemed to be a Defaulting Issuer upon notification of such determination by the Administrative Agent to the Applicant and the Issuers.

"Effective Date" has the meaning specified in Section 11.

"Eligible UST Assets" means a portfolio of principal and interest STRIPS of U.S. Government Obligations that are selected in accordance with Section 2.9(a) of the Declaration of Trust or delivered by the Applicant to the Trust as part of the Repurchase Price upon a Repurchase of Senior Notes (each as defined in the Declaration of Trust) pursuant to Section 2.2(c) of the Facility Agreement.

"Event of Default" has the meaning specified in Section 15(a).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Existing Letters of Credit" means the Letters of Credit described on Schedule III hereto.

"Facility Agreement" has the meaning specified in the recitals hereto.

"Facility Amount" means (a) on the Effective Date, $485,000,000 and (b) at any time thereafter, the aggregate Commitments of the Issuers at such time (as such amount may be established, increased or reduced from time to time in accordance with the terms of Sections 16 or 31); provided that, any such increase that will cause the Facility Amount to exceed $485,000,000 shall be subject to the consent requirement set forth in clause (vii) of Section 16.

"Facility Documents" means, collectively, (a) this Agreement, (b) Requests, (c) Amendment Requests, (d) any Issuer Joinder Agreement, (e) the Pledge Agreement and (g) each other agreement that the Applicant and the Administrative Agent jointly identify as a Facility Document, together with any modification of, or any waiver with respect to, any of the foregoing.

"Federal Funds Rate" means, for any day, a fluctuating interest rate per annum equal for such day to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it; provided that, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Fitch" means Fitch Ratings Inc., or any successor entity.

"Governmental Authority" means any nation or government, any state, province, territory or other political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, or any governmental or non-governmental authority regulating the generation and/or transmission of energy, including the Electric Reliability Council of Texas or any other entity succeeding thereto.

"Indebtedness" means with respect to the Applicant all obligations (a) in respect of money borrowed, (b) evidenced by notes, bonds, debentures or other similar instruments or letters of credit (or reimbursement agreements in respect thereof) and (c) in respect of banker's acceptances, in each case, of the Applicant, and any guaranties by the Applicant of any of the foregoing of any other Person.

"Indemnified Parties" has the meaning specified in Section 10.

"Issuance Period" means the period commencing on the Effective Date and ending on the Termination Date.

"Issuer" and "Issuers" have the meanings specified in the preamble hereof.

"Issuer Costs" has the meaning specified in Section 8(a).

"Issuer Insolvency Event" means that (a) an Issuer or its Parent Company is insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, or (b) such Issuer or its Parent Company is the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator or the like has been publicly appointed for such Issuer or its Parent Company, or such Issuer or its Parent Company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment.

"Issuer Joinder Agreement" means a joinder agreement, substantially in the form attached hereto as Exhibit D (or otherwise in form and substance reasonably satisfactory to the Applicant, the Administrative Agent and the Issuer party thereto), executed by the Administrative Agent, the Collateral Agent, the Applicant and the applicable financial institution joining as Issuer hereunder, pursuant to which such new Issuer joins as an Issuer hereunder.

"L/C Fee" has the meaning specified in Section 8(b)(i).

"L/C Fee Payment Date" means the last Business Day of each of March, June, September and December (or, if such date is not a Business Day, the immediately succeeding Business Day), and the Termination Date.

"L/C Outstandings" means, at any time, an aggregate amount equal to the sum of (a) the Stated Amount of all outstanding Letters of Credit and (b) the aggregate amount of all unpaid L/C Reimbursement Amounts, in each case, at such time; provided that, for the purpose of determining the L/C Outstandings for the determination of Minimum Collateral Base, the Administrative Agent shall be entitled to conclusively rely on the most recently provided L/C Outstandings Report of such amount without further investigation or inquiry.

"L/C Outstandings Report" means a daily report listing all Letters of Credit issued hereunder and any unpaid L/C Reimbursement Amounts as of the close of the prior Business Day, in the form attached hereto as Exhibit E (or such other form reasonably satisfactory to the Administrative Agent).

"L/C Reimbursement Amount" has the meaning specified in Section 4(a).

"L/C Roll Determination Date" has the meaning specified in Section 3(d).

"Letter of Credit" means, collectively, each letter of credit issued or deemed issued pursuant to Section 3.

"Lien" means, with respect to any asset, any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset.

"Majority Issuers" means at any date of determination Issuers whose Pro Rata Shares aggregate more than 50%.

"Minimum Collateral Base" means, on any date as of which it is determined hereunder, the quotient obtained by dividing (a) the L/C Outstandings as reported in the most recent L/C Outstandings Report by (b) Minimum Collateral Percentage.

"Minimum Collateral Percentage" means a number, expressed as a percentage, equal to the sum of (a) the product of (i) a fraction, the numerator of which is the Net Asset Value of all cash on deposit in the Collateral Accounts and the denominator of which is the Net Asset Value of all Collateral on deposit in or credited to the Collateral Accounts, in each case, as determined in accordance with Section 6(a) and (ii) 100% and (b) the product of (i) a fraction, the numerator of which is the Net Asset Value of all Eligible UST Assets credited to the Collateral Accounts and the denominator of which is the Net Asset Value of all Collateral on deposit in or credited to the Collateral Accounts, in each case, as determined in accordance with Section 6(a) and (ii) 97.18%.

"Minority Investment" means any Person (other than a Subsidiary) in which the Applicant or any Subsidiary owns Capital Stock.

"Moody's" means Moody's Investors Service, Inc. or any successor entity.

"Nationally Recognized Statistical Organization" means a nationally recognized statistical rating organization within the meaning of Section 3(a)(62) under the Exchange Act.

"Net Asset Value" has the meaning specified in Section 6(a).

"Non-Excluded Taxes" has the meaning specified in Section 9.

"Notice Date" has the meaning specified in Section 6(b).

"NRG Collateral Accounts" has the meaning specified in the recitals hereto.

"Obligations" means all of the Applicant's obligations to pay fees, costs and expenses, to pay principal or interest and any L/C Reimbursement Amount, in each case, to any Agent or any Issuer under this Agreement and the other Facility Documents.

"Other Taxes" means any stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any Facility Document, except with respect to an Issuer or the Administrative Agent, any such Taxes imposed with respect to an assignment (other than pursuant to a request by the Applicant under Section 9(c)) as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced this Agreement or any Facility Document, or sold or assigned an interest in any Letter of Credit or Facility Document).

"Parent Company" means, with respect to an Issuer, the bank holding company (as defined in Regulation Y of the Board of Governors of the Federal Reserve System of the United States of America), if any, of such Issuer, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the shares of such Issuer.

"PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"P-Caps" means the pre-capitalized trust securities issued by the Trust on the date hereof.

"Permitted Liens" means Liens on cash deposits and other funds maintained with a depository institution, in each case arising in the ordinary course of business by virtue of any statutory or common law provision relating to banker's liens, including Section 4-210 of the UCC, and/or arising from customary contractual fee provisions, the reimbursement of funds advanced by a depositary or intermediary institution (and/or its Affiliates) on account of investments made or securities purchased, indemnity, returned check and other similar provisions.

"Person" means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

"Pledge Agreement" means that certain Pledge and Control Agreement, dated as of the date hereof, among the Applicant, the Collateral Agent, the Trust and the Securities Intermediary.

"Prime Rate" means, for any day, mean the rate of interest per annum publicly announced from time to time by The Wall Street Journal as the "base rate on corporate loans posted by at least 75% of the nation's 30 largest banks" (or, if The Wall Street Journal ceases quoting a base rate of the type described, the highest per annum rate of interest published by the Federal Reserve Board in Federal Reserve statistical release H.15 (519) entitled "Selected Interest Rates" as the Bank prime loan rate or its equivalent); each change in the Prime Rate shall be effective as of the opening of business on the date such change is publicly announced as being effective; provided that, in no event shall the "Prime Rate" at any time be less than 0.00% per annum. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually available.

"Proceeding" has the meaning specified in Section 26.

"Pro Rata Share" means, with respect to an Issuer, a fraction (expressed as a percentage), the numerator of which is the amount of such Issuer's Commitment and the denominator of which is the sum of the amounts of all of the Issuers' Commitments, or if no Commitments are outstanding, a fraction (expressed as a percentage), the numerator of which is the amount of Obligations owed to such Issuer and the denominator of which is the aggregate amount of the Obligations owed to the Issuers.

"Rating Agency" means (a) each of Moody's, S&P and Fitch and (b) if any of Moody's, S&P or Fitch ceases to rate the P-Caps or the Senior Secured P-Caps Notes or fails to make a rating of the P-Caps or the Senior Secured P-Caps Notes publicly available, a Nationally Recognized Statistical Organization selected by Applicant which shall be substituted for Moody's, S&P or Fitch, as the case may be.

"Related Parties" means, with respect to any specified person, such Person's affiliates and the respective directors, officers, employees, trustees, agents and advisors of such Person and such Person's affiliates.

"Request" has the meaning specified in Section 3.

"S&P" means S&P Global Ratings, a division of S&P Global Inc., or any successor entity.

"Sanctioned Country" means, at any time, a country or territory that is subject to comprehensive Sanctions, including, as of the Effective Date, the non-government controlled areas of the Kherson and Zaporizhzhia regions of Ukraine.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, the United Nations Security Council, the European Union or any EU member state, or listed on the Consolidated List of Financial Sanctions Targets in the United Kingdom maintained by His Majesty's Treasury, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union or His Majesty's Treasury of the United Kingdom.

"Secured Parties" means, collectively, the Issuers, the Administrative Agent and the Collateral Agent.

"Securities Intermediary" has the meaning specified in the recitals hereto.

"Senior Secured P-Caps Notes" means the "Senior Notes" as defined in the Facility Agreement.

"Shortfall Amount" has the meaning specified in Section 6(b).

"Shortfall Date" has the meaning specified in Section 6(b).

"Shortfall Notice" has the meaning specified in Section 6(b).

"Solvent" means, with respect to the Applicant on a particular date, that on such date, immediately after giving effect to all Letters of Credit (or any Amendment thereto) issued, continued or to be issued on such date, (a) the fair value of the property of the Applicant and its Subsidiaries, taken as a whole, at a fair valuation, taking into account the effect of any indemnities, contribution or subrogation rights, will exceed their debts and liabilities, subordinated, contingent or otherwise; (b) the present fair saleable value of the assets of the Applicant and its Subsidiaries, taken as a whole, taking into account the effect of any indemnities, contribution or subrogation rights, will be greater than the amount that will be required to pay the probable liability of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (c) the Applicant and its Subsidiaries, taken as a whole, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (d) the Applicant and its Subsidiaries, taken as a whole, will not have unreasonably small capital with which to conduct the business in which they are engaged as such business is now conducted and is proposed to be conducted following the Effective Date.

"Stated Amount" means, at any time, with respect to any Letter of Credit or Letters of Credit, the total amount then available to be drawn under such Letter of Credit or Letters of Credit.

"STRIPS" means principal and interest strips of U.S. Treasury Securities created under the U.S. Treasury's program for Separate Trading of Registered Interest and Principal of Securities (STRIPS) under 31 C.F.R. Section 356.31.

"Subsidiary" means, with respect to any Person (herein referred to as the "parent"), any corporation, partnership, limited liability company, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, controlled or held by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent. In no event will the Trust constitute a Subsidiary of the Applicant.

"Taxes" has the meaning specified in Section 9.

"Termination Date" has the meaning specified in Section 31(a).

"Total Assets" means the total consolidated assets of the Applicant and its Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Applicant.

"Total Unutilized L/C Commitment" means, at any time, an amount equal to the remainder of (x) the Facility Amount in effect at such time, less (y) the aggregate amount of all L/C Outstandings at such time.

"Trust" has the meaning specified in the recitals hereto.

"Trust Collateral Account" has the meaning specified in the recitals hereto.

"Trustee" has the meaning specified in Section 11(a)(ii).

"UCC" has the meaning specified in Section 13.

"U.S. dollars" or "$" means lawful money of the United States of America.

"U.S. Government Obligations" means U.S. Treasury securities that are direct obligations of the United States for payment of which its full faith and credit is pledged.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

2. Applicability of Agreement. This Agreement shall apply to each Letter of Credit (and any Amendments thereto) existing or requested by the Applicant and issued (or continued) pursuant to the terms and conditions hereof.

3. Issuance of Letters of Credit.

(a) During the Issuance Period and subject to the terms and conditions hereof (including clause (B) of the proviso to this Section 3(a)), within three (3) Business Days (or such shorter period of time acceptable to the relevant Issuer) after receipt by an Issuer (with a copy to the Administrative Agent) of (i) the Applicant's written request, submitted substantially in the form of Exhibit A attached hereto (a "Request"), that such Issuer issue (or continue) a Letter of Credit or Letters of Credit denominated in U.S. dollars for the Applicant's account or for the account of any of the Subsidiaries of the Applicant or any Minority Investment to one or more Beneficiaries, or (ii) the Applicant's written request, submitted substantially in the form of Exhibit B attached hereto (an "Amendment Request"), for an amendment to an existing Letter of Credit (an "Amendment"), each Issuer severally agrees to issue (or continue) such Letter of Credit or Letters of Credit denominated in U.S. dollars (in each case, in a form reasonably satisfactory to such Issuer), or agree to such Amendment, as the case may be; provided that, (A) if such Letter of Credit is being issued for the account of a Subsidiary or a Minority Investment, the Applicant shall be a co-applicant and jointly and severally liable with respect to reimbursement obligations related to such Letter of Credit, (B) if such Letter of Credit is being issued for the account of a Subsidiary or a Minority Investment, such Issuer shall have received at least seven Business Days (or such shorter period of time acceptable to Issuer) prior to the proposed date of issuance of such Letter of Credit all documentation and other information reasonably requested by it with respect to such Subsidiary or Minority Investment, as applicable, that is required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act. If requested by the applicable Issuer, the Applicant also shall submit a letter of credit application on such Issuer's standard form in connection with any request for a Letter of Credit. Each Issuer's obligation to effect such issuance, continuance or Amendment shall be subject to the following conditions: (i) prior satisfaction by the Applicant of its obligations set forth in Section 5(a), (ii) payment in full of the fees and expenses described in Section 8 hereof that are due and payable on or prior to the date of issuance (or continuance) or Amendment of such Letter of Credit and (iii) all representations and warranties contained in this Agreement being true and correct in all material respects as of the date of such issuance, continuance or Amendment, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects on and as of such earlier date (provided that, in each case, if any representation or warranty is already qualified by materiality, such representation or warranty must be true and correct in all respects) and that no Default or Event of Default hereunder has occurred as of the date such Letter of Credit is issued (or continued) or amended, as applicable. Each issuance, continuance or Amendment of a Letter of Credit shall be deemed to constitute a representation and warranty by the Applicant on the date of such issuance, continuance or Amendment as to the matters specified in the immediately preceding subclause (iii). No Issuer shall be required or permitted to issue, continue, amend or renew any Letter of Credit (except to reduce the face amount thereof) if immediately after giving effect thereto, (x) the aggregate L/C Outstandings with respect to all Letters of Credit would exceed the Aggregate Availability or (y) the aggregate L/C Outstandings with respect to all Letters of Credit issued by such Issuer would exceed such Issuer's Commitment. For the avoidance of doubt, (I) no Issuer will be required to provide documentary, trade or commercial letters of credit, or any letter of credit that would be classified as a financial letter of credit (as determined by the applicable Issuer in its sole discretion), in each case, without its prior written consent (in each Issuer's sole discretion) and (II) no Issuer will be required to issue any Letter of Credit denominated in a currency other than U.S. dollars.

(b) Notwithstanding the foregoing, no Issuer is under any obligation to issue any Letter of Credit or Amendment thereto if: (i) at the time of such issuance any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms enjoin or restrain such Issuer from issuing such Letter of Credit or any requirement of law applicable to such Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuer shall prohibit, or request that such Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuer with respect to such Letter of Credit any restriction or reserve or capital requirement (for which such Issuer is not otherwise compensated hereunder) not in effect with respect to such Issuer on the Effective Date, or any unreimbursed loss, cost or expense which was not applicable or in effect with respect to such Issuer as of the Effective Date and which such Issuer reasonably and in good faith deems material to it, (ii) the proposed beneficiary is a Sanctioned Person or (iii) such issuance would violate any policies of such Issuer applicable to the issuance of letters of credit generally.

(c) Each Issuer, in its sole discretion, may issue (or continue) any Letter of Credit through one or more of its branches or affiliates.

(d) Notwithstanding anything to the contrary contained herein, in no event may a Request or Amendment Request be submitted to any Issuer, and no Letter of Credit (or Amendment thereto) shall be issued (or continued), after the expiration of the Issuance Period unless expressly consented to in writing by the applicable Issuer. Furthermore, no Letter of Credit shall have an expiration date later than the earlier of (i) the date one year after the issuance of such Letter of Credit and (ii) the date that is five (5) Business Days prior to the last day of the Issuance Period; provided that, a Letter of Credit may, upon the request of the Applicant, include a provision whereby such Letter of Credit shall be renewed automatically for additional consecutive periods of 12 months or less (but not beyond the date that is five (5) Business Days prior to the last day of the Issuance Period) unless the applicable Issuer notifies the beneficiary thereof at least 30 days (or within such longer period as specified in such Letter of Credit) (the date on which any such notice is due, the "L/C Roll Determination Date") prior to the then-applicable expiration date that such Letter of Credit will not be renewed. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Applicant to, or entered into by the Applicant with, an Issuer relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(e) Unless otherwise expressly agreed by the applicable Issuer and the Applicant (including any such agreement applicable to an existing Letter of Credit), when a Letter of Credit is issued, (i) the rules of the International Standby Practices 1998 (ISP98) (or such later version thereof as may be in effect at the time of issuance) shall apply to each standby Letter of Credit and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance (or deemed issuance), shall apply to each commercial Letter of Credit, and in each case to the extent not inconsistent with the above referred rules, the laws of the State of New York.

(f) It is understood that (i) no Issuer shall be responsible for any failure by any other Issuer to perform its obligation to issue any Letter of Credit hereunder; nor shall any Commitment of any Issuer be increased or decreased as a result of any failure by any other Issuer to perform its obligation to issue any Letter of Credit hereunder, (ii) no failure by any Issuer to perform its obligation to issue any Letter of Credit hereunder shall excuse any other Issuer from its obligation to issue any Letter of Credit hereunder, and (iii) the obligations of each Issuer hereunder shall be several, not joint and several.

(g) As of the Business Day immediately preceding the requested issuance date of any Letter of Credit, the Administrative Agent shall determine the Total Unutilized L/C Commitment and Aggregate Availability and notify each Issuer thereof.

(h) Each Issuer shall promptly (i) notify the Administrative Agent in writing of the Stated Amount and expiry date of each Letter of Credit issued by it and (ii) provide the pertinent details (including the Issuer, principal amount, expiration date, renewal options and beneficiary thereof) of such Letter of Credit (and any amendments, renewals, increases or extensions thereof) to the Administrative Agent. Each Issuer shall provide to the Administrative Agent, within 10 Business Days of the end of each calendar month, an activity report in the form of Exhibit C attached hereto.

(i) Notwithstanding anything to the contrary contained herein, each Existing Letter of Credit, including any extension thereof, shall constitute a "Letter of Credit" under, as defined in, and for all purposes of, this Agreement and the other Facility Documents and for all purposes hereunder shall be deemed to have been issued hereunder on the Effective Date without any further action being required, and all references to Letters of Credit issued hereunder shall include such Existing Letters of Credit.

(j) Notwithstanding the foregoing, the Applicant agrees to provide the Administrative Agent with an L/C Outstandings Report no later than 12:00 pm EST on each Business Day during the term hereof. The Administrative Agent shall be entitled to conclusively rely of such reports for all calculations based on the L/C Outstandings without further inquiry.

(k) At any time and from time to time after the Effective Date, upon at least three Business Days' (or such shorter time period as the applicable Issuer may agree) prior written request by the Applicant to the applicable Issuer and the Administrative Agent, (i) a Letter of Credit issued under this Agreement may, subject to the prior written consent (in its sole discretion) of the applicable Issuer and the acknowledgement (but, for the avoidance of doubt, not the consent) of the Administrative Agent (and the prior payment in full of all accrued and unpaid fees (if any) due and owing with respect to such Letter of Credit), be deemed to no longer be issued and outstanding under this Agreement and instead be deemed issued and outstanding as a letter of credit under such other credit facility or letter of credit facility to which the Applicant and such Issuer are a party and which the Applicant and such Issuer have designated in the applicable written request for deemed reissuance and (ii) a letter of credit issued and outstanding by an Issuer under another credit facility or letter of credit facility to which the Applicant and such Issuer are a party may, subject to the prior written consent of such Issuer and the acknowledgement (but, for the avoidance of doubt, not the consent) of the Administrative Agent, be deemed to no longer be issued and outstanding under such credit facility or letter of credit facility, as applicable, and instead be deemed and constitute a "Letter of Credit" issued and outstanding under this Agreement for all purposes of the Facility Documents (and be subject to all terms and provisions applicable to Letters of Credit hereunder and thereunder), subject in the case of this clause (ii) to the satisfaction (or waiver) of the conditions to the issuance of Letters of Credit hereunder as set forth in Section 3(a) on the date of such deemed issuance.

4. Reimbursement.

(a) The Applicant shall reimburse the applicable Issuer for the amount of any drawing honored under a Letter of Credit and paid by such Issuer (the "L/C Reimbursement Amount"). The Applicant shall reimburse the applicable Issuer under this Section 4(a) in immediately available funds (i) no later than 3:00 p.m. on the day (which shall be a Business Day) on which payment is made by such Issuer under a Letter of Credit; provided that, such Issuer notifies the Applicant by 12:00 p.m. on such date that such Issuer has made such payment under such Letter of Credit and the full amount of the L/C Reimbursement Amount, or (ii) if such Issuer notifies the Applicant after 12:00 p.m. on the date of such payment, by 11:00 a.m. on the next Business Day following receipt of such notice by the Applicant; provided that, the failure of such Issuer to so notify the Applicant, and any delay in so notifying the Applicant, shall not relieve, limit or otherwise affect any obligation of the Applicant under this Agreement or any related document. Each Issuer shall simultaneously provide a copy of each reimbursement notice provided to the Applicant under this Section 4(a) to the Administrative Agent and the Collateral Agent.

(b) If the Applicant fails to reimburse the applicable Issuer on the date and at the time required in accordance with Section 4(a), the Collateral Agent shall, following notice to the Collateral Agent from the applicable Issuer and upon not less than one (1) Business Days' prior written notice from the Collateral Agent to the Applicant, withdraw from the NRG Collateral Accounts an amount of cash and/or Eligible UST Assets (in accordance with Section 6(d)) equal to the L/C Reimbursement Amount due to such Issuer and shall apply such amounts to repay such L/C Reimbursement Amount; provided that, if there is not a sufficient amount of cash and/or Eligible UST Assets on deposit in or credited to the NRG Collateral Accounts on any such date, the Collateral Agent shall withdraw from the Trust Collateral Account (in accordance with Section 6(d)) an amount of Eligible UST Assets equal to the amount of such shortfall and shall apply such amounts to repay the L/C Reimbursement Amount due to such Issuer. The Applicant (x) authorizes and directs the Collateral Agent to charge the NRG Collateral Accounts (i) upon and after the drawing of any Letter of Credit for the full amount of the L/C Reimbursement Amount, to the extent the Applicant has failed to reimburse the applicable Issuer in accordance with Section 4(a), and (ii) from time to time for any other Obligations not paid within five (5) Business Days after the due date thereof and (y) confirms that it has irrevocably directed and caused the Trust to authorize and direct the Collateral Agent to charge the Trust Collateral Account (i) upon and after the drawing of any Letter of Credit for the full amount of the L/C Reimbursement Amount, to the extent the Applicant has failed to reimburse the applicable Issuer in accordance with Section 4(a), and (ii) from time to time for any other Obligations not paid within five (5) Business Days after the due date thereof.

(c) The Applicant shall pay to each Issuer, promptly upon demand, all Issuer Costs as more specifically set forth in Section 8(a).

5. Covenants.

(a) The Applicant will, and will direct the Trust in accordance with the Facility Agreement to, enter into the Pledge Agreement with the Securities Intermediary and the Collateral Agent, pursuant to which the Applicant and the Trust will grant to the Collateral Agent a Lien on the Collateral Accounts to secure the Obligations owed to the Secured Parties. Prior to the issuance (or continuance) by any Issuer of any Letter of Credit (or any Amendment thereto) hereunder and as a condition precedent thereto, the Applicant shall confirm that the sum of (i) the aggregate Net Asset Value of cash and Eligible UST Assets deposited in or credited to the applicable NRG Collateral Account and (ii) the aggregate Net Asset Value of Eligible UST Assets credited to the Trust Collateral Account (such aggregate amount, the "Aggregate Collateral Amount") is equal to or greater than the Minimum Collateral Base. In the event the Aggregate Collateral Amount exceeds the Minimum Collateral Base (such excess, the "Excess Collateral Amount"), upon the written request of the Applicant, any such Excess Collateral Amount, as certified by the Applicant, shall be automatically released from any Lien created under the Pledge Agreement and the Applicant shall be permitted to withdraw an amount up to such Excess Collateral Amount from the NRG Collateral Accounts from time to time at its option and in its sole discretion, and shall be permitted to withdraw an amount up to such Excess Collateral Amount (minus any portion of such Excess Collateral Amount that has been withdrawn from the NRG Collateral Accounts) from the Trust Collateral Account in connection with any permitted voluntary or mandatory exercise of issuance rights under the Facility Agreement, so long as no Event of Default has occurred and is continuing or would result therefrom; provided, further, that, in the case of any cancellation, termination or expiration of any Letter of Credit in connection therewith, the applicable Issuer shall have received reasonably satisfactory evidence of such cancellation, termination or expiration. The Applicant agrees to use commercially reasonable efforts to return such expired, terminated or cancelled Letter of Credit to the applicable Issuer within a reasonable period after such cancellation, termination or expiration. Upon release of any portion of the Collateral deposited by the Applicant in accordance with this Section 5(a), the Collateral Agent shall promptly execute and deliver to the Applicant, at the Applicant's expense, such documents as the Applicant shall reasonably request to evidence the release of such Collateral from any Lien granted to the Collateral Agent.

(b) The Applicant hereby agrees that it will (i) comply in all material respects with all applicable U.S. and foreign laws, regulations (including foreign exchange control regulations, foreign asset control regulations and other trade-related regulations) and rules now or later applicable to any Letter of Credit or this Agreement and the transactions contemplated thereunder and hereunder, or the Applicant's execution, delivery and performance under this Agreement, (ii) preserve and maintain in full force and effect its corporate existence and good standing under the laws of its jurisdiction of organization and (iii) pay and discharge as the same shall become due and payable, all of its material Taxes, assessments and governmental levies, except as such are being contested in good faith by appropriate proceedings and for which adequate reserves are being maintained in accordance with U.S. generally accepted accounting principles or where failure to effect such payment is not adverse in any material respect to the Issuers.

(c) The Applicant will comply, in all material respects, with applicable Anti-Terrorism Laws. The Applicant will not, directly or, to the knowledge of the Applicant, indirectly, use any Letter of Credit or otherwise make available any proceeds thereof to any Subsidiary or any other Person: (A) to fund, finance or facilitate any activities or business of or with any Person that, at the time thereof, is a Sanctioned Person or in any country or territory that is at the time of such funding a Sanctioned Country, or (B) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the transactions contemplated hereby, whether as an issuer, underwriter, investor, or otherwise).

(d) The Applicant hereby agrees that it will furnish to the Administrative Agent for distribution to each Issuer:

(i) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Applicant, beginning with the first fiscal quarter ending after the Effective Date, its unaudited consolidated balance sheet and related statements of income, stockholders' equity and cash flows showing the financial condition as of the close of such fiscal quarter of the Applicant and its consolidated Subsidiaries at such time and the results of its operations and the operations of such Subsidiaries during such fiscal quarter, certified by the chief financial officer or other responsible officer of the Applicant to the effect that such financial statements, while not examined by independent public accountants, reflect in the opinion of the Applicant all adjustments necessary to present fairly in all material respects the financial condition and results of operations of the Applicant and its consolidated Subsidiaries on a consolidated basis as of the end of and for such periods in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(ii) within ninety (90) days after the end of each fiscal year of the Applicant, beginning with the first fiscal year ending after the Effective Date, its consolidated balance sheet and related statements of income, stockholders' equity and cash flows showing the financial condition as of the close of such fiscal year of the Applicant and its consolidated Subsidiaries at such time and the results of its operations and the operations of such Subsidiaries during such year, all audited by KPMG LLP or other independent public accountants of recognized national standing and accompanied by an opinion of such accountants to the effect that such consolidated financial statements fairly present the financial condition and results of operations of the Applicant and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(iii) promptly upon the Applicant becoming aware of the occurrence of each Event of Default, a statement of the chief financial officer or other responsible officer of the Applicant setting forth details of such Event of Default and the action which the Applicant has taken and proposes to take with respect thereto;

(iv) information and documentation reasonably requested in writing by any Issuer for purposes of compliance with applicable "know your customer" requirements under the PATRIOT Act or other applicable anti-money laundering rules and regulations;

(v) prompt written notice of any change in the information provided in any Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) or (d) of such certification; and

(vi) such other information relating to the business, operations, assets, liabilities or condition, financial or otherwise, of the Applicant as any Issuer (acting through the Administrative Agent) may from time to time reasonably request promptly following such request.

(e) The Applicant shall cause each Collateral Account at all times to be under the sole dominion and control (within the meaning of Section 9-104 and/or 9-106 of the UCC, as applicable) of the Collateral Agent, and the Collateral Agent shall have the exclusive right of withdrawal over such account except as set forth in the Facility Agreement (as in effect on the date hereof).

6. Collateral Accounts Monitoring and Shortfalls; Withdrawal of Eligible UST Assets from Collateral Accounts.

(a) The Applicant agrees that the value of assets on deposit in the Collateral Accounts will be monitored by the Collateral Agent (or its sub-agent), and that the value of assets in the Collateral Accounts (the "Net Asset Value") will be obtained according to the Collateral Agent's (or its sub-agent's) standard operating procedures on (i) each Collateral Valuation Date, and (ii) each other date as the Collateral Agent may be directed by the Majority Issuers in their discretion, in each case, in a commercially reasonable manner. For these purposes the value of any cash will be the face amount thereof and the value of any Eligible UST Assets will be obtained by reference to prices/quotes available on a reputable third party reporting or quotation service (such as Bloomberg, IDC or Reuters) or, if not so available, shall be the fair market value thereof as reasonably determined by the Collateral Agent or its sub-agent. The Collateral Agent shall have no liability for the value of any Eligible UST Assets obtained from a third party reporting service (or its sub-agent) and may, without further investigation, conclusively rely on such values. The Collateral Agent shall, no later than 12:00 p.m. on each Collateral Valuation Date, promptly provide notice to the Administrative Agent of the Net Asset Value.

Without limiting the foregoing, the Collateral Agent agrees to provide the balance of cash on deposit in the Collateral Accounts and the notional balance of the Eligible UST Assets credited to the Collateral Accounts promptly upon written request by any Issuer.

(b) The Administrative Agent will, in the event that the aggregate Net Asset Value of the Collateral Accounts, as calculated on any Collateral Valuation Date, is less than the Minimum Collateral Base (based solely on the Applicant's report of the L/C Outstandings), on such day (a "Notice Date"), notify the Applicant and each Issuer of such shortfall by electronic mail transmission (a "Shortfall Notice"). If a Shortfall Notice is given prior to 10:00 a.m. on a Business Day, then such Business Day shall be the "Shortfall Date"; provided that, if such notice is given after 10:00 a.m. on a Business Day or on a day that is not a Business Day, then the subsequent Business Day shall be the "Shortfall Date". The Shortfall Notice shall include (i) the aggregate Net Asset Value of each Collateral Account as of the Notice Date, (ii) the aggregate L/C Outstandings as of the Notice Date and (iii) a calculation showing the amount of cash or Eligible UST Assets that the Applicant would be required to provide to the Collateral Agent for contribution to the NRG Collateral Accounts, as set forth in Section 6(c), such that the Net Asset Value of the Collateral Accounts would be at least equal to the Minimum Collateral Base on any such Shortfall Date (such amount, the "Shortfall Amount").

(c) On any Shortfall Date, the Applicant may, but shall not be required to, deposit an amount of cash in U.S. dollars and/or or Eligible UST Assets equal to the Shortfall Amount in the applicable NRG Collateral Account, with any such deposit to be made prior to 4:00 p.m. on the relevant Shortfall Date. If the Applicant has not made such deposit by such time, the Administrative Agent shall recalculate the Aggregate Availability and notify each Issuer thereof. At any time thereafter, the Applicant may in its sole discretion elect to deposit an additional amount of cash in U.S. dollars and/or Eligible UST Assets in the applicable NRG Collateral Account and shall provide the Administrative Agent notice of such deposit promptly after the deposit of such cash and/or Eligible UST Assets, and such amount shall be taken into account in the calculation of the Aggregate Net Asset Value of the NRG Collateral Accounts on the following Collateral Valuation Date.

(d) In the event of any withdrawal by the Collateral Agent of Eligible UST Assets from any Collateral Account pursuant to Section 4(b), Section 15, or otherwise, the Collateral Agent and/or its sub-agent(s) shall (i) determine the amount of Eligible UST Assets that would need to be monetized to satisfy the Obligations then due and payable, the selection of such Eligible UST Assets to be sold being at the sole discretion of the Collateral Agent (and its sub-agent) and in a manner consistent with the Pledge Agreement, (ii) sell such amount of Eligible UST Assets and (iii) apply the cash proceeds from such sale to satisfy the Obligations then due and payable in accordance with the terms hereof. For the avoidance of doubt, in the event that a withdrawal by the Collateral Agent of Eligible UST Assets exceeds the amount necessary to satisfy the Obligations then due and payable, such excess proceeds from the monetization of the selected Eligible UST Assets shall be deposited by the Collateral Agent into the NRG Deposit Account.

7. Representations and Warranties. The Applicant represents and warrants to the Agents and the Issuers as follows on the date hereof and as of the date of issuance (or continuance) of each Letter of Credit (or as of the date of any Amendment thereto):

(a) (i) It is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware and (ii) has all requisite power and authority, and the legal right, to own and operate its property and assets, to lease the property it operates as lessee and to carry on its business as now conducted, except, in the case of this clause (ii), to the extent the failure to do so could not reasonably be expected to result in a material adverse effect on the Applicant's ability to perform its payment obligations under this Agreement or any of the other Facility Document.

(b) The (i) execution, delivery and performance by it of this Agreement, (ii) granting of the Liens granted by it (including the first priority nature thereof, subject to Permitted Liens) pursuant to the Pledge Agreement, (iii) perfection or maintenance of the Liens created pursuant to the Pledge Agreement, and (iv) granting of authority to the Agents and the Issuers with respect to the exercise of their respective rights hereunder or under any other Facility Document or remedies in respect of the Collateral Accounts, (a) have been duly authorized by all requisite corporate action, (b) require no action, consent or approval of, registration or filing with, notice to, or any other action by, any Governmental Authority, except for any immaterial actions, consents, approvals, registrations or filings or such as have been made or obtained and are in full force and effect and (c) will not (i) violate (A) any applicable provision of any material law, statute, rule or regulation, or of the certificate of incorporation or by-laws of the Applicant, (B) any order of any Governmental Authority or arbitrator or (C) any provision of any indenture or any material agreement or other material instrument to which the Applicant is a party or by which its property is or may be bound, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under any such indenture or material agreement or other material instrument or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Applicant, except the Liens created pursuant to the Pledge Agreement.

(c) This Agreement and each other Facility Document to which the Applicant is a party have each been duly executed and delivered by the Applicant. Each of this Agreement and each other Facility Document constitutes a legal, valid and binding agreement of the Applicant, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other laws now or hereafter in effect relating to creditors' rights generally and (including with respect to specific performance) subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law, and to the discretion of the court before which any proceeding therefor may be brought. The Applicant acknowledges that the Collateral Agent has control (within the meaning of Section 9-104 and/or 9-016, as applicable, of the UCC) over the Collateral Accounts.

(d) The Collateral Agent, for the benefit of the Secured Parties, has a valid, first-priority perfected security interest in and lien on all of the Collateral granted by the Applicant, subject to no other Lien, other than Permitted Liens, securing all Obligations hereunder, and all filings and other actions necessary or desirable to perfect and protect such security interests granted by the Applicant have been duly taken. All funds, assets and property provided by the Applicant to the Collateral Agent pursuant to the Facility Documents are free and clear of any Lien, other than Permitted Liens, except for the liens and security interests created under the Pledge Agreement, and the Applicant was the legal and beneficial owner thereof at the time provided to the Collateral Agent.

(e) Both immediately before and immediately after the issuance (or continuance) of each Letter of Credit (or Amendment thereto), no Default or Event of Default shall have occurred and be continuing.

(f) The Applicant is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended from time to time.

(g) There are no actions, suits or proceedings at law or in equity or by or before any arbitrator or Governmental Authority now pending or, to the knowledge of the Applicant, threatened against the Applicant or any business, property or material rights of the Applicant as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a material adverse effect on the Applicant's ability to perform its payment obligations under this Agreement or any of the other Facility Document.

(h) The Applicant is Solvent.

(i) The information included in the Beneficial Ownership Certification is true and correct in all material respects.

(j) (i) To the extent applicable, the Applicant and its Subsidiaries are in compliance with Anti-Terrorism Laws in all material respects, (ii) the Applicant has implemented and maintains in effect policies and procedures designed to ensure compliance by the Applicant, its Subsidiaries and their respective directors, officers and employees with Anti-Corruption Laws and applicable Sanctions, (iii) none of the Applicant, any of its Subsidiaries or, to the knowledge of the Applicant, any director, officer or employee of the Applicant or any of its subsidiaries, is a Sanctioned Person and (iv) no part of the proceeds of the Letters of Credit or payment or disbursement made pursuant thereto will be used directly or, to the knowledge of the Applicant, indirectly, (x) in violation of Anti-Corruption Laws or (y) in violation of Section 5(c) hereof.

(k) The Facility Documents and the transactions contemplated thereby do not violate Regulations T, U or X of the Board of Governors of the Federal Reserve.

All representations and warranties made or deemed made in this Agreement shall survive the execution and delivery of this Agreement and the issuance (or continuance) of any Letter of Credit (or any Amendment thereto).

8. Issuance Fee / Issuer Costs; Application of Payments.

(a) The Applicant agrees to pay to the applicable Issuer, promptly upon demand, all reasonable and documented out-of-pocket costs and expenses (including attorney's fees of a single external counsel for all Issuers and a single counsel for all Agents) (collectively, the "Issuer Costs") that such Issuer may pay or incur, or has already paid or incurred on or prior to the date hereof, in connection with the issuance (or continuance) of any Letter of Credit (or any Amendment thereto) and the negotiation, preparation, execution, performance and delivery of this Agreement and the transactions contemplated hereby and thereby, as well as in connection with the enforcement of, and preservation of such Issuer's rights hereunder and thereunder, including, without limitation:

(i) increased costs to such Issuer or any entity controlling such Issuer arising from the imposition or modification or effectiveness after the date hereof of any reserve, special deposit, insurance, or similar requirement by any Governmental Authority or from Taxes (other than (x) Non-Excluded Taxes that are imposed on any payments made hereunder or under any Facility Document, (y) Other Taxes, and (z) Taxes described in clauses (i) through (iv) in paragraph (a) of Section 9), including charges with respect to any Letters of Credit issued (or continued) by the Issuer;

(ii) increased costs to such Issuer or any entity controlling such Issuer for issuing, continuing or maintaining any Letter of Credit or a reduction in the yield or amount received or receivable by such Issuer or any entity controlling such Issuer for issuing, continuing or maintaining any Letter of Credit, arising from any change in any applicable law, rule, regulation, guideline, request or directive, or any change in the interpretation of any of the foregoing (whether or not having the force of law) imposed or becoming effective after the date hereof by any Governmental Authority or agency imposing on such Issuer or such entity or any other condition affecting this Agreement or any Letter of Credit (or any Amendment thereto) or its issuance (or continuance) (including as to liquidity or capital adequacy), in each case imposed or becoming effective after the date hereof by any Governmental Authority or agency that has jurisdiction over such Issuer or any such entity controlling such Issuer (notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act, and (y) all requests, rules, guidelines, requirements and directives promulgated thereunder, and all requests, rules, guidelines, requirements and directives promulgated by the Bank of International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, are deemed to have been introduced or adopted after the date hereof, regardless of the date enacted, adopted, issued or implemented); and

(iii) all documented out-of-pocket sums expended by the Agents and the Issuers, including, without limitation, reasonable and documented attorney's fees, disbursements and court costs, in connection with the exercise of any right or remedy provided for herein, the preservation of the Collateral and such Issuer's interest therein and the defense or prosecution of any actions, suits or proceedings arising out of or relating to the Collateral, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of any Letter of Credit issued hereunder or other obligations provided for herein.

(b) The Applicant shall pay the following fees:

(i) to the Administrative Agent, for the account of each Issuer, a fee (the "L/C Fee") in an amount *per annum* equal to 0.55% of such Issuer's daily average aggregate Commitment hereunder, payable quarterly in arrears on each L/C Fee Payment Date; and

(ii) to the Administrative agent, for its own account, an annual administration fee in the amount agreed in writing pursuant to that certain Fee Proposal, dated as of July 18, 2023, by the Administrative Agent and accepted by the Applicant, or as otherwise agreed in writing from time to time between the Applicant and the Administrative Agent.

Once paid, none of the fees shall be refundable under any circumstances. For the avoidance of doubt, the fees shall be in addition to any reimbursements of the Issuers' out-of-pocket expenses pursuant to Section 8. Notwithstanding anything contained herein to the contrary, during such period as an Issuer is a Defaulting Issuer, such Defaulting Issuer will not be entitled to any L/C Fee accruing during such period.

(c) If any Issuer becomes entitled to claim any additional amount pursuant to Section 8(a), it shall promptly notify the Applicant of the event by reason of which it has become so entitled. A certificate as to any additional amount payable pursuant to Section 8(a), showing in reasonable detail the determination of the additional amount claimed, submitted by the applicable Issuer to the Applicant shall be conclusive in the absence of manifest error. The agreements in this Section 8 shall survive the termination of this Agreement and the payment of all other amounts payable hereunder.

(d) Failure or delay on the part of any Issuer or Agent to demand compensation pursuant to Section 8(a) shall not constitute a waiver of such Issuer's right to demand such compensation; provided that, the Applicant shall not be under any obligation to compensate any Issuer under pursuant to Section 8(a)(i) or (ii) with respect to any period prior to the date that is 270 days prior to such request.

(e) Payments of the Obligations shall be apportioned ratably among the Issuers (according to the aggregate unpaid Obligations owing to each Issuer) and payments of the fees shall, as applicable, be apportioned ratably among the Issuers (according to the Pro Rata Shares of each Issuer), except for fees payable solely to the Agents. All payments shall be remitted to the Administrative Agent and all such payments not constituting payment of specific fees shall be applied, ratably, subject to the provisions of this Agreement, first, to pay any fees, indemnities or expense reimbursements then due to the Agents from the Applicant; second, to pay any fees or expense reimbursements then due to the Issuers from the Applicant; third, to pay unpaid reimbursement obligations in respect of Letters of Credit; fourth, to the payment of any other Obligation; and fifth, to the extent of any excess, to the Applicant or to whosoever the Applicant may lawfully direct.

9. Taxes.

(a) All payments made by or on account of the Applicant under any Facility Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, including interest and penalties with respect thereto ("Taxes"), except as required by applicable law. If any Taxes, excluding the following Taxes:

(i) net income taxes, franchise taxes (imposed in lieu of net income taxes) and branch profits taxes, in each case, imposed on the Administrative Agent or any Issuer as a result of (x) a present or former connection between the Administrative Agent or Issuer and the jurisdiction of the Governmental Authority imposing such Tax or political subdivision or taxing authority thereof or therein (other than any such connection arising from the Administrative Agent or any Issuer having executed, delivered or performed its obligations or received a payment under, received or perfected a security interest under, engaged in any other transaction pursuant to, or enforced, this Agreement, any Letter of Credit, or any Facility Document) or (y) as a result of the Administrative Agent or Issuer being organized under the laws of, or having its principal office or, in the case of any Issuer, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof),

(ii) in the case of an Issuer, U.S. federal withholding taxes imposed on a Letter of Credit or any Facility Document pursuant to a law in effect on the date on which (x) such Issuer acquires such interest in the Letter of Credit or Facility Document (other than pursuant to an assignment request or requirement by the Applicant under Section 9(c)) or (y) such Issuer changes its lending office (other than pursuant to a request by the Applicant under Section 9(c)),

(iii) with respect to amounts to be received by an Issuer, Taxes attributable to such Issuer's failure to comply with Section 9(b), and with respect to amounts to be received by the Administrative Agent, Taxes attributable to Administrative Agent's failure to comply with Section 9(b), and

(iv) any U.S. federal withholding tax imposed under Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code ("FATCA").

(such non-excluded Taxes, "Non-Excluded Taxes") are required by applicable law to be deducted or withheld from any amounts payable to or for the account of the Administrative Agent or any Issuer hereunder or under any Facility Document, the amounts so payable shall be increased to the extent necessary in order that the Administrative Agent or Issuer (after deduction or withholding of all Non-Excluded Taxes) receives an amount equal to the sum it would have received had no such deduction or withholding been made. Whenever any Taxes are payable by the Applicant pursuant to this Section 9, as promptly as possible the Applicant shall send to the Administrative Agent a certified copy of an original official receipt received by the Applicant showing payment thereof (or if such document is not reasonably available to the Applicant, other documentary evidence of payment). The Applicant shall indemnify the Administrative Agent and each Issuer for (i) any Non-Excluded Taxes imposed on or with respect to any payment made by or on account of the Applicant under this Agreement or any Facility Document and (ii) any Other Taxes, in each case, payable or paid by an Issuer or the Administrative Agent, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Applicant by an Issuer (with a copy to the Administrative Agent) shall be conclusive absent manifest error. The agreements in this Section 9 shall survive the termination of this Agreement and the payment of all other amounts payable hereunder.

(b) Each Issuer shall deliver to the Applicant and the Administrative Agent, at the time or times reasonably requested by the Applicant or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Applicant or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. The Administrative Agent shall deliver to the Applicant, at the time or times reasonably requested by the Applicant, such properly completed and executed documentation reasonably requested by the Applicant as will permit any payments to be made to the Administrative Agent without withholding. In addition, the Administrative Agent and any Issuer, if reasonably requested by the Applicant or the Administrative Agent (as applicable), shall deliver such other documentation prescribed by applicable law or reasonably requested by the Applicant or the Administrative Agent as will enable the Applicant or the Administrative Agent to determine whether or not such Issuer is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in this Section 9(b), the completion, execution and submission of such documentation (other than (i) an IRS Form W-9, (ii) an applicable Form W-8, or (iii) any documentation prescribed by FATCA (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Applicant or the Administrative Agent as may be necessary for the Applicant and the Administrative Agent to comply with their obligations under FATCA and to determine that such Issuer has complied with such Issuer's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment (provided that, solely for purposes of this clause (iii), "FATCA" shall include any amendments made to FATCA after the date of this Agreement), in each case to the extent such Issuer is legally entitled to complete, execute and submit such documentation) shall not be required if in such Issuer's reasonable judgment such completion, execution or submission would subject such Issuer to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Issuer.

(c) If any Issuer requests compensation under Section 8(a)(i) or (ii), or requires the Applicant to pay any Non-Excluded Taxes or Other Taxes or additional amounts to any Applicant or any Governmental Authority for the account of any Issuer pursuant to Section 9, then such Issuer shall (at the request of the Applicant) use reasonable efforts to designate a different lending office for funding or booking its Letters of Credit hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 8(a)(i) or (ii) or Section 9, as the case may be, in the future, and (ii) would not subject such Issuer to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Issuer. If any such Issuer has declined or is unable to designate a different lending office in accordance with this Section 9(c), then the Applicant may, at its sole expense and effort, upon notice to such Issuer and the Administrative Agent, require such Issuer to assign and delegate, without recourse, all of its interests, rights and obligations under this Agreement and the related Facility Documents to a permitted assignee that shall assume such obligations.

(d) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to Section 9 (including by the payment of additional amounts pursuant to this Section 9), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 9 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 9(d) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 9(d), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 9(d) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 9(d) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

10. Indemnity. The Applicant hereby agrees to indemnify and hold harmless each Agent, each Issuer and each Related Party of each Agent and each Issuer ("Indemnified Parties"), promptly upon demand and to the fullest extent legally permissible, and hold each of them harmless from and in respect of any and all losses, damages, liabilities, expenses (including, without limitation, expenses of investigation and defense and reasonable and documented out-of-pocket fees, charges and disbursements of counsel), claims, liens or other obligations of any nature whatsoever (including, without limitation, the costs of enforcing this provision) that may arise out of any claim, litigation, investigation or proceeding in any connection whatsoever with this Agreement or a Letter of Credit, whether or not any Indemnified Parties are party to any such action and whether or not brought by third parties or the Applicant or its affiliates, other than losses, damages, liabilities, expenses, claims, liens or other obligations that (i) arise out of such Indemnified Party's gross negligence, bad faith or willful misconduct, as determined by a court of competent jurisdiction in a non-appealable final judgment, (ii) arise out of any claim, litigation, investigation or proceeding brought by such Indemnified Party against another Indemnified Party (other than any claim, litigation, investigation or proceeding that is brought by or against an Agent, acting in its capacity as such) that does not involve any act or omission of the Applicant or (iii) apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim. The agreements in this Section 10 shall survive the termination of this Agreement and the payment of all other amounts payable hereunder.

11. Conditions to Effective Date. The effectiveness of this Agreement and the obligations of the Issuers to issue Letters of Credit hereunder shall be subject to the satisfaction or waiver of the following conditions precedent (such initial date of satisfaction of such obligations being, the "Effective Date"):

(a) The Administrative Agent shall have received the following, each dated as of the Effective Date (unless otherwise specified) and in form and substance reasonably satisfactory to the Administrative Agent and the Issuers, in each case without reference to the Administrative Agent's determination thereof:

(i) executed counterparts of (i) this Agreement from the Applicant, each Issuer party hereto on the Effective Date, the Administrative Agent and the Collateral Agent, and (ii) the Pledge Agreement from the Applicant, the Collateral Agent, the Trust and the Securities Intermediary;

(ii) (x) a certificate of the Secretary, Assistant Secretary or another responsible officer of the Applicant, dated the Effective Date, attaching a true and complete copy of the consent of the Finance and Risk Management Committee of the Board of Directors of the Applicant, which shall, *inter alia*, (A) approve this Agreement and the transactions contemplated hereby and (B) authorize each applicable officer of the Applicant (or each other responsible Person) (each, an "Authorized Officer") during the Issuance Period to take all such actions to arrange for, execute and deliver any Requests or Amendment Requests with respect to Letters of Credit in an aggregate amount of up to the Facility Amount, supplemental agreements, instruments, amendments, extensions or other modification in the name and on behalf of the Applicant, which such Authorized Officer determines in his/her sole judgment to be necessary, proper or advisable in connection with or in order to perform the Applicant's obligations under any Facility Document or in connection with this Agreement, with the performance of any such act by any Authorized Officer during the Issuance Period to be conclusive evidence that the same has been authorized and approved by the Applicant and the Board of Directors of the Applicant in every respect, and (y) a certificate of Secretary, Assistant Secretary or another responsible officer of the Applicant, dated as of the Effective Date, attaching a true and complete copy of the Amended and Restated Declaration of Trust (the "Declaration of Trust"), dated as of August 29, 2023, among the Applicant, as depositor (the "Depositor") and in its individual capacity, Deutsche Bank Trust Company Americas, as trustee (the "Trustee"), and Deutsche Bank Trust Company Delaware, as Delaware trustee, which shall, *inter alia*, (A) approve the transactions contemplated by this Agreement and (B) authorize the Trustee or the Depositor, as applicable, to take all such actions, to arrange for, execute and deliver any supplemental agreements, instruments, amendments, extensions or other modification in the name and on behalf of the Trust, including in connection with this Agreement, with the performance of any such act by the Trustee or the Depositor, on behalf of the Trust, during the Issuance Period to be conclusive evidence that the same has been authorized and approved by the Trust in every respect;

(iii) true, complete and accurate copies of the constituent documents of the Applicant and the Trust and an incumbency certificate with respect to the Authorized Officers of the Applicant, in each case, certified by an Authorized Officer of the Applicant, as in effect on the Effective Date;

(iv) a certificate as to the good standing of each of the Applicant and the Trust, in each case, as of a recent date from the Secretary of State of the state of its organization;

(v) to the extent requested by the Administrative Agent or any potential Issuer at least five (5) Business Days prior to the Effective Date, documentation and other information required under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation, the PATRIOT Act and, to the extent the Applicant qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to the Applicant, in each case, at least two (2) Business Days prior to the Effective Date;

(vi) (x) a favorable written opinion of counsel to the Applicant, in form and substance reasonably satisfactory to the Administrative Agent, relating to such matters with respect to this Agreement and the transactions contemplated hereby as the Administrative Agent may reasonably request and which are customary for transactions of the type contemplated herein, (y) a favorable written opinion of counsel to the Trust, in form and substance reasonably satisfactory to the Administrative Agent, relating to such matters with respect to this Agreement and the transactions contemplated hereby as the Administrative Agent may reasonably request and which are customary for transactions of the type contemplated herein, and (z) a favorable written opinion of counsel to the Trustee, in form and substance reasonably satisfactory to the Administrative Agent, relating to such matters with respect to this Agreement and the transactions contemplated hereby as the Administrative Agent may reasonably request and which are customary for transactions of the type contemplated herein;

(vii) a certificate of a responsible officer of the Applicant, dated as of the Effective Date, confirming compliance with the condition set forth in Section 11(d) below; and

(viii) an executed counterpart of the Pledge Agreement from each of the Applicant, the Trust, the Securities Intermediary and the Collateral Agent;

(b) (i) the Applicant shall have established the NRG Collateral Accounts and (ii) the Trust shall have established the Trust Collateral Account and shall have (or shall have caused) Eligible UST Assets acquired with the proceeds the P-Caps to have been credited to the Trust Collateral Account, the aggregate face amount of which shall be at least equal to the Minimum Collateral Base as of the Effective Date (after giving effect to the issuance of any Letters of Credit on the Effective Date);

(c) all costs, fees, expenses (including, without limitation, reasonable and documented out-of-pocket legal fees and expenses) and other compensation, due and payable to the Agents and/or the Issuers shall have been paid to the extent due and invoiced at least one (1) Business Day prior to the Effective Date;

(d) the representations and warranties of the Applicant contained in each Facility Document to which it is a party shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) on and as of the Effective Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects (or if applicable, in all respects) as of such earlier date); and

(e) that certain Amended and Restated Letter of Credit Facility Agreement, dated as of December 11, 2020 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the Effective Date), by and among the Applicant, the financial institutions party thereto and the Administrative Agent and the Collateral Agent, the obligations thereunder and security interest in favor of the financial institutions a party thereto, in each case, shall have been repaid in full, terminated and released.

12. Obligation Absolute. To the fullest extent permitted by applicable law, the obligations of the Applicant under this Agreement shall be absolute, unconditional and irrevocable, and shall be paid or performed strictly in accordance with the terms of this Agreement under any and all circumstances, including, without limitation, the following circumstances:

(a) the use of any Letter of Credit;

(b) any lack of validity, correctness, genuineness, or enforceability of any Letter of Credit or any statement or other document relating to or presented under any Letter of Credit, even if such document should in fact prove to be invalid, insufficient, untrue, inaccurate, fraudulent or forged in any respect;

(c) any amendment or waiver of or any consent to departure from the terms of this Agreement or any Letter of Credit (except to the extent of such amendment, waiver, consent or departure);

(d) (i) the acts or omissions of the Beneficiary of any Letter of Credit, including the application of any payment made to such Beneficiary, and/or (ii) the existence of any claim, set-off, defense or other right which the Applicant, any other party guaranteeing, or otherwise obligated with, the Applicant, any Subsidiary or other affiliate thereof or any other Person may have at any time against any Beneficiary or any transferee of any Letter of Credit (or any Persons for whom such Beneficiary or any such transferee may be acting), the applicable Issuer, or any other Person, whether in connection with this Agreement or otherwise;

(e) payment by an Issuer under any Letter of Credit against presentation of a draft or certificate which does not conform to the terms of such Letter of Credit;

(f) the failure of any document or instrument to bear any reference or adequate reference to any Letter of Credit;

(g) any failure to note the amount of any draft on any Letter of Credit or on any related document or instrument;

(h) the failure by an Issuer to honor any drawing under any Letter of Credit, or to make any payment demanded under such Letter of Credit, on the ground that the demand for such payment does not conform to the terms and conditions of such Letter of Credit; provided that such failure shall not have constituted the gross negligence or willful misconduct of the Issuer;

(i) any failure by an Issuer to make payment under any Letter of Credit as a result of any requirement of law, control or restriction rightfully or wrongfully exercised or imposed by any Governmental Authority;

(j) any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit or a related draft or documents, except for errors or omissions caused by the Issuer's gross negligence or willful misconduct, as determined by a court of competent jurisdiction in a non-appealable final judgment;

(k) any dispute or claim between or involving the Applicant and any Beneficiary;

(l) any failure of the Beneficiary of any Letter of Credit to meet the obligations of such Beneficiary to either the Applicant or to any other person;

(m) any lack of validity or enforceability of the obligation of the Applicant to any Beneficiary for which a Letter of Credit has been provided as security; or

(n) any other act or omission to act or delay of any kind of an Issuer or any other Person or any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section 12, constitute a legal or equitable discharge of the Applicant's obligations hereunder.

The foregoing shall not be construed to excuse any Issuer from liability to the Applicant to the extent of any direct damages suffered by the Applicant that are caused by such Issuer's gross negligence or willful misconduct, as determined by a court of competent jurisdiction by final and non-appealable judgment, in determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. It is understood that each Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary and, in making any payment under any Letter of Credit (A) such Issuer's exclusive reliance on the documents presented to it under such Letter of Credit as to any and all matters set forth therein, including reliance on the amount of any draft presented under such Letter of Credit, whether or not the amount due to the Beneficiary thereunder equals the amount of such draft and whether or not any document presented pursuant to such Letter of Credit proves to be insufficient in any respect, if such document on its face appears to be in order, and whether or not any other statement or any other document presented pursuant to such Letter of Credit proves to be forged or invalid or any statement therein proves to be inaccurate or untrue in any respect whatsoever, and (B) any noncompliance in any immaterial respect of the documents presented under such Letter of Credit with the terms thereof shall, in each case, be deemed not to constitute bad faith, willful misconduct or gross negligence of the Issuers.

13. Standard of Care. Notwithstanding other provisions of this Agreement or applicable law, no Issuer shall be liable to the Applicant for any action taken or omitted by such Issuer under or in connection with this Agreement, any Letter of Credit (or any Amendment thereto) or a related draft or documents, if done in the absence of gross negligence or willful misconduct, as determined by a court of competent jurisdiction in a final and non-appealable judgment, and in accordance with any mandatory standard of care applicable under the Uniform Commercial Code of the State of New York, as in effect from time to time (the "UCC") and the International Standby Practices 1998 (ISP98), as in effect from time to time (provided that, in the event of a conflict, the applicable provisions of the UCC shall govern to the extent of such conflict).

14. Payments.

(a) Any payments not made by the Applicant when due under this Agreement (including, for the avoidance of doubt, payments required to be made by the Applicant pursuant to Sections 4(a) (without giving effect to any grace period applicable thereto under Section 15)) shall bear interest for each day until paid at a rate per annum equal to the sum of (i) the Base Rate plus (ii) 2.00% per annum. All interest (as applicable) and fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days, except with respect to interest (as applicable) or fees calculated based upon the Base Rate, which shall be computed on the basis of the actual number of days elapsed in a year of 365 days.

(b) All amounts due from the Applicant to any Issuer or Agent shall be paid to such Issuer or Agent by wire transfer in U.S. Dollars and in same day funds pursuant to wire transfer instructions delivered in writing to the Administrative Agent on or prior to the Effective Date, or pursuant to such other wire transfer instructions as each party may designate for itself by written notice to the Administrative Agent.

(c) If at any time or times any Issuer shall receive (i) by payment, foreclosure, setoff or otherwise, any proceeds of Collateral or any payments with respect to the Obligations of the Applicant to such Issuer arising under, or relating to, this Agreement or the other Facility Documents, except for any such proceeds or payments received by such Issuer from the Administrative Agent or the Applicant pursuant to the terms of this Agreement, or (ii) payments from the Administrative Agent in excess of such Issuer's ratable portion of all such distributions by the Administrative Agent, such Issuer shall promptly turn the same over to the Administrative Agent, in kind, and with such endorsements as may be required to negotiate the same to the Administrative Agent, or in same day funds, as applicable, for the account of all of the Issuers and for application to the Obligations in accordance with the applicable provisions of this Agreement

15. Events of Default.

(a) Each of the following shall be an "Event of Default" hereunder:

(i) the Applicant shall fail to pay, or cause to be paid, any amount payable under Section 4(a) in full when due (provided that, there shall be no Event of Default for failure to pay such amount if the Collateral Agent is able to satisfy such payment obligation pursuant to Section 4(b) within five (5) Business Days after such amount was due), or shall fail to pay, or cause to be paid, within five (5) Business Days after the due date thereof any other amount payable hereunder;

(ii) (x) the Applicant shall fail to observe or perform its obligations under Section 5(c) of this Agreement, or (y) the Applicant shall fail to observe or perform any term of any other covenants or agreements contained in this Agreement (other than those covered by Section 15(a)(i) and Section 15(a)(ii)(x) above) and in the case of this clause (y), such failure shall continue unremedied for a period of 45 days after notice thereof from the Administrative Agent, the Collateral Agent, or any Issuer to the Applicant;

(iii) any representation, warranty, certification or statement made (or deemed made) by the Applicant in this Agreement shall prove to have been incorrect or misleading in any material respect when made (or deemed made);

(iv) any Lien created on the Collateral pursuant to any Facility Document shall at any time for any reason not constitute a valid and perfected Lien, subject to no other Lien other than Permitted Liens, or the Applicant or the Trust shall so assert in writing, except as permitted by this Agreement or as a result of any action or inaction of the Collateral Agent;

(v) a Change of Control Triggering Event shall occur;

(vi) (A) dissolution of the Applicant or failure to maintain and preserve its corporate existence, (B) commencement by the Applicant of a voluntary case in bankruptcy or any other action or proceeding for any other relief under any law affecting creditors' rights that is similar to a bankruptcy law or (C) consent by the Applicant, by answer or otherwise, to the commencement against it of an involuntary case in bankruptcy or any other such action or proceeding;

(vii) the Applicant shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or a court of competent jurisdiction enters an order for relief or a decree in an involuntary case in bankruptcy or any other such action or proceeding, or a receiver, trustee or similar official is appointed, in respect of the Applicant or any of its property, and such order or decree is not dismissed or stayed, and such appointment is not terminated, on or before the day that is sixty (60) days after the entry thereof or if any such dismissal or stay ceases to be in effect;

(viii) (A) the Applicant shall fail to pay any principal of or interest or premium, if any, in each case in excess of the greater of (I) 1.5% of Total Assets and (II) $435,000,000 payable in respect of any Indebtedness of the Applicant (other than Indebtedness hereunder) when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness or (B) any other default shall occur under any agreement or instrument relating to any Indebtedness of the Applicant outstanding in an aggregate principal amount in excess of the greater of (I) 1.5% of Total Assets and (II) $435,000,000 (other than Indebtedness hereunder) and shall continue after the applicable grace period and receipt of any required notice, if any, specified in such agreement or instrument, if the effect thereof is to accelerate the maturity of such Indebtedness or otherwise to cause such Indebtedness to mature, or any such Indebtedness shall be declared to be due and payable or required to be prepaid or redeemed, purchased or defeased, or an offer to prepay, redeem, purchase or defease such Indebtedness shall be required to be made, in each case prior to the stated maturity thereof and other than by a regularly scheduled required prepayment or redemption other than (i) pursuant to customary asset sale provisions or (ii) delivery of a notice of voluntary prepayment or redemption; or

(ix) any provision of this Agreement or any other Facility Document shall at any time for any reason cease to be valid and binding on the Applicant, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the Applicant, or a final decision by a court, any governmental agency or other authority having jurisdiction over the Applicant shall establish the invalidity or unenforceability thereof, or the Applicant shall deny that it has any or further liability or obligation under this Agreement.

(b) Upon the occurrence and during the continuance of an Event of Default, and upon every such occurrence and during such continuance, in addition to all rights and remedies set forth in this Agreement and/or otherwise available under applicable law, (x) the unused Commitments of the Issuers hereunder shall automatically terminate and (y) the Agents may, and at the direction of the Issuers then holding a majority of the L/C Outstandings, shall:

(i) declare all amounts (whether direct or contingent) payable hereunder to be, and such amounts shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Applicant;

(ii) apply, sell or otherwise liquidate and realize upon any and all funds, assets or property in the Collateral Accounts in satisfaction of the Obligations;

(iii) do any acts which it deems proper to protect the Collateral as security hereunder, and collect and sue upon the Collateral and receive any payments due thereon or any damages thereunder, and apply all sums received in connection with the Collateral to the payment of the Obligations in such order as the Administrative Agent shall determine;

(iv) require the Applicant to deliver to the Collateral Agent all documents in the possession of the Applicant relating to the Collateral, and the Applicant shall promptly take such actions and furnish to the Collateral Agent such documents as an Issuer deems necessary or appropriate, in its sole discretion, to enforce its rights with respect to the Collateral;

(v) direct the Securities Intermediary to make all payments and deliveries under the Collateral directly to the Collateral Agent or its designee, and the Applicant shall, and shall direct the Trust to, upon request by the Collateral Agent and as applicable, execute and consent to all notices and directions given by the Collateral Agent to the Securities Intermediary, including transferring all Collateral to accounts maintained solely in the name of the Collateral Agent. For avoidance of doubt, the Collateral Agent may exercise remedies against the NRG Collateral Accounts (including any Collateral on deposit therein or credited thereto) and the Trust Collateral Account (including any Collateral on deposit therein or credited thereto) in such order as the Collateral Agent shall decide in its sole discretion and shall have no duty to marshall any Collateral;

(vi) exercise, or cause the exercise of, the Applicant's rights under or in respect of any Collateral; and/or

(vii) exercise or cause the exercise of any other rights or remedies provided herein, in any document or instrument delivered pursuant hereto, under any other agreement or under applicable law (including, without limitation, any rights or remedies under the UCC).

(c) Each Agent may enforce its rights and remedies hereunder without prior judicial process or hearing, and the Applicant hereby expressly waives, to the fullest extent permitted by law, any right the Applicant might otherwise have to require any Agent to enforce its rights by judicial process. The Applicant also waives, to the fullest extent permitted by law, any defense the Applicant might otherwise have to the Obligations secured hereby arising from use of nonjudicial process, enforcement and sale of all or any portion of the Collateral or from any other election of remedies, in each case, to the extent permitted under the UCC.

(d) If the Collateral is insufficient to cover the payment in full of all Obligations, the Applicant shall remain liable for any deficiency.

(e) The powers conferred on each Agent hereunder are solely for its benefit and for the benefit of the Issuers and do not impose any duty on any Agent to exercise any such powers. Following an Event of Default, the Collateral Agent shall have no duty of care as a secured party hereunder to the Applicant as to any Collateral or with respect to the taking of any necessary steps to preserve rights against other parties or any other obligations pertaining to the Collateral, other than as may be expressly required by the UCC. The Applicant waives all rights whatsoever against each Agent for any loss, expense, liability or damage suffered by the Applicant as a result of actions taken by any such Agent as secured party pursuant to this Agreement or any other Facility Document, except to the extent caused by the gross negligence or willful misconduct of such Agent, as determined by a court of competent jurisdiction in a non-appealable final judgment.

(f) The Applicant hereby expressly waives, to the fullest extent permitted by law, every statute of limitation, right of redemption, any moratorium or redemption period, any limitation on a deficiency judgment, and any right which it may have to direct the order in which any of the Collateral shall be disposed of in the event of any disposition pursuant hereto.

(g) Each of the Issuers agrees that it shall not, unless specifically requested to do so by the Administrative Agent or the Collateral Agent, take or cause to be taken any action to enforce its rights under this Agreement or any Facility Document or against the Applicant.

16. Amendments; Waivers. Any provision of this Agreement may be amended, supplemented or waived if, but only if, such amendment, supplement or waiver is in writing and signed by each of the Applicant, the Administrative Agent and the Majority Issuers, and shall be effective only in the specific instance and for the specific purpose for which it is given; provided that, no such amendment, supplement or waiver shall increase or extend the Commitment of any Issuer without the written consent of such Issuer (it being understood that such increase may be effected solely with the consent of the Applicant and such Issuer); provided, further, that no such amendment, supplement or waiver shall, unless in writing and signed by all of the affected Issuers, the Administrative Agent and the Applicant, do any of the following:

(i) postpone or delay any date fixed by this Agreement or any other Facility Document for any payment of interest, fees or other amounts due to the Issuers (or any of them) hereunder or under any other Facility Document;

(ii) reduce the principal of, or the rate of interest specified herein on any Obligation, or any fees or other amounts payable hereunder or under any other Facility Document;

(iii) change the percentage of the Commitments or of the aggregate unpaid amount of the Obligations which is required for the Issuers or any of them to take any action hereunder;

(iv) amend this Section or any provision of this Agreement providing for consent or other action by all Issuers;

(v) change the definition of “Majority Issuers”;

(vi) reduce the Minimum Collateral Base or amend any component definition thereof that would have the effect of reducing the Minimum Collateral Base; or

(vii) increase the Facility Amount;

provided, however, that no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent or the Collateral Agent, as applicable, affect the rights or duties of the Administrative Agent or the Collateral Agent under this Agreement or any other Facility Document.

Notwithstanding the foregoing, the consent of the Issuers shall not be required for any (A) Issuer Joinder Agreement (other than the consent of the Issuer party to such Issuer Joinder Agreement and a written notice in advance to the other Issuers with respect to the joining of such new Issuer) (or any amendment to this Agreement or any other Facility Document necessary to reflect the joinder of such Issuer as provided therein) or (B) amendment (i) to cure any mutually identified ambiguity or correct any mutually identified mistake or (ii) to correct or supplement any provision of this Agreement that may be defective or inconsistent with any other provision of this Agreement, the Facility Agreement or the Declaration of Trust and (y) after the execution and delivery of an Issuer Joinder Agreement, Schedule I attached hereto may be amended from time to time with respect to any Issuer solely with the written consent of the Applicant and such Issuer (and notice thereof to the Administrative Agent), and no other consent will be required hereunder to establish, increase or decrease the Commitments of such Issuer; it being understood that the Applicant and the Administrative Agent shall be permitted to make technical amendments to this Agreement as may be necessary or appropriate in the reasonable opinion of the Applicant and the Administrative Agent to reflect any such newly established or increased Commitments of an Issuer; provided, however, that, if any amendment to Schedule I attached hereto shall cause the Facility Amount to exceed $485,000,000, such amendment shall be subject to the consent requirement under clause (vii) above.

In the case of any waiver, the Applicant and the Issuers shall be restored to their former positions and rights hereunder and any Event of Default waived shall be deemed to be cured and not continuing, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

Notwithstanding anything herein to the contrary, during such period as an Issuer is a Defaulting Issuer, to the fullest extent permitted by applicable law, such Defaulting Issuer shall not be entitled to vote in respect of waivers, amendments or modifications to any Facility Document and the Commitment and the Obligations of such Defaulting Issuer hereunder shall not be taken into account in determining whether the Majority Issuers or all of the Issuers, as required by this Section 16 or otherwise, have approved any such waiver, amendment or modification (and the definition of "Majority Issuers" will automatically be deemed modified accordingly for the duration of such period); provided that, any such waiver, amendment or modification that would increase or extend the Commitment of such Defaulting Issuer, extend the date fixed for the payment of interest or other amounts owing to such Defaulting Issuer hereunder, reduce the principal amount of any Obligation owing to such Defaulting Issuer, reduce the rate of interest on any Obligation owing to such Defaulting Issuer or of any fee payable to such Defaulting Issuer hereunder, or alter the terms of this proviso, shall require the prior written consent of such Defaulting Issuer.

17. The Agents.

(a) Appointment and Authorization. Applicant requests the Administrative Agent and Collateral Agent to enter into this Agreement and the Pledge Agreement and authorizes the Administrative Agent to enter into any Issuer Joinder Agreement after the Effective Date. Each Issuer hereby designates and appoints each of the Administrative Agent and the Collateral Agent (the Administrative Agent and the Collateral Agent are referred to collectively as the "Agents") as its agent under this Agreement and the other Facility Documents, and each Issuer hereby irrevocably authorizes the Agents to take such actions on its behalf under the provisions of this Agreement and each other Facility Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Facility Document, together with such powers as are reasonably incidental thereto. Each Agent is hereby authorized to execute, deliver and perform each of the Facility Documents to which the Administrative Agent or the Collateral Agent, as the case may be, is a party. Each Agent agrees to act as such on the express conditions contained in this Section 17. The provisions of this Section 17 are solely for the benefit of the Agents and the Issuers and the Applicant shall not have any rights as a third party beneficiary of any of the provisions contained herein. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Facility Document, no Agent shall have any duties or responsibilities, except those expressly set forth herein, nor shall any Agent have or be deemed to have any fiduciary relationship with any Issuer, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Facility Document or otherwise exist against any Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Notwithstanding the foregoing, prior to the execution and delivery of any Issuer Joinder Agreement, each Agent shall be entitled to rely on instructions delivered to such Agent by the Applicant in connection with the taking of any actions under the provisions of this Agreement and each other Facility Document; provided that, immediately upon the execution and delivery of such Issuer Joinder Agreement, each Agent shall thereafter act hereunder as directed by the Issuers as set forth herein.

(b) Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by it and shall not be liable for the negligence or misconduct of a sub-agent appointed with due care. Each Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Section 17 shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. The parties hereto acknowledge that as of the Effective Date, the Collateral Agent has appointed Mizuho Bank, Ltd. in its capacity as Calculation Agent (as defined in the Calculation Agency Agreement), as sub-agent for purposes of (i) determining the fair market value of Eligible UST Assets under Section 6(a), if necessary, and (ii) the duties under Section 6(d)(i) and Section 6(d)(ii) of this Agreement, together with such powers as are reasonably incidental thereto; provided that, any responsibilities and powers of the Calculation Agent may be performed by a third party sub-agent if the Collateral Agent, the Applicant and the Calculation Agent shall otherwise agree.

(c) Liability of Agents. None of the Agent-Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Facility Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct, as determined by a court of competent jurisdiction in a non-appealable final judgment), or (ii) be responsible in any manner to any of the Issuers for any recital, statement, representation or warranty made by the Applicant or affiliate of the Applicant, or any officer thereof, contained in this Agreement or in any other Facility Document, or in any certificate, report, statement or other document referred to or provided for in, or received by any Agent under or in connection with, this Agreement or any other Facility Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Facility Document, or for any failure of the Applicant or any other party to any Facility Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Issuer to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Facility Document, or to inspect the properties, books or records of the Applicant. The Agents shall not be responsible for and make no representation as to the existence, genuineness, value or protection of any Collateral, for the legality, effectiveness or sufficiency of the Pledge Agreement or for the creation, perfection, priority, sufficiency or protection of any liens securing the Obligations. Nothing herein shall require the Agents to file financing statements or continuation statements, or be responsible for maintaining the security interests purported to be created as described herein (except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder or under any other Facility Document) and such responsibility shall be solely that of the Applicant. No Agent shall incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of such Agent (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, pandemic, epidemic, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility). The Agents shall not be required to expend or risk any of its own funds or otherwise incur any liability, financial or otherwise, in the performance of any of its duties hereunder or under any other Facility Document.

(d) Reliance by Agent. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex, electronic mail or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the Applicant), independent accountants and other experts selected by such Agent. Each Agent shall be fully justified in failing or refusing to take any action or exercising any discretion or right under this Agreement or any other Facility Document unless it shall first receive such advice or concurrence of the Majority Issuers as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Issuers against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action; provided that, the Agents shall not be required to take any action that would violate any Facility Document or applicable law. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Facility Document in accordance with a request or consent of the Majority Issuers (or all Issuers if so required by Section 16) and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Issuers. The Agents may consult with legal counsel of its own choosing, at the expense of the Applicant, as to any matter relating to the Facility Documents, and the Agents shall not incur any liability in acting in good faith in accordance with any advice from such counsel.

(e) Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Event of Default, unless such Agent shall have received written notice from an Issuer or the Applicant in accordance with the provisions of Section 18, referring to this Agreement, describing such Event of Default and stating that such notice is a “notice of default.” The applicable Agent will notify the Issuers of its receipt of any such notice. The Agents shall take such action with respect to such Event of Default as may be requested by the Majority Issuers in accordance with Section 15; provided, however, that unless and until the Agents have received any such request, the Agents may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable.

(f) Credit Decision. Each Issuer acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by any Agent hereinafter taken, including any review of the affairs of the Applicant and its Affiliates, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Issuer. Each Issuer represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Applicant, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Applicant. Each Issuer also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Facility Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of Applicant. Except for notices, reports and other documents expressly herein required to be furnished to the Issuers by an Agent, no Agent shall have any duty or responsibility to provide any Issuer with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Applicant which may come into the possession of any of the Agent-Related Persons.

(g) Indemnification. Whether or not the transactions contemplated hereby are consummated, the Issuers shall indemnify upon demand the Agent-Related Persons (to the extent not reimbursed by or on behalf of the Applicant and without limiting the obligation of the Applicant to do so), in accordance with their Pro Rata Shares, from and against any and all indemnified liability pursuant to Section 10; provided, however, that no Issuer shall be liable for the payment to the Agent-Related Persons of any portion of such indemnified liabilities resulting solely from such Person's gross negligence or willful misconduct, as determined by a court of competent jurisdiction in a non-appealable final judgment. Without limitation of the foregoing, each Issuer shall reimburse each Agent upon demand for its Pro Rata Share of any costs or out-of-pocket expenses (including attorney costs) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Facility Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Applicant. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of the applicable Agent.

(h) Agent in Individual Capacity. Deutsche Bank Trust Company Americas and its affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Applicant and its Subsidiaries and affiliates as though Deutsche Bank Trust Company Americas were not an Agent hereunder and without notice to or consent of the Issuers. Deutsche Bank Trust Company Americas or its affiliates may receive information regarding the Applicant and its affiliates (including information that may be subject to confidentiality obligations in favor of the Applicant) and acknowledge that the Agents and Deutsche Bank Trust Company Americas shall be under no obligation to provide such information to them.

(i) Successor Agent. Any Agent may resign as Administrative Agent and/or Collateral Agent, as applicable, upon at least thirty (30) days' prior written notice to the Issuers and the Applicant, such resignation to be effective upon the acceptance of a successor agent to its appointment as Administrative Agent or Collateral Agent, as applicable. Subject to the foregoing, if any Agent resigns under this Agreement, the Majority Issuers shall appoint from among the Issuers a successor agent for the Issuers. If no successor agent is appointed prior to the effective date of the resignation of the Agent, the Agent may appoint, after consulting with the Issuers and the Applicant, a successor agent from among the Issuers, or, at the expense of the Applicant, apply to a court of competent jurisdiction for the appointment of a successor. Upon the acceptance of its appointment as successor agent hereunder, such successor agent shall succeed to all the rights, powers and duties of the retiring Agent and the term "Administrative Agent" and/or "Collateral Agent", as applicable, shall mean such successor agent and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 17 shall continue to inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement.

18. Notices. All notices, requests and demands to or upon the respective parties hereto shall be in writing (including as a ".pdf" attachment to an electronic mail) and shall be deemed to have been duly given or made (i) on the date of receipt if delivered by hand or overnight courier service or sent by fax, (ii) on the date five Business Days after dispatch by certified or registered mail if mailed or (iii) on the date on which transmitted to an electronic mail address (or by another means of electronic delivery) if delivered by electronic mail or any other telecommunications device, in each case, addressed as follows, or to such other address as may be hereafter notified by the respective parties hereto:

Address for communications to the Applicant:

NRG Energy, Inc.
804 Carnegie Center
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel
E-Mail: ogc@nrg.com; LoanCompliance@nrg.com

Address for communications to the Administrative Agent:

Deutsche Bank Trust Company Americas
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attention: Project Finance Agency Services, NRG Energy, Inc., AA5672
Fax: (646) 961-3317
E-mail: jennifer.vandyne@db.com; randy.kahn@db.com

Address for communications to the Issuers:

As of the Effective Date, the notice information as set forth on Schedule II. For any Issuer that becomes a party to this Agreement after the Effective Date, the notice information for such Issuer as set forth in the applicable Issuer Joinder Agreement.

19. Costs and Expenses. The Applicant agrees to pay, from time to time, promptly upon demand, all reasonable and documented out-of-pocket costs and expenses of the Agents and the Issuers (including reasonable fees and disbursements of Latham & Watkins LLP, counsel to the Issuers, and Holland & Knight LLP, as counsel to the Agents), in connection with the negotiation, preparation, execution and delivery of this Agreement and all Letters of Credit, as well as in connection with the enforcement of, and preservation of rights under, and ongoing advice, administration, and any modifications or amendments with respect to, this Agreement.

20. No Waiver; Remedies Cumulative. No failure to exercise, and no delay in exercising any right, power or remedy under this Agreement or any other document executed and delivered in connection herewith shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights, remedies, powers and privileges provided under this Agreement are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law or in equity. No waiver or approval by any Agent or any Issuer shall, except as may be otherwise stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval hereunder shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. None of any Agent, any Issuer nor any of their respective Related Parties shall be liable for any loss of any or all of the Collateral in the absence of gross negligence, fraud or willful misconduct (as determined by a court of competent jurisdiction in a final and non- appealable decision) on the part of any such person or entity.

21. Successors and Assigns. This Agreement shall be binding upon each party hereto and its successors and permitted assigns and shall inure to the benefit of and be enforceable by each party hereto, its successors and permitted assigns. The Applicant shall not transfer or otherwise assign any of its obligations under this Agreement and any assignment in violation of this Section 21 shall be null and void. Each Issuer may transfer or otherwise assign its rights and obligations under this Agreement to one or more assignees (other than any natural person, the Applicant or any of the Applicant's affiliates); provided that, each of the Administrative Agent and the Applicant must give its prior written consent to such assignment (which consent shall not be unreasonably withheld or delayed); provided, however, that the consent of the Applicant shall not be required to any such assignment (i) during the continuance of an Event of Default under Sections 15(a)(i), 15(a)(vi)(B), 15(a)(vi)(C) and 15(a)(vii) or (ii) to any affiliate of an Issuer or to any other Issuer or any affiliate of another Issuer.

The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Applicant, shall maintain at one of its offices in the United States a copy of each assignment delivered to it and a register for the recordation of the names and addresses of the Issuers, and principal amounts (and stated interest) of the drawings on each Letter of Credit issued by, each Issuer pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Applicant, the Administrative Agent and the Issuers shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as an Issuer hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Applicant and any Issuer, at any reasonable time and from time to time upon reasonable prior notice.

Notwithstanding the foregoing, each Issuer may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure its obligations, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this paragraph shall not apply to any such pledge or assignment of a security interest.

22. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

23. Right of Set-off. If an Event of Default shall have occurred and be continuing, each Issuer is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set-off and apply any and all deposits (general or special, time or demand, provisional or final, including, without limitation, any amount held by such Issuer pursuant to this Agreement or otherwise) at any time held and other indebtedness at any time owing by such Issuer to or for the credit or the account of the Applicant against any and all of the Obligations (now or hereafter existing) that are due and payable hereunder or under any related document. The rights of the Issuers under this Section 23 are in addition to other rights and remedies (including, without limitation, other rights of set-off) that any Issuer may have.

24. Counterparts. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Any signature to this Agreement or any notice or other document delivered in connection herewith may be delivered by electronic mail (including pdf) or any electronic signature complying with the Electronic Signatures in Global and National Commerce Act, the New York Electronic Signature and Records Act or the Uniform Electronic Transaction Act, or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this Agreement.

Each party hereto represents and warrants to the other party hereto that it has the corporate capacity and authority to execute this Agreement through electronic means and that there are no restrictions for doing so in that party's constitutive documents.

25. Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

26. Submission to Jurisdiction. WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDINGS ("PROCEEDING") RELATING TO THIS AGREEMENT OR ANY LETTER OF CREDIT, EACH OF THE APPLICANT, EACH AGENT AND EACH ISSUER IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES DISTRICT COURT LOCATED IN THE BOROUGH OF MANHATTAN IN NEW YORK CITY AND WAIVES ANY OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY PROCEEDINGS BROUGHT IN ANY SUCH COURT, WAIVES ANY CLAIM THAT SUCH PROCEEDINGS HAVE BEEN BROUGHT IN AN INCONVENIENT FORUM AND FURTHER WAIVES THE RIGHT TO OBJECT, WITH RESPECT TO SUCH PROCEEDINGS, THAT SUCH COURT DOES NOT HAVE ANY JURISDICTION OVER SUCH PARTY. EACH PARTY HEREBY AGREES THAT PROCESS SHALL BE DEEMED SERVED IF SENT TO ITS ADDRESS GIVEN FOR NOTICES UNDER THIS AGREEMENT AND THAT NOTHING IN THIS AGREEMENT SHALL AFFECT ANY AGENT'S OR ANY ISSUER'S RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW. THE APPLICANT HEREBY AGREES THAT FINAL JUDGMENT AGAINST IT IN ANY ACTION OR PROCEEDING SHALL BE ENFORCEABLE IN ANY OTHER JURISDICTION WITHIN OR OUTSIDE THE UNITED STATES BY SUIT ON THE JUDGMENT.

27. Waiver of Jury Trial. THE APPLICANT, EACH AGENT AND EACH ISSUER EACH HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY PROCEEDING RELATING TO THIS AGREEMENT OR ANY LETTER OF CREDIT OR ANY COUNTERCLAIM THEREIN. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER FACILITY DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 27.

28. Waiver of Special, Punitive or Exemplary Damages. To the extent permitted by applicable law and without limiting the Applicant's obligation under Section 10 of this Agreement, each party hereto agrees that it shall not assert, and each hereby waives, any claim against any other party hereto or any Indemnified Party, as applicable, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, any Letter of Credit or the use of the proceeds thereof.

29. PATRIOT Act and Beneficial Ownership Regulation Notice. Each Issuer hereby notifies the Applicant that pursuant to the requirements of the PATRIOT Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Applicant (and related information), which information includes the name and address of the Applicant and other information that will allow such Issuer to identify the Applicant in accordance with the PATRIOT Act and the Beneficial Ownership Regulation. The Applicant shall, and shall cause each of its Subsidiaries to, provide to the extent commercially reasonable, such information and take such actions as are reasonably requested by any Issuer in order to assist it in maintaining compliance with the PATRIOT Act and the Beneficial Ownership Regulation.

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States ("Applicable AML Law"), the Agents are required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Agents. Accordingly, each of the parties agree to provide either Agent, upon their request from time to time such identifying information and documentation as may be available for such party in order to enable such Agent to comply with Applicable AML Law.

30. Time. All references in this Agreement to a time of day refer to the time in New York City.

31. Termination.

(a) This Agreement shall terminate upon the earlier of (i) July 31, 2028 and (ii) the Applicant terminating this Agreement upon ten (10) days' prior written notice to the Administrative Agent if there are no L/C Outstandings with respect to which arrangements satisfactory to the applicable Issuer have not been made (the "Termination Date"); provided that, in any event, Sections 8, 9, 10, 13, 15(c)-(f), 18, 19, 20, 22, 25, 26, 27 and 28 shall survive the termination of this Agreement. Upon termination of this Agreement, an amount equal to the excess of (A) cash and Eligible UST Assets provided by the Applicant on deposit in the Collateral Accounts (including all interest thereon) on the date of such termination, over (B) any outstanding Obligations of the Applicant, including, without limitation, L/C Outstandings and outstanding fees and expenses, shall be promptly returned to the Applicant.

(b) Upon not less than three (3) Business Days' prior written notice to the Administrative Agent, the Applicant shall have the right, at any time or from time to time, without premium or penalty, to permanently terminate the Total Unutilized L/C Commitment in whole, or reduce it in part, pursuant to this Section 31(b), in integral multiples of $50,000 in the case of partial reductions to the Total Unutilized L/C Commitment; it being understood and agreed upon such termination the Facility Amount shall be reduced in an amount equal to the amount of the Total Unutilized L/C Commitment so terminated or reduced. Each termination or reduction of the Total Unutilized L/C Commitment pursuant to this Section 31(b) shall be applied to the Commitments of one or more Issuers as directed by the Applicant. Any notice of termination or reduction of the Total Unutilized L/C Commitment pursuant to this Section 31(b) may state that such termination or reduction is conditioned upon the effectiveness of other credit facilities, liquidity facilities or any other event, in which case such notice may be revoked by the Applicant (by notice to the Administrative Agent on or prior to the specified termination or reduction date) if such condition is not satisfied.

32. Entire Agreement. This Agreement, together with the exhibits hereto and all documents delivered pursuant to Section 3, as the case may be, represents the agreement of the parties hereto with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Agents, the Issuers or the Applicant relative to subject matter hereof not expressly set forth or referred to herein.

[Remainder of page intentionally left blank]

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

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Administrative Agent and Collateral Agent

By: /s/ Robert Peschler
Name: Robert Peschler
Title: Vice President

By: /s/ Jennifer Van Dyne
Name: Jennifer Van Dyne
Title: Vice President

[Signature Page to Letter of Credit Facility Agreement]

NRG ENERGY, INC., as the Applicant

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Sr. Vice President, Treasurer & Head of Investor Relations

[Signature Page to Letter of Credit Facility Agreement]

DEUTSCHE BANK AG NEW YORK BRANCH, as an Issuer

By: /s/ Gaurav Mathur
Name: Gaurav Mathur
Title: Managing Director

By: /s/ Jacopo Dominissini
Name: Jacopo Dominissini
Title: VP

[Signature Page to Letter of Credit Facility Agreement]

MUFG BANK, LTD., as an Issuer

By: /s/ Jeffrey Fesenmaier
Name: Jeffrey Fesenmaier
Title: Managing Director

[Signature Page to Letter of Credit Facility Agreement]

NATIXIS, NEW YORK BRANCH, as an Issuer

By: /s/ Guillaume de Parscau
Name: Guillaume de Parscau
Title: Managing Director

By: /s/ Hanane Hablal
Name: Hanane Hablal
Title: Director

[Signature Page to Letter of Credit Facility Agreement]

EXHIBIT A

[FORM OF] REQUEST FOR LETTER OF CREDIT

[NAME OF ISSUER] (the "Specified Issuer")
[_____]
[_____]
Attention: [_____]
Facsimile No.: [_____]
E-Mail: [_____]

[INSERT DATE]

Ladies and Gentlemen:

Reference is hereby made to the Letter of Credit Facility Agreement (as amended, restated, supplemented and/or otherwise modified from time to time, the "Agreement"), dated as of August [__], 2023, by and among NRG Energy, Inc., a Delaware corporation (the "Applicant"), the financial institutions from time to time parties thereto, each in their capacity as an issuer of Letters of Credit thereunder (collectively, together with the Specified Issuer, the "Issuers"), and Deutsche Bank Trust Company Americas, as administrative agent for the Issuers (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent"). All capitalized terms used but not defined herein have the respective meaning assigned thereto in the Agreement.

Pursuant to Section 3 of the Agreement, the undersigned hereby requests that the Specified Issuer (or any of the Specified Issuer's affiliates or branches) issue (or continue) for the account of the Applicant [and _____][1] [____][2] Letter(s) of Credit, in the aggregate principal amount of $[____] and in the form(s) attached hereto, for the benefit of the Beneficiary(ies) and in the amount set forth in such form(s).

The Applicant hereby agrees and acknowledges the Specified Issuer's obligation to effect such issuance (or continuance) shall be subject in all events to satisfaction of the conditions precedent set forth in Section 3 of the Agreement, including without limitation, satisfaction of the Applicant's obligation set forth in Section 5(a) of the Agreement.

The Applicant further certifies and confirms that, as of the date hereof, the Aggregate Collateral Amount is equal to or greater than the Minimum Collateral Base, which is $_____ as of the date hereof.

This notice shall be deemed part of the Agreement and shall be subject to all the terms and conditions set forth therein.

[Signature page follows]

[1] Insert name of Subsidiary(ies) or Minority Investment(s) that would be co-applicant, if desired by the Applicant.

[2] Insert number of Letters of Credit being requested.

NRG ENERGY, INC., as the Applicant

By: _____
Name:
Title:

EXHIBIT B

[FORM OF] REQUEST FOR AMENDMENT TO EXISTING LETTER OF CREDIT

[NAME OF ISSUER] (the "Specified Issuer")
[_____]
[_____]
Attention: [_____]
Facsimile No.: [_____]
E-Mail: [_____]

[INSERT DATE]

Ladies and Gentlemen:

Reference is hereby made to:

(a) the Letter of Credit Facility Agreement (as amended, restated, supplemented and/or otherwise modified from time to time, the "Agreement"), dated as of August [__], 2023, by and among NRG Energy, Inc., a Delaware corporation (the "Applicant"), the financial institutions from time to time parties thereto, each in their capacity as an issuer of Letters of Credit thereunder (collectively, together with the Specified Issuer, the "Issuers"), and Deutsche Bank Trust Company Americas, as administrative agent for the Issuers (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent"); and

(b) Letter of Credit No. [_____], issued on [_____] in the aggregate principal amount of $[_____] for the benefit of [ADD BENEFICIARY INFORMATION] [, as amended on [_____]][3] (the "Letter of Credit").

Pursuant to Section 3 of the Agreement, the undersigned hereby requests that the Specified Issuer (or any of the Specified Issuer's affiliates or branches) amend the Letter of Credit as follows:

[INSERT REQUESTED AMENDMENTS]

The Applicant hereby agrees and acknowledges that the Specified Issuer may elect to so amend the Letter of Credit in a form reasonably satisfactory to the Specified Issuer, and that, if the Specified Issuer so elects, the Specified Issuer's obligation to effect such amendment shall be subject in all events to satisfaction of the conditions precedent set forth in Section 3 of the Agreement, including without limitation, satisfaction of the Applicant's obligation set forth in Section 5(a) of the Agreement.

The Applicant further certifies and confirms that, as of the date hereof, the Aggregate Collateral Amount is equal to or greater than the Minimum Collateral Base, which is $ _____ as of the date hereof.

All capitalized terms used but not defined herein have the meaning assigned thereto in the Agreement.

---

[3] Include this information if the referenced Letter of Credit has been previously amended.

This notice shall be deemed part of the Agreement and shall be subject to all the terms and conditions set forth therein.

[Signature page follows]

NRG ENERGY, INC., as the Applicant

By: _____
Name:
Title:

EXHIBIT C

[FORM OF] ACTIVITY REPORT

[See attached]

EXHIBIT D

[FORM OF] ISSUER JOINDER AGREEMENT

This Issuer Joinder Agreement (this "Agreement") is entered into as of [__], 20__, by and among [__], in its capacity as a new Issuer (the "New Issuer") under the Letter of Credit Facility Agreement referred to below, NRG Energy, Inc., a Delaware corporation (the "Applicant"), and Deutsche Bank Trust Company Americas, as administrative agent for the Issuers (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent"). Defined terms in the Letter of Credit Facility Agreement have the same meanings where used herein, unless otherwise defined.

RECITALS

WHEREAS, the Applicant, the financial institutions from time to time parties thereto in their capacity as issuers of Letters of Credit thereunder (collectively, together with the Specified Issuer, the "Issuers"), the Administrative Agent and the Collateral Agent have entered into that certain Letter of Credit Facility Agreement, dated as of August [__], 2023 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "Letter of Credit Facility Agreement"); and

WHEREAS, in accordance with the Letter of Credit Facility Agreement, the Applicant has requested that the New Issuer act as an Issuer under the Letter of Credit Facility Agreement, the New Issuer is willing to act as an Issuer under the Letter of Credit Facility Agreement, and the Administrative Agent and the Collateral Agent are willing to accept the New Issuer's appointment as an Issuer under the Letter of Credit Facility Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto hereby agree as follows:

1. Appointment, etc.

As of the Joinder Effective Date (as defined below), the New Issuer is hereby appointed as an Issuer (and the New Issuer hereby accepts its appointment as an Issuer) under the Letter of Credit Facility Agreement and agrees to be bound by the terms of the Letter of Credit Facility Agreement applicable to the Issuers. From and after the Joinder Effective Date, (1) the New Issuer shall have all the rights, powers and duties of an Issuer under the Letter of Credit Facility Agreement, (2) all references in the Letter of Credit Facility Agreement and the other Facility Documents to the term "Issuer" or "Issuers" shall mean or include, as applicable, the New Issuer, and (3) the New Issuer shall be entitled to all of the protections, limitations and rights of an "Issuer" set forth in the Letter of Credit Facility Agreement and the other Facility Documents.

2. Conditions Precedent to Effectiveness. This Agreement shall become effective immediately upon the date (the "Joinder Effective Date") when each of the parties hereto shall have delivered this Agreement duly executed by a responsible officer of each such party.

3. Counterparts. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Any signature to this Agreement or any notice or other document delivered in connection herewith may be delivered by electronic mail (including pdf) or any electronic signature complying with the Electronic Signatures in Global and National Commerce Act, the New York Electronic Signature and Records Act or the Uniform Electronic Transaction Act, or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this Agreement.

4. Headings. Section headings herein are included for convenience of reference only and shall not affect the interpretation of this Agreement.

5. Interpretation. This Agreement is a "Facility Document" for the purposes of the Letter of Credit Facility Agreement.

6. Notice.

All notices sent to the New Issuer under the Facility Documents shall be delivered pursuant to Section 19 of the Letter of Credit Facility Agreement and addressed as follows:

[__]

7. GOVERNING LAW; SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. SECTIONS 25 AND 26 OF THE LETTER OF CREDIT FACILITY AGREEMENT ARE INCORPORATED HEREIN BY REFERENCE MUTATIS MUTANDIS WITH THE SAME FORCE AND EFFECT AS IF EXPRESSLY WRITTEN HEREIN.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

NRG ENERGY, INC., as Applicant

By: _____
Name:
Title:

[●], as New Issuer

By: _____
Name:
Title:

Acknowledged and agreed as of the date first written above:

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Administrative Agent and Collateral Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT E

[FORM OF] L/C OUTSTANDINGS REPORT

[See attached]

SCHEDULE I

COMMITMENTS

Issuer	Commitment
[_____]	**$ [_____]**
[_____]	**$ [_____]**
[_____]	**$ [_____]**

SCHEDULE II

NOTICES

Issuer	Notice Information
Deutsche Bank AG New York Branch	[●] [●] Attention: [●] Email: [●]
Natixis, New York Branch	[●] [●] Attention: [●] Email: [●]
MUFG Bank, Ltd.	[●] [●] Attention: [●] Email: [●]

SCHEDULE III

EXISTING LETTERS OF CREDIT

[See attached]

Exhibit 4.3

Execution Version

AMENDED AND RESTATED

DECLARATION OF TRUST

OF

ALEXANDER FUNDING TRUST II

Dated as of August 29, 2023

TABLE OF CONTENTS

AMENDED AND RESTATED
DECLARATION OF TRUST
OF
ALEXANDER FUNDING TRUST II

This AMENDED AND RESTATED DECLARATION OF TRUST is made as of August 29, 2023 (this "*Declaration*"), among NRG Energy, Inc., a Delaware corporation ("*NRG*"), individually and as depositor (in such capacity, the "*Depositor*"), Deutsche Bank Trust Company Americas ("*Deutsche Bank*"), a New York banking corporation, as trustee (the "*Trustee*"), and Deutsche Bank Trust Company Delaware, a Delaware banking corporation, as Delaware trustee (the "*Delaware Trustee*" and together with the Trustee, the "*Trustees*").

WHEREAS, the Depositor and the Trustees have heretofore duly declared and established Alexander Funding Trust II, a statutory trust established pursuant to the Statutory Trust Act (as defined herein) (the "*Trust*"), by entering into a Declaration of Trust, dated as of August 1, 2023 (the "*Original Declaration*"), and by the execution by the Trustees and the filing by the Trustees with the Secretary of State of the State of Delaware (the "*Secretary of State*") of the Certificate of Trust, filed on August 1, 2023 in the form attached as *Exhibit A* (the "*Certificate of Trust*"); and

WHEREAS, the parties hereto desire to amend and restate the Original Declaration in its entirety as set forth herein to provide for, among other things, (i) the issuance and sale of the Trust Securities to the Initial Purchasers pursuant to the Trust Securities Purchase Agreement; (ii) the investment of the proceeds of such issuance in Eligible Treasury Assets; (iii) the execution and performance by the Trust of the Facility Agreement with NRG; (iv) the pledge of Eligible Treasury Assets in favor of the Collateral Agent for the benefit of the LC Issuers, to secure NRG's reimbursement obligations under the LC Agreement and, with respect to any Eligible Treasury Assets not required to be pledged to the Collateral Agent, in favor of NRG to secure the obligations of the Trust to pay the Notes Purchase Price under the Issuance Right, in each case, pursuant to the Pledge Agreement; and (v) all other actions deemed necessary or desirable in connection with the transactions contemplated by this Declaration, including entering into and performing the other Transaction Agreements to which it is a party.

NOW, THEREFORE, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Original Declaration is hereby amended and restated in its entirety and it is agreed as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions.

(a) Unless the context otherwise require, in this Declaration (including in the Recitals):

"*30/360 Basis*" means a calculation for the relevant Distribution Period or other period on the basis of a year of 360 days consisting of twelve 30-day months.

"*Affiliate*" means, with respect to a specified Person, any other Person that directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such specified Person. For purposes of this definition, "*control*" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the term "*controlling*" and "*controlled*" have meanings correlative to the foregoing.

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which (i) banking institutions in The City of New York or the State of Delaware are authorized or obligated by law or executive order to close or (ii) the Federal Reserve Bank of New York is closed.

"Calculation Agency Agreement" means the Calculation Agency Agreement, dated August 29, 2023, between NRG, as Depositor, and the Calculation Agent.

"*Calculation Agent*" means Mizuho Securities USA LLC, in its capacity as calculation agent under the Calculation Agency Agreement, or any successor thereto in such capacity.

"*Certificate*" means a trust certificate in the form attached as *Exhibit B*, which shall evidence the Trust Securities identified thereon.

"*Change in Law*" means any adoption (including any announced prospective adoption) of, change (including any announced prospective change) in or amendment to the laws of the United States or any regulations or rulings promulgated by any regulatory authority or agency thereof (including without limitation any authority or agency thereunder or therein affecting taxation), or any adoption of or change in official position regarding the application or interpretation of such laws, regulations or rulings (including a holding by a court of competent jurisdiction), which adoption, change or amendment is announced or becomes effective on or after the original date of issuance of the Trust Securities.

"*Change of Control Triggering Event*" means (i) a Change of Control has occurred and (ii) the Trust Securities and/or the Senior Notes are downgraded by two or more Rating Agencies on any date during the 60-day period commencing after the earlier of (a) the occurrence of a Change of Control and (b) public disclosure by NRG of the occurrence of a Change of Control or NRG's intention to effect a Change of Control; *provided, however*, that a particular reduction in rating will not be deemed to have occurred in respect of a particular Change of Control (and thus will not constitute a Change of Control Triggering Event) if the Rating Agencies making the reduction in rating to which this definition would otherwise apply do not announce or publicly confirm or inform the Trustee in writing at NRG's or the Trustee's request that such downgrade was the result of the applicable Change of Control (whether or not the applicable Change of Control has occurred at the time of such downgrade); *provided further* that no Change of Control Triggering Event shall occur if following such downgrade, (x) the Trust Securities and the Senior Notes are rated Investment Grade by at least two of the Rating Agencies or (y) the ratings of the Trust Securities and the Senior Notes by at least two of the Rating Agencies are equal to or better than their respective ratings on the original date of issuance of the Trust Securities.

"Change of Control Offer Expiration Date" means the third Business Day preceding the Change of Control Payment Date.

"*Code*" means the United States Internal Revenue Code of 1986.

"*Collateral Agent*" means Deutsche Bank, in its capacity as collateral agent under the Pledge Agreement, and any successor to Deutsche Bank in such capacity.

"*Corporate Trust Office*" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date of the execution of this instrument is located at (i) for purposes of surrender, transfer or exchange of any P-Cap Certificate, Deutsche Bank Trust Company Americas, c/o DB Services Americas, Inc., 5022 Gate Parkway, Suite 200, Jacksonville, FL 32256, Attn: Transfer Department and (ii) for all other purposes, at the address of the Trustee specified in Section 12.1(a) or such other address as to which the Trustee may give written notice to the Depositor, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Depositor).

"*Defaulted Eligible Treasury Assets*" means, with respect to any Distribution Date, all Eligible Treasury Assets (other than Retained Eligible Treasury Assets) held by the Trust that are due and unpaid on such Distribution Date.

"*Delaware Trustee*" has the meaning specified in the preamble hereto, initially Deutsche Bank Trust Company Delaware, a Delaware banking corporation having its principal place of business in the State of Delaware, not in its individual capacity but solely as Delaware Trustee under this Declaration until a successor or assignee shall have become Delaware Trustee pursuant to Section 4.3(e), and thereafter "Delaware Trustee" shall mean or include each Person who is then a Successor Delaware Trustee hereunder.

"*Depositary*" means DTC or any successor clearing agency registered under the Exchange Act that is designated to act as Depositary for the Trust Securities as contemplated by Section 5.16.

"*Distribution*" means a distribution made by the Trust, of and from its assets, to a Holder on account of the Holder's ownership of a Trust Security.

"*Distribution Date*" means each January 31 and July 31, commencing on January 31, 2024, and ending on July 31, 2028.

"*Distribution Period*" means each period from and including 5:00 p.m. on January 31 to, but excluding, 5:00 p.m., on July 31 and each period from and including 5:00 p.m. on July 31 (or from and including 5:00 p.m. on the date of initial issuance of the Trust Securities, as applicable) to but excluding 5:00 p.m. on January 31.

"*DTC*" means The Depository Trust Company.

"*Eligible Bank*" means a commercial bank organized under the laws of the United States or a state thereof, the deposits of which are insured by the Federal Deposit Insurance Corporation, which commercial bank has total assets of at least $1 billion and which has a long- term debt rating of not less than Investment Grade.

"*Eligible Treasury Assets*" means a portfolio of principal and interest STRIPS of U.S. Government Obligations that are selected in accordance with Section 2.9(a) or delivered by NRG to the Trust as part of the Repurchase Price upon a Repurchase of Senior Notes pursuant to Section 2.2(c) of the Facility Agreement.

"*ERISA*" means the United States Employee Retirement Income Security Act of 1974.

"*Exchange Act*" means the United States Securities Exchange Act of 1934.

"*Facility Agreement*" means the Facility Agreement, dated as of the date hereof, among the Trust, NRG and the Notes Trustee, in substantially the form attached as *Exhibit D.*

"*Fitch*" means Fitch Ratings Inc. or any successor entity.

"*Global Certificate*" means a Certificate registered in the name of a Depositary (or a nominee of a Depositary) and that is held through such Depositary as part of its system for the holding, clearance and settlement of book-entry interests in such Certificate.

"*Holder*" means, with respect to any Trust Security, the Person in whose name such Trust Security is registered on the Register maintained for that purpose by the Trustee.

"*Indenture*" means the Indenture, dated as of the date hereof, between NRG and the Notes Trustee, as amended and supplemented by the Supplemental Indenture.

"*Investment Company Act*" means the United States Investment Company Act of 1940.

"*Investment Company Act Event*" means the receipt by NRG of an opinion of nationally recognized counsel to the effect that, as a result of a Change in Law, the Trust will be required to, or there is a reasonable likelihood that the Trust will be required to, register under the Investment Company Act.

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

"LC Agreement" means the Letter of Credit Facility Agreement, dated as of the date hereof, and any joinder agreements thereto, among NRG, Deutsche Bank, as administrative agent, the Collateral Agent and certain financial institutions party thereto as LC Issuers for the issuance of letters of credit for the account of NRG.

"*LC Issuers*" means the financial institutions that issue letters of credit pursuant to the LC Agreement.

"*Like Amount*" means (i) with respect to a redemption of any Trust Securities, Trust Securities having an initial purchase price equal to the principal amount of Senior Notes to be contemporaneously redeemed in accordance with the Indenture or as to which a Cash Settlement Election has been made in accordance with the Facility Agreement, the proceeds of which will be used to pay the Redemption Price of such Trust Securities and (ii) with respect to any exchange of Trust Securities for Senior Notes pursuant to Section 5.4(e), Senior Notes having a principal amount equal to the aggregate initial purchase price of the Trust Securities to be exchanged.

"*Majority of Holders*" means Holders of Outstanding Trust Securities constituting more than 50% of the Outstanding Trust Securities.

"*Moody's*" means Moody's Investors Service, Inc., or any successor entity.

"*Notes Trustee*" means Deutsche Bank, in its capacity as trustee under the Indenture, and any successor to Deutsche Bank, in such capacity.

"*NRG Payment*" means (i) with respect to an Optional Redemption of Senior Notes, the Optional Redemption Price payable, together with accrued interest payments, to the holders thereof upon such redemption pursuant to the Senior Notes, (ii) with respect to a Change of Control Triggering Event, the Change of Control Payment and (iii) with respect to any Senior Notes as to which NRG has made a Cash Settlement Election, the Cash Settlement Amount.

"*NRG Payment Date*" means (i) with respect to an Optional Redemption of Senior Notes, the Optional Redemption Date, (ii) with respect to a Change of Control Payment, the Change of Control Payment Date and (iii) with respect to any Senior Notes as to which NRG has made a Cash Settlement Election, the Settlement Date with respect to the relevant exercise of the Issuance Right.

"*Offering Memorandum*" means the Offering Memorandum, dated August 15, 2023, of the Trust relating to the Trust Securities.

"*Officer's Certificate*" means, with respect to any Person that is not an individual, a certificate signed by the chairman of the board, the president, the chief executive officer, the chief financial officer, a vice president, the treasurer, an assistant treasurer, the secretary, an assistant secretary or the comptroller of such Person or, if such Person is a trust, any trustee of the trust. Any Officer's Certificate delivered with respect to compliance with a condition or covenant provided for in this Declaration shall include:

(i) a statement that each officer signing the Officer's Certificate has read the covenant or condition and the definitions relating thereto;

(ii) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officer's Certificate;

(iii) a statement that each such officer has made such examination or investigation as, in such officer's opinion, is reasonably necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether, to the best knowledge of each such officer, such condition or covenant has been complied with.

"*Opinion of Tax Counsel*" means an opinion of independent nationally recognized tax counsel experienced in the matter that is the subject of the opinion.

"*Outstanding*" means, when used with respect to any Trust Securities as of any date, Trust Securities theretofore issued by the Trust except, without duplication, (i) any Trust Securities theretofore cancelled or delivered to the Trustee for cancellation, (ii) any Trust Securities as to which the Trust, NRG or any Affiliate thereof shall be the beneficial owner, or (iii) any Trust Securities represented by any Certificate in lieu of which a new Certificate has been executed and delivered by the Trust.

"*P-Caps Tax Event*" means the receipt by NRG of an Opinion of Tax Counsel to the effect that, as a result of a Change in Law (other than any amendment or change to section 163(j) of the Code ("section 163(j)"), including any issuance of, or change to, regulations or another official administrative pronouncement under section 163(j) unless, in the opinion of such independent nationally recognized tax counsel, the change of tax law under section 163(j) limits, defers or prohibits the deduction of interest in respect of the Trust Securities in a manner or to an extent different from interest on NRG's senior debt obligations), NRG will be prevented from, or there is reasonable likelihood that NRG will be prevented from, deducting as interest (or other ordinary) expense for United States federal income tax purposes an amount equal to the payments in respect of the Trust Securities.

"*Paying Agent*" has the meaning set forth in Section 2.6(e), and shall initially be the Trustee.

"*Person*" means any individual, corporation, partnership, joint venture, association, limited liability or joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"*Pledge Agreement*" means the Pledge and Control Agreement, dated as of the date hereof, among the Trust, Deutsche Bank, as collateral agent, Deutsche Bank, as securities intermediary and NRG, in substantially the form attached as *Exhibit C*.

"*Rating Agencies*" means (i) each of Moody's, S&P and Fitch and (ii) if any of Moody's, S&P or Fitch, ceases to rate the Trust Securities and/or the Senior Notes or fails to make a rating of the Trust Securities and/or the Senior Notes publicly available, a Nationally Recognized Statistical Organization selected by NRG which shall be substituted for Moody's, S&P or Fitch, as the case may be.

"*Record Date*" means with respect to each Distribution Date, the close of business on each January 15 and July 15 preceding such Distribution Date.

"*Redemption Date*" means, with respect to any Trust Security to be redeemed, the date fixed for such redemption by or pursuant to this Declaration.

"*Redemption Price*" means, with respect to the redemption of the Trust Securities, the Optional Redemption Price or the Change of Control Payment, as applicable, of a Like Amount of Senior Notes plus accrued and unpaid interest on such Senior Notes, to but excluding the Redemption Date.

"*Register*" means the list of Persons in whose name the Trust Securities are registered, which list is maintained by or on behalf of the Trust pursuant to Section 5.3.

"*Responsible Officer*" means any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Declaration.

"*S&P*" means S&P Global Ratings, a division of S&P Global Inc., or any successor entity.

"*Securities Act*" means the United States Securities Act of 1933.

"*Securities Intermediary*" means Deutsche Bank, in its capacity as such under the Pledge Agreement and under this Declaration, and any successor to Deutsche Bank in such capacity.

"*Senior Notes*" means up to the Maximum Amount of NRG's 7.467% Senior Secured First Lien Notes due 2028, to be issued by NRG from time to time under the Indenture, that NRG may require the Trust to purchase from time to time pursuant to the Facility Agreement.

"*Statutory Trust Act*" means Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 *et seq.*

"*STRIPS*" means principal and interest strips of U.S. Government Obligations created under the U.S. Treasury's program for Separate Trading of Registered Interest and Principal of Securities (STRIPS) under 31 C.F.R. Section 356.31.

"*Supplemental Indenture*" means the First Supplemental Indenture, dated as of the date hereof, to the Indenture.

"*Transaction Agreements*" means, collectively, this Declaration, the Trust Securities Purchase Agreement, the Facility Agreement, the Pledge Agreement, the Calculation Agency Agreement, the LC Agreement, the Trust Expense Reimbursement Agreement, the Indenture and the Senior Notes.

"*Trust Expense Reimbursement Agreement*" means the Trust Expense Reimbursement Agreement, dated as of the date hereof, between NRG and the Trust, substantially in the form attached as *Exhibit E*.

"*Trust Expenses*" means (i) all of the reasonable and documented expenses of the Trust, including the Trustee, Securities Intermediary, Collateral Agent and Delaware Trustee fees, accountants' or auditors' fees, ongoing rating agency fees, brokerage or transaction fees and expenses related to transactions for Eligible Treasury Assets, reasonable and documented out-of-pocket legal fees and expenses of a single lead external counsel, a single Delaware counsel and any special subject-matter counsel, if necessary, consulted in the ordinary course by any of the foregoing in their respective capacities as such, tax preparation fees, banking fees, expenses relating to communications, and any other fees or expenses inherent in the operation or liquidation and termination of the Trust and incurred without gross negligence, willful misconduct or bad faith on any of their part and (ii) indemnification payments made by the Trust to the Trustee, Securities Intermediary, the Delaware Trustee or the Collateral Agent.

"*Trust Income*" for any Distribution Period means (i) any Facility Fee paid by NRG under the Facility Agreement, with respect to the unexercised portion of the Issuance Right, if any, (ii) any amounts paid by NRG under the Trust Expense Reimbursement Agreement, (iii) any Special Facility Fee paid by NRG under the Facility Agreement, (iv) any cash payments received by the Trust on the Eligible Treasury Assets (other than Retained Eligible Treasury Assets) held by the Trust, (v) any purchase price paid by NRG for any Defaulted Eligible Treasury Assets for an amount equal to the face amount of such Defaulted Eligible Treasury Assets and (vi) any interest paid by NRG on any Senior Notes held by the Trust.

"*Trust Indenture Act*" means the United States Trust Indenture Act of 1939.

"*Trust Property*" means, as of any particular time, any and all property that shall have been transferred, conveyed or paid to the Trust or to the Trustee (in its capacity as such) on behalf thereof, and all interest, dividends, income, earnings, profits and gains therefrom, and proceeds thereof, including any proceeds derived from the sale, exchange or liquidation thereof, and any funds or payments derived from any reinvestment of such proceeds in whatever form the same may be, and which at such time is owned or held by, or for the account of, the Trust or the Trustee on behalf of the Trust.

"*Trust Securities*" means the pre-capitalized trust securities to be issued by the Trust in the form of the Certificates evidencing undivided beneficial interests in the assets of the Trust in accordance with the terms of this Declaration and designated as the "Pre-Capitalized Trust Securities Redeemable July 31, 2028".

"*Trust Securities Purchase Agreement*" means the Trust Securities Purchase Agreement, dated August 15, 2023, among the Trust, NRG and Mizuho Securities USA LLC and RBC Capital Markets, LLC, on behalf of the initial purchasers named therein.

"*Trustee*" has the meaning specified in Section 4.1(a), and shall initially be Deutsche Bank not in its individual capacity but solely as trustee under this Declaration, and any Successor Trustee to Deutsche Bank in such capacity.

"*U.S. Government Obligations*" means U.S. Treasury securities that are direct obligations of the United States for the payment of which its full faith and credit is pledged.

(b) As used herein, each of the following terms shall have the meaning set forth in the Section of this Agreement or in the other document set forth opposite such term in the table below, unless otherwise required:

Applicable AML Law	Section 4.9
Authorized Officer	Pledge Agreement
Automatic Exercise	Facility Agreement
Automatic Exercise Event	Facility Agreement
Automatic Exercise Notice	Facility Agreement
Available Amount	Facility Agreement
Bankruptcy Event	Facility Agreement
Blocked Eligible Treasury Assets	Section 2.10(b))
Cash Settlement Amount	Facility Agreement
Cash Settlement Election	Facility Agreement
Certificate of Trust	Recitals
Change of Control Offer	Section 5.10(a)
Change of Control Offer Issuance Amount	Facility Agreement
Change of Control Payment	Section 5.10(a)
Change of Control Payment Date	Section 5.10(a)
Change of Control Redemption Amount	Section 5.10(a)
Collateral Enforcement Event	Facility Agreement
Collateral Trust Agreement	Senior Notes
Declaration	Preamble
Depositor	Preamble
Depositor Affiliated Owner/Holder	Section 5.4(e)
Deutsche Bank	Preamble
Eligible Purchaser	Section 5.5(a)
Entitlement Holder	Pledge Agreement
Entitlement Order	Pledge Agreement

Exchanged Notes	Section 5.4(e)
Exchanged Trust Securities	Section 5.4(e)
Facility Fee	Facility Agreement
Indemnified Person	Section 9.1(c)
Initial Purchasers	Trust Securities Purchase Agreement
Investment Grade	Facility Agreement
Issuance Right	Facility Agreement
Issuance Notice	Facility Agreement
Legal Action	Section 2.6(a)(xi)
Liquidation Distribution Date	Section 8.2(c)
List of Holders	Section 5.14(a)
Mandatory Exercise	Facility Agreement
Maximum Amount	Facility Agreement
Notes Purchase Price	Facility Agreement
NRG	Preamble
Optional Redemption	Senior Notes
Optional Redemption Date	Senior Notes
Optional Redemption Price	Senior Notes
Original Declaration	Recitals
Overdue Amounts	Section 5.8(d)
Paying Agent	Section 2.6(e)
Permitted Liens	LC Agreement
Pledged Property Accounts	Pledge Agreement
Remaining Amounts	Section 2.9(b)
Repurchase	Facility Agreement

Repurchase Right	Facility Agreement
Repurchase Settlement Date	Facility Agreement
Retained Eligible Treasury Assets	Section 2.10(b)
SEC	Facility Agreement
Secretary of State	Recitals
Security Registrar	Indenture
Settlement Date	Facility Agreement
Special Facility Fee	Facility Agreement
Similar Laws	Section 5.5(a)
Successor Delaware Trustee	Section 4.3(e)(i)
Successor Trustee	Section 4.3(d)(i)(A)
Transfer Agent	Section 2.6(a)(xvi)
Trust	Recitals
Trust Collateral Account	Section 2.6(c)
Trust Dissolution Date	Section 8.1(a)
Trust Notes Account	Section 2.6(c)
Trust Property Account	Section 2.6(c)
Trustee	Preamble
Trustees	Preamble
Trustee's Fee	Section 4.1(d)
Voluntary Exercise	Facility Agreement

Section 1.2 *Interpretation*. Unless the context otherwise requires, in this Declaration:

(a) any reference to this Declaration or any other agreement or document shall be construed as a reference to this Declaration or such other agreement or document, as applicable, as the same may have been, or may from time to time be, amended, varied, novated or supplemented in accordance with its terms;

(b) any reference to a statute or regulation shall be construed as a reference to such statute or regulation or any successor or replacement statute or regulation, in each case as the same may have been, or may from time to time be, amended, varied or supplemented in accordance with its terms;

(c) any reference to time shall be to New York City time;

(d) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Declaration as a whole and not to any particular section, clause or other subdivision, and references to "Articles", "Sections" and "Exhibits" refer to Articles or Sections of and Exhibits to this Declaration;

(e) the word "including" shall be deemed to be followed by the words "without limitation";

(f) any definition shall be equally applicable to both the singular and plural forms of the defined terms;

(g) headings contained in this Declaration are inserted for convenience of reference only and do not affect the interpretation of this Declaration or any provision hereof;

(h) whenever in this Declaration any Person is named or referred to, the successors and assigns of such Person shall be deemed to be included, and all covenants and agreements in this Declaration by the Depositor, the Trustee and the Delaware Trustee shall bind and inure to the benefit of their respective successors and assigns, whether or not so expressed; and

(i) if a payment date is not a Business Day at a place of payment, payment may be made at that place on the next succeeding day that is a Business Day, and no interest shall accrue on such payment for the intervening period.

ARTICLE II

ORGANIZATION

Section 2.1 *Name*. The trust continued hereby shall be known as "*Alexander Funding Trust II*", as such name may be modified from time to time by the Trustee with the consent of a Majority of Holders, following written notice to the Delaware Trustee.

Section 2.2 *Office*. The principal office of the Trust shall be the Corporate Trust Office of the Trustee. The principal office of the Trust in the State of Delaware is the office of the Delaware Trustee in Delaware, which as of the date hereof is located at 111 Continental Drive, Suite 102, Newark, Delaware 19713, Attention: Alexander Funding Trust II. Each of the Trustee and Delaware Trustee may designate another principal office of the Trust after not less than 10 Business Days' written notice to the Holders.

Section 2.3 Nature and Purpose of the Trust.

(a) The Trust shall be a "*statutory trust*" as defined in the Statutory Trust Act and this Declaration shall constitute its governing instrument. The Certificate of Trust has been duly filed with the Secretary of State. The debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the Trust shall be enforceable only against the assets of the Trust.

(b) The purposes and functions of the Trust are, and, subject to the provisions set forth in Section 2.7, the Trust shall have the power and authority to, subject to the Depositor's performance of its obligations pursuant to Article III hereof:

(i) issue the Trust Securities, with each Trust Security representing an undivided beneficial interest in the Trust's assets, and enter into the Trust Securities Purchase Agreement with the Initial Purchasers and NRG for that purpose;

(ii) invest the net proceeds from the issuance and sale of the Trust Securities in Eligible Treasury Assets as directed by NRG;

(iii) enter into the Facility Agreement with NRG and the Notes Trustee, in substantially the form of *Exhibit D*;

(iv) enter into the Pledge Agreement with the Collateral Agent, the Securities Intermediary and NRG, in substantially the form of *Exhibit C*, for the benefit of the Collateral Agent for the LC Issuers, to secure reimbursement obligations under the LC Agreement and, with respect to any Eligible Treasury Assets that are not required to be pledged to the Collateral Agent for the benefit of the LC Issuers, in favor of NRG to secure the obligations of the Trust to pay the Notes Purchase Price under the Facility Agreement;

(v) enter into the Trust Expense Reimbursement Agreement with NRG in substantially the form of *Exhibit E* pursuant to which NRG will agree to advance or reimburse the Trust for the Trust's obligations relating to the Trustee's Fee and Trust Expenses;

(vi) execute, deliver and perform its obligations under the foregoing agreements and the other Transaction Agreements to which it is a party and comply with the terms thereof;

(vii) upon the exercise of the Issuance Right, in whole or in part, delivering to NRG all or the applicable portion of the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) as identified by Calculation Agent (in the amount identified by the Calculation Agent), less any Eligible Treasury Assets then subject to a Collateral Enforcement Event, in exchange for the Senior Notes being sold or the cash payment that NRG elects to make in lieu of such Senior Notes, *provided* that prior to the termination of the LC Agreement, in lieu of receiving the Eligible Treasury Assets from the Trust, NRG has the right to require the Trust to continue to hold such Eligible Treasury Assets subject to the terms of the Pledge Agreement (however, the Holders of the Trust Securities will have no interest in and no rights to receive delivery of any Retained Eligible Treasury Assets or proceeds thereof);

(viii) upon a Repurchase, deliver to NRG Senior Notes held by the Trust and receive Eligible Treasury Assets from NRG in exchange therefor, in accordance with the Facility Agreement;

(ix) upon an Optional Redemption, Voluntary Exercise or Mandatory Exercise as to which NRG has made a Cash Settlement Election, receive from NRG the NRG Payment and use it to redeem a Like Amount of Trust Securities pursuant to Section 5.10, subject to the priorities of distribution set forth in Section 8.2(c);

(x) on each Distribution Date, distribute its Trust Income for the related Distribution Period to the Holders, after payment of any expenses and other amounts payable by the Trust, as provided in Section 5.8, and subject to its other obligations under the Transaction Agreements;

(xi) in accordance with, and subject to, Article VIII, distribute any Senior Notes it holds subject to its other obligations under the Transaction Agreements;

(xii) on each date that the Trustee is required to make a distribution in accordance with Section 5.8(d)(i) or (ii), distribute all Overdue Amounts together with the applicable Special Facility Fee in accordance therewith;

(xiii) hold the Eligible Treasury Assets and the other assets of the Trust (including holding any Senior Notes that may be sold to it) and sell any Defaulted Eligible Treasury Assets to NRG at their face amount;

(xiv) liquidate all or a portion of its Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) and distribute any Senior Notes in accordance with the terms hereof;

(xv) hold the Retained Eligible Treasury Assets in accordance with the Pledge Agreement;

(xvi) acquire, hold, manage, pledge, invest, dispose of and otherwise deal with the Trust Property, subject to the terms of the Transaction Agreements;

(xvii) acknowledge the addition of any LC Issuers to the LC Agreement by executing any joinder agreement thereto that has been signed by NRG; and

(xviii) except as otherwise set forth herein, engage in other activities necessary or incidental to the foregoing.

Section 2.4 Authority. Subject to the limitations provided in this Declaration, the Trustee shall have the power and authority to carry out the purposes of the Trust. An action taken by the Trustee in accordance with its powers shall constitute the act of and serve to bind the Trust. In dealing with the Trustee acting on behalf of the Trust, no Person shall be required to inquire into the authority of the Trustee to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Trustee as set forth in this Declaration.

Section 2.5 *Title to Property*. Legal title to all assets attributable to the Trust shall be vested at all times in the Trust as a separate legal entity, except where applicable law in any jurisdiction requires title to any part of the assets to be vested in a trustee or trustees, in which case legal title shall be deemed to be vested in the Trustee.

Section 2.6 *Powers and Duties of the Trustee*.

(a) The Trustee shall have the power and authority to, and subject to Article IV, shall, cause the Trust to engage in the following activities:

(i) to issue and sell the Trust Securities in accordance with this Declaration and the Trust Securities Purchase Agreement at the direction of the Depositor; *provided* that (A) the Trust may issue no more than one class of Trust Securities; and (B) there shall be no equity interests in the Trust other than the Trust Securities;

(ii) to purchase Eligible Treasury Assets identified by the Calculation Agent in consultation with NRG with the proceeds from the sale of the Trust Securities and to hold the same, subject to the provisions of this Declaration and the Trust's obligations under the Transaction Agreements;

(iii) to enter into the Facility Agreement with NRG and the Notes Trustee in substantially the form attached as *Exhibit D* and the Pledge Agreement with the Collateral Agent, the Securities Intermediary and NRG, in substantially the form attached as *Exhibit C*, and thereby pledge the Eligible Treasury Assets and the proceeds thereof to the Collateral Agent for the benefit of the LC Issuers to secure reimbursement obligations under the LC Agreement and, with respect to any Eligible Treasury Assets not required to be pledged to the Collateral Agent, in favor of NRG, to secure the obligations of the Trust to pay the Notes Purchase Price under the Issuance Right and, in each case, perform the Trust's obligations, and exercise its rights, thereunder;

(iv) to purchase and hold the Senior Notes, if and to the extent that NRG exercises the Issuance Right (including a Mandatory Exercise) or upon an Automatic Exercise, until (A) such Senior Notes are repurchased or redeemed pursuant to a Repurchase Right or Optional Redemption, (B) the Trust is liquidated pursuant to Article VIII or (C) the Trustee is required to liquidate any such Senior Notes pursuant to Section 5.8(d), Section 5.9 or Section 8.2 or any other provision of this Declaration;

(v) to exercise voting rights with respect to any Senior Notes held by the Trust, if and when any Senior Notes are issued to the Trust upon NRG's exercise of the Issuance Right, including a Mandatory Exercise or an Automatic Exercise, until such time as such Senior Notes may be redeemed or the Trust is liquidated, in the same manner and proportion as directed by the Holders of the Trust Securities providing direction (and absent such direction the Trustee shall take no action);

(vi) upon a Repurchase, to deliver to NRG all or a portion of the Senior Notes then held by the Trust and to receive Eligible Treasury Assets in exchange for the Senior Notes in accordance with the Facility Agreement;

(vii) to redeem all or a portion of the Trust Securities upon an Optional Redemption, Change of Control Triggering Event or Voluntary Exercise as to which NRG has made a Cash Settlement Election and receipt of the NRG Payment, subject to the priorities set forth in Section 8.2(c), or if a Trust Dissolution Date occurs pursuant to Section 8.1(a)(i);

(viii) to enter into the Trust Expense Reimbursement Agreement with NRG, and to collect from NRG any amounts due thereunder;

(ix) to establish a record date with respect to all actions to be taken hereunder that require a record date be established (*provided* that the record date with respect to regular income Distributions and distributions in connection with any dissolution of the Trust shall be determined in accordance with the definition of the term "*Record Date*"), including voting rights, exchanges and final distributions, and to issue relevant notices to the Holders as to such actions and applicable record dates;

(x) to give prompt written notice to the Holders of any event set forth in Section 8.1(a) and of any Change of Control Triggering Event upon a Responsible Officer receiving a written notice thereof;

(xi) to bring or defend, pay from the Trust Property, collect, compromise, resort to legal action, or otherwise adjust claims or demands of or against the Trust (each such action, a "*Legal Action*"), or take any other Legal Action that arises out of or in connection with the duties of the Trustee under this Declaration;

(xii) to sell Defaulted Eligible Treasury Assets at their face amount to NRG;

(xiii) to take all actions and perform such express duties as may be required of the Trustee pursuant to the terms of this Declaration or the Trust Securities;

(xiv) to employ or otherwise engage agents, brokers, managers, contractors, advisors and consultants and pay from the Trust Property reasonable compensation for such services, subject to Section 4.1(d);

(xv) to incur expenses that are necessary to carry out any of the purposes of the Trust described in Section 2.3(b) or the Trustee's duties set forth in this Declaration;

(xvi) to act as, or appoint another Person to act as, registrar and transfer agent (the "*Transfer Agent*") for the Trust Securities;

(xvii) to execute and deliver each other Transaction Agreement to which it is a party, and to perform the Trust's obligations and exercise its rights thereunder;

(xviii) to the extent directed in writing by NRG, to execute all other documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing;

(xix) to the extent directed in writing by NRG, to take all action that may be necessary or appropriate for the preservation and continuation of the Trust's valid existence, rights, franchises and privileges as a statutory trust under the laws of the State of Delaware;

(xx) to take any action, or to decline to take any action, not in violation of this Declaration, the Transaction Agreements or applicable law, in carrying out the activities of the Trust as set forth in this Section 2.6, including (A) upon advice of counsel, at the direction of Depositor, taking any action to cause the Trust not to be deemed to be an investment company required to be registered under the Investment Company Act, *provided* that such action does not adversely affect any of the rights, preferences and privileges of the Holders, and (B) declining to take any action that would be reasonably likely to cause the Trust to be characterized as an association or publicly traded partnership taxable as a corporation for United States federal income tax purposes; provided that the foregoing shall not alter any right or obligation of the Trust to comply with an Issuance Notice or any direction or instruction of the Holders provided hereunder (subject to Section 10.4);

(xxi) to take all actions with respect to tax forms and tax returns as set forth in Section 7.1 and subject to Depositor's and the Trust's accountants' obligations thereunder;

(xxii) to provide information to Holders or prospective purchasers as set forth in Section 7.2(b);

(xxiii) to hold Retained Eligible Treasury Assets in accordance with the Pledge Agreement;

(xxiv) to execute on behalf of the Trust the engagement letter of the accounting firm of Cover & Rossiter in the form attached hereto as *Exhibit F*, relating to the preparation of financial statements and tax filings for the Trust (for the avoidance of doubt, such accounting firm shall be an independent contractor of the Trust and shall not be considered an agent of the Trustee or the Delaware Trustee nor under their supervision and control; and neither the Trustee nor the Delaware Trustee shall be liable for any claims, liabilities or expenses relating to such accounting firms' engagement, any advice or work of the Trust's accountants or any report or filing issued, prepared or made by, such accounting firm in connection with such engagement);

(xxv) to execute any joinder agreement to the LC Agreement that has been signed by NRG; and

(xxvi) to engage in other activities necessary or incidental to the foregoing.

(b) On the date of this Declaration (and on an annual basis thereafter until the Trust Dissolution Date), the Trustee shall execute the engagement letter referenced in Section 2.6(a)(xxiv) of this Declaration, each of the Transaction Agreements to which the Trust is intended to be a party and the initial Certificates on behalf of the Trust and shall thereafter cause the Trust to perform its obligations thereunder.

(c) The Trustee shall establish and maintain with the Securities Intermediary (and keep records of) a segregated, non-interest-bearing trust account (the "*Trust Property Account*") in the name of and under the exclusive control of the Trustee on behalf of the Trust, and upon the receipt of payments of funds representing Trust Income or any other payments of funds made under or in respect of the Trust Property, deposit such funds into the Trust Property Account until such cash balances are required to be distributed, invested or applied to any obligation of the Trust in accordance with this Declaration or any other Transaction Agreement. The Trust Property Account shall be a non-interest-bearing trust account at an Eligible Bank (which may include the Trustee). Money held by the Trustee shall be segregated from its funds and other funds held by it. The Trustee shall also establish with the Securities Intermediary (and keep records of) segregated, non-interest bearing Dollar-denominated accounts, which accounts shall be maintained until the termination of the Pledge Agreement:

(i) Account # AA5672.2 entitled "Trust Collateral Account;"

(ii) Account # AA5672.3 entitled "Trust Notes Account;"

(d) The Trust Property Account and the Trust Notes Account shall not be subject to any liens in favor of the Collateral Agent or NRG and the Trust shall remain the sole Entitlement Holder thereof and shall be the only party that may deliver Entitlement Orders on such accounts. For administrative purposes, additional sub-accounts within the Pledged Property Accounts or the Trust Property Account may be established and created by Securities Intermediary from time to time, each of which shall be, and shall be treated as, an account of the same type as the account within which such sub-account was created.

(e) Subject to Article IV, the Trustee shall take all actions and perform such duties as may be required of the Trustee as it may be directed from time to time in writing by a Majority of Holders to protect the interests of the Trust and the Holders.

(f) The Trustee may authorize one or more Persons (each, a "*Paying Agent*") to pay expenses of the Trust, Distributions, dissolution payments or other amounts on behalf of the Trust with respect to the Trust Securities. The initial Paying Agent shall be the Trustee. Any Paying Agent may be removed by the Trustee at any time and a successor Paying Agent or additional Paying Agents may be appointed at any time by the Trustee.

(g) Notwithstanding any other provision in this Declaration or elsewhere, the Trustee shall not have any duty or obligation to manage, control, use, make any payment in respect of, register, record, insure, inspect, sell, dispose of (except in accordance with Section 2.6(a)) or otherwise deal with the Trust Property or to otherwise take or refrain from taking any action under, or in connection with, this Declaration or any other document to which the Trust is a party, except for (i) duties expressly required to be performed by the Trustee by the terms of this Declaration or the Transaction Agreements to which the Trust is a party or in accordance with written instructions from a Majority of Holders, and (ii) duties required to be performed by the Trust by any Transaction Agreement to which is it a party, or any other agreement authorized by this Declaration.

(h) The Trustee shall exercise the powers set forth in this Section 2.6 in a manner that is consistent with the purposes and intentions of the Trust set forth in Section 2.3, and the Trustee shall not take, nor shall the Holders, including a Majority of Holders, instruct the Trustee to take, any action that is inconsistent with the purposes and functions of the Trust set forth in Section 2.3.

Section 2.7 Prohibition of Actions by the Trust and the Trustee. The Trust shall not, and the Trustee shall cause the Trust not to, nor shall the Holders, including a Majority of Holders, direct the Trustee to, engage in any activity other than as expressly required or authorized by this Declaration or the other Transaction Agreements. In particular, the Trust shall not and the Trustee shall cause the Trust not to:

(a) re-invest any distributions received on the Trust Property, but the Trust shall, subject to Section 5.8 and Section 8.2, distribute all such proceeds, after satisfying any obligations of the Trust, to the Holders pursuant to the terms of this Declaration;

(b) acquire any assets other than as expressly provided herein;

(c) possess Trust Property for any purpose other than the purposes of the Trust, as described in Section 2.3;

(d) make any loans or incur any indebtedness or acquire any property other than Eligible Treasury Assets, the Senior Notes, the Trust Property Account and the rights of the Trust under the Transaction Agreements to which the Trust is a party;

(e) incur any lien or encumbrance on any Trust Property, other than the security interest created pursuant to the Pledge Agreement and Permitted Liens;

(f) except as expressly set forth herein, act in such a way as to vary the terms of the Trust Securities in any way whatsoever;

(g) issue any securities or other evidences of beneficial ownership of, or beneficial interest in, the Trust other than the Trust Securities;

(h) (i) direct the time, method and place of conducting any proceeding for any remedy available to the Trust as the holder of Trust Property or exercising any power conferred upon holders of any Trust Property, (ii) waive any past default or violation that is waivable under the terms of any Trust Property, or (iii) consent to any amendment or modification of the terms of any Trust Property where such consent shall be required, except in each case after receiving instructions from the Holders pursuant to Article X; *provided* that this paragraph shall not limit the authority and obligation of the Trustee to take any action expressly contemplated by this Declaration or any Transaction Agreement to which it is a party, and no instructions from the Holders shall be required in connection therewith;

(i) file a certificate of cancellation of the Trust or take any other action to terminate the Trust, except in connection with a dissolution of the Trust pursuant to Article VIII;

(j) permit any Trust Securities to be included on (or recognize any purchases or sales of any Trust Securities through) (i) any national, non-U.S., regional, local or other securities exchange, or (ii) any over-the-counter market (including an interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise);

(k) exercise any voting rights in respect of the Senior Notes without first obtaining directions from the Holders as provided in Section 4.7(a)(xii);

(l) object or seek to restrain or prohibit, temporarily or permanently, whether upon occurrence of a Bankruptcy Event or otherwise, NRG from issuing the Senior Notes and selling such Senior Notes to the Trust in exchange for the Eligible Treasury Assets in accordance with the Facility Agreement, including but not limited to, upon the occurrence of an Automatic Exercise or Mandatory Exercise; or

(m) raise any defense expressly waived pursuant to Section 5.1 of the Facility Agreement.

Section 2.8 Execution of Documents. Except as otherwise required by the Statutory Trust Act, the Trustee is authorized to execute, deliver and perform on behalf of the Trust any documents that the Trustee has the power and authority to cause the Trust to execute pursuant to Section 2.6.

Section 2.9 Investment in Eligible Treasury Assets.

(a) Promptly following the receipt of the proceeds from issuance of the Trust Securities, the Trustee shall invest such proceeds in Eligible Treasury Assets that are scheduled to make payments (i) with respect to each Distribution Date, in an aggregate amount equal to 4.33273% *per annum* applied to (for each Distribution Period) the initial Maximum Amount, calculated on a 30/360 Basis, and (ii) in an amount equal to the initial Maximum Amount on July 31, 2028. For the avoidance of doubt, *Exhibit G* sets forth the CUSIP, face amount and purchase price of each U.S. Treasury STRIP comprising the Eligible Treasury Assets in which the Trustee shall invest on the date hereof (without limiting the composition of the Eligible Treasury Assets as of any date thereafter).

(b) If any proceeds of the issuance of the Trust Securities remain after the purchase of the required amount of Eligible Treasury Assets pursuant to Section 2.9(a) (the "*Remaining Amounts*"), the Trustee shall apply such Remaining Amounts to pay the Trustee's Fee and the Trust Expenses and shall not request NRG to reimburse it for such amounts.

Section 2.10 Exercise of the Issuance Right; Facility Agreement.

(a) Subject to clause (b) below and Sections 5.8(b) and 5.8(d)(ii), upon receipt by a Responsible Officer of the Trustee of an Issuance Notice from NRG (including in the event of a Mandatory Exercise) or an Automatic Exercise Notice, NRG will sell the Senior Notes to the Trust, and in exchange the Trust will deliver to NRG the Notes Purchase Price not later than 3:00 p.m. on the applicable Settlement Date in accordance with the terms and conditions set forth in the Facility Agreement.

(b) Following any exercise of the Issuance Right, the Trust will hold any Senior Notes so sold to it and any remaining Eligible Treasury Assets. Pursuant to the Facility Agreement, prior to the termination of the LC Agreement, Eligible Treasury Assets that are pledged to the Collateral Agent shall only be delivered to NRG by the Trust if, upon the delivery of such Eligible Treasury Assets to NRG (i) such Eligible Treasury Assets will continue to be pledged to the Collateral Agent pursuant to the Pledge Agreement, subject to no other liens (other than Permitted Liens) and (ii) no default would exist or result under the LC Agreement or the Pledge Agreement from such delivery of the Eligible Treasury Assets (any Eligible Treasury Assets retained by the Trust after exercise of the Issuance Right pursuant to such limitation, the "*Blocked Eligible Treasury Assets*"). Prior to the termination of the LC Agreement, following any Mandatory Exercise or Automatic Exercise of the Issuance Right, in lieu of receiving the Eligible Treasury Assets from the Trust, NRG shall have the right to require the Trust to continue to hold such Eligible Treasury Assets subject to the terms of the Pledge Agreement (such Eligible Treasury Assets held by the Trust after a Mandatory Exercise or Automatic Exercise of the Issuance Right, together with any Blocked Eligible Treasury Assets, "*Retained Eligible Treasury Assets*"); *provided however* that the Holders of the Trust Securities will have no interest in and no rights to receive delivery of any Retained Eligible Treasury Assets or proceeds thereof.

(c) The Trustee shall deliver, in exchange for the Senior Notes being issued pursuant to the Issuance Right (or, in respect of any Senior Notes as to which NRG has made a Cash Settlement Election, in exchange for the applicable Cash Settlement Amount), the Notes Purchase Price in respect of such exercise pursuant to the Facility Agreement and shall credit such Senior Notes (or Cash Settlement Amount) to the Trust Notes Account (or the Trust Property Account) upon receipt, less any Eligible Treasury Assets then subject to a Collateral Enforcement Event. Any Eligible Treasury Assets delivered to NRG by the Trust will be credited or delivered in accordance with Section 3.1 of the Facility Agreement.

(d) Upon receipt by a Responsible Officer of the Trustee of a notice of exercise of the Repurchase Right, the Trustee shall take such action as may be required to cause the Trust to deliver to NRG the Senior Notes held by the Trust in exchange for the Eligible Treasury Assets on the Repurchase Settlement Date in accordance with the Facility Agreement and shall credit such Eligible Treasury Assets to the Trust Property Account upon receipt.

(e) The Trustee shall deliver the Automatic Exercise Notice to NRG after a Responsible Officer of the Trustee receives a written notice of any Automatic Exercise Event set forth in clause (i) of the definition thereof in the Facility Agreement in accordance with the Facility Agreement.

Section 2.11 Mergers. The Trust may not consolidate, amalgamate, merge or convert with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to any Person, except to a trust organized as such under the laws of any state of the United States and with the unanimous consent of the Holders or, in connection with the transfer of Eligible Treasury Assets as expressly permitted under this Declaration. The Trust shall provide written notice of any of the foregoing events to each Rating Agency.

Section 2.12 *Limitation on Directions to the Trustee*. Neither the Holders, including a Majority of Holders, nor the Depositor shall direct the Trustee to take or refrain from taking any action if such action or inaction would be contrary to any obligation of the Trust or the Trustee under this Declaration or any of the Transaction Agreements to which the Trust is a party or would be contrary to Section 2.3, nor shall the Trustee be obligated to follow any such direction, if given.

Section 2.13 *Duration of the Trust*. The Trust shall be dissolved, liquidated and terminated pursuant to the provisions of Article VIII.

Section 2.14 *Notices to the Trust and Trustee under the Facility Agreement.* Other than as specifically set forth in the Facility Agreement or herein, neither the Trust nor the Trustee shall be entitled to receive from NRG any certificate, opinion or other document in connection with the exercise of the Issuance Right.

ARTICLE III

RESPONSIBILITIES OF THE DEPOSITOR

Section 3.1 *Responsibilities of the Depositor*. The Depositor's execution and delivery on behalf of the Trust of the Trust Securities Purchase Agreement with the Initial Purchasers and NRG is hereby ratified. In connection with the issue and sale of the Trust Securities, the Depositor shall have the exclusive right and responsibility to engage in the following activities:

(a) to take appropriate action to qualify or register for sale all or part of the Trust Securities in such States as directed by the Initial Purchasers under the Trust Securities Purchase Agreement and to do any and all such acts as the Depositor deems necessary or advisable in order to comply with the applicable laws of any such States, other than actions that must be taken by the Trust, and advise the Trustee, or its Affiliates or agents, of actions the Trust must take, and prepare for execution and filing any documents to be executed and filed by the Trust;

(b) subject to the terms of the Trust Securities Purchase Agreement, to advise the Trustee, or its Affiliates or agents, of actions the Trust must take, and prepare for execution and filing any documents to be executed and filed by the Trust, as the Depositor deems necessary or advisable in order to comply with any applicable rules and regulations of the SEC promulgated under the Securities Act, the Exchange Act, the Trust Indenture Act, the Investment Company Act or any other applicable law or to obtain or maintain exemptions therefrom or other forms of relief thereunder or to make any filings or take any actions required thereby or deemed necessary or advisable with respect to the Trust, the Trust Securities or any Trust Property or the offering of the Trust Securities;

(c) to take all reasonable actions necessary to enable each Rating Agency to provide its respective rating with respect to the Trust Securities;

(d) cause a Calculation Agent to be available at all times pursuant to the terms of the Calculation Agency Agreement;

(e) assist the Trust with its accounting and tax compliance obligations and financial reporting requirements, including directing the retention of a nationally recognized accounting firm as the Trust's accountants; and

(f) prepare any Change in Control Offer and related notices required in connection with a Change in Control Triggering Event.

Section 3.2 Financing Statements.

It shall be the Depositor's responsibility (and not that of the Trustee) to cause the Trust or a third-party to file all financing statements (including on Form UCC-1 and Form UCC-3) and such other security documents to be executed by the Trust in such offices and locations as are necessary, including those financing statements contemplated in the Pledge Agreement.

ARTICLE IV

THE TRUSTEES

Section 4.1 Trustees; Eligibility.

(a) There shall at all times be one primary trustee which shall act as trustee of the Trust and which shall:

(i) not be an Affiliate of NRG; and

(ii) be a Person organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, authorized under such laws to exercise corporate trust power, having a combined capital and surplus of at least $50,000,000, and subject to supervision or examination by Federal, state, territorial or District of Columbia authority.

If any such Person publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to herein, then for the purposes of this Section 4.1(a), the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Trustee shall cease to be eligible to so act under Section 4.1(a), the Trustee shall immediately resign upon the request of the Majority of Holders in the manner and with the effect set forth in Section 4.3.

(c) Notwithstanding the fact that neither the Trust nor the Trust Securities are subject to the Trust Indenture Act, if the Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

(d) The initial Trustee shall be Deutsche Bank. Such Trustee shall be entitled to receive an annual administration fee (the "*Trustee's Fee*") for the services it is performing as Trustee in an amount agreed pursuant to the DBTCA Proposal of Fees dated July 18, 2023 and accepted by NRG and other extraordinary fees and expenses set forth therein, and other extraordinary fees and expense set forth herein, or as otherwise agreed in writing between NRG and the Trustee. Any Trust Expenses (unless paid out of any Remaining Amounts as required pursuant to Section 2.9(b)) shall be advanced or reimbursed by NRG under the Trust Expense Reimbursement Agreement and may be paid out of the Trust Property in accordance with Section 5.8(d)(ii), Section 5.9 or Section 8.2. All Remaining Amounts shall be applied to pay Trust Expenses prior to the Trustee seeking advancement or reimbursement for such expenses from NRG.

(e) In accepting the trust hereby created, the Trustee agrees to act solely as trustee hereunder and not in its individual capacity, except as expressly provided herein and in the other Transaction Agreements to which the Trust is intended to be a party. All Persons having any claim against the Trustee in its capacity as such by reason of the transactions contemplated by the documents to which the Trust is a party shall look only to the Trust Property (or the applicable part thereof, as the case may be) and not to the Trustee in its individual capacity. Without limiting the generality of the foregoing, the Trustee in its capacity as such or individually shall not be responsible or liable for or in respect of the validity or sufficiency of this Declaration or for the due execution hereof by the Depositor, or for the form, character, genuineness, sufficiency, value or validity of the Trust Property, and the Trustee makes no representations as to, and shall have no duty to monitor (x) the value or condition of the Trust Property or any part thereof, or (y) the validity or sufficiency of this Declaration, the Transaction Agreements or the Trust Securities.

(f) The Trustee shall not be required to provide, on its own behalf, any surety bond or other kind of security in connection with the execution of any of its trusts or powers under this Declaration or any other Transaction Agreement or the performance of its duties hereunder.

Section 4.2 Delaware Trustee. At all times required by Section 3807(a) of the Statutory Trust Act, the Trust shall have a trustee meeting the requirements of such Section. The duties and responsibilities of the Delaware Trustee shall be limited solely to (a) accepting legal process served on the Trust in the State of Delaware and (b) the execution and delivery of all documents, and the maintenance of all records, necessary to form and maintain the existence of the Trust under the Statutory Trust Act. The Delaware Trustee, in such capacity, shall not be entitled to exercise any powers, nor have any of the duties and responsibilities, of the Trustee described in this Declaration but shall be entitled to all of the protections, immunities, rights and exculpations provided to the Trustee. The Delaware Trustee shall (i) in the case of a natural person, be a resident of the State of Delaware, or in all other cases, have its principal place of business in the State of Delaware and (ii) not be an Affiliate of the Depositor. The Delaware Trustee shall initially be Deutsche Bank Trust Company Delaware. The Delaware Trustee shall be entitled to receive a fee for the services it is performing as Delaware Trustee in an amount agreed to in writing between NRG and the Trustee on behalf of the Delaware Trustee. If at any time the Delaware Trustee shall cease to be eligible to so act under this Section 4.2, the Delaware Trustee shall promptly resign in the manner and with the effect set forth in Section 4.3.

Section 4.3 Appointment, Removal and Resignation of Trustees.

(a) Subject to the provisions of this Section 4.3, the Trustee or the Delaware Trustee may be removed without cause at any time by the vote of a Majority of Holders.

(b) If the Delaware Trustee is the Trustee or an Affiliate of the Trustee, then, subject to the provisions of this Section 4.3, the Delaware Trustee shall be removed from such capacity simultaneously with the removal of the Trustee as Trustee.

(c) Subject to Section 4.3(d) and Section 4.3(e), any Trustee or Delaware Trustee may resign from office (without need for prior or subsequent accounting) by giving written notice to the other Trustee, all of the Holders and NRG of such intention on its part, specifying the date on which its desired resignation shall become effective; *provided* that such date shall not be less than 60 days from the date on which such notice is given, unless the other Trustee agrees to accept shorter notice.

(d) No resignation or removal of a Trustee shall be effective until:

(i) (A) a successor Trustee possessing the qualifications to act as Trustee under Section 4.1 (a "*Successor Trustee*") has been appointed by the vote of a Majority of Holders and has accepted such appointment by written instrument executed by such Successor Trustee and delivered to the Delaware Trustee and the resigning Trustee; and

(B) if the Trustee is also the Delaware Trustee, and if the Successor Trustee is not the Delaware Trustee, a Successor Delaware Trustee is appointed and has accepted such appointment in accordance with Section 4.3(e); or

(ii) the Trust has been completely dissolved, the proceeds of the dissolution have been distributed to the Holders pursuant to the terms of the Trust Securities and the Trust has been terminated in accordance with Article VIII.

(e) No resignation or removal of a Delaware Trustee shall be effective until:

(i) a successor Delaware Trustee possessing the qualifications to act as Delaware Trustee under Section 4.2 (a "*Successor Delaware Trustee*") has been appointed by the vote of a Majority of Holders or appointed by the Successor Trustee selected pursuant to Section 4.3(d) and has accepted such appointment by written instrument executed by such Successor Delaware Trustee and delivered to the Trustee and the resigning Delaware Trustee; or

(ii) the Trust has been completely dissolved, the proceeds of the dissolution have been distributed to the Holders pursuant to the terms of the Trust Securities and the Trust has been terminated in accordance with Article VIII.

(f) If no Successor Trustee or Successor Delaware Trustee shall have been appointed and accepted appointment as provided in this Section 4.3 within 90 days after delivery to the Holders of an instrument of resignation by the applicable Trustee, the resigning Trustee may (i) petition, at the expense of the Trust, any court of competent jurisdiction for appointment of a Successor Trustee or Successor Delaware Trustee, as applicable, or (ii) select a Successor Trustee and/or Successor Delaware Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Trustee or Successor Delaware Trustee, as the case may be.

(g) No Trustee or Delaware Trustee shall be liable for the acts or omissions to act of any Successor Trustee or Successor Delaware Trustee, as the case may be.

(h) Any Successor Delaware Trustee shall cause an amendment to the Certificate of Trust to be filed with the Secretary of State in accordance with the provisions of Section 3810 of the Statutory Trust Act, indicating that such Successor Delaware Trustee is the Delaware Trustee of the Trust.

Section 4.4 Delegation of Power. The rights, duties and powers of the Trustee as set forth in this Declaration may be delegated to one or more Affiliates of the Trustee, *provided* that each such delegee meets the eligibility requirements set forth in Section 4.1; and *provided further* that, as a condition to any such delegation, the delegee shall expressly agree to be jointly and severally liable with the Trustee for any liability arising out of or in connection with such delegation. The Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the purpose of executing any documents contemplated in Section 2.6.

Section 4.5 Merger, Conversion, Consolidation or Succession to Business. Any Person into which the Trustee or the Delaware Trustee, as applicable, may be merged or converted or with which either may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Trustee or the Delaware Trustee shall be a party, or any Person succeeding to all or substantially all the corporate trust assets and business of the Trustee or the Delaware Trustee (including administration of this Declaration), shall be the successor of the Trustee or the Delaware Trustee, as the case may be, hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto; *provided* that (a) if such Person is not otherwise qualified and eligible under this Article IV, it shall promptly resign as provided in Section 4.1(b) or Section 4.2, as applicable, and with the effect specified therein, and (b) any Successor Delaware Trustee shall file an amendment to the Certificate of Trust (at the expense of the Trust) if required by the Statutory Trust Act.

Section 4.6 Regarding the Trustee.

(a) The duties, responsibilities and obligations of the Trustee shall be limited to those expressly set forth in this Declaration and the other Transaction Agreements to which the Trustee is party. Neither the Trustee nor any of its officers, directors, employees, agents or Affiliates shall have any implied duties (including fiduciary duties) or liabilities otherwise existing at law or in equity with respect to the Trust, which implied duties and liabilities are hereby eliminated. Every provision of this Declaration relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

(b) The Trustee shall not be personally liable to any Person under any circumstances in connection with any of the transactions contemplated by this Declaration, except that such limitation shall not relieve the Trustee of any personal liability it may have to the Trust or the beneficial owners for the Trustee's own bad faith, willful misconduct or gross negligence in the performance of its express duties under this Declaration. In particular, but not by way of limitation of the foregoing:

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

(ii) subject to Section 10.4(a), the Trustee shall not be liable with respect to any action it takes, or any action it refrains from taking, in good faith in accordance with the direction of a Majority of Holders relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Declaration;

(iii) no provision of this Declaration shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers;

(iv) the Trustee's sole duty with respect to the custody, safe keeping and physical preservation of Trust Property, including the Trust Property Account, shall be to deal with such property in the same manner as the manner in which the Trustee deals with similar property for its own account or for the account of other trusts for which it acts as trustee, subject to the protections, benefits, privileges, immunities and limitations on liability afforded to the Trustee under this Declaration;

(v) the Trustee shall have no duty or liability for or with respect to the value, genuineness, existence or sufficiency of the Trust Property or the payment of any taxes or assessments levied thereon or in connection therewith or for or in respect of the validity or sufficiency of the documents to which the Trust or the Trustee is a party and the Trustee shall in no event assume or incur any liability, duty or obligation to any Person other than as expressly provided for herein; and

(vi) the Trustee shall have no obligation to monitor the value of Eligible Trust Assets.

(c) In no event shall the Trustee or the Delaware Trustee be responsible or personally liable (i) for special, indirect, consequential or punitive damages, however styled, including, without limitation, lost profits, (ii) for the acts or omissions of its correspondents, clearing agencies or securities depositories, (iii) for the acts or omissions of any nominee, brokers or dealers selected by it with reasonable care, or (iv) for any failure or delay in the performance of its obligations under this Declaration, or losses, arising out of or caused, directly or indirectly, by circumstances beyond its control, including, without limitation, acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics or pandemics; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software), the unavailability of the Federal Reserve Bank wire or facsimile or other communication services, including Internet services; accidents; labor disputes; acts of civil or military authority and governmental action (it being understood that the Trustee or the Delaware Trustee, as applicable, shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances). The Trustee or the Delaware Trustee shall have no responsibility for the accuracy of any information provided to the Holders or any other Person that has been obtained from, or provided to the Trustee or the Delaware Trustee by, any other Person, so long as the Trustee or Delaware Trustee, as applicable, faithfully reproduces such information.

Section 4.7 Certain Rights of the Trustee.

(a) The Trustee shall have the following rights under this Declaration (which list shall in no way limit other rights the Trustee has as expressly set forth in other provisions of this Declaration):

(i) the Trustee may conclusively rely on and shall be fully protected in acting or refraining from acting upon any signature, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document whether in its original form or in the form of a PDF reasonably believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Depositor acting on behalf of or in connection with the Trust as contemplated by this Declaration shall be sufficiently evidenced by an Officer's Certificate of the Depositor;

(iii) whenever in the administration of this Declaration, the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee (unless other evidence is herein specifically prescribed) may request and, in the absence of bad faith on its part, conclusively rely upon an Officer's Certificate of the Person charged with such proof or establishment;

(iv) except as expressly set forth in Section 7.1, the Trustee (in its capacity as such) shall have no duty to see to any recording, filing or registration of any instrument (including any financing or continuation statement or any filing under tax or securities laws) or any re-recording, re-filing or re-registration thereof;

(v) the Trustee may consult with counsel or other experts of its own selection and the advice or opinion of such counsel and experts with respect to legal matters or advice within the scope of such experts' area of expertise shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in accordance with such advice or opinion; such counsel may be counsel to the Depositor or any of its Affiliates, and may include any of its employees;

(vi) the Trustee shall have the right at any time to seek instructions concerning the administration of this Declaration from any court of competent jurisdiction;

(vii) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Declaration or at the request or direction of any Holder or the Depositor, unless (A) such Holder or the Depositor shall have provided to the Trustee security and indemnity, reasonably satisfactory to the Trustee, against the costs, expenses (including reasonable attorneys' fees and expenses and the reasonable expenses of the Trustee's agents, nominees or custodians), disbursements and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Trustee, and (B) the Trustee has been provided with the legal opinions, if any, required by this Declaration (the cost of which shall be paid by the Holder or the Depositor directing the Trustee to act);

(viii) the Trustee shall not be bound to make any investigation into the facts or matters stated in any signature, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document. The Trustee need not investigate any fact or matter stated in any such document, including verifying the correctness of any numbers or calculations, but the Trustee, in its reasonable discretion, may make such further inquiry or investigation into such facts or matters as it may deem necessary at the expense of the Trust and shall incur no liability of any kind by reason of such inquiry or investigation;

(ix) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees 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 (so long as any such agent is not an Affiliate of the Trustee);

(x) the Trustee shall be under no obligation to supervise or monitor, and shall assume no personal liability for, the actions of the Depositor in connection with its duties under this Declaration, the Transaction Agreements or in connection with the Trust generally;

(xi) any action taken by the Trustee or its agents hereunder shall bind the Trust and the Holders, and the signature of the Trustee or its agents alone shall be sufficient and effective to perform any such action and no third party shall be required to inquire as to the authority of the Trustee to so act or as to its compliance with any of the terms and provisions of this Declaration, both of which shall be conclusively evidenced by the Trustee's or its agent's taking such action;

(xii) subject to Section 10.4, whenever in the administration of this Declaration the Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder or exercising any discretion (by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Trustee), the Trustee (A) shall request instructions from a Majority of Holders (unless another provision of this Declaration requires the consent of a greater proportion of the Holders, in which case it shall request instructions from such greater proportion of the Holders), (B) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (C) shall be fully protected and shall be treated as acting reasonably in conclusively relying on or acting in accordance with such instructions and in not acting, to the extent instructions are not received within a specified period;

(xiii) except as otherwise expressly provided by this Declaration, the Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Declaration;

(xiv) the Trustee shall not be required to take any action if the Trustee shall reasonably determine, or shall be advised by counsel, that such action is likely to result in personal liability for the Trustee or is contrary to applicable law or the terms of this Declaration or the Transaction Agreements;

(xv) under no circumstances shall the Trustee be liable for indebtedness evidenced by or arising under any of the documents to which the Trust or the Trustee is a party, including the Trust Securities;

(xvi) the Trustee shall have no obligation or liability to perform the obligations of the Trust under this Declaration or any other document to which the Trust or the Trustee is a party that are required to be performed by other Persons, including the Depositor;

(xvii) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, 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; and

(xviii) the Trustee may request that the Depositor deliver a certificate setting forth the names of individuals and titles of officers authorized at such time to take specified actions on behalf of the Depositor pursuant to this Declaration, which certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

(b) No provision of this Declaration or any Transaction Agreement shall be deemed to impose any duty or obligation on the Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which the Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts, or to exercise any such right, power, duty or obligation.

(c) Under no circumstance shall the Trustee be personally liable for any representation, warranty, covenant, obligation or indebtedness of the Trust.

(d) Each of the parties hereto hereby agrees and, as evidenced by its acceptance of any benefits hereunder, each Holder or beneficial owner of the Trust Securities agrees that the Trustee in any capacity (i) has not provided and shall not provide in the future, any advice, counsel or opinion regarding the tax, financial, investment, securities law or insurance implications and consequences of the formation, funding and ongoing administration of the Trust, including, but not limited to, income, gift and estate tax issues, insurable interest issues, risk retention issues, doing business or other licensing matters and the initial and ongoing selection and monitoring of financing arrangements and (ii) has not made any investigation as to the accuracy of any representations, warranties or other obligations of the Trust under the Transaction Agreements.

(e) The Trustee shall not be deemed to have knowledge of an event of default in respect of the Trust Securities or the Senior Notes, or of any Mandatory Exercise Event, Automatic Exercise Event or Change in Control Trigger Event, until one of its Responsible Officers has received written notice thereof. The Trustee shall not be deemed to have knowledge of any other fact or event unless a Responsible Officer of the Trustee has received a written notice of such fact or event.

(f) The responsibility of the Trustee related to corporate actions for the Trust Securities shall be limited to timely forwarding any notices it receives to the Holders and acting at the direction of such Holders.

(g) The Trustee has not prepared or verified, and shall not be responsible or liable for, any information, disclosure or other statement in any disclosure or offering document, including the Offering Memorandum and the Trust Securities Purchase Agreement, or in any other document issued or delivered in connection with the sale or transfer of the Trust Securities.

Section 4.8 *Multiple Roles*. The parties expressly acknowledge and consent to Deutsche Bank acting in the capacity of Trustee, as Collateral Agent under the Pledge Agreement, as Securities Intermediary, as the Notes Trustee under the Indenture and as Priority Collateral Trustee and Parity Collateral Trustee under the Collateral Trust Agreement. Each of the Trustee, the Securities Intermediary, the Collateral Agent, the Notes Trustee, the Priority Collateral Trustee and the Parity Collateral Trustee may, in such capacity, discharge its separate functions fully, without hindrance or regard to conflict of interest principles, duty of loyalty principles or other breach of fiduciary duties to the extent any such conflict or breach arises from the performance by the Trustee of express duties set forth in this Declaration, the Collateral Agent and Securities Intermediary of express duties set forth in the Pledge Agreement, the Notes Trustee of express duties set forth in the Facility Agreement and in the Indenture or the Priority Collateral Trustee and the Parity Collateral Trustee under the Collateral Trust Agreement, all of which defenses, claims or assertions are hereby expressly waived by the other parties hereto and the Holders.

Section 4.9 *Anti-Money Laundering Laws*. In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States ("Applicable AML Law"), the Trustees are required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustees. Accordingly, each of the parties hereto agree to provide to the Trustees, upon their request from time to time such identifying information and documentation as may be available for such party in order to enable the Trustees to comply with Applicable AML Law.

ARTICLE V

THE TRUST SECURITIES

Section 5.1 *Description of the Trust Securities*.

(a) The specific rights, powers and terms of the Trust Securities shall be as set forth in this Declaration. Each Trust Security shall represent an undivided beneficial interest in the Trust Property, and distributions shall be made in respect of the Trust Securities at the times and in the amounts specified in this Declaration.

(b) Each Trust Security shall have an initial purchase price of $1,000, with a minimum purchase amount of $100,000. Unless otherwise specified in this Declaration, the Trust Securities shall be issued as definitive Trust Securities in substantially the form attached as *Exhibit B* with appropriate insertions, modifications and omissions, as provided herein.

(c) Unless otherwise specified in this Declaration, each Trust Security shall bear a legend as described in the form of Certificate attached as *Exhibit B*. The Trust Securities may be endorsed with or have incorporated into the text thereof such other legends or recitals not inconsistent with the provisions of this Declaration as may be required by the Trustee, or required to comply with any applicable law or regulation. The Depositor shall furnish the Trustee with all information necessary for the completion of any legend on the Trust Securities required by the federal income taxation or securities laws or regulations to the extent such information is obtainable at the time of original issuance of the Trust Securities.

(d) The Trust Securities shall be typewritten, printed, lithographed or engraved (with or without steel engraved borders), or produced by any combination of the foregoing methods.

(e) The Trust Securities issued and sold as contemplated herein and in the Trust Securities Purchase Agreement shall be deemed to be duly issued, fully paid and, to the fullest extent permitted by applicable law, nonassessable.

(f) All Trust Securities shall represent an equal proportionate beneficial interest in the assets belonging to the Trust (subject to the liabilities of the Trust), and each Trust Security shall be equal to each other Trust Security.

(g) So long as the Depositary, or its nominee, is the registered owner of any Global Certificate, the Depositary, or its nominee, shall be considered by the Trust, the Trustee and any agent as the sole owner or holder of the Trust Securities represented by such Global Certificate for all purposes whatsoever under this Declaration. None of the Trust, the Trustee or any agent will have any responsibility or liability for any aspect of the records relating to or payment made on account of beneficial ownership interests of a Global Certificate or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Neither the Trustee nor any agent shall have any responsibility or liability for any actions taken or not taken by the Depositary. The Trustee and agents shall be fully protected in relying upon information furnished by the Depositary with respect to its agent members and other members, participants and any beneficial owners.

Section 5.2 Execution of Certificates. The Trust Securities shall be executed by the Trustee on behalf of the Trust by the manual, facsimile or electronic signature of an authorized signatory of the Trustee, with the Trustee acting not in its individual capacity but solely as trustee of the Trust. On the date hereof the Trustee shall execute and deliver one or more of the Certificates evidencing 500,000 Trust Securities to or upon the order of the Initial Purchasers. Trust Securities bearing the signature of an individual that was an authorized signatory of the Trustee at the time of execution thereof shall constitute valid Trust Securities, notwithstanding that any such individual has ceased to hold such office at any time thereafter. All Trust Securities shall be dated the date of their execution and delivery.

Section 5.3 *Registration of Certificates*. The Trustee shall keep or cause to be kept at the Corporate Trust Office a Register in which, subject to such reasonable regulations as the Trustee may prescribe and subject to Section 5.5, the Trustee shall provide for the registration of ownership of the Trust Securities (including amounts owed on such Trust Securities consistent with the Intended Tax Treatment under Section 6.1) and of transfers and exchanges of the Trust Securities as provided in Section 5.4.

Section 5.4 *Transfer and Exchange of Trust Securities*.

(a) Subject to Section 5.5 and Section 5.16, a Holder may transfer any Trust Security at the Corporate Trust Office upon the surrender of such Trust Security, together with the form of transfer endorsed thereon duly completed and executed, and otherwise in accordance with the provisions of this Declaration. Each new Trust Security to be issued shall be available for delivery within two Business Days of receipt by the Trustee at the Corporate Trust Office of the relevant Trust Security and the form of transfer.

(b) Each Trust Security issued upon any registration of transfer or exchange of Trust Securities shall evidence rights to receive the same distributions in accordance with this Declaration and shall be entitled to the same benefits as the original Trust Security surrendered upon such registration of transfer or exchange. A transferee of a Trust Security shall become a Holder, and shall be entitled to the rights and subject to the obligations of a Holder hereunder, upon due registration of such Trust Security in such transferee's name pursuant to this Section 5.4.

(c) Every Trust Security presented for registration of transfer or exchange shall, if so requested by the Trustee, be duly endorsed or be accompanied by a written instrument of transfer in a form satisfactory to the Trustee and duly executed by either the Holder or such Holder's attorney duly authorized in writing. Each Trust Security surrendered for registration of transfer or exchange shall be cancelled and subsequently destroyed by the Trustee in accordance with its customary practices in effect from time to time.

(d) No service charge shall be made for any transfer or exchange of Trust Securities, but the Trustee may require payment by the Holder requesting such action of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with such transfer or exchange and may require the production of proof reasonably satisfactory to it as to the identity and genuineness of any signature. The Trustee may also require compliance with the requirements described herein and with such regulations as the Trustee may reasonably establish consistent with the provisions of this Declaration.

(e) If at any time the Depositor or any of its Affiliates (in either case, a "*Depositor Affiliated Owner/Holder*") is the beneficial owner or Holder of any Trust Securities and the Trust holds a Like Amount of Senior Notes, such Depositor Affiliated Owner/Holder shall have the right to deliver to the Trustee all or such portion of its Trust Securities as it elects (the "*Exchanged Trust Securities*") and receive, in exchange therefor, a Like Amount of Senior Notes (the "*Exchanged Senior Notes*"). Such election (i) shall be exercisable effective on any Business Day by such Depositor Affiliated Owner/Holder delivering to the Trustee a written notice of such election specifying the aggregate number of Exchanged Trust Securities and the Business Day on which such exchange shall occur, which Business Day shall be not less than five Business Days after the date of receipt by the Trustee of such election notice (or such shorter notice period as shall be acceptable to the Trustee) and (ii) shall be conditioned upon such Depositor Affiliated Owner/Holder having delivered or caused to be delivered to the Trustee or its designee the Exchanged Trust Securities by 10:00 a.m. on the Business Day on which such exchange is to occur. After the exchange, the Exchanged Trust Securities shall be cancelled and shall no longer be deemed to be Outstanding and all rights of the Depositor Affiliated Owner/Holder with respect to the Exchanged Trust Securities shall cease. In the case of an exchange under this Section 5.4(e), the Trust shall, on the date of such exchange, exchange the Exchanged Senior Notes for the Exchanged Trust Securities held by the Depositor Affiliated Owner/Holder; *provided* that the Depositor Affiliated Owner/Holder delivers or causes to be delivered to the Trustee or its designee the Exchanged Trust Securities by 10:00 a.m. on the Business Day on which such exchange is to occur.

Section 5.5 Restrictions on Transfer of the Trust Securities.

(a) The Trust Securities may be sold or otherwise transferred only to a Person (an "*Eligible Purchaser*"): who is (i) a "qualified institutional buyer" as defined in Rule 144A under the Securities Act; (ii) a "qualified purchaser" as defined under Section 2(a)(51) of the Investment Company Act and the rules thereunder; (iii) not formed for the purpose of investing in the Trust or the Senior Notes; (iv) knowledgeable, sophisticated and experienced in business and financial matters; (v) able and prepared to bear the economic risk of investing in and holding the Trust Securities for an indefinite period; and (vi) not (A) an employee plan (as defined in Section 3(3) of ERISA) that is subject to ERISA or a plan described in Section 4975 of the Code, (B) a governmental plan (as defined in Section 3(32) of ERISA), a church plan (as defined in Section 3(33) of ERISA) or a non-U.S. plan (as described in Section 4(b)(4) of ERISA) that is not subject to the requirements of ERISA or the Code but is subject to similar provisions under applicable federal, state, local, non-U.S. or other laws (collectively, "*Similar Laws*") or (C) an entity whose underlying assets are considered to include plan assets of any such plans, pursuant to Section 3(42) of ERISA, Department of Labor Regulations or otherwise.

(b) By purchasing or acquiring any Trust Securities or beneficial interest therein, each purchaser or acquirer shall be deemed to represent, covenant to and agree (or, if such Person is acquiring any Trust Securities for the account of one or more other Persons over which such Person has investment discretion, such Person shall be deemed to represent, covenant and agree for each such other person) with the Trust as follows:

(i) that any purchase of Trust Securities made by such purchaser is for its own account or for the account of one or more other Persons that is an Eligible Purchaser and for which it is acting as trustee or agent with complete investment discretion and with authority to bind such party;

(ii) that such purchase is not made with a view to any public resale or distribution thereof;

(iii) that the Trust Securities may not be reoffered or resold in Puerto Rico, Alabama or New Mexico;

(iv) that such purchaser is an Eligible Purchaser, and that the seller of the Trust Securities may be relying on the exemption from the provisions of Section 5 of the Securities Act provided by Rule 144A under the Securities Act;

(v) that the Trust Securities and the Senior Notes, if and when issued and sold to the Trust, have not been, and will not be registered under the Securities Act or applicable securities laws of any state or other jurisdiction and, accordingly, such purchaser of Trust Securities and the Senior Notes, if and when issued and sold to the Trust, may not offer, sell, pledge, hypothecate or otherwise transfer such Trust Securities and the Senior Notes, if and when issued and sold to the Trust, except pursuant to an exemption from or a transaction exempt from, the registration requirements of the Securities Act and applicable securities laws of any state or other jurisdiction and only pursuant to the procedures set forth in this Declaration;

(vi) that the Trust is not registered as an investment company under the Investment Company Act, and is exempt from registration as such by virtue of Section 3(c)(7) of the Investment Company Act, which excludes from the definition of investment company any issuer whose outstanding securities (other than short-term paper) are beneficially owned exclusively by Persons that are qualified purchasers and which has not made and does not propose to make a public offering of its securities;

(vii) that if the prospective purchaser or acquirer is not an Eligible Purchaser that satisfies the requirements or representations contained in this Declaration at the time it purchases or acquires the Trust Securities or an interest therein, the purchaser or acquirer will, upon demand of the Trust and in any event within 10 Business Days after receiving such demand, sell all of its Trust Securities or interests therein to a transferee whom such purchaser or acquirer and the Trust reasonably believe is an Eligible Purchaser that satisfies the requirements or representations contained in this Declaration; that any purported purchase or transfer of the Trust Securities in violation of such measures will be null and void; and that the Trust may withhold all payments in respect of the Trust Securities from Holders who fail to satisfy the foregoing;

(viii) that the Offering Memorandum distributed to prospective purchasers of Trust Securities was prepared solely for the benefit of prospective Eligible Purchasers, in connection with their potential purchase of the Trust Securities in a private placement; and that, except as expressly permitted by such Offering Memorandum, the prospective purchaser shall not reproduce or distribute the Offering Memorandum, in whole or in part, or disclose any of its contents, to any other person;

(ix) that in making decisions as to whether to purchase or sell any Trust Securities or, if sold to the Trust, the Senior Notes, such purchaser must rely on its own examination of the Trust, NRG and the terms of the Trust Securities and the Senior Notes; and that such purchaser has had access to such financial and other information concerning NRG, the Trust, the Trust Securities, and the Senior Notes as it has deemed necessary in connection with its decision to purchase any of the Trust Securities, including an opportunity to ask questions of and request information from NRG, and it has received and reviewed all information that was requested;

(x) that such purchaser agrees to comply with any other transfer restrictions or other related procedures as described in the Offering Memorandum;

(xi) that the Trust and NRG will rely upon the truth and accuracy of the investment representations and agreements contained in this Declaration, and such purchaser agrees that its receipt of the Trust Securities and the Senior Notes, if and when issued and sold to the Trust, will be deemed to constitute its concurrence in all of the foregoing, which will be binding on such purchaser and each party for which such purchaser is acting as set forth in Section 5.5(b)(i);

(xii) that such purchaser agrees (A) to inform the Trust and NRG promptly of any change in the information and representations and warranties specified in this Declaration relating to such purchaser or to any party for whom it is acting, (B) to supply promptly any documentation, including any opinions of counsel, requested by the Trust at any time to confirm any of the representations and warranties made in this Declaration and (C) to deliver to the Trust and NRG such other representations and covenants as to such matters as NRG may, in the future, request in order to comply with applicable law and the availability of any exemption therefrom;

(xiii) that such purchaser will provide notice of the transfer restrictions applicable to the Trust Securities or, if sold to the Trust, the Senior Notes, to any subsequent Person to whom it transfers the Trust Securities or, if sold to the Trust, the Senior Notes, and will transfer the Trust Securities only to investors in the United States, Bermuda, the British Virgin Islands, Canada, the Cayman Islands, the European Economic Area, Hong Kong, Japan, Jersey, Singapore, Switzerland and the United Kingdom in compliance with the applicable securities laws of those jurisdictions;

(xiv) that a restrictive legend to the following effect shall be placed on the Certificates and stop-transfer instructions shall be issued to the transfer agent for the Trust Securities, unless the Trustee determines otherwise in accordance with applicable law:

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT TO A PERSON WHO IS (A) A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT); (B) A "QUALIFIED PURCHASER" (AS DEFINED UNDER SECTION 2(A)(51) OF THE INVESTMENT COMPANY ACT OF 1940; AS AMENDED (THE "INVESTMENT COMPANY ACT")); (C) NOT FORMED FOR THE PURPOSE OF INVESTING IN THE TRUST OR THE SENIOR NOTES; (D) KNOWLEDGEABLE, SOPHISTICATED AND EXPERIENCED IN BUSINESS AND FINANCIAL MATTERS; (E) ABLE AND PREPARED TO BEAR THE ECONOMIC RISK OF INVESTING AND HOLDING THE TRUST SECURITIES FOR AN INDEFINITE PERIOD; AND (F) NOT (I) AN EMPLOYEE BENEFIT PLAN (AS DEFINED IN SECTION 3(3) OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA")) THAT IS SUBJECT TO ERISA, OR A PLAN DESCRIBED IN SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, (II) A GOVERNMENTAL PLAN (AS DEFINED IN SECTION 3(32) OF ERISA), A CHURCH PLAN (AS DEFINED IN SECTION 3(33) OF ERISA) OR A NON-U.S. PLAN (AS DESCRIBED IN SECTION 4(B)(4) OF ERISA) THAT IS NOT SUBJECT TO THE REQUIREMENTS OF ERISA OR THE CODE BUT IS SUBJECT TO SIMILAR PROVISIONS UNDER APPLICABLE FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS ("SIMILAR LAWS") OR (III) AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE PLAN ASSETS OF ANY SUCH PLANS PURSUANT TO SECTION 3(42) OF ERISA, DEPARTMENT OF LABOR REGULATIONS OR OTHERWISE.

THE SECURITIES EVIDENCED HEREBY MAY BE TRANSFERRED ONLY TO A PERSON WHO THE TRUST REASONABLY BELIEVES QUALIFIES AS A TRANSFEREE PURSUANT TO THE PRECEDING PARAGRAPH. ANY PURPORTED TRANSFER OF SECURITIES OF THE TRUST THAT WOULD VIOLATE THESE TRANSFER RESTRICTIONS IS DEEMED BY THE TRUST'S AMENDED AND RESTATED DECLARATION OF TRUST (THE "TRUST DECLARATION") TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. ANY INTENDED TRANSFEREE IN SUCH A PURPORTED TRANSFER SHALL NOT BECOME OR BE THE HOLDER OF SUCH SECURITIES FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO THE RECEIPT OF DISTRIBUTIONS ON SUCH SECURITIES, AND SUCH INTENDED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN SUCH SECURITIES. IN SUCH A CASE, THE PURPORTED TRANSFEROR IS DEEMED BY THE TRUST DECLARATION TO CONTINUE TO BE THE HOLDER OF THE SECURITIES NOTWITHSTANDING THE PURPORTED TRANSFER OF THE SECURITIES.

THE TRUST RESERVES THE RIGHT TO MODIFY THE FORM OF CERTIFICATES EVIDENCING THE TRUST SECURITIES FROM TIME TO TIME TO REFLECT ANY CHANGES IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THEIR PURCHASE OR RESALE. THE TRUST SECURITIES AND RELATED DOCUMENTATION, INCLUDING THIS LEGEND, MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY RESTRICTIONS ON AND PROCEDURES FOR RESALES AND OTHER TRANSFERS OF THE TRUST SECURITIES TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFER OF SECURITIES SUCH AS THE TRUST SECURITIES GENERALLY. EACH HOLDER OF THIS CERTIFICATE SHALL BE DEEMED, BY THE ACCEPTANCE OF THIS CERTIFICATE, TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS CERTIFICATE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO A NOMINEE OF DTC, BY A NOMINEE OF DTC TO DTC, OR BY DTC OR ANY SUCH NOMINEE TO A SUCCESSOR TO DTC OR ANY NOMINEE OF SUCH A SUCCESSOR.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC, TO THE TRUST 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 DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

(xv) that from the date of acquisition of the Trust Securities (or interest therein), throughout the period of holding such Trust Securities (or interest therein), it is not, and it is not acquiring or holding such Trust Securities (or interest therein), with the assets of, (A) any employee benefit plan (as defined in Section 3(3) of ERISA) that is subject to ERISA or any plan described in Section 4975 of the Code, (B) a governmental plan (as defined in Section 3(32) of ERISA), a church plan (as defined in Section 3(33) of ERISA) or a non-U.S. plan (as described in Section 4(b)(4) of ERISA) that is subject to Similar Laws or (C) any entity whose underlying assets are considered to include plan assets of any such plans pursuant to Section 3(42) of ERISA, Department of Labor regulations or otherwise;

(xvi) that it waives any objection to the exercise of the Issuance Right and confirms, acknowledges and agrees that (A) it is making an investment decision with respect to NRG and the Senior Notes at the time of its purchase of the Trust Securities, (B) NRG may, at any time and for any reason, exercise its right under the Facility Agreement to require the Trust to purchase the Senior Notes up to the Maximum Amount, in exchange for all or a portion of the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) corresponding to the portion of the Issuance Right being exercised at such time, (C) the Issuance Right may be exercised automatically, and NRG may be required to exercise such Issuance Right under a Mandatory Exercise, in which case the Trust will be required to purchase the Senior Notes, and the Holders and beneficial owners of the Trust Securities will not have the benefit of the Eligible Treasury Assets, (D) NRG's condition, financial or otherwise, may have deteriorated at the time of exercise of such Issuance Right and (E) except as otherwise provided herein, if such Issuance Right is exercised for the entire Available Amount and the Repurchase Right has terminated, the Trust will be liquidated and the Holders will thereafter hold only the Senior Notes;

(xvii) that it understands and acknowledges that Deutsche Bank will act in the capacity of Trustee hereunder (and Deutsche Bank's affiliate Deutsche Bank Trust Company Delaware will act as Delaware Trustee hereunder), and will also act as Collateral Agent under the Pledge Agreement and as Notes Trustee under the Facility Agreement and under the Senior Note Indenture, Priority Collateral Trustee and the Parity Collateral Trustee under (and as defined in) the Collateral Trust Agreement and agrees and consents that Deutsche Bank may, in such capacities, discharge its separate functions fully, without hindrance or regard to conflict of interest principles, duty of loyalty principles or other breach of fiduciary duties, to the extent that any such conflict or breach arises from the performance by Deutsche Bank of its express duties set forth herein, in the Offering Memorandum, the Pledge Agreement, the Facility Agreement, the Indenture and the Collateral Trust Agreement and other Secured Debt Documents (as defined in the Collateral Trust Agreement), all of which defenses, claims or assertions are waived by the Holders and the parties hereunder and the parties to the Pledge Agreement and the Facility Agreement;

(xviii) (A) that the offering of the Trust Securities by the Trust coupled with the arrangements and agreements under the Transaction Agreements is intended to be treated for United States federal income tax purposes as a financing wherein NRG directly owns the assets held by the Trust and issues indebtedness directly to the Holders of the Trust Securities, and (B) to treat their interest in such Trust Securities as indebtedness of NRG for United States federal income tax purposes; and

(xix) that, to the fullest extent permitted by applicable law, it waives, forfeits and surrenders any right it may have, on any basis or theory, to object or seek to restrain or prohibit, temporarily or permanently, whether upon occurrence of a Bankruptcy Event or otherwise, (A) the Trust from purchasing the Senior Notes in exchange for the Eligible Treasury Assets in accordance with the Facility Agreement, including, but not limited to, upon the occurrence of an Automatic Exercise or Mandatory Exercise and whether or not a Bankruptcy Event has occurred, (B) the Trust from delivering the Eligible Treasury Assets in exchange for the Senior Notes in accordance with the Facility Agreement upon a Repurchase and (C) the Trust from redeeming the Trust Securities in accordance with Section 5.10 upon redemption of the Senior Notes.

(c) No Trust Securities shall be transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Declaration. Any purported transfer of Trust Securities not made in accordance with this Declaration (including any transfer that violates Section 5.4, this Section 5.5 or Section 5.16) shall be void and of no legal effect whatsoever. Any intended transferee in a purported transfer not made in accordance with this Declaration (including any transfer that violates Section 5.4, this Section 5.5 or Section 5.16) shall be deemed not to be the Holder or beneficial owner of such Trust Securities or any other interest in the Trust for any purpose, including the receipt of Distributions and any other payments on such Trust Securities, and shall be deemed to have no interest whatsoever in such Trust Securities or in the Trust. The purported transferor of such Trust Securities shall be deemed to be the Holder and beneficial owner of such Trust Securities for all purposes notwithstanding its purported transfer of such Trust Securities. The Transfer Agent shall not register the issuance of, the transfer of or exchange any of the Trust Securities not made in accordance with this Declaration (including any transfer that violates Section 5.4, this Section 5.5 or Section 5.16).

(d) The Trustee shall not have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Declaration or under applicable law with respect to any transfer of any interest in any Trust Security (including any transfers between or among participants or indirect participants in any Global Certificate) 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 Declaration, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 5.6 Mutilated, Destroyed, Lost or Stolen Certificates. If (a) any mutilated Certificates are surrendered to the Trustee, or if the Trustee shall receive evidence to its satisfaction of the destruction, loss or theft of any Certificate, and (b) there shall be delivered to the Trustee such security or indemnity as may be required by them to keep each of the Trustee and the Trust harmless; then, in the absence of notice that such Certificate shall have been acquired by a bona fide purchaser, the Trustee on behalf of the Trust shall execute and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Certificate, a new Certificate of like denomination. In connection with the issuance of any new Certificate under this Section 5.6, the Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Certificate issued pursuant to this Section 5.6 shall constitute conclusive evidence of an ownership interest in the relevant Trust Securities, as if originally issued, whether or not the lost, stolen or destroyed Certificate shall be found at any time.

Section 5.7 Deemed Holders. Except as otherwise provided by law, but without prejudice to Section 5.5, the Trustee may treat the Person in whose name any Certificate shall be registered on the Register as the sole Holder of such Certificate and of the Trust Securities represented by such Certificate for purposes of receiving Distributions and for all other purposes whatsoever and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Certificate or in the Trust Securities represented by such Certificate on the part of any Person, whether or not the Trust shall have actual or other notice thereof.

Section 5.8 Distributions.

(a) All Distributions on the Trust Securities shall be made in accordance with this Section 5.8, other than those Distributions made in accordance with Section 5.10 in connection with a Change of Control Triggering Event, Optional Redemption or Voluntary Exercise or Mandatory Exercise as to which NRG has made a Cash Settlement Election, or in accordance with Section 8.2 in connection with dissolution or liquidation of the Trust; *provided* that, notwithstanding the foregoing, if the Trust Dissolution Date occurs following any record date for a Distribution to Holders and prior to the related Distribution Date, in lieu of this Section 5.8, the provisions of Section 8.2 shall apply. All Distributions to Holders made in accordance with this Section 5.8 shall be subject to the priorities set forth in Section 5.8(b).

(b) (i) The Trustee shall distribute all Trust Income held in the Trust Property Account by 3:00 p.m. on each Distribution Date, if (A) the Trust has received all payments due on such date with respect to the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) that are not Defaulted Assets and NRG has paid for all Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 4.3 of the Facility Agreement and (B) the Trust has received all amounts due under the Facility Agreement, the Trust Expense Reimbursement Agreement and the Senior Notes, in each case, by 11:00 a.m. on such day, in accordance with the following priorities:

(1) *first*, in payment of any Trustee's Fee and any Trust Expenses then due and payable (to the extent that such Trustee's Fee or Trust Expenses are not paid out of any Remaining Amounts as required pursuant to Section 2.9(b));

(2) *second*, in satisfaction of any other outstanding obligations of the Trust then due and payable (including obligations of the Trust to the Trustee, not satisfied pursuant to Section 5.8(b)(i)(1)), *pro rata* among the creditors in accordance with the aggregate unpaid amount due to each; and

(3) *third*, to the Holders, *pro rata* with respect to each Trust Security Outstanding on the Record Date relating to such Distribution Date.

(ii) If the Issuance Right has been exercised under the Facility Agreement for settlement on such Distribution Date, prior to the termination of the LC Agreement, Eligible Treasury Assets that are pledged to the Collateral Agent shall only be delivered to NRG by the Trust if, upon the delivery of such Eligible Treasury Assets to NRG (i) such Eligible Treasury Assets will continue to be pledged to the Collateral Agent pursuant to the Pledge Agreement, subject to no other liens (other than Permitted Liens) and (ii) no default would exist or result under the LC Agreement or the Pledge Agreement from such delivery of the Eligible Treasury Assets. Notwithstanding the foregoing, if the Trust is required to apply any redemption proceeds of Senior Notes or Cash Settlement Payments to redeem any Trust Securities on such Distribution Date, such redemption proceeds and Cash Settlement Payments shall be applied to redeem such Trust Securities.

(iii) If (A) the Trustee has not received all payments due on any Distribution Date with respect to the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) that are not Defaulted Eligible Treasury Assets or NRG has not paid for all Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 5.3 of the Facility Agreement or (B) NRG has not paid any amount due under the Facility Agreement, the Trust Expense Reimbursement Agreement or the Senior Notes before 11:00 a.m. but the Trustee has received all such payments (including the purchase price of any such Defaulted Eligible Treasury Assets) prior to 5:00 p.m. on any Distribution Date, the entire distribution shall be made on the following Business Day, without any additional interest for the delay.

(iv) The Trustee shall apply the Remaining Amounts solely to pay the Trustee's Fee and Trust Expenses and the Trustee shall not apply any Trust Income to pay any Trustee's Fees or any Trust Expenses until the entire Remaining Amounts have been so applied.

(c) If amounts are not available to the Trust to make Distributions under Section 5.8(b)(i)(1) for a particular Distribution Period for any reason, the Trust shall have no obligation to make any Distribution on such Distribution Date, whether or not Distributions under Section 5.8(b)(i)(1) on the Trust Securities are made for any future Distribution Period, except to the extent provided for in Section 5.8(d) or Section 5.9.

(d) If (A) the Trustee has not received all payments due on any Distribution Date with respect to the Eligible Treasury Assets (other than Retained Eligible Treasury Assets) that are not Defaulted Eligible Treasury Assets or NRG has not paid for all Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 4.3 of the Facility Agreement or (B) NRG has failed to pay any amount due under the Facility Agreement, the Trust Expense Reimbursement Agreement or the Senior Notes, by 5:00 p.m. on any Distribution Date (such amounts in clause (A) or (B) above, the "*Overdue Amounts*"), the Trustee shall give prompt written notice thereof to NRG, and the Distribution specified in Section 5.8(b) that would otherwise be made on such Distribution Date shall be deferred as follows:

(i) If the Trustee receives all of the Overdue Amounts and the applicable Special Facility Fee within 30 days following such Distribution Date, the Trustee shall distribute, on the Business Day following receipt, all such amounts in accordance with this Declaration and the priorities specified in Section 5.8(b); *provided* that such Distribution shall be payable to the Holders of the Trust Securities as of the close of business on the Business Day immediately preceding the date of Distribution.

(ii) If the Trustee does not receive all of the Overdue Amounts and the applicable Special Facility Fee, and NRG has given notice to exercise the Issuance Right for the entire Available Amount for settlement within 30 days following such Distribution Date pursuant to the Facility Agreement, and no Trust Dissolution Date shall have occurred (in which event the procedures in Section 8.1(b) shall apply), as provided in the Facility Agreement (A) the Trust shall purchase the Senior Notes issued by NRG (or in the case of any Cash Settlement Election, shall receive the applicable Cash Settlement Amount) in exchange for the Notes Purchase Price, (B) the applicable Special Facility Fee shall be due and payable and (C) payment by the Trust of the Notes Purchase Price shall be subject to set-off against any Overdue Amounts and Special Facility Fee (with the Eligible Treasury Assets included in the Notes Purchase Price being valued for the purpose of such set-off based on the proceeds received therefor by the Trust). The Trust shall have the power to liquidate Eligible Treasury Assets (other than Retained Eligible Treasury Assets) held by the Trust to cover such Overdue Amounts and Special Facility Fee, together with any Trust Expenses reasonably incurred in such liquidation or any other due and unpaid amounts specified in Section 5.8(b)(i)(1) or (2), and, if the proceeds of such liquidation of such Eligible Treasury Assets are insufficient to cover any due and unpaid amounts specified in Section 5.8(b)(i)(1) or (2), to liquidate any Senior Notes then held by the Trust. Any liquidation of Eligible Treasury Assets or Senior Notes shall be done in accordance with the provisions set forth in Section 5.9, and the Trustee shall distribute, on the Business Day following receipt, all such proceeds of such liquidation in accordance with this Declaration and the priorities specified in Section 5.8(b); *provided* that such Distribution shall be payable to the Holders of the Trust Securities as of the close of business on the Business Day immediately preceding the date of Distribution.

(iii) If the Trustee does not receive all of the Overdue Amounts and the applicable Special Facility Fee, and NRG has not given notice to exercise the Issuance Right for the entire Available Amount for settlement within 30 days following such Distribution Date, an Automatic Exercise Event shall occur pursuant to the Facility Agreement and the provisions of Article VIII shall apply.

(e) In any year in which January 31 or July 31 is not a Business Day, the postponement of any Distribution Date that would otherwise fall on such January 31 or July 31, as the case may be, to the following Business Day shall not affect the amount of any payment that NRG or the Trust is required to make on such Distribution Date.

(f) Notwithstanding anything to the contrary in this Declaration, if any Trust Expenses are due and payable by the Trust on a date that is not a Distribution Date, the Trust shall pay such Trust Expenses prior to the next Distribution Date out of any advance received from NRG pursuant to the Trust Expense Reimbursement Agreement.

(g) On each date on which a Distribution is made pursuant to this Section 5.8, the Trustee shall provide written confirmation to NRG of the Trust Income received by the Trust that is distributed on such date, as well as the amount of Distributions made to the Holders on such date. The Trustee shall provide each Rating Agency a copy of such written confirmation.

Section 5.9 Liquidation of Eligible Treasury Assets (other than Retained Eligible Treasury Assets) and Senior Notes.

(a) If the Trust is entitled to liquidate any Trust Property pursuant to Section 5.8(d):

(i) The Trustee shall first apply all Trust Income available on such date and any other funds available in the Trust Property Account on the relevant date to make payments in respect of such Trust Expenses or any other expenses on such date in accordance with the priorities set forth in Section 5.8(b).

(ii) To the extent that the funds available in the Trust Property Account and any Eligible Treasury Assets that can be set-off against the relevant expenses pursuant to Section 5.8 are insufficient to pay any due and unpaid amounts specified in Section 5.8(b)(i)(1) or (2), the Trustee, or agent, shall liquidate Eligible Treasury Assets, other than Retained Eligible Treasury Assets, in the open market, to the extent necessary for the proceeds to cover such due and unpaid amounts. The Trustee shall have no liability with respect to the adequacy of the price received in connection with said liquidation. The Eligible Treasury Assets to be liquidated shall be *pro rata* from each principal and interest STRIP of U.S. Government Obligations comprising the Eligible Treasury Assets (other than Retained Eligible Treasury Assets), in each case rounded to the nearest $100 in face amount.

(iii) To the extent that the proceeds from the liquidation of Eligible Treasury Assets (other than Retained Eligible Treasury Assets) are insufficient to cover any due and unpaid amounts specified in Section 5.8(b)(i)(1) or (2) and the Trust holds any Senior Notes, the Trust shall liquidate Senior Notes in the open market, to the extent necessary for the proceeds to cover such due and unpaid amounts. Any liquidation of Senior Notes will be made in accordance with commercially reasonable market standards, which may include retaining third-party agents (which may be affiliates of Deutsche Bank) at the expense of the Trust, and in compliance with applicable securities laws. The Trustee shall not be liable for the adequacy or sufficiency of the price obtained for such liquidation of Senior Notes.

(b) Not later than 3:00 p.m. on the Business Day following its receipt of proceeds of all Trust Property to be liquidated pursuant to Section 5.9(a), the Trustee shall distribute such proceeds in accordance with the priorities specified in Section 5.8(b); *provided* that such Distribution shall be payable to the Holders of the Trust Securities as of the close of business on the Business Day immediately preceding the date of such Distribution.

Section 5.10 Redemption or Repurchase.

(a) NRG shall notify the Trustee of the occurrence of a Change of Control Triggering event within five Business Days of the occurrence thereof. Within 30 days following its receipt of notice of any Change of Control Triggering Event, the Trust shall mail (or deliver electronically) a notice prepared by NRG (a "*Change of Control Offer*") to each Holder describing the transaction or transactions that constitute the Change of Control and offering to repurchase the Trust Securities on the date specified in the notice (the "*Change of Control Payment Date*") at a price equal to 101% of the aggregate initial purchase price of the Trust Securities, plus accrued and unpaid distributions, if any, on the Trust Securities to the NRG Payment Date, subject to the rights of Holders of the Trust Securities on the relevant record date to receive interest due on the relevant Distribution Date (a "*Change of Control Payment*"); *provided* that a Change of Control Offer may be made in advance of a Change of Control Triggering Event, with the obligation to pay and the timing of the NRG Payment Date conditioned upon the occurrence of a Change of Control Triggering Event, if a definitive agreement to effect a Change of Control is in place at the time the Change of Control Offer is made.

(i) Holders of the Trust Securities electing to have any Trust Securities purchased pursuant to a Change of Control Offer shall be required to surrender the Trust Securities to the Paying Agent on the Change of Control Offer Expiration Date. A Change of Control Offer Expiration Date with respect to the Trust Securities shall constitute a Mandatory Exercise Event in respect of the Issuance Right following which NRG will be required to sell to the Trust Senior Notes in a principal amount equal to the Change of Control Offer Issuance Amount in accordance with the Facility Agreement. On the Change of Control Payment Date, NRG shall pay the Change of Control Payment with respect to the Senior Notes held by the Trust and shall redeem any newly-issued Senior Notes at a redemption price equal to 101% of the principal amount thereof, plus accrued and unpaid interest to, but not including, the redemption date (the "*Change of Control Redemption Amount*"), in each case to the extent necessary to pay the Change of Control Payment with respect to the Trust Securities.

(ii) On the NRG Payment Date, to the extent lawful:

(A) the Trust will accept for payment all Trust Securities properly tendered pursuant to the Change of Control Offer;

(B) NRG will deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Trust Securities properly tendered; and

(C) NRG will deliver or cause to be delivered to the Trustee the Trust Securities properly accepted together with an officers' certificate stating the aggregate initial purchase price of Trust Securities being repurchased by the Trust.

(iii) The Paying Agent will promptly distribute to each holder of Trust Securities properly tendered the Change of Control Payment for such Trust Securities, and the Trustee shall promptly authenticate and deliver (or caused to be transferred by book entry) to each Holder new Trust Securities equal in principal amount to any unpurchased portion of the Trust Securities surrendered, if any; *provided* that each new Trust Security shall have an initial purchase price of $1,000, with a minimum purchase amount of $100,000. NRG will publicly announce the results of the Change of Control Offer on or as soon as practicable after the NRG Payment Date.

(iv) If the Senior Notes are then held by the Trust with respect to which NRG has made a "Change of Control Offer" (as defined in the Indenture), the Trustee will accept such Change of Control Offer with respect to the Senior Notes to the extent holders of the Trust Securities have accepted the Change of Control Offer with respect to the Trust Securities. The Trustee will use the Change of Control Payment received with respect to such Senior Notes to satisfy a portion of the Change of Control Payment with respect to the Trust Securities, and the Change of Control Payment payable by NRG with respect to the Trust Securities shall be reduced accordingly.

(v) NRG and the Trust will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Trust Securities. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the Indenture, NRG and the Trust will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of this Declaration by virtue of such compliance.

Notwithstanding the foregoing, the Trust will not be required to make a Change of Control Offer upon a Change of Control Triggering Event if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Declaration applicable to a Change of Control Offer made by the Trust and purchases all Trust Securities properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of an optional redemption with respect to the Senior Notes has been given pursuant to the Indenture or NRG has elected to pay the Cash Settlement Amount, unless and until there is a default in payment of the applicable redemption price.

(b) Subject to applicable law, other than with respect to a Change of Control Triggering Event, upon the redemption by NRG of any Senior Notes held by the Trust or any Voluntary Exercise or Mandatory Exercise or for any Senior Notes as to which NRG has made a Cash Settlement Election, the Trust shall redeem a Like Amount of Trust Securities at the Redemption Price on the NRG Payment Date, subject to the priorities of distribution set forth in Section 8.2(c); *provided* that (i) if the NRG Payment Date is the Trust Dissolution Date, the NRG Payment shall be distributed in accordance with Article VIII, and (ii) if the Trustee does not receive the NRG Payment prior to 11:00 a.m. on the NRG Payment Date, such Trust Securities shall be redeemed on the Business Day following the day the Trustee receives the NRG Payment.

(c) NRG shall provide a notice of redemption to the Trustee containing the information listed below, and, based solely on the information provided in such notice, a notice of redemption of the Trust Securities shall be given by the Trustee by first-class mail, postage prepaid, mailed not less than 10 nor more than 60 days prior to the Redemption Date to each Holder of Trust Securities to be redeemed, at such Holder's address appearing in the Register. Each notice of redemption shall state:

(i) the Redemption Date;

(ii) the Redemption Price or, if the Redemption Price cannot be calculated prior to the time the notice is required to be sent, a description of the manner in which the Redemption Price shall be determined;

(iii) the CUSIP number or CUSIP numbers of the Trust Securities affected;

(iv) if less than all the Outstanding Trust Securities are to be redeemed, the identification and the aggregate initial purchase price of the particular Trust Securities to be redeemed;

(v) that on the Redemption Date the Redemption Price will become due and payable upon each such Trust Security to be redeemed and that Distributions thereon will cease to accumulate on and after said date, except as provided in Section 5.10(e); and

(vi) if the Trust Securities are no longer in book-entry-only form, the place or places where the Certificates are to be surrendered for the payment of the Redemption Price.

(d) The Trust Securities redeemed on each Redemption Date shall be redeemed at the Redemption Price with the NRG Payment to be received on the Redemption Date. Redemptions of the Trust Securities shall be made and the Redemption Price shall be payable on each Redemption Date only to the extent that the Trust has received such NRG Payment. If the LC Agreement has been terminated concurrently with or prior to such redemption, the redemption payment may be made by NRG instructing the Trust to liquidate the Eligible Treasury Assets. If, following any such liquidation of the Eligible Assets, the proceeds from the sale of such Eligible Assets are not sufficient to satisfy the Trust's obligations to pay the Redemption Price, NRG will be required to make up such shortfall in payment of the Redemption Price.

(e) If the Trustee gives a notice of redemption in respect of any Trust Securities, then, by 12:00 p.m., on the Redemption Date, subject to Section 5.10(d), the Trustee shall, with respect to Trust Securities represented by Global Certificates, irrevocably deposit with DTC, to the extent available therefor, funds sufficient to pay the applicable Redemption Price and shall give DTC irrevocable instructions and authority to pay the Redemption Price to the Holders. With respect to Trust Securities that are not represented by Global Certificates, the Trustee, subject to Section 5.10(d), shall irrevocably deposit with the Paying Agent, to the extent available therefor, funds sufficient to pay the applicable Redemption Price and shall give the Paying Agent irrevocable instructions and authority to pay the Redemption Price to the Holders upon surrender of their Certificates. Notwithstanding the foregoing, Distributions payable on or prior to the Redemption Date for any Trust Securities called for redemption shall be payable to the Holders of such Trust Securities as they appear on the Register for the Trust Securities on the relevant Record Dates for the related Distribution Dates. If notice of redemption shall have been given and funds deposited as required, then upon the date of such deposit, all rights of Holders of Trust Securities so called for redemption shall cease, except the right of such Holders to receive the Redemption Price and any Distribution payable in respect of the Trust Securities on or prior to the Redemption Date, but without interest, and such Trust Securities shall cease to be Outstanding. In the event that the Redemption Date is not a Business Day, then payment of the Redemption Price payable on such date shall be made on the next succeeding day that is a Business Day (without any interest or other payment in respect of any such delay), with the same force and effect as if made on such date.

(f) If less than all the Outstanding Trust Securities are to be redeemed on a Redemption Date, the particular Trust Securities to be redeemed shall be selected at least 10 but not more than 60 days prior to the Redemption Date by the Trustee from the Outstanding Trust Securities not previously called for redemption on a *pro rata* basis or by any method the Trustee deems fair and appropriate; *provided* that so long as the Trust Securities are represented by Global Certificates, such selection shall be made in accordance with the procedures of the Depositary in accordance with its standard procedures therefor. The Trustee shall promptly notify the Security Registrar in writing of the Trust Securities selected for redemption.

(g) NRG shall give written notice to the Trustee of any NRG Payment Date at least 10 days but not more than 60 days prior thereto (unless a shorter notice shall be satisfactory to the Trustee), except to the extent a shorter notice period is expressly required or contemplated in connection with a Change of Control Payment Date or as otherwise described herein.

(h) Any redemption or notice of any redemption may, at NRG's sole discretion, be revoked or postponed to a later date; *provided* that the Eligible Treasury Assets corresponding to the Trust Securities to be redeemed on such redemption date are not liquidated prior to such redemption date (and unconditional binding commitments to liquidate the Eligible Treasury Assets have likewise not been entered into).

Section 5.11 No Preemptive Rights. No Holder, by virtue of holding Trust Securities, shall have any preemptive or other right to subscribe to any additional Trust Securities.

Section 5.12 Status of the Trust Securities. Every Holder, by virtue of having become a Holder, shall be deemed to have expressly assented and agreed to the terms hereof and to have become party hereto. The Trust Securities shall be deemed to be personal property, giving only the rights provided herein. Ownership of the Trust Securities shall not entitle the Holder to any title in, or to the whole or any part of, the Trust Property or right to call for a partition or division of the same or for an accounting. The bankruptcy of a Holder during the continuance of the Trust shall not operate to terminate the Trust, nor entitle the representative of any bankrupt Holder to an accounting or to take any action in court or elsewhere against the Trust or the Trustee.

Section 5.13 CUSIP Numbers. The Trust, in issuing the Trust Securities, may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of dissolution as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Trust Securities or as contained in any notice of a dissolution and that reliance may be placed only on the other identification numbers printed on the Trust Securities, and any such dissolution shall not be affected by any defect in or omission of such numbers.

Section 5.14 Lists of Holders.

(a) The Transfer Agent (if the Trustee is not acting in such capacity) shall provide the Trustee (i) by the end of the fourth Business Day after each Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders (a "*List of Holders*") as of such Record Date, *provided* that the Transfer Agent shall not be obligated to provide such List of Holders if at any time the List of Holders does not differ from the most recent List of Holders given to the Trustee by the Transfer Agent, and (ii) a List of Holders at any time the Trustee requests a List of Holders, which List of Holders shall be provided to the Trustee by the Transfer Agent within 30 days of the Trustee delivering a written request for the List of Holders to the Transfer Agent, and which shall be no more than four Business Days old on the date it is delivered to the Trustee. The Trustee shall preserve, in as current a form as is reasonably practicable, all information contained in any List of Holders given to it or that it receives in its capacity as Paying Agent (if acting in such capacity), *provided* that the Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

(b) The Trustee shall comply with the requirements of Section 312(b) of the Trust Indenture Act, as if the Trust Indenture Act applied to this Declaration.

Section 5.15 No Other Rights. Unless otherwise required by law, the Holders of Trust Securities shall not have any rights or preferences other than those specifically set forth in this Declaration and in the Certificates.

Section 5.16 Global Certificates. The provisions of this Section 5.16 shall apply only to Global Certificates:

(a) Each Global Certificate executed and delivered under this Declaration shall be registered in the name of the Depositary or a nominee thereof and delivered to such Depositary or a nominee thereof or custodian therefor, and each such Global Certificate shall constitute a single Certificate for all purposes of this Declaration.

(b) If any Depositary elects to discontinue its services as securities depository with respect to the Trust Securities, the Trustee may appoint a successor Depositary at the written direction of NRG with respect to the Trust Securities.

(c) Notwithstanding any other provision in this Declaration, no Global Certificate may be exchanged in whole or in part for Certificates registered, and no transfer of a Global Certificate in whole or in part may be registered, in the name of any Person other than the Depositary for such Global Certificate or a nominee thereof unless (i) such Depositary has notified the Trust that it is unwilling or unable to continue as Depositary for such Global Certificate and no successor depositary shall have been appointed by the Trust within 90 days of such notice, (ii) if at any time such Depository has ceased to be a clearing agency registered under the Exchange Act at a time when such Depositary is required to be so registered to act as Depositary and no successor depositary shall have been appointed by the Trust within 90 days after the Trust becomes aware of such cessation, or (iii) the Trustee voluntarily elects to discontinue the use of the book-entry transfer system with the consent of at least a Majority of Holders. If Global Certificates are exchanged pursuant to this Section 5.16(c), Distributions may, at the Trust's option, be paid by check mailed to the Persons entitled thereto as shown on the Register. Notwithstanding the foregoing, a Holder of 1,000 or more Trust Securities shall be entitled to receive Distributions, if any, on any Distribution Date by wire transfer of immediately available funds if appropriate wire transfer instructions have been received in writing by the Trust not less than 15 days prior to the Distribution Date. Any such wire transfer instructions received by the Trust shall remain in effect until revoked by such Holder.

(d) Subject to Section 5.16(c), any exchange of a Global Certificate for other Certificates may be made in whole or in part, and all Certificates issued in exchange for a Global Certificate or any portion thereof shall be registered in such names as the Depositary for such Global Certificate shall direct.

(e) Every Certificate executed and delivered upon registration of, transfer of, or in exchange for or in lieu of, a Global Certificate or any portion thereof, whether pursuant to this Section 5.16 or otherwise, shall be executed and delivered in the form of, and shall be, a Global Certificate, unless such Certificate is registered in the name of a Person other than the Depositary for such Global Certificate or a nominee thereof.

ARTICLE VI

GRANTOR TRUST

Section 6.1 Treatment as "Grantor" Trust. The offering of the Trust Securities is intended to be treated for United States federal income tax purposes as a financing wherein NRG directly owns the assets held in the Trust and issues indebtedness directly to the Holders (with a stated coupon equal to the coupon on the Senior Notes) (the "*Intended Tax Treatment*"). Because the applicable United States federal income tax reporting requirements are unclear and to mitigate any uncertainty if, contrary to such intention, NRG is treated as indirectly owning such assets through the Trust, NRG and the Trust agree to take the position for such reporting purposes that the Trust is a "grantor" trust and is not a partnership or an association subject to tax as a corporation, and that NRG is the sole "grantor" of the Trust and owner of the assets of the Trust. The provisions of this Declaration shall be interpreted to further this intention of the parties.

ARTICLE VII

ACCOUNTING AND RECORDS

Section 7.1 Annual Tax Information.

(a) The Trustee shall cause the Trust to comply with information reporting and backup withholding requirements imposed on the Trust in connection with payments in respect of the Trust Securities. The Trustee shall undertake its information reporting and backup withholding obligations under this Section 7.1 consistent with Section 6.1 absent a change of law or a change in administrative guidance or interpretation by the IRS or any state or local taxing authority. Pursuant to the engagement letter of the accounting firm of Cover & Rossiter referenced in Section 2.6(a)(xxiv), Cover & Rossiter has agreed to notify the Trust and the Trustee if any future developments in the law or regulations would result in the Trust being required to prepare or file tax forms or returns that are different from those set forth in Section 7.1(b). The Trust shall have no obligation to independently monitor developments in law or regulations and shall be entitled to conclusively rely on the advice of Cover & Rossiter or any successor accounting firm. If the Trustee receives such notification from Cover & Rossiter (or if NRG provides a similar notification), then promptly following the Trustee's written request to NRG, NRG shall direct the Trustee in engaging Cover & Rossiter or another tax accounting firm to prepare such forms or returns. The expenses of such tax accounting firm shall be treated as Trust Expenses for the purposes of this Declaration and the Trust Expense Reimbursement Agreement. In addition, the authorizations and protections set forth in Section 2.6(a)(xxiv) shall apply to the engagement of any such accounting firm.

(b) The Trustee shall cause the Trust to collect from, and deliver to, NRG and the Holders all applicable tax forms as required by law.

(i) In the case of NRG, the Trustee shall cause its accountants to prepare and file on a timely basis and at the expense of NRG IRS Form 1041 with respect to the Trust. The Trust may provide any Form 1041 to NRG for comment prior to submission to the IRS. Consistent with Section 6.1, such IRS Form 1041 shall contain only entity information with respect to NRG and contain no information in respect of income received by the Trust. Such income shall instead be shown on a separate statement attached to such IRS Form 1041 as income received by NRG. The Trustee shall also cause to be duly prepared and filed with the appropriate taxing authority any other annual United States federal income tax information return and any other annual income tax returns required to be filed on behalf of the Trust with any state or local taxing authority. The Trustee shall also cause the Trust to furnish NRG with any additional forms or information as shall be reasonably requested by NRG to assist NRG in fulfilling its information reporting and backup withholding obligations.

(ii) In the case of the Holders, unless an exemption from information reporting and backup withholding applies with respect to a Holder (an "*exempt recipient*"), the Trustee shall cause the Trust to deliver to each Holder the appropriate IRS Form 1099, reflecting that income distributions from the Trust in respect of the Trust Securities are interest payments in respect of indebtedness of NRG paid by NRG to such Holder.

(c) Not later than 30 days following the last day of each calendar quarter (each, a "*statement date*"), the Trustee shall provide NRG a statement of the assets held in the Trust as of the statement date or shall provide NRG with read-only on-line access to the position listings and transaction history with respect to the Trust Property Account, the Trust Notes Account and the Trust Collateral Account that contain valuations of the Eligible Treasury Assets provided by International Data Corporation ("*IDC*") to the extent published by IDC. The Trustee shall have no obligation to verify or confirm IDC valuations.

Section 7.2 Certain Accounting Matters.

(a) At all times during the existence of the Trust, the Trustee shall keep, or cause to be kept, full books of account, records and supporting documents, which shall reflect in reasonable detail each transaction of the Trust. The books of account shall be maintained on the accrual method of accounting, in accordance with generally accepted accounting principles, consistently applied.

(b) So long as any of the Trust Securities are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, the Trust shall, unless it becomes subject to and complies with Section 13 or 15(d) of the Exchange Act, provide or cause to be provided to each Holder of such restricted securities and to each prospective purchaser (as designated by such Holder) of such restricted securities, upon the request of such Holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Securities Act.

ARTICLE VIII

DISSOLUTION AND TERMINATION OF THE TRUST

Section 8.1 Dissolution and Termination of the Trust.

(a) Following the termination of the LC Agreement, the Trust shall dissolve and liquidate in accordance with the Statutory Trust Act upon the date that is the earliest to occur of the following (the date of such earliest occurrence, the "*Trust Dissolution Date*"):

(i) July 31, 2028 (or on the following Business Day if such date is not a Business Day);

(ii) any date to which any Senior Notes held by the Trust have been accelerated as a result of an Event of Default under (and as defined in) the Indenture;

(iii) if the Repurchase Right has been terminated, the settlement date of the exercise of the Issuance Right in respect of the entire Available Amount of Senior Notes or, if the Trust then holds the Maximum Amount of Senior Notes, the date the Repurchase Right is terminated;

(iv) the date on which the Maximum Amount is reduced to zero as the result of any redemption of Senior Notes or Voluntary Exercise in respect of which NRG has made a Cash Settlement Election; and

(v) before the issuance of any Trust Securities by the Trust, receipt by the Trustee of written instruction from the Depositor.

(b) The Trustee shall give prompt notice to the Holders and each Rating Agency of any event that may result in a Trust Dissolution Date pursuant to Section 8.1(a)(ii), (iii) or (iv), including the receipt of (i) any Issuance Notice in respect of the entire Available Amount if the Repurchase Right has been terminated, (ii) any Automatic Exercise Notice or (iii) any notice of redemption of Senior Notes or any Issuance Notice in respect of which NRG has made a Cash Settlement Election that will, on the NRG Payment Date, reduce the Maximum Amount to zero, in each case, within five Business Days of a Responsible Officer's receipt of a written notice of such events from NRG.

Section 8.2 Liquidation and Dissolution.

(a) As soon as practicable after the Trust Dissolution Date, the Trustee shall liquidate the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) held by the Trust and seek to collect any amounts due under the Facility Agreement, the Trust Expense Reimbursement Agreement and any Senior Notes held by the Trust; *provided* that, if the Trust is dissolved pursuant to Section 8.1(a)(ii), (iii) or (iv), the Trustee shall only liquidate any Eligible Treasury Assets if and to the extent the amounts collected from other sources are not sufficient to pay or set aside for payment for the Trustee's Fee and all Trust Expenses due and payable and the Trustee shall deliver the remaining Eligible Treasury Assets to NRG or, as the case may be, the Collateral Agent in respect of such exercise of the Issuance Right prior to distributing any Trust Property to the Holders or other creditors of the Trust.

(b) (i) If the Trust is dissolved pursuant to Section 8.1(a)(ii) or (iii), after satisfying or setting aside for payment all amounts due as set forth in Section 8.2(c)(i) through (v), the Trustee shall (to the extent permitted by law) distribute the Senior Notes *pro rata* to the Holders of the Outstanding Trust Securities as soon as practicable after the Trust Dissolution Date. If the Trust is unable to satisfy or set aside for payment all amounts due as set forth in Section 8.2(c)(i) through (v) from the amounts received under the Facility Agreement, Trust Expense Reimbursement Agreement, payments under the Senior Notes and liquidation proceeds of any Eligible Treasury Assets that are not delivered to NRG or, as the case may be, the Collateral Agent pursuant to the exercise of the Issuance Right, in accordance with the Statutory Trust Act, as soon as practicable after the Trust Dissolution Date, the Trustee shall liquidate its remaining Trust Property, including the Senior Notes, in accordance with Section 8.2(d) to the extent necessary to cover all amounts due as set forth in Section 8.2(c)(i) through (v), and distribute any funds and any Senior Notes it then holds in accordance with the priorities set forth in Section 8.2(c).

(ii) If the Trust is dissolved pursuant to Section 8.1(a)(i), the Trustee shall redeem all Outstanding Trust Securities on July 31, 2028 (or on the following Business Day if such date is not a Business Day) at a redemption price per Trust Security equal to the amount of principal and interest that would have been payable at maturity on $1,000 principal amount of Senior Notes, subject to the priorities set forth in Section 8.2(c). If the Trust is dissolved pursuant to Section 8.1(a)(iv), the Trustee shall make the Distributions on the NRG Payment Date, as set forth in Section 5.10. All such Distributions made pursuant to this Section 8.2(b)(ii) shall be made only after the Trustee satisfies or sets aside for payment all amounts due as set forth in Section 8.2(c)(i) through (v). If the Trust is unable to satisfy or set aside for payment all amounts due as set forth in Section 8.2(c)(i) through (v) from the amounts received under the Facility Agreement and Trust Expense Reimbursement Agreement and payments under the Senior Notes, in accordance with the Statutory Trust Act, as soon as practicable after the Trust Dissolution Date, the Trustee shall liquidate (A) any Eligible Treasury Assets then held by the Trust to the extent necessary to satisfy or set aside for payment all amounts as set forth in Section 8.2(c)(i) through (v) and (B) thereafter any Senior Notes then held by the Trust in accordance with Section 8.2(d), to the extent necessary to cover all amounts due as set forth in Section 8.2(c)(i) through (v), and distribute any funds it then holds in accordance with the priorities set forth in Section 8.2(c).

(c) To the fullest extent permitted by the Statutory Trust Act, on the Liquidation Distribution Date, the Trustee shall distribute the Trust Property in accordance with the following priorities:

(i) *first*, in satisfaction of the expenses of liquidation;

(ii) *second*, in payment of any Trustee's Fee and any Trust Expenses then due and payable;

(iii) *third*, to NRG in satisfaction of any amounts then due and payable to NRG under the Facility Agreement;

(iv) *fourth*, in satisfaction of any other outstanding obligations of the Trust then due and payable, *pro rata* among those creditors in accordance with the aggregate unpaid amount due to each;

(v) *fifth*, to set aside any amounts required to reasonably provide for the payment of any known claims or contingent obligations pursuant to the Statutory Trust Act; and

(vi) *sixth*, to the Holders, *pro rata* with respect to each Trust Security, subject to the provisions set forth in Section 8.2(k).

The date on which the Trustee is required to make any distributions as set forth in Section 8.2(b) or Section 8.2(d) shall be the "*Liquidation Distribution Date*".

(d) Notwithstanding Section 8.2(c), if the Trust Property includes Senior Notes on the Trust Dissolution Date, and if the Trustee determines that any Senior Notes must be liquidated in order to satisfy obligations of the Trust that rank prior to the Distributions to the Holders under Section 8.2(c)(vi), the Trustee shall not make any such Distribution pursuant to Section 8.2(c) until the date on which it has liquidated the Senior Notes to the extent necessary to cover all amounts due as set forth in Section 8.2(c)(i) through (v). Pending the distribution of the Trust Property, the Trustee shall hold the Trust Property, other than any Senior Notes held by the Trust, as provided in Section 2.6(c). To determine whether any Senior Notes must be liquidated, the Trustee shall assume that it shall apply all Trust Property, other than the Senior Notes and any Retained Eligible Treasury Assets, to all obligations and claims of the Trust ranking higher in order of priority than the rights of the Holders, and that the Senior Notes shall be liquidated only to the extent such other Trust Property is insufficient. If the Trustee determines that it must liquidate any of the Senior Notes, it shall liquidate such Senior Notes in accordance with commercially reasonable market standards and in compliance with applicable securities laws. The Trustee shall use commercially reasonable efforts (including retaining third-party agents at the expense of the Trust) to liquidate the Senior Notes as promptly as practicable, but in any event shall dispose of the Senior Notes held by the Trust no later than the 90th day following the Trust Dissolution Date. The Trustee shall distribute the proceeds received from any liquidation of Senior Notes pursuant to this Section 8.2(d) on the date on which the Trustee liquidates the required amount of Senior Notes; *provided* that a purchaser for such Senior Notes is available on such date.

(e) Upon the occurrence of an event referred to in Section 8.1(a)(v), the Trustee shall proceed to wind up the affairs of the Trust, liquidate the Trust Property, apply the proceeds of such liquidation in the following order of priority and liquidate:

(i) *first*, to the expenses of liquidation; and

(ii) *second*, to the payment of the debts and liabilities of the Trust, as required by applicable law, including any outstanding expenses, fees or indemnity obligations owing to the Trustee.

(f) For purposes of the application of this Section 8.2, all unrealized income, gain, loss and deduction of the Trust shall be treated as realized and recognized immediately before any such distributions.

(g) If the Trustee receives any funds or other Trust Property after the Liquidation Distribution Date, the Trustee shall distribute such funds or other Trust Property in accordance with the priorities set forth in Section 8.2(c), not later than the third Business Day following its receipt of such funds or other Trust Property; provided, however, that if the Trustee receives such funds or other Trust Property in respect of any Retained Eligible Trust Asset, such funds or other Trust Property shall be distributed as required by the Pledge Agreement or as otherwise directed by NRG.

(h) Unless a Majority of Holders or NRG determine otherwise, on the one-year anniversary of the Trust Dissolution Date, the Trustee shall (i) distribute any remaining Trust Property in kind or abandon such Trust Property and (ii) at the expense of the Depositor, file a certificate of cancellation of the Trust with the Secretary of State terminating the Trust.

(i) To the extent consistent with the priorities established by this Article VIII, the Trustee may make liquidation distributions after the Trust Dissolution Date but prior to the Liquidation Distribution Date only pursuant to an amendment or waiver of this Declaration made in accordance with Section 10.3.

(j) Once the assets of the Trust have been liquidated and distributed as set forth in this Section 8.2 and a certificate of cancellation has been filed by the Trustee as described above, the Trust shall be terminated in accordance with the Statutory Trust Act.

(k) If *pro rata* distribution of the Senior Notes would result in any Holder being entitled to receive Senior Notes with an aggregate principal amount that is not a multiple of $1,000, then the Trustee shall round the principal amount of the Senior Notes deliverable to that Holder down to the nearest $1,000 and shall seek to liquidate any remaining Senior Notes and distribute the proceeds of those remaining Senior Notes to those Holders, *pro rata* in accordance with the principal amount of Senior Notes such Holder would have otherwise been entitled to receive.

ARTICLE IX

LIMITATION OF LIABILITY OF HOLDERS, THE TRUSTEE, THE DELAWARE TRUSTEE OR OTHERS

Section 9.1 Liability; Indemnity.

(a) The Trustee, the Delaware Trustee and NRG shall not be:

(i) personally liable for the return of any portion of the investment of the Holders or any return thereon, all of which shall be made solely from assets of the Trust;

(ii) required to pay to the Trust or to any Holder any deficit upon dissolution of the Trust or otherwise; or

(iii) except as expressly set forth herein in the case of the Depositor, required to pay any fees or expenses relating to the operation of the Trust.

(b) Pursuant to Section 3803(a) of the Statutory Trust Act, the Holders shall be entitled to the same limitation of personal liability extended to shareholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

(c) (i) To the fullest extent permitted by applicable law, and (ii) to the extent NRG fails to indemnify any Indemnified Person (as defined herein) related to the Trustee, the Delaware Trustee or the Collateral Agent pursuant to the Trust Expense Reimbursement Agreement, the assets of the Trust shall be used to indemnify (A) the Trustee, (B) the Delaware Trustee (including in its individual capacity), (C) the Collateral Agent, (D) the Securities Intermediary, (E) any Affiliate of the Trustee or the Delaware Trustee and (F) any officers, directors, shareholders, members, partners, employees, representatives, custodians, nominees or agents of the Trustee, the Delaware Trustee, the Collateral Agent, the Securities Intermediary or such Affiliates (each of the Persons in clause (A) through (F) being referred to as an "*Indemnified Person*") for, and hold each Indemnified Person harmless against, any loss, obligation, action, damage, claim, liability, suit or proceeding whether civil, criminal, administrative or investigative, and whether formal or informal and including appeals, in which any Indemnified Person may be involved, as a party or otherwise, by reason of its status as an Indemnified Person, or expense including taxes (other than taxes based on or determined (in whole or in part) by reference to the income of the Trustee, the Delaware Trustee, the Collateral Agent, the Securities Intermediary or such other Person) arising out of or in connection with the Trust, the acceptance or administration of the Trust or the Trust Property, or relating to this Declaration or any other document or agreement, including the Pledge Agreement and the Facility Agreement, entered into, by or on behalf of the Trust or the Trustee, including the costs, disbursements and expenses (including reasonable legal fees and expenses and fees and expenses incurred in connection with enforcement of indemnification rights) of defending itself against, or investigating any claim or liability in connection with, the exercise or performance of any of its powers or duties hereunder or any other such document or agreement and incurred without gross negligence, bad faith or willful misconduct on the part of such Indemnified Person. The obligation to indemnify as set forth in this Section 9.1(c) shall survive the satisfaction and discharge of this Declaration or the resignation or removal of the Trustee or the Delaware Trustee.

Section 9.2 *Outside Businesses*. Any of the Depositor, the Trustee, the Delaware Trustee, the Trustee's officers, directors, shareholders, partners, members, representatives, employees, custodians, nominees, agents or Affiliates, and the Holders may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. None of the foregoing Persons shall be obligated to present any particular investment or other opportunity to the Trust even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any such Person shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any of the foregoing Persons may engage or be interested in any financial or other transaction with NRG or any Affiliate of NRG, or may act as depository for, trustee or agent for, or act on any committee or body of holders of, securities or other obligations of NRG or its Affiliates.

ARTICLE X

VOTING; AMENDMENTS AND MEETINGS

Section 10.1 *General*. Except as provided in this Article X, the Holders shall not have any voting rights.

Section 10.2 *Voting*. The Holders shall be entitled to vote as a single class on all matters submitted to the vote of the Holders. Each Trust Security shall have one vote on all matters submitted to the vote of the Holders.

Section 10.3 *Amendments*.

(a) No amendment to this Declaration shall be made, and any such purported amendment shall be void and ineffective:

(i) unless, in the case of any purported amendment, the Trustee shall have first received an opinion of counsel (which may be in-house counsel for NRG) that such purported amendment is permitted by, and conforms to, the terms of this Declaration (including the terms of the Trust Securities);

(ii) unless, in the case of any purported amendment that affects the rights, duties, powers, liabilities, indemnities or immunities of the Trustee, the Trustee shall have consented to such amendment;

(iii) unless, in the case of any purported amendment that affects the rights, powers, liabilities, indemnities or immunities of the Delaware Trustee, the Delaware Trustee has consented in writing to such amendment;

(iv) unless, in the case of any purported amendment that affects the rights of NRG, NRG shall have consented to such amendment; or

(v) if the result of such amendment would be to:

(A) cause the Trust to be classified as an association or a publicly traded partnership taxable as a corporation for United States federal income tax purposes;

(B) cause the Trust to be deemed to be an investment company required to be registered under the Investment Company Act; or

(C) permit the Trust to invest in or hold any assets other than the Eligible Treasury Assets, the Senior Notes and its rights under the Transaction Agreements.

(b) Section 2.11, Section 9.1(b), Section 10.2, this Section 10.3 and Section 10.4 shall not be amended without the unanimous consent of the Holders. In addition, if any proposed amendment would affect the rights of the Holders to receive Distributions on the Trust Securities in accordance with their terms, including Distributions in connection with a dissolution of the Trust, such amendment shall not be effective without the unanimous consent of the Holders. Any other amendment may be effected with the approval of the Majority of Holders voting on such matter, subject to the provisions set forth in Section 10.3(c).

(c) Notwithstanding any other provision of this Declaration, this Declaration may be amended without the consent of the Holders:

(i) to cure any ambiguity or correct any mistake or conform this Declaration to the description thereof in the Offering Memorandum;

(ii) to correct or supplement any provision in this Declaration that may be defective or inconsistent with any other provision of this Declaration;

(iii) as determined in good faith by an Authorized Officer, in an Officer's Certificate (as defined in the Indenture; *provided* that any reference to the term "Trustee" in the definition of Officer's Certificate in the Indenture shall be deemed to refer to the Trustee as defined in this Agreement) delivered to the Trustee, upon which the Trustee and the opinion of counsel referenced in Section 10.3(a)(i) are entitled to rely, to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the rights of any Holder in any material respect;

(iv) to make any other change that may in the reasonable judgment of NRG be necessary or appropriate to prevent the occurrence of any Investment Company Act Event or P-Caps Tax Event, *provided* that such change would not change the timing or amount of any Distribution to the Holders or the United States federal income tax treatment of the Holders as the owners of indebtedness of NRG, either held directly or held through the Trust; or

(v) to provide for uncertificated Trust Securities in addition to or in place of certificated Trust Securities (provided that such uncertificated Trust Securities are issued in registered form for U.S. tax purposes, including for purposes of Section 163(f) of the Code).

(d) At the request of NRG, the Trust may consent to any amendment or modification of the Facility Agreement, the Pledge Agreement or Trust Expense Reimbursement Agreement, subject to obtaining any consent of Holders required by the terms of such agreement in respect of such amendment or modification.

(e) The Trustee shall provide prompt written notice to the Holders and each Rating Agency of any amendment to or modification of any Transaction Agreement to which it is a party, other than any such amendment or modification that conforms such Transaction Agreement to the description thereof in the Offering Memorandum.

(f) Prior to the execution of any amendment to this Trust Declaration or any Transaction Agreement to which the Trust is a party, the Trustee and the Delaware Trustee shall be entitled to receive and conclusively rely on an opinion of counsel, at the expense of the Trust, stating that the execution of such amendment is authorized or permitted by this Declaration and the Transaction Agreements and that all conditions precedent to the execution of such amendment have been satisfied. The Trustee and the Delaware Trustee may, but shall not be obligated to, enter into any such amendment which affects the Trustee's or the Delaware Trustee own rights, duties or immunities under this Declaration.

Section 10.4 Certain Other Matters.

(a) If the consent of the Holders or the holders of the Senior Notes is required, or would be required if the Senior Notes were outstanding, with respect to any amendment, modification or waiver of the terms of or rights or preferences under, or other matter in respect of the Senior Notes or the Indenture (whether or not the Trust is then holding any Senior Notes), any other securities that are part of the Trust Property or any other agreement to which the Trust is a party, the Trustee shall request the direction of the Holders of the Trust Securities with respect to such matter.

(b) With respect to the Senior Notes and the Indenture (whether or not the Trust is then holding any Senior Notes), the Trustee shall only give its consent with respect to those matters if (i) a Majority of Holders consent thereto, in the case of any matter of the type that requires, or would require, the consent of holders of a majority of the outstanding Senior Notes or (ii) all Holders consent thereto, in the case of any matter of the type that requires, or would require, consent of all holders of Senior Notes. With respect to all other matters, and prior to taking any other legal action with respect to any Trust Property, the Trustee shall request the direction of the Holders with respect to such matter or legal action and shall act with respect to such matter or legal action as directed by a Majority of Holders. The Trustee shall not be obligated to take any action in accordance with the directions of the Holders under this Section 10.4 unless the Trustee has received an Opinion of Tax Counsel to the effect that for United States federal income tax purposes the Trust shall not be classified as an association or a publicly traded partnership taxable as a corporation after consummation of such action.

(c) NRG agrees that it shall not amend the Indenture, as it would apply to the Senior Notes, after the issue date of the Trust Securities and at a time no Senior Notes are outstanding, except with respect to changes that would not require any vote by holders of Senior Notes if the Senior Notes were outstanding, without the consent of the Trustee, as directed by the Holders of the Trust Securities, as provided in Section 10.4(a) and (b).

Section 10.5 Meetings of the Holders.

(a) Meetings of the Holders may be called at any time by the Trustee or as provided by this Declaration. Except to the extent otherwise provided in this Declaration, the following provisions shall apply to meetings of Holders.

(b) Whenever a vote, consent or approval of Holders is permitted or required under this Declaration such vote, consent or approval may be given at a meeting of Holders, in person or by proxy, or by written consent.

(c) Each Holder may authorize any Person to act for it by proxy on all matters in which such Holder is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Holder or its attorney-in-fact. Every proxy shall be revocable at the pleasure of the Holder executing it at any time before it is voted.

(d) Each meeting of Holders shall be conducted by the Trustee or by such other Person that the Trustee may designate.

(e) A quorum with respect to any such meeting shall not be less than 50% of the Holders entitled to vote at the meeting. The Trustee shall cause a notice of any meeting at which Holders are entitled to vote, or of any matter upon which action may be taken by written consent of such Holders, to be mailed to each Holder at least 10 days before such meeting. Each such notice shall include a statement setting forth (i) the date of such meeting or the date by which such action is to be taken, (ii) a description of any action proposed to be taken at such meeting on which such Holders are entitled to vote or of such matters upon which written consent is sought and (iii) instructions for the delivery of proxies or consents. Any and all meetings of Holders shall be held during normal business hours.

(f) The Trustee shall establish all other provisions relating to meetings of Holders, including notice of the time, place or purpose of any meeting at which any matter is to be voted on by any Holders, action by consent without a meeting, the establishment of a record date, quorum requirements (other than those set forth in Section 10.5(e)), voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

ARTICLE XI

REPRESENTATIONS OF THE TRUSTEE AND THE DELAWARE TRUSTEE

Section 11.1 Representations and Warranties of the Trustee. The Person that acts as initial Trustee represents and warrants to the Trust and to the Depositor and for the benefit of the Holders at the date of this Declaration, and each Successor Trustee represents and warrants to the Trust and the Depositor and for the benefit of the Holders at the time of the Successor Trustee's acceptance of its appointment as Successor Trustee that:

(a) The Trustee is a banking corporation, organized and authorized under the laws of the State of New York (or, in the case of a Successor Trustee, its jurisdiction of incorporation) to exercise corporate trust powers, duly organized, validly existing and in good standing under such laws, with power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Declaration.

(b) The Trustee satisfies the requirements of Section 4.1(a).

(c) The execution, delivery and performance by the Trustee of the Certificate of Trust and this Declaration have been duly authorized by all necessary corporate action on the part of the Trustee. This Declaration has been duly executed and delivered by the Trustee and constitutes a legal, valid and binding obligation of the Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law).

(d) The execution, delivery and performance of the Certificate of Trust and this Declaration by the Trustee does not conflict with or constitute a breach of the charter or Articles of Association or the By-laws of the Trustee.

(e) No consent, approval or authorization of, or registration with or notice to, any State or Federal banking authority is required for the execution, delivery or performance by the Trustee of the Certificate of Trust and this Declaration.

(f) The Trustee, except as expressly provided or contemplated by this Declaration, shall not dispose of any Trust Property, or create, incur or assume, or suffer to exist as a result of its conduct any mortgage, pledge, hypothecation, encumbrance, lien or other charge or security interest upon the Trust Property.

Section 11.2 Representations and Warranties of the Delaware Trustee. The Delaware Trustee that acts as initial Delaware Trustee represents and warrants to the Trust and to the Depositor and for the benefit of the Holders at the date of this Declaration, and each Successor Delaware Trustee represents and warrants to the Trust and the Depositor and for the benefit of the Holders at the time of the Successor Delaware Trustee's acceptance of its appointment as Delaware Trustee, that:

(a) The Delaware Trustee fulfills the requirements of Section 3807 of the Statutory Trust Act and has the power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Declaration.

(b) The Delaware Trustee has been authorized to execute, deliver and perform its obligations under the Certificate of Trust and this Declaration. This Declaration has been duly executed and delivered by the Delaware Trustee and constitutes a legal, valid and binding obligation of the Delaware Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law).

(c) No consent, approval or authorization of, or registration with or notice to, any State or Federal banking authority is required for the execution, delivery or performance by the Delaware Trustee of this Declaration.

(d) The Delaware Trustee is an entity that has its principal place of business in the State of Delaware.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Notices.

(a) Any notice, request or other communication required or permitted to be given hereunder shall be given in writing by delivering the same against receipt therefor in person, by registered or certified mail or by nationally recognized overnight courier, by facsimile or as a PDF attachment to an e-mail, addressed as follows (except that such notices, requests and other communications if given to the Trustee or the Delaware Trustee shall not be effective unless actually received by the Trustee or the Delaware Trustee, as the case may be, at the Corporate Trust Office or principal place of business of the Delaware Trustee, as the case may be):

If to the Trust at:

Alexander Funding Trust II
c/o Deutsche Bank Trust Company Americas
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

If to the Trustee at:

Deutsche Bank Trust Company Americas
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

If to the Delaware Trustee at:

Deutsche Bank Trust Company Delaware
111 Continental Drive, Suite 102
Newark, DE 19713
Attention: Corporate Trust/Alexander Funding Trust II

If to S&P at:

S&P Global Ratings
55 Water Street
New York, New York 10041

If to Moody's at:

Moody's Investors Service, Inc.
7 World Trade Center
250 Greenwich Street
New York, New York 10007

If to Fitch at:

Fitch Ratings Inc.
33 Whitehall Street
New York, NY 10004

If to the Depositor or NRG at:

NRG Energy, Inc.
804 Carnegie Place
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel
E-Mail: ogc@nrg.com and LoanCompliance@nrg.com

With a copy to:

White & Case LLP
1221 Avenue of the Americas
New York, NY 10020
Attention: Daniel Nam, Esq.
Email: dnam@whitecase.com

If to any Holder, at the address of such Holder set forth on the Register.

The Trustee shall have the right, but shall not be required, to rely upon and comply with instructions and directions sent by e-mail and other similar unsecured electronic methods by persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Depositor. 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 Depositor; and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Depositor as a result of such reliance upon or compliance with such instructions or directions. The Depositor agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions 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.

Any notice or other communication provided for herein to be given to a Rating Agency shall be provided as a matter of accommodation and no liability shall attach to the giver of such notice or other communication for the failure to deliver same or any defect in its contents.

(b) Any such notice shall be effective upon delivery, if delivered in person; upon acknowledgement of receipt, if delivered by email transmission; on the fifth day after deposited in the mail, postage prepaid, if delivered by registered or certified mail; and on the day after deposit with a nationally recognized overnight courier, if delivered by overnight courier. Any party hereto may change its address or email address for notices and other communications hereunder by notice to the other parties hereto in accordance with this Section 12.1.

Section 12.2 GOVERNING LAW. THIS DECLARATION, THE TRUST SECURITIES AND THE RIGHTS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE AND ALL RIGHTS AND REMEDIES SHALL BE GOVERNED BY SUCH LAWS WITHOUT REGARD TO THE PRINCIPLES OF CONFLICT OF LAWS OF THE STATE OF DELAWARE OR ANY OTHER JURISDICTION THAT WOULD CALL FOR THE APPLICATION OF THE LAW OF ANY JURISDICTION OTHER THAN THE STATE OF DELAWARE; PROVIDED, HOWEVER, THAT THERE SHALL NOT BE APPLICABLE TO THE PARTIES HEREUNDER OR THIS DECLARATION ANY PROVISION OF THE LAWS (STATUTORY OR COMMON, OTHER THAN THE STATUTORY TRUST ACT) OF THE STATE OF DELAWARE PERTAINING TO TRUSTS THAT RELATE TO OR REGULATE, IN A MANNER INCONSISTENT WITH THE TERMS HEREOF, INCLUDING (A) THE FILING WITH ANY COURT OR GOVERNMENTAL BODY OR AGENCY OF TRUSTEE ACCOUNTS OR SCHEDULES OF TRUSTEE FEES AND CHARGES, (B) AFFIRMATIVE REQUIREMENTS TO POST BONDS FOR TRUSTEES, OFFICERS, AGENTS OR EMPLOYEES OF A TRUST, (C) THE NECESSITY FOR OBTAINING COURT OR OTHER GOVERNMENTAL APPROVAL CONCERNING THE ACQUISITION, HOLDING OR DISPOSITION OF REAL OR PERSONAL PROPERTY, (D) FEES OR OTHER SUMS PAYABLE TO TRUSTEES, OFFICERS, AGENTS OR EMPLOYEES OF A TRUST, (E) THE ALLOCATION OF RECEIPTS AND EXPENDITURES TO INCOME OR PRINCIPAL, (F) RESTRICTIONS OR LIMITATIONS ON THE PERMISSIBLE NATURE, AMOUNT OR CONCENTRATION OF TRUST INVESTMENTS OR REQUIREMENTS RELATING TO THE TITLING, STORAGE OR OTHER MANNER OF HOLDING OR INVESTING TRUST ASSETS, OR (G) THE ESTABLISHMENT OF FIDUCIARY OR OTHER STANDARDS OR RESPONSIBILITY OR LIMITATIONS ON THE ACTS OR POWERS OF THE TRUSTEE THAT ARE INCONSISTENT WITH THE LIMITATIONS OR LIABILITIES OR AUTHORITIES AND POWERS OF THE TRUSTEE HEREUNDER AS SET FORTH OR REFERENCED IN THIS TRUST DECLARATION. SECTIONS 3540 AND 3561 OF TITLE 12 OF THE DELAWARE CODE SHALL NOT APPLY TO THE TRUST.

Section 12.3 *Jurisdiction*. The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Declaration or the transactions contemplated hereby shall be brought exclusively in the Court of Chancery of the State of Delaware or, if such court does not have jurisdiction over the subject matter of such proceeding or if such jurisdiction is not available, in any other court of the State of Delaware or in the United States District Court for the District of Delaware, and each of the parties hereto hereby irrevocably consents to the exclusive jurisdiction of those courts (and of the appropriate appellate courts therefrom) in any suit, action or proceeding and irrevocably waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of the venue of any suit, action or proceeding in any of those courts or that any suit, action or proceeding which is brought in any of those courts has been brought in an inconvenient forum. Each of the parties hereto unconditionally agrees, to the extent such party is not otherwise subject to service of process in the State of Delaware, to appoint and maintain an agent in the State of Delaware as such party's agent for acceptance of legal process. Process in any suit, action or proceeding may be served on any party hereto anywhere in the world, whether within or without the jurisdiction of any of the named courts and such service shall, to the fullest extent permitted by applicable law, have the same legal force and effect as if served upon such party within the State of Delaware.

Section 12.4 *WAIVER OF TRIAL BY JURY*. THE PARTIES HERETO AND THE HOLDERS HEREBY IRREVOCABLY WAIVE, 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 DECLARATION OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 12.5 *Enforceability*. If any provision of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Section 12.6 *Counterparts*. This Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by the affixing of the signatures of the Trustee, the Delaware Trustee and a duly authorized officer of the Depositor to one of such counterpart signature pages. The words "execution", "signed", "signature", and words of like import in this Declaration shall include electronic signatures (including without limitation, Diligent, DocuSign and AdobeSign or any other similar platform identified by NRG and reasonably available at no undue burden or expense to the Trustee, with respect to the signatures of the Trustee) and such electronic signature procedures shall apply to all documents related to this Declaration, without limitation, addendums, amendments, notices, instructions, communications with respect to the delivery of Trust Securities or the wire transfer of funds or other communications. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page. The exchange of copies of this Declaration and of signature pages by email transmission of PDF files shall constitute effective execution and delivery of this Declaration as to the parties hereto and may be used in lieu of the original Declaration for all purposes. Signatures of the parties hereto transmitted by email transmission of PDF files shall be deemed to be their original signatures for all purposes.

[*Signature Pages Follow***]**

IN WITNESS WHEREOF, each of the undersigned has caused this Amended and Restated Declaration of Trust to be executed as of the day and year first above written.

NRG ENERGY, INC., as
Depositor and in its individual capacity

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Sr. Vice President, Treasurer & Head of Investor Relations

[*Signature Page to Amended & Restated Declaration of Trust*]

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Trustee

By: /s/ Robert Peschler
Name: Robert Peschler
Title: Vice President

By: /s/ Sebastian Hidalgo
Name: Sebastian Hidalgo
Title: Assistant Vice President

[*Signature Page to Amended & Restated Declaration of Trust*]

DEUTSCHE BANK TRUST COMPANY DELAWARE,
as Delaware Trustee

By: /s/ John Zentar
Name: John Zentar
Title: Associate

By: /s/ Chad Jones
Name: Chad Jones
Title: Vice President

[*Signature Page to Amended & Restated Declaration of Trust*]

EXHIBIT A

CERTIFICATE OF TRUST

EXHIBIT B

Form of Certificate

EXHIBIT C

Form of Pledge Agreement

EXHIBIT D

Form of Facility Agreement

EXHIBIT E

Form of Trust Expense Reimbursement Agreement

EXHIBIT F

Form of Engagement Letter of Cover & Rossiter

EXHIBIT G

CUSIPs, Face Amount and Purchase Price of the Eligible Treasury Assets on the Date Hereof

Exhibit 4.4

Execution Version

NRG ENERGY, INC.

INDENTURE

Dated as of August 29, 2023

Senior Secured Notes relating to the Alexander Funding Trust II Pre-Capitalized Securities

Deutsche Bank Trust Company Americas

Trustee

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ARTICLE 12
MISCELLANEOUS

INDENTURE dated as of August 29, 2023 between NRG Energy, Inc., a Delaware corporation, and Deutsche Bank Trust Company Americas, 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 (as defined herein) of the Securities issued pursuant to this Indenture.

ARTICLE 1
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 *Definitions.*

For purposes of this Indenture, the following terms shall have the respective meanings set forth in this Section 1.01. For purposes of any Series of Securities issued under this Indenture, the Supplemental Indenture in respect of such Series of Securities will specify the defined terms to be used therein, which may include some or all of the terms contained in this Section 1.01.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Agent" means any Registrar, co-registrar, Paying Agent or additional paying agent.

"Authentication Order" means a written order of the Company signed by at least one Officer.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"*Beneficial Owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act.

"Board of Directors" means:

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

(2) with respect to a partnership, the Board of Directors of the general partner of the partnership;

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

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

"*Board Resolution*" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been adopted by the Board of Directors or pursuant to authorization by the Board of Directors and to be in full force and effect on the date of the certificate and delivered to the Trustee.

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which (1) banking institutions in The City of New York or the State of Delaware are authorized or obligated by law or executive order to close or (2) the Federal Reserve Bank of New York is closed.

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

"*Capital Stock*" means:

(1) in the case of a corporation, corporate stock;

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

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

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"*Collateral*" means all the assets and properties subject to the Liens created by the Note Security Documents.

"*Collateral Agreement*" means the Second Amended and Restated Guarantee and Collateral Agreement, dated as of June 30, 2016, among the Company, each Subsidiary of the Company party thereto, the Collateral Trustee and the other parties thereto from time to time, as amended, amended and restated, supplemented, waived, modified, renewed or replaced from time to time.

"*Collateral Trust Agreement*" means the Second Amended and Restated Collateral Trust Agreement, dated as of July 1, 2011, among the Company, the other Grantors, Deutsche Bank Trust Company Americas as the Priority Collateral Trustee and Second Lien Collateral Trustee and the other persons party thereto (as amended, including pursuant to the amendments dated as of February 6, 2013, June 4, 2013 and August 20, 2020, and the Collateral Trust Joinder, dated as of November 20, 2020, and as further amended, amended and restated, supplemented, waived, modified, renewed or replaced from time to time).

"*Collateral Trustee*" means each of the Priority Collateral Trustee and the Second Lien Collateral Trustee.

"*Commodity Hedging Agreements*" mean certain specified commodity hedging agreements identified in the Credit Agreement and any other agreement (including each confirmation or transaction entered into or consummated pursuant to any Master Agreement) providing for swaps, caps, collars, puts, calls, floors, futures, options, spots, forwards, any physical or financial commodity contracts or agreements, power purchase, sale or exchange agreements, fuel purchase, sale, exchange or tolling agreements, emissions and other environmental credit purchase or sales agreements, power transmission agreements, fuel transportation agreements, fuel storage agreements, netting agreements, commercial or trading agreements, capacity agreements or weather derivatives agreements, each with respect to, or involving the purchase, exchange (including an option to purchase or exchange), transmission, distribution, sale, lease, transportation, storage, processing or hedge of (whether physical, financial, or a combination thereof), any Covered Commodity, service or risk, price or price indices for any such Covered Commodities, services or risks or any other similar agreements, any renewable energy credits, emission, carbon and other environmental credits and any other credits, assets or attributes, howsoever entitled or designated, including related to any "cap and trade," renewable portfolio standard or similar program with an economic value, and any other similar agreements, in each case, entered into by the Company or any other Grantor.

"*Commodity Hedging Obligations*" mean, with respect to any specified Person, the obligations of such Person under a Commodity Hedging Agreement.

"Company" means NRG Energy, Inc., and any and all successors thereto.

"continuing" means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

"Corporate Trust Office" means (i) for purposes of surrender, transfer or exchange of any Security, Deutsche Bank Trust Company Americas, c/o DB Services Americas, Inc., 5022 Gate Parkway, Suite 200, Jacksonville, FL 32256, Attn: Transfer Department and (ii) for all other purposes, at the address of the Trustee specified in Section 12.02) or such other address as to which the Trustee may give written notice to the Company.

"*Covered Commodity*" means any energy, electricity, generation capacity, power, heat rate, congestion, natural gas, nuclear fuel (including enrichment and conversion), diesel fuel, fuel oil, other petroleum-based liquids, coal, lignite, weather, emissions and other environmental credits, assets or attributes, waste by-products, renewable energy credit, or other energy related commodity or service (including ancillary services and related risks (such as location basis or other commercial risks)).

"Credit Agreement" means the Second Amended and Restated Credit Agreement, dated as of June 30, 2016, among the Company, the lenders party thereto, Citicorp North America, Inc., as administrative agent and collateral agent, and various other parties acting as joint bookrunner, joint lead arranger or in various agency capacities, as amended through March 13, 2023 and as may be further amended, amended and restated, supplemented, waived, modified, renewed or replaced from time to time.

"Credit Agreement Documents" means the Credit Agreement and any collateral and security documents relating thereto, in each case as the same may be amended, restated, modified, renewed, refunded, replaced or refinanced from time to time.

"*Credit Facilities*" means (i) one or more debt facilities (including, without limitation, the Credit Agreement) or commercial paper facilities, in each case with banks or other institutional lenders or other counterparties providing for revolving credit loans, term loans, credit-linked deposits (or similar deposits), receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, (ii) debt securities sold to institutional investors, and/or (iii) Hedging Obligations with any counterparties, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

"*Custodian*" means the Trustee, as custodian with respect to the Securities in global form, or any successor entity thereto.

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

"*Definitive Security*" means a certificated Security registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof. Definitive Securities with respect to each Series of Securities will be in the form specified in the Supplemental Indenture pursuant to which such Series of Securities is created.

"*Depositary*" means, with respect to the Securities of any Series issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depositary with respect to the Securities, and any and all successors thereto appointed as depositary hereunder and having become such pursuant to the applicable provision of this Indenture. If at any time there is more than one such person, "Depositary" as used with respect to the Securities of any Series shall mean the Depositary with respect to the Securities of such Series.

"*Derivative Instrument*" with respect to a Person, means any contract, instrument or other right to receive payment or delivery of cash or other assets to which such Person or any Affiliate of such Person that is acting in concert with such Person in connection with such Person's investment in the Securities (other than a Screened Affiliate) is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any material portion thereof) are materially affected by the value and/or performance of the Securities and/or the creditworthiness of the Company (the "*Performance References*").

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

"*Fitch*" means Fitch Ratings Inc. or any successor entity.

"*GAAP*" means generally accepted accounting principles 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 have been approved by a significant segment of the accounting profession, which are in effect from time to time; *provided*, that any lease that would not be considered a capital lease pursuant to GAAP prior to the effectiveness of Accounting Standards Codification 842 (whether or not such lease was in effect on such date) shall be treated as an operating lease for all purposes under this Indenture and shall not be deemed to constitute a capitalized lease or Indebtedness hereunder.

"Global Securities" means, individually and collectively, each Security deposited with or on behalf of and registered in the name of the Depositary for such Series or its nominee, issued in accordance with Section 2.01 hereof.

"Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America (including any agency or instrumentality thereof) for the payment of which obligations or guarantees the full faith and credit of the United States of America is pledged and which are not callable or redeemable at the issuer's option.

"*Grantor*" means the Company and, with regard to any Series of Securities, any Subsidiary of the Company that guarantees such Series of Securities.

"guarantee" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

"*Hedging Agreement*" means any agreement of the type described in the definition of "*Hedging Obligations*," including each Commodity Hedging Agreement and Interest Rate/Currency Hedging Agreement.

"Hedging Obligations" means, with respect to any specified Person:

(1) all Interest Rate/Currency Hedging Obligations,

(2) all Commodity Hedging Obligations,

(3) the Obligations and other obligations under any and all other rate swap transactions, basis swaps, credit derivative transactions, forward transactions, equity or equity index swaps or options, bond or bond price or bond index swaps or options, cap transactions, floor transactions, collar transactions or any other similar transactions or any combination of any of the foregoing (including any options to enter into the foregoing), whether or not such transaction is governed by or subject to any Master Agreement, and

(4) the Obligations and other obligations under any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc. (or any successor thereof), any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a "*Master Agreement*"), including any such obligations or liabilities under any Master Agreement, in each case under clauses (1), (2), (3) and (4), entered into by such Person.

"Holder" means a Person in whose name a Security is registered.

"Indebtedness" means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables, except as provided in clause (5) below, and surety bonds), whether or not contingent:

(1) in respect of borrowed money;

(2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);

(3) in respect of banker's acceptances;

(4) representing Capital Lease Obligations in respect of sale and leaseback transactions;

(5) representing the balance of deferred and unpaid purchase price of any property or services with a scheduled due date more than six months after such property is acquired or such services are completed; or

(6) representing the net amount owing under any Hedging Obligations, if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP.

In addition, the term "*Indebtedness*" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the guarantee by the specified Person of any Indebtedness of any other Person; *provided* that the amount of such Indebtedness shall be deemed not to exceed the lesser of the amount secured by such Lien and the value of the Person's property securing such Lien.

"Indenture" means this Indenture, as amended or supplemented from time to time and shall include the form and terms of particular Series of Securities established as contemplated hereunder.

"*Interest Rate/Currency Hedging Obligations*" means, with respect to the Company and the other Grantors, the Obligations and any other obligations under (i) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements, interest rate collar agreements, interest rate floor transactions or any other similar transactions or any combination of any of the foregoing (including any options to enter into the foregoing), whether or not such transaction is governed by or subject to any Master Agreement, (ii) any other agreements or arrangements designed to manage interest rates or interest rate risk and (iii) any agreements or arrangements designed to protect the Company or the other Grantors against fluctuations in currency exchange rates, including currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, forward foreign exchange transactions or any other similar transactions or any combination of any of the foregoing (including any options to enter into the foregoing), whether or not such transaction is governed by or subject to any Master Agreement, in each case under clauses (i), (ii) and (iii), entered into by the Company or the other Grantors and not for speculative purposes.

"Investment Grade" means a rating of (i) Baa3 or better by Moody's, (ii) BBB- or better by S&P, (iii) BBB- or better by Fitch, (iv) the equivalent of such rating by such organization or (v) if another Rating Agency has been selected by the Company, the equivalent of such rating by such other Rating Agency.

"Investment Grade Event" means, with respect to a Series of Securities, (i) the senior, unsecured, non-credit enhanced, long-term debt securities of the Company are rated Investment Grade by any two of the three Rating Agencies; (ii) the Securities of such Series are rated Investment Grade by any two of the three Rating Agencies after giving effect to the proposed release of all of the Collateral securing such Securities; (iii) all Liens securing Obligations under the Credit Agreement shall be released substantially concurrently and (iv) no Event of Default shall have occurred and be continuing with respect to the Securities of such Series.

"Lien" means, with respect to any asset:

(1) any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset;

(2) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; and

(3) in the case of Equity Interests or debt securities, any purchase option, call or similar right of a third party with respect to such Equity Interests or debt securities.

"*Long Derivative Instrument*" means a Derivative Instrument (i) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with positive changes to the Performance References and/or (ii) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with negative changes to the Performance References.

"Master Agreement" has the meaning assigned to such term in the definition of "*Hedging Obligations*."

"Moody's" means Moody's Investors Service, Inc. or any successor entity.

"*Nationally Recognized Statistical Organization"* means a nationally recognized statistical rating organization within the meaning of Section 3(a)(62) under the Exchange Act.

"*Net Short*" means, with respect to a Holder or Beneficial Owner, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of (x) the value of its Securities of an applicable Series plus (y) the value of its Long Derivative Instruments as of such date of determination or (ii) it is reasonably expected that such would have been the case were a Failure to Pay or Bankruptcy Credit Event (each as defined in the 2014 ISDA Credit Derivatives Definitions) to have occurred with respect to the Company or any guarantor immediately prior to such date of determination.

"Non-Recourse Debt" means, with respect to any Series of Securities, Indebtedness as to which neither the Company nor any of the guarantors of such Securities is liable as a guarantor or otherwise.

"*Note Security Documents*" means the Collateral Agreement (including any joinder thereto) and any mortgages, security agreements, pledge agreements or other instruments evidencing or creating Liens on the assets of the Company and any of its Subsidiaries that guarantee any Series of Securities to secure the obligations under such Securities and this Indenture, as amended, amended and restated, supplemented, waived, modified, renewed or replaced from time to time.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Officer" means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Chief Accounting Officer, the General Counsel, the Treasurer, any Assistant Treasurer, the Secretary, the Controller, Assistant Secretary or any Vice-President of such Person.

"Officer's Certificate" means a certificate signed on behalf of the Company by one of its Officers and that meets the requirements of Section 12.05 hereof.

"Opinion of Counsel" means an opinion from legal counsel that meets the requirements of Section 12.05 hereof, subject to customary qualifications and exclusions. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"*Performance References*" has the meaning assigned to such term in the definition of "*Derivative Instrument.*"

"Permitted Liens" means, in connection with each Series, the meaning assigned to such term in the relevant Supplemental Indenture.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Priority Collateral Trustee" means Deutsche Bank Trust Company Americas, acting as priority collateral trustee under the Collateral Trust Agreement, or its successors appointed in accordance with the terms thereof.

"Priority Debt Representative" means (i) in the case of the Credit Agreement (and certain Hedging Agreements, as more fully described in the Collateral Trust Agreement), the administrative agent thereunder; (ii) in the case of the Securities of each Series, the Trustee; or (iii) in the case of any other Series of Priority Lien Debt, the trustee, agent or representative of the Holders of such Series of Priority Lien Debt who maintains the transfer register for such Series of Priority Lien Debt or the counterparty, in each case, who is appointed as a Priority Debt Representative (for purposes related to the administration of the applicable security documents) pursuant to the credit agreement, indenture or other agreement governing such Series of Priority Lien Debt, and who has executed a joinder to the Collateral Trust Agreement.

"*Priority Lien Debt*" means (i) the Indebtedness under the Credit Agreement (including, for the avoidance of doubt, any amendment, restatement, refinancing or replacement thereof) and (ii) Indebtedness under, together with any deposit made by any holder of Priority Lien Debt to reimburse drawings on letters of credit issued under the Priority Lien Documents relating to such Priority Lien Debt made pursuant to, any Credit Facility (including the Securities) and any Hedging Obligations under any Hedging Agreements, in each case under this clause (ii), that is designated by the Company pursuant to (and in accordance with) the Collateral Trust Agreement as "Priority Lien Debt" to be secured equally and ratably with the Indebtedness under the Credit Agreement (if still in effect), which were designated as Priority Lien Debt as of October 26, 2007, and any other Priority Lien Debt, but only if, so long as the Credit Agreement is in effect, such Indebtedness was permitted to be incurred and so secured under the Credit Agreement.

"*Priority Lien Documents*" means, collectively, the Credit Agreement Documents and the credit agreement, indenture or other agreement governing or securing any other Credit Facility pursuant to which the Priority Lien Debt is incurred, and all other agreements governing, securing or related to any Priority Lien Obligations or binding on any Grantor related thereto.

"*Priority Lien Obligations*" means the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt, including all guarantees of any of the foregoing, and includes, in the case of this Indenture, the Credit Agreement and any other Credit Facility the Indebtedness under which constitutes Priority Lien Debt, any obligations in respect of Hedging Agreements that are permitted to be incurred by the terms of the Priority Lien Documents relating to this Indenture, the Credit Agreement or, if the Credit Agreement is not in effect at the time such Hedging Agreement is entered into, such other Credit Facilities, and are permitted by the terms of the Priority Lien Documents relating to this Indenture, the Credit Agreement or, if the Credit Agreement is not in effect at the time such Hedging Agreement is entered into, such other Credit Facilities to be secured equally and ratably with the Priority Lien Obligations thereunder, whether or not such Hedging Agreements relate to Indebtedness under this Indenture, the Credit Agreement or any other Credit Facility.

"*Priority Lien Secured Parties*" means the holders of Priority Lien Obligations and any Priority Debt Representatives.

"*Rating Agency*" means (i) each of Moody's, S&P and Fitch and (ii) if any of Moody's, S&P or Fitch, ceases to rate the Securities of a Series or fails to make a rating of the Securities of a Series publicly available, a Nationally Recognized Statistical Organization selected by the Company which shall be substituted for Moody's, S&P or Fitch, as the case may be with respect to such Securities of such Series.

"*Release Event*" means, with respect to any Series of Securities, the occurrence of an event as a result of which all Collateral securing the Securities is permitted to be released in accordance with the terms of this Indenture and the Note Security Documents, it being understood that any action taken by the Company or its Affiliates to, solely at its option, provide Collateral to secure the Securities that is not required to be provided pursuant to the terms of this Indenture and the Note Security Documents, shall not be deemed to cause such Release Event to not have occurred.

"*Responsible Officer*" means, when used with respect to the Trustee, any officer of the Trustee with direct responsibility for the administration of this Indenture or the Note Security Documents and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"*Screened Affiliate*" means any Affiliate of a Holder (i) that makes investment decisions independently from such Holder and any other Affiliate of such Holder that is not a Screened Affiliate, (ii) that has in place customary information screens between it and such Holder and any other Affiliate of such Holder that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Company or its Subsidiaries, (iii) whose investment policies are not directed by such Holder or any other Affiliate of such Holder that is acting in concert with such Holder in connection with its investment in the Securities, and (iv) whose investment decisions are not influenced by the investment decisions of such Holder or any other Affiliate of such Holder that is acting in concert with such Holder in connection with its investment in the Securities.

"SEC" means the Securities and Exchange Commission.

"*Second Lien Collateral Trustee"* means Deutsche Bank Trust Company Americas, acting as second lien collateral trustee under the Collateral Trust Agreement, or its successors appointed in accordance with the terms thereof.

"Second Lien Debt" means any Indebtedness (including hedging obligations and any deposits made by any holders of Second Lien Debt to reimburse drawings on letters of credit under the Second Lien documents relating to such Second Lien Debt) designated by the Company as "Parity Lien Debt" pursuant to the terms of the Collateral Trust Agreement to be secured equally and ratably with any other outstanding Second Lien Debt then in effect; provided that:

(A) so long as the Credit Agreement is in effect, such Indebtedness was permitted to be incurred and so secured under the Credit Agreement;

(B) such Indebtedness is governed by an indenture, credit agreement, Hedging Agreement or other agreement that includes a sharing confirmation as required under the Collateral Trust Agreement; and

(C) all requirements set forth in the Collateral Trust Agreement as to the confirmation, grant or perfection of the Liens granted to the Second Lien Collateral Trustee, for the benefit of the Second Lien Secured Parties, to secure such Indebtedness or Obligations in respect thereof are satisfied.

"Second Lien Debt Representative" means (i) in the case of any Series of Second Lien Debt under a Commodity Hedging Agreement constituting Second Lien Obligations, the counterparty to such Commodity Hedging Agreement (who shall have executed a joinder to the Collateral Trust Agreement) and (ii) in the case of any other Series of Second Lien Debt, the trustee, agent or representative of the holders of such Series of Second Lien Debt who maintains the transfer register for such Series of Second Lien Debt or the counterparty, in each case, who is appointed as a Second Lien Debt Representative (for purposes related to the administration of the applicable security documents) pursuant to this Indenture, credit agreement or other agreement governing such Series of Second Lien Debt, and who has executed a collateral trust joinder.

"Second Lien Obligations" means Second Lien Debt and all other Obligations in respect thereof, including all guarantees of any of the foregoing.

"Second Lien Secured Parties" means the holders of Second Lien Obligations and any Second Lien Debt Representatives.

"Securities" means all debentures, notes and other debt instruments of the Company of any Series authenticated and delivered under this Indenture.

"Securities Act" means the Securities Act of 1933, as amended.

"Series" or "Series of Securities" means each series of Securities created pursuant to Section 2.01 hereof.

"Series of Priority Lien Debt" means severally, (i) the extensions of credit under the Credit Agreement and (ii) each other issue or series of Priority Lien Debt for which a single transfer register is maintained and (iii) the Hedging Obligations constituting Priority Lien Obligations (*provided*, that Obligations accrued under transactions governed by one Master Agreement or other similar agreement shall be deemed to constitute one Series of Priority Lien Debt, regardless of the number of confirmations or transactions issued or consummated thereunder), and includes, in the case of the Credit Agreement and any other Credit Facility the Indebtedness under which constitutes Priority Lien Debt, certain obligations in respect of Hedging Agreements as more fully described in the Collateral Trust Agreement.

"Series of Second Lien Debt" means severally, (i) each issue or series of Second Lien Debt for which a single transfer register is maintained and (ii) the Obligations under each other Commodity Hedging Agreement constituting Second Lien Obligations; *provided*, that Obligations accrued under transactions governed by one Master Agreement or other similar agreement shall be deemed to constitute one Series of Second Lien Debt, regardless of the number of confirmations issued thereunder.

"*Short Derivative Instrument*" means a Derivative Instrument (i) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with positive changes to the Performance References and/or (ii) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with negative changes to the Performance References.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Indenture.

"Stated Maturity" means, with respect to any installment of interest or principal on any Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the first date it was incurred in compliance with the terms of this Indenture, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"Subsidiary" means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"*Supplemental Indenture*" means any supplemental indenture entered into pursuant to Section 2.01 hereof to evidence the issuance of any Series of Securities after the date of this Indenture.

"*S&P*" means S&P Global Ratings, a division of S&P Global Inc, or any successor entity.

"*TIA*" means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb).

"*Total Assets*" means the total consolidated assets of the Company and its Subsidiaries determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Company, and calculated on a pro forma basis in a manner consistent with the adjustments set forth in the definition of "Secured Leverage Ratio" as defined in any Supplemental Indenture.

"*Trustee*" means the person named as the "Trustee" in the first paragraph of this Indenture until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Trustee" shall mean 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 shall mean the Trustee with respect to Securities of that Series.

"*Voting Stock*" of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

Section 1.02 *Other Definitions.*

For purposes of this Indenture, the following terms will have the meanings set forth in this Section 1.02. For purposes of any Series of Securities issued under this Indenture, the Supplemental Indenture in respect of such Series of Securities will specify the defined terms to be used therein, which may include some, all or none of the terms contained in this Section 1.02.

Term	Defined in Section
"Applicable AML Law"	12.14
"Covenant Defeasance"	8.03
"DTC"	2.03
"Executed Documentation"	12.12
"Event of Default"	6.01
"Legal Defeasance"	8.02
"Paying Agent"	2.03
"Payment Default"	6.01

Term	Defined in Section
"Registrar"	2.03
"Release Period"	11.07
"Reversion Date"	11.07
"*Security Register*"	2.03

Section 1.03 *[Reserved]*

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) "including" is not limiting;

(5) words in the singular include the plural, and in the plural include the singular;

(6) "will" shall be interpreted to express a command;

(7) provisions apply to successive events and transactions; and

(8) references to sections of or rules under the Securities Act will be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time.

The terms and provisions contained in this Indenture will apply to any Securities issued from time to time pursuant to this Indenture, except as may be otherwise provided in the Supplemental Indenture with respect to such Series of Securities.

ARTICLE 2
THE SECURITIES

Section 2.01 *Issuable in Series.*

(a) The aggregate amount of Securities that may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more Series. All Securities will have the terms set forth in the Supplemental Indenture pursuant to which such Series of Securities is created, which Supplemental Indenture will detail the adoption of the terms of such Series of Securities pursuant to the authority granted under a Board Resolution. In the case of Securities of a Series to be issued from time to time, the Supplemental Indenture creating such Series will detail the adoption of the terms thereof pursuant to the authority granted under a Board Resolution and will provide for the method by which specified terms (such as interest rate, maturity date, record date or date from which interest shall accrue) are to be determined. Securities may differ between Series in respect of any matters; provided that all Series of Securities shall be equally and ratably entitled to the benefits of the Indenture.

(b) At or prior to the issuance of any Series of Securities, the following terms shall be established in the Supplemental Indenture in respect of such Series created pursuant to authority granted under a Board Resolution and executed and delivered by the Company and the Trustee (and, if applicable, any guarantors of such Securities):

(1) the title of the Series (which shall distinguish the Securities of that particular Series from the Securities of any other Series);

(2) the price or prices (expressed as a percentage of the principal amount thereof) at which the Securities of the Series will be issued;

(3) any limit upon the aggregate principal amount of the Securities of the Series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the Series pursuant to Sections 2.06, 2.07, 2.10, 3.06 or 9.05);

(4) the date or dates on which the principal of the Securities of the Series is payable;

(5) the rate or rates (which may be fixed or variable) per annum or, if applicable, the method used to determine such rate or rates (including, but not limited to, any commodity, commodity index, stock exchange index or financial index) at which the Securities of the Series shall bear interest, if any, the date or dates from which such interest, if any, shall accrue, the date or dates on which such interest, if any, shall commence and be payable and any regular record date for the interest payable on any interest payment date;

(6) the place or places where the principal of and interest, if any, on the Securities of the Series shall be payable, where the Securities of such Series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Securities of such Series and this Indenture may be served, and the method of such payment, if by wire transfer, mail or other means;

(7) if applicable, the period or periods within which, the price or prices at which and the terms and conditions upon which the Securities of the Series may be redeemed, in whole or in part, at the option of the Company;

(8) the obligation, if any, of the Company to redeem or purchase the 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 at which and the terms and conditions upon which Securities of the Series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(9) the dates, if any, on which and the price or prices at which the Securities of the Series will be repurchased by the Company at the option of the Holders thereof and other detailed terms and provisions of such repurchase obligations;

(10) if other than denominations of $2,000 and any integral multiples of $1,000 in excess thereof, the denominations in which the Securities of the Series shall be issuable;

(11) the forms of the Securities of the Series in bearer or fully registered form (and, if in fully registered form, whether the Securities will be issuable as Global Securities);

(12) if other than the principal amount thereof, the portion of the principal amount of the Securities of the Series that shall be payable upon declaration of acceleration of the maturity thereof pursuant to Section 6.02;

(13) the currency of denomination of the Securities of the Series, which may be US Dollars or any other currency, and if such currency of denomination is a composite currency, the agency or organization, if any, responsible for overseeing such composite currency;

(14) the designation of the currency, currencies or currency units in which payment of the principal of and interest, if any, on the Securities of the Series will be made;

(15) if payments of principal of or interest, if any, on the Securities of the Series are to be made in one or more currencies or currency units other than that or those in which such Securities are denominated, the manner in which the exchange rate with respect to such payments will be determined;

(16) the manner in which the amounts of payment of principal of or interest, if any, on the Securities of the Series will be determined, if such amounts may be determined by reference to an index based on a currency or currencies or by reference to a commodity, commodity index, stock exchange index or financial index;

(17) the provisions, if any, relating to any security or guarantee provided for the Securities of the Series, and any subordination in right of payment, if any, of the Securities of the Series;

(18) any addition to or change in or deletion of any of the covenants set forth in Articles 4 or 5 which applies to Securities of the Series;

(19) any addition to or change in the Events of Default which applies to any Securities of the Series and any change in the right of the Trustee or the requisite Holders of such Securities to declare the principal amount thereof due and payable pursuant to Section 6.02;

(20) any addition to or change in or deletion of any of the provisions and terms set forth in Articles 7 and 9 which applies to Securities of the Series;

(21) any other terms of the Securities of the Series (which may modify or delete any provision of this Indenture insofar as it applies to such Series and/or add additional provisions); and

(22) any depositories, interest rate calculation agents, exchange rate calculation agents or other agents with respect to Securities of such Series if other than those appointed herein.

(c) All Securities of any one Series need not be issued at the same time and may be issued from time to time, consistent with the terms of this Indenture, if so provided by or pursuant to the Supplemental Indenture pursuant to which such Series is created, and the authorized principal amount of any Series may be increased to provide for issuances of additional Securities of such Series, unless otherwise provided in such Supplemental Indenture.

(d) Global Securities will be in the form specified in the Supplemental Indenture pursuant to which such Series of Securities is created. Each Global Security shall represent such of the outstanding Securities of a Series as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Securities of such Series from time to time as reflected in the records of the Trustee and that the aggregate principal amount of outstanding Securities of such Series represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. The Trustee's records shall be noted to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Securities of such Series represented thereby, in accordance with instructions given by the Holder thereof.

Section 2.02 *Execution and Authentication.*

One Officer must sign the Securities for the Company by manual or facsimile signature.

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

A Security will not be valid until authenticated by the manual or electronic signature of the Trustee. The signature will be conclusive evidence that the Security has been authenticated under this Indenture.

The Trustee shall at any time, and from time to time, upon receipt of an Authentication Order, authenticate Securities for original issue under this Indenture. The aggregate principal amount of Securities outstanding at any time may not exceed the aggregate principal amount of Securities authorized for issuance by the Company pursuant to one or more Authentication Orders, except as provided in Section 2.07 hereof.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. 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 such agent. An authenticating agent has the same rights as an Agent to deal with Holders, the Company or an Affiliate of the Company.

Section 2.03 *Registrar and Paying Agent.*

The Company will maintain an office or agency with respect to each Series of Securities issued pursuant to this Indenture, where such securities may be presented for registration of transfer or for exchange ("*Registrar*") and an office or agency where such Securities may be presented for payment ("*Paying Agent*"). The Registrar will keep a register of all such Securities and of their transfer and exchange (the "*Security Register*"). 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 may change any Paying Agent or Registrar without notice to any Holder. The Company will notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. 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 of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company ("*DTC*") to act as Depositary with respect to each Series unless another Depositary is appointed prior to the time Securities of that Series are first issued.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to each Series unless another Registrar, Paying Agent or Custodian, as the case may be, is appointed prior to the time Securities of that Series are first issued.

Section 2.04 *Paying Agent to Hold Money in Trust.*

The Company will 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 the Securities for which it is acting as Paying Agent or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, and interest on, such Securities, 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. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) will have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it will segregate and hold in a separate trust fund for the benefit of the Holders of any Series of Securities all money held by it as Paying Agent.

Section 2.05 *Holder Lists.*

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 all Holders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each interest payment date 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 the Holders.

Section 2.06 *Transfer and Exchange.*

(a) *Transfer and Exchange of Global Securities and Definitive Securities.* A Global Security may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Securities shall be exchanged by the Company for Definitive Securities if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary;

(2) the Company in its sole discretion determines that the Global Securities (in whole but not in part) should be exchanged for Definitive Securities and delivers a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the Securities.

Upon the occurrence of any of the preceding events in (1), (2) or (3) above, Definitive Securities shall be issued in such names and in any approved denominations as the Depositary shall instruct the Trustee. Global Securities also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Security authenticated and delivered in exchange for, or in lieu of, a Global Security or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Security. Definitive Securities and beneficial interests in a Global Security may each be transferred and exchanged as provided in the Supplemental Indenture pursuant to which such applicable Series of Securities is created.

(b) *General Provisions Relating to Transfers and Exchanges.*

(1) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Securities and Definitive Securities upon receipt of an Authentication Order in accordance with Section 2.02 hereof or at the Registrar's request.

(2) No service charge shall be made to a Holder of a beneficial interest in a Global Security or to a Holder of a Definitive Security for any registration of transfer or exchange, 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 any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06 and 9.06 hereof).

(3) The Registrar shall not be required to register the transfer of or exchange of any Security selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

(4) All Global Securities and Definitive Securities issued upon any registration of transfer or exchange of Global Securities or Definitive Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Securities or Definitive Securities surrendered upon such registration of transfer or exchange.

(5) The Company shall not be required:

(A) to issue, to register the transfer of or to exchange any Securities during a period beginning at the opening of business 15 days before the day of any selection of Securities for redemption and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Security selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part; or

(C) to register the transfer of or to exchange a Security between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Security, the Trustee, any Agent and the Company shall deem and treat the Person in whose name any Security is registered as the absolute owner of such Security for the purpose of receiving payment of principal of and interest on such Securities and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee shall authenticate Global Securities and Definitive Securities in accordance with the provisions of Section 2.02 hereof.

(8) All orders, certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile or as a ".pdf" attachment to an e-mail.

(c) *Legends.* Securities of a Series will bear the legends provided for in the Supplemental Indenture pursuant to which such Series of Securities is created.

Section 2.07 *Replacement Securities.*

If any mutilated Security is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Security, the Company will issue and the Trustee, upon receipt of an Authentication Order, will authenticate a replacement Security of the same Series if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company may charge for its expenses in replacing a Security.

Every replacement Security is an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and proportionately with all other Securities of the Series duly issued hereunder.

Section 2.08 *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 in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

If a Security is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a protected purchaser.

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

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date of Securities of a Series, money sufficient to pay such Securities payable on that date, then on and after that date such Securities of the Series will be deemed to be no longer outstanding and will cease to accrue interest.

Section 2.09 *Treasury Securities.*

In determining whether the Holders of the required principal amount of Securities of a Series have concurred in any direction, waiver or consent, Securities of a Series owned by the Company or any guarantor of such Series, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any guarantor of such Series, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only such Securities of a Series that the Trustee has received written notice from the Company or any guarantor of such Series, as applicable, certifying that the relevant Securities of a Series are owned by either the Company or any guarantor of such Series, as applicable, will be so disregarded.

Section 2.10 *Temporary Securities.*

Until certificates representing Securities are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, will authenticate temporary Securities. Temporary Securities will be substantially in the form of certificated Securities but may have variations that the Company considers appropriate for temporary Securities and as may be reasonably acceptable to the Trustee. Without unreasonable delay, the Company will prepare and the Trustee will authenticate definitive Securities of the same Series in exchange for temporary Securities.

Holders of temporary Securities will be entitled to all of the benefits of this Indenture as the definitive Securities of the same Series.

Section 2.11 *Cancellation.*

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and Paying Agent will forward to the Trustee any Securities surrendered to them for registration of transfer, exchange or payment. Upon receipt of written direction from the Company, the Trustee and no one else will cancel all Securities surrendered for registration of transfer, exchange, payment, replacement or cancellation and will destroy canceled Securities (subject to the record retention requirements of the Exchange Act). Certification of the destruction of all canceled Securities will be delivered to the Company. The Company may not issue new Securities to replace Securities that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12 *Defaulted Interest.*

If the Company defaults in a payment of interest on a Series of Securities, it will pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders of such Series on a subsequent special record date, in each case at the rate provided in the Securities of such Series. The Company will notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Security of such Series and the date of the proposed payment. The Company will fix or cause to be fixed each such special record date and payment date. At least 10 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) will mail or cause to be mailed to Holders of such Series a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Default interest will be payable with respect to Securities on the terms provided in the Supplemental Indenture pursuant to which such Series of Securities is created.

ARTICLE 3
REDEMPTION AND PREPAYMENT

For purposes of this Indenture, Article 3 hereof provides the terms upon which redemption and prepayment may occur. For purposes of any Series of Securities issued under a Supplemental Indenture, the Supplemental Indenture in respect of such Series of Securities will specify the terms upon which redemption and prepayment may occur, which may include some, all or none of the terms contained in this Article 3 hereof.

Section 3.01 *Notices to Trustee.*

The Company may, with respect to any Series of Securities, reserve the right to redeem and pay the Series of Securities or may covenant to redeem and pay the Series of Securities or any part thereof prior to the Stated Maturity thereof at such time and on such terms as provided for in such Securities. If a Series of Securities is redeemable and the Company elects or is obligated to redeem such Series of Securities pursuant to the provisions of such Securities, it must furnish to the Trustee, at least 10 days (or such shorter period as the Trustee may in its sole discretion allow) but not more than 60 days before a redemption date, an Officer's Certificate setting forth:

(1) the clause of the Supplemental Indenture for such Series pursuant to which the redemption shall occur;

(2) the redemption date;

(3) the principal amount of the Series of Securities to be redeemed; and

(4) the redemption price.

Section 3.02 *Selection of Securities to Be Redeemed or Purchased.*

If less than all of the Securities of a Series are to be redeemed at any time, the Trustee shall select the Securities of the Series for redemption on a *pro rata* basis among all outstanding Securities of such Series or, if the Series of Securities are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Series of Securities are listed, in either case, unless otherwise required by law or depositary requirements.

In the event of partial redemption by lot, the particular Securities of the Series to be redeemed or purchased shall be selected, unless otherwise provided herein, not less than 10 nor more than 60 days prior to the redemption by the Trustee from the outstanding Securities of such Series not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Securities of the Series selected for redemption and, in the case of any Security of a Series selected for partial redemption, the principal amount thereof to be redeemed. Securities of the Series and portions of Securities of the Series selected shall be in a minimum amount of $2,000 or whole multiples of $1,000 in excess thereof; except that if all of the Securities of the Series of a Holder are to be redeemed or purchased, the entire outstanding amount of Securities of the Series held by such Holder, even if not a multiple of $1,000 shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to Securities of a Series called for redemption also apply to portions of Securities of a Series called for redemption.

No Securities of a Series of $2,000 or less shall be redeemed in part. Notices of redemption shall be mailed by first class mail or delivered electronically at least 10 but not more than 60 days before the redemption date to each Holder of Securities of a Series to be redeemed at its registered address, except that redemption notices may be mailed or delivered more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Securities of a Series or a satisfaction and discharge of this Indenture.

If any Security of a Series is to be redeemed in part only, the notice of redemption that relates to that Security of such Series shall state the portion of the principal amount of that Security that is to be redeemed. A new Security of such Series in principal amount equal to the unredeemed portion of the original Security of such Series shall be issued in the name of the Holder of the Securities of such Series upon cancellation of the original Security. Securities of a Series called for redemption become due on the date fixed for redemption, subject to the satisfaction or waiver of any conditions. On and after the redemption date, interest ceases to accrue on Securities of a Series or portions of them called for redemption.

Section 3.03 *Notice of Redemption.*

At least 10 days but not more than 60 days before a redemption date, the Company shall mail, or cause to be mailed, by first class mail, or deliver electronically, a notice of redemption to each Holder whose Securities are to be redeemed at its registered address, except that redemption notices may be mailed or delivered more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Securities of a Series or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 10 hereof.

The notice will identify the Securities of the Series to be redeemed and will state:

(1) the redemption date;

(2) the redemption price;

(3) if any Security of the Series is being redeemed in part, the portion of the principal amount of such Security to be redeemed and that, after the redemption date upon surrender of such Security, a new Security of the Series or Securities of the Series in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Security;

(4) the name and address of the Paying Agent;

(5) that Securities of the Series called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(6) that, unless the Company defaults in making such redemption payment, interest on the Securities of the Series called for redemption ceases to accrue on and after the redemption date;

(7) the paragraph of the Securities of the Series and/or Section of this Indenture and/or the Supplemental Indenture for the applicable Series pursuant to which the Securities of the Series called for redemption are being redeemed; and

(8) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Securities of the Series.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least 15 days prior to the redemption date (or such shorter period as the Trustee in its sole discretion may allow), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Any redemption or notice of any redemption may, at the Company's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an offering or financing, change of control or other corporate transaction or event. In addition, if such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice shall state that, in the Company's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied and a new redemption date will be set by the Company in accordance with applicable DTC procedures, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so delayed.

Section 3.04 *Effect of Notice of Redemption.*

Once notice of redemption is mailed or delivered in accordance with Section 3.03 hereof, Securities of the Series called for redemption become, subject to any conditions precedent set forth in the notice of redemption, irrevocably due and payable on the redemption date at the redemption price.

Section 3.05 *Deposit of Redemption or Purchase Price.*

No later than 10:00 a.m. Eastern Time on the redemption or purchase date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of, accrued interest and premium, if any, on all Securities of a Series to be redeemed or purchased on that date. Promptly after the Company's written request, the Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, accrued interest and premium, if any, on, all Securities of the Series to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the Securities of the Series or the portions of Securities of the Series called for redemption or purchase. If a Security of a Series is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Security was registered at the close of business on such record date. If any Security of a Series called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Securities of such Series.

Section 3.06 *Securities Redeemed or Purchased in Part.*

Upon surrender of a Security of a Series that is redeemed or purchased in part, the Company shall issue and, upon receipt of an Authentication Order, the Trustee shall authenticate for the Holder at the expense of the Company a new Security of such Series equal in principal amount to the unredeemed or unpurchased portion of the Security surrendered.

ARTICLE 4
COVENANTS

For purposes of this Indenture, Article 4 hereof provides the terms of the various covenants to which Securities are subject. However, the Supplemental Indenture in respect of the Securities of a Series will specify the terms of the covenants to which the Securities of such Series are subject, which may include some, all or none of the covenants contained in this Article 4 hereof.

Section 4.01 *Payment of Securities.*

The Company shall pay or cause to be paid the principal of, premium, if any, and interest on, the Securities of each Series on the dates and in the manner provided in the Securities of such Series. Principal, premium, if any, and interest will be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

Section 4.02 *Maintenance of Office or Agency.*

The Company will, for the benefit of Holders of each Series of Securities, maintain in the Borough of Manhattan, the City of New York, an office or agency (which may be an office of the Trustee for such Securities or an affiliate of such Trustee, Registrar for such Securities or co-registrar) where such Securities may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of such Securities and this Indenture may be served. The Company will give prompt written notice to the Trustee for such Securities of the location, and any change in the location, of such office or agency. If at any time the Company fails to maintain any such required office or agency or fails to furnish such Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of such Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Holders of a Series of Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission will in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, the City of New York for such purposes. The Company will give prompt written notice to the Trustee for such Series of Securities of any such designation or rescission and of any change in the location of any such other office or agency.

With respect to each Series of Securities, the Company hereby designates the Corporate Trust Office of the Trustee for such Securities as one such office or agency of the Company in accordance with Section 2.03 hereof.

Section 4.03 *Reports.*

(a) Whether or not required by the SEC's rules and regulations, so long as any Series of Securities are outstanding, the Company shall furnish to Holders of such Securities, within the time periods (including any extensions thereof) specified in the SEC's rules and regulations:

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

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

All such reports shall be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports. Each annual report on Form 10-K will include a report on the Company's consolidated financial statements by the Company's independent registered public accounting firm. In addition, the Company shall file a copy of each of the reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the rules and regulations applicable to such reports (unless the SEC will not accept such a filing). To the extent such filings are made, the reports shall be deemed to be furnished to the Trustee and Holders. The Trustee shall not be responsible for determining whether such filings have been made.

If, at any time, the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company shall nevertheless continue filing the reports specified in this Section 4.03(a) with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Company agrees that it shall not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company's filings for any reason, the Company shall post the reports referred to in this Section 4.03(a) on its website within the time periods that would apply if the Company were required to file those reports with the SEC.

(b) In addition, the Company and each guarantor of any Series of Securities agree that, for so long as any Series of Securities remain outstanding, at any time they are not required to file the reports required by the preceding paragraphs with the SEC, they shall furnish to the Holders of such Securities and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(c) Delivery of the reports and documents described in subsections (a) and (b) above to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute 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 an Officer's Certificate).

To the extent any information is not filed or provided within the time periods specified in this covenant and such information is subsequently filed or provided, the Company will be deemed to have satisfied its obligations with respect thereto at such time and any Default with respect thereto shall be deemed to have been cured; *provided* that such cure shall not otherwise affect the rights of the Holders if the Holders of at least 30% in aggregate principal amount of such Securities that are outstanding have declared all such Securities to be due and payable immediately and such declaration shall not have been rescinded prior to such cure.

Section 4.04 *Compliance Certificate.*

(a) The Company and each guarantor of any Series of Securities shall deliver to the Trustee with respect to such Series, within 90 days after the end of each fiscal year, an Officer's Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her 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 of this Indenture (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of, premium, if any, and interest, if any, on the Securities is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) So long as any Series of Securities are outstanding, the Company shall deliver to the Trustee with respect to such Series, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officer's Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05 *Taxes.*

The Company shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of such Securities.

Section 4.06 *Stay, Extension and Usury Laws.*

The Company covenants and agrees (to the extent that it may lawfully do so) that it will not, and each guarantor of such Securities will not, at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company and each such guarantor (to the extent that it may lawfully do so), as applicable, hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee for such Securities, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 *Corporate Existence.*

Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary; and

(2) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries;

provided, however, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if (a) the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of such Securities or (b) if a Subsidiary is to be dissolved, such Subsidiary has no assets.

ARTICLE 5
SUCCESSORS

For purposes of this Indenture, Article 5 hereof provides the terms upon which a Person can succeed the Obligations of the Company. For purposes of any Securities issued under this Indenture, the Supplemental Indenture in respect of such Series of Securities will specify the terms upon which a Person can succeed the obligations of the Company or the applicable guarantors, if any, to such Series of Securities, which may include some, all or none of the terms contained in this Article 5 hereof.

Section 5.01 *Merger, Consolidation or Sale of Assets.*

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

(1) either:

(A) the Company is the surviving corporation; or

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

(2) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Company under such Securities and this Indenture pursuant to a supplemental indenture or other documents and agreements reasonably satisfactory to the Trustee for such Securities;

(3) immediately after such transaction, no Default or Event of Default exists; and

(4) prior to a Release Event, to the extent any assets of the Person which is merged, consolidated or amalgamated with or into the Person formed by or surviving any such consolidation or merger (if other than the Company) would constitute Collateral under the Note Security Documents, the Person formed by or surviving any such consolidation or merger (if other than the Company) will take such action as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the Note Security Documents in the manner and to the extent required in this Indenture or any of the Note Security Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the Note Security Documents.

In addition, the Company will not lease all or substantially all of its properties and assets, in one or more related transactions, to any other Person.

This Section 5.01 shall not apply to:

(1) a merger of the Company with an Affiliate solely for the purpose of reincorporating the Company in another jurisdiction or forming a direct or indirect holding company of the Company; and

(2) any sale, transfer, assignment, conveyance, lease or other disposition of assets between or among the Company and its Subsidiaries, including by way of merger or consolidation.

Section 5.02 *Successor Corporation Substituted.*

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, the successor Person formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the successor Person and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; *provided, however*, that the predecessor Company shall not be relieved from the obligation to pay the principal of, premium, if any, and interest on any Series of Securities except in the case of a sale of all of the Company's assets in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof.

ARTICLE 6
DEFAULTS AND REMEDIES

For purposes of this Indenture, Article 6 hereof provides the terms defaults and remedies. For purposes of any Series of Securities issued under this Indenture, the Supplemental Indenture in respect of such Series of Securities will specify the terms of defaults and remedies for such Series of Securities, which may include some, all or none of the terms contained in this Article 6 hereof.

Section 6.01 *Events of Default.*

(a) Each of the following is an "*Event of Default*" with respect to the Securities of any Series:

(1) default for 30 days in the payment when due of interest on the Security of that Series;

(2) default in the payment when due of the principal of, or premium, if any, on the Security of that Series;

(3) failure by the Company or any guarantor of such Securities for 60 days (or 120 days with respect to a default under Section 4.03 hereof) after written notice to the Company by the Trustee or the Holders of at least 30% in aggregate principal amount of the Securities of that Series that are then outstanding to comply with any of the agreements in this Indenture (other than a default referred to in clause (1) or (2) of this Section 6.01(a));

(4) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any guarantor of such Securities (or the payment of which is guaranteed by the Company or any such guarantor), whether such Indebtedness or guarantee now exists, or is created after the date of the Supplemental Indenture with respect to the Series of Securities, if that default:

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

(B) results in the acceleration of such Indebtedness prior to its express maturity, and,

in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, exceeds the greater of (i) 1.5% of Total Assets and (ii) $600 million; *provided* that this clause (4) shall not apply to (i) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness to a Person that is not an Affiliate of the Company; (ii) Non-Recourse Debt (except to the extent that the Company or any of the guarantors of such Securities that are not parties to such Non-Recourse Debt becomes directly or indirectly liable, including pursuant to any contingent obligation, for any such Non-Recourse Debt and such liability, individually or in the aggregate, exceeds the greater of (i) 1.5% of Total Assets and (ii) $600 million), and (iii) to the extent constituting Indebtedness, any indemnification, guarantee or other credit support obligations of the Company or any of the guarantors of such Securities in connection with any tax equity financing entered into by a non-guarantor Subsidiary or any standard securitization undertakings of the Company or any of the guarantors in connection with any securitization or other structured finance transaction entered into by a non-guarantor Subsidiary;

(5) except as permitted by this Indenture, any subsidiary guarantee of the Securities of such Series of any guarantor that constitutes a Significant Subsidiary (or any group of guarantors that, taken together, would constitute a Significant Subsidiary) shall be held in any final and non-appealable judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any guarantor that constitutes a Significant Subsidiary (or any group of guarantors that, taken together, would constitute a Significant Subsidiary), or any Person acting on behalf of any guarantor that constitutes a Significant Subsidiary (or any group of guarantors that, taken together, would constitute a Significant Subsidiary), shall deny or disaffirm its or their obligations under its or their subsidiary guarantee(s) of the Securities of such Series;

(6) other than by reason of the satisfaction in full of all obligations under this Indenture and discharge of this Indenture with respect to the Securities of such series or the release of such Collateral with respect to the Securities of such series in accordance with the terms of this Indenture and the Note Security Documents,

(a) in the case of any security interest with respect to Collateral having a fair market value in excess of 5% of Total Assets, individually or in the aggregate, such security interest under the Note Security Documents shall, at any time, cease to be a valid and perfected security interest or shall be declared invalid or unenforceable and any such default continues for 30 days after notice of such default shall have been given to the Company by the Trustee or the Holders of at least 30% in aggregate principal amount of the Securities of such Series that are outstanding, except to the extent that any such default (A) results from the failure of the Collateral Trustee to maintain possession of certificates, promissory notes or other instruments actually delivered to it representing securities pledged under the Note Security Documents or (B) to the extent relating to Collateral consisting of real property, is covered by a title insurance policy with respect to such real property and such insurer has not denied coverage; or

(b) the Company or any guarantor of the Securities of such Series that is a Significant Subsidiary (or any group of guarantors of the Securities of such Series that, taken together, would constitute a Significant Subsidiary) shall assert, in any pleading in any court of competent jurisdiction, that any security interest under any Note Security Document is invalid or unenforceable.

(7) the Company or any guarantor of the Securities of such Series that is a Significant Subsidiary or any group of guarantors of the Securities of such Series that, taken together, would constitute a Significant Subsidiary:

(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 custodian of it or for all or substantially all of its property,

(D) makes a general assignment for the benefit of its creditors, or

(E) generally is not paying its debts as they become due; or

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any guarantor of the Securities of such Series that is a Significant Subsidiary or any group of guarantors of the Securities of such Series that, taken together, would constitute a Significant Subsidiary;

(B) appoints a custodian of the Company or any guarantor of the Securities of such Series that is a Significant Subsidiary or any group of guarantors of the Securities of such Series that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or such guarantor or group of guarantors; or

(C) orders the liquidation of the Company or any guarantor of the Securities of such Series that is a Significant Subsidiary or any group of guarantors of the Securities of such Series that, taken together, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days.

(b) Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a "*Noteholder Direction*") provided by any one or more Holders of the then outstanding Securities of a Series (each, a "*Directing Holder*") must be accompanied by a written representation with a medallion guaranteed signature from each such Holder to the Company and the Trustee that such Holder is not (or, if such Holder is DTC or its nominee, that such Holder is being instructed solely by Beneficial Owners that are not) Net Short (a "*Position Representation*"), which representation, in the case of a Noteholder Direction relating to a notice of Default (a "*Default Direction*") shall be deemed repeated at all times until the resulting Event of Default is cured or otherwise ceases to exist or the Securities of such Series are accelerated. In addition, each Directing Holder must, at the time of providing a Noteholder Direction, covenant to provide the Company with such other information as the Company may reasonably request from time to time in order to verify the accuracy of such Directing Holder's Position Representation within five Business Days of request therefor (a "*Verification Covenant*"). In any case in which the Holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the Beneficial Owner of the Securities of such Series in lieu of DTC or its nominee, and DTC shall be entitled to rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the Securities of the applicable Series, the Company determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time, in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Company has initiated litigation in a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Event of Default that resulted from the applicable Noteholder Direction, the cure period with respect to such Event of Default shall be automatically stayed and the cure period with respect to such Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter. If, following the delivery of a Noteholder Direction, but prior to acceleration of the Securities of such Series, the Company provides to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such Event of Default shall be automatically stayed and the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed until such time as the Company provides the Trustee with an Officer's Certificate that the Verification Covenant has been satisfied; provided that the Company shall promptly deliver such Officer's Certificate to the Trustee upon becoming aware that the Verification Covenant has been satisfied. Any breach of the Position Representation (as evidenced by the delivery to the Trustee of the Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant) shall result in such Holder's participation in such Noteholder Direction being disregarded. If, without the participation of such Holder, the percentage of Securities of such Series held by the remaining Holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio, with the effect that such Event of Default shall be deemed never to have occurred, acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, (i) any Noteholder Direction delivered to the Trustee during the pendency of an Event of Default specified in clause (7) or (8) of Section 6.01(a) shall not require compliance with the foregoing paragraphs, and (ii) a notice of Default may not be given with respect to any action taken and reported publicly or to Holders more than two years prior to such notice of Default. The Trustee shall have no obligation to monitor or determine whether a Holder is Net Short and can rely conclusively on a Directing Holder's Position Representation, the Officer's Certificates delivered by the Company and determinations made by a court of competent jurisdiction.

Section 6.02 *Acceleration.*

In the case of an Event of Default, with respect to Securities of any Series, specified in clause (7) or (8) of Section 6.01(a) hereof, with respect to the Company, any guarantor of the Company for the applicable Series of Securities that is a Significant Subsidiary or any group of guarantors of the Company for the applicable Securities that, taken together, would constitute a Significant Subsidiary, all outstanding Securities of the applicable Series will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 30% in aggregate principal amount of the then outstanding Securities of such Series may declare all the Securities of such Series to be due and payable immediately. Upon any such declaration, the Securities of such Series shall become due and payable immediately.

Section 6.03 *Other Remedies.*

If an Event of Default with respect to Securities of any Series at the time outstanding occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, premium, if any, or interest on such Securities or to enforce the performance of any provision of such Securities or this Indenture.

The Trustee for such Securities may maintain a proceeding even if it does not possess any of such Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Security 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. All remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults.*

The Holders of a majority in aggregate principal amount of the then outstanding Securities of any Series by written notice to the Trustee for such Series may, on behalf of the Holders of all of such Securities waive any existing Default or Event of Default with respect to such Securities and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, or interest on, such Securities (including in connection with an offer to purchase); *provided, however*, that the Holders of a majority in aggregate principal amount of the then outstanding Securities of any Series may rescind an acceleration of such Securities and its consequences, including any related payment default that resulted from such acceleration. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this 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.*

Subject to the terms of the Collateral Trust Agreement and certain other limitations, Holders of a majority in principal amount of the then outstanding Securities of any Series may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee for such Securities of such Series in its exercise of any trust or power. However, the Trustee for any Series of Securities may refuse to follow any direction that conflicts with law or this Indenture that such Trustee determines may be unduly prejudicial to the rights of other Holders of such Securities or that may involve the Trustee in personal liability.

Section 6.06 *Limitation on Suits.*

No Holder of Securities of a Series may pursue any remedy with respect to this Indenture or such Securities unless:

(1) such Holder has previously given the Trustee for such Securities written notice that an Event of Default is continuing;

(2) Holders of at least 30% in aggregate principal amount of the then outstanding Securities of such Series make a written request to the Trustee for such Securities to pursue the remedy;

(3) such Holder or Holders have offered the Trustee for such Securities reasonable security or indemnity against any loss, liability or expense it may incur;

(4) such Trustee does not comply with such request within 60 days after receipt of the request and the offer of security or indemnity; and

(5) during such 60-day period, Holders of a majority in aggregate principal amount of the then outstanding Securities of such Series do not give such Trustee a direction inconsistent with such request.

A Holder of any Series of Securities may not use this Indenture to prejudice the rights of another Holder of such Series of Securities or to obtain a preference or priority over another Holder of Securities of such Series.

Section 6.07 *Rights of Holders of Securities to Receive Payment.*

Notwithstanding any other provision of this Indenture, the right of any Holder of a Security of any Series to receive payment of principal of, premium, if any, or interest on such Securities, on or after the respective due dates expressed in such Securities (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08 *Collection Suit by Trustee.*

If an Event of Default specified in Section 6.01(a)(1) or (2) hereof with respect to Securities of any Series occurs and is continuing, the Trustee for such Securities is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest on, remaining unpaid on, such Securities and interest on overdue principal and, to the extent lawful, 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 such Trustee, its agents and counsel.

Section 6.09 *Trustee May File Proofs of Claim.*

The Trustee for each Series of Securities is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of such Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel) and the Holders of the Securities for which it acts as trustee allowed in any judicial proceedings relative to the Company (or any other obligor upon such Securities), its creditors or its property 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 custodian in any such judicial proceeding is hereby authorized by each Holder of such Securities to make such payments to such Trustee, and in the event that such Trustee shall consent to the making of such payments directly to such Holders, to pay to such Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel, and any other amounts due to such Trustee under this Indenture, including without limitation, under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of such Trustee, its agents and counsel, and any other amounts due to such Trustee under this Indenture, including without limitation, under Section 7.07 hereof 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 such Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize such Trustee to authorize or consent to or accept or adopt on behalf of any Holder for which it acts as trustee any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of such Holder, or to authorize such Trustee to vote in respect of the claim of such Holder in any such proceeding.

Section 6.10 *Priorities.*

If the Trustee of any Series of Securities collects any money pursuant to this Article 6 or, after an Event of Default, any money or other property distributable in respect of the Company's obligations under this Indenture, such money shall be applied in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of such Securities for amounts due and unpaid on the Securities for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal, premium, if any, and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Securities pursuant to this Section 6.10.

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 any Trustee for any action taken or omitted by it as a 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 of a Security pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Securities of any Series.

ARTICLE 7
TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default with respect to any Series of Securities has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its 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:

(1) the duties of the Trustee will be determined solely by the express provisions of this Indenture and 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, gross negligence or willful misconduct 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. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(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 paragraph (b) of this Section 7.01;

(2) the Trustee will 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 will not be liable with respect to any action taken, suffered or omitted to be taken in respect of the Securities of any Series in accordance with a direction received by it pursuant to Section 6.05 hereof.

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

(e) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability. The Trustee will be under no obligation to exercise any of its rights or powers under this Indenture at the request of any Holders, unless such Holder has offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee will 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.

(g) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder (including as Paying Agent and Registrar), the Collateral Trustee, and each agent, custodian and other Person employed to act hereunder.

Section 7.02 *Rights of Trustee.*

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officer’s Certificate. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer’s Certificate. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any agent appointed with due care. No Depositary shall be deemed to be an attorney or agent of the Trustee and the Trustee shall not be responsible for any action or omission by any Depositary.

(d) The Trustee will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(f) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee reasonable indemnity or security satisfactory to the Trustee against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

(g) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document.

(h) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has received written notice thereof at the Corporate Trust Office of the Trustee, and such notice references the Securities generally or the Securities of a particular Series and this Indenture and describes the circumstances constituting such Default or Event of Default.

(i) In no event shall the Trustee be liable for the selection of investments or for investment losses incurred thereon. The Trustee shall have no liability in respect of losses incurred as a result of the liquidation of any investment prior to its stated maturity or failure to provide timely written direction.

(j) In no event shall the Trustee be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, 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.

(k) In no event shall the Trustee be liable for any failure or delay in the performance of its obligations under this Indenture or any related documents because of circumstances beyond the Trustee’s control, including, but not limited to, a failure, termination, or suspension of a clearing house, securities depositary, settlement system or central payment system in any applicable part of the world or acts of God, flood, war (whether declared or undeclared), civil or military disturbances or hostilities, nuclear or natural catastrophes, political unrest, explosion, severe weather or accident, pandemic, epidemic, wide-spread health crisis, earthquake, terrorism, fire, riot, labor disturbances, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like (whether domestic, federal, state, county or municipal or foreign) which delay, restrict or prohibit the providing of the services contemplated by this Indenture or any related documents, or the unavailability of communications or computer facilities, the failure of equipment or interruption of communications or computer facilities, or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility, or any other causes beyond the Trustee’s control whether or not of the same class or kind as specified above.

(l) The right of the Trustee to perform any discretionary act enumerated in this Indenture or any related document shall not be construed as a duty.

Section 7.03 *Individual Rights of Trustee.*

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 Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest, it must eliminate such conflict within 90 days or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Section 7.10 hereof.

Section 7.04 *Trustee's Disclaimer.*

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Securities, it 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 of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will not be responsible for any statement or recital herein or any statement in the Securities or any other document in connection with the sale of the Securities or pursuant to this Indenture other than its certificate of authentication.

Neither the Trustee nor the Collateral Trustee make any representations as to and shall not be responsible for the existence, genuineness, value or condition of any of the Collateral or as to the security afforded or intended to be afforded thereby, hereby or by any of the Note Security Documents, or for the validity, perfection, priority or enforceability of the Liens or security interests in any of the Collateral created or intended to be created by any of the Note Security Documents, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, for the validity or sufficiency of the Collateral, any of the Note Security Documents or any agreement or assignment contained in any thereof, for the validity of the title of the Company to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. Neither the Trustee nor the Collateral Trustee shall have any duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or any of the Note Security Documents by the Company or any other Person that is a party thereto or bound thereby. Neither the Trustee nor the Collateral Trustee shall be responsible or liable for seeing to or monitoring the attachment, perfection, or priority of any lien or security interest created or intended to be created in the Collateral hereby or by any of the Note Security Documents. Neither the Trustee nor the Collateral Trustee shall be responsible for the preparation, correctness, filing, re-filing, recording or re-recording of any security documents or instruments, including UCC financing statements or continuation statements in any public office at any time or times or otherwise perfecting or maintaining the perfection of any lien or security interest in any of the Collateral.

Section 7.05 *Notice of Defaults.*

If a Default or Event of Default with respect to any Series of Securities occurs and is continuing and if it is known to a Responsible Officer of the Trustee, the Trustee will mail to Holders of such Securities of that Series a notice of the Default or Event of Default within 90 days after it occurs or, if later, after a Responsible Officer has knowledge of any Default or Event of Default. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest on, any Security of any Series, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Securities of that Series.

Section 7.06 *[Reserved]*

Section 7.07 *Compensation and Indemnity.*

(a) The Company will pay to the Trustee from time to time compensation for its acceptance of this Indenture and services hereunder as agreed to in writing from time to time. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Company will indemnify the Trustee against any and all losses, liabilities or expenses (including external counsel fees and expenses) incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and 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, except to the extent any such loss, liability or expense may be attributable to its gross negligence, bad faith or willful misconduct. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company of its obligations hereunder. The Company will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Company will pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent will not be unreasonably withheld.

(c) The obligations of the Company under this Section 7.07 will survive the satisfaction and discharge of this Indenture.

(d) To secure the Company's payment obligations in this Section 7.07, the Trustee will have a Lien prior to the Securities of any Series on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium, if any, or interest on, particular Securities of that Series. Such Lien will survive the satisfaction and discharge of this Indenture.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in clause (7) or (8) of Section 6.01(a) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

(f) The Company's obligations under this Section 7.07 shall survive the resignation or removal of the Trustee, any termination of this Indenture, including any termination or rejection of this Indenture in any insolvency or similar proceeding and the repayment of all the Securities.

Section 7.08 *Replacement of Trustee.*

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

(b) The Trustee may resign, with respect to the Securities of one or more Series, in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in aggregate principal amount of the then outstanding Securities of any Series may remove the Trustee with respect to that Series by so notifying the Trustee and the Company in writing. The Company may remove the Trustee with respect to the Securities of one or more Series if:

(1) the Trustee fails to comply with Section 7.10 hereof;

(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 custodian or public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Securities may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

(d) If a successor Trustee with respect to the Securities of any one or more Series does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in aggregate principal amount of the then outstanding Securities of the applicable Series may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(e) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee with respect to each Series of Securities for which it is acting as Trustee under this Indenture. The successor Trustee will mail a notice of its succession to Holders of each such Series. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor Trustee; *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof will continue for the benefit of the retiring Trustee.

Section 7.09 *Successor Trustee by Merger, etc.*

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Trustee.

Section 7.10 *Eligibility; Disqualification.*

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $50.0 million as set forth in its most recent published annual report of condition.

ARTICLE 8
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

For purposes of this Indenture, Article 8 hereof provides the terms upon which legal defeasance and covenant defeasance can occur. For purposes of any Series of Securities issued under this Indenture, the Supplemental Indenture in respect of such Series of Securities will specify the terms upon which legal defeasance and covenant defeasance can occur for such Series of Securities, which may include some, all or none of the terms contained in this Article 8 hereof.

Section 8.01 *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Company may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officer's Certificate, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Securities of any Series upon compliance with the conditions set forth below in this Article 8.

Section 8.02 *Legal Defeasance and Discharge.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and each guarantor, if any, of such Securities shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its or their obligations with respect to all outstanding Securities of such Series (including the related guarantees, if any) on the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and such guarantors, if any, shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Securities of such Series (including the related guarantees, if any), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all of its their other obligations under such Securities, such guarantees, if any, and this Indenture (and the Trustee for such Securities, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

(1) the rights of Holders of outstanding Securities of such Series to receive payments in respect of the principal of, premium, if any, or interest on such Securities when such payments are due from the trust referred to in Section 8.04 hereof;

(2) the Company's obligations with respect to such Securities under Article 2 and Section 4.02 hereof;

(3) the rights, powers, trusts, duties, indemnities and immunities of the Trustee for such Securities hereunder and the Company's and the guarantors', if any, obligations in connection therewith; and

(4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03 *Covenant Defeasance.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and each of the guarantors, if any, shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of its or their obligations under the covenants specified in a Supplemental Indenture with respect to the outstanding Securities of the applicable Series on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Covenant Defeasance*"), and such Securities will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders of such Securities (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Securities will not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Securities of such Series and related guarantees, if any, the Company and the each of the guarantors, if any, may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Securities and related guarantees, if any, shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(a)(3), (4), (5), (6) hereof shall not constitute Events of Default.

Section 8.04 *Conditions to Legal or Covenant Defeasance.*

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03 hereof with respect to Securities of any Series:

(1) the Company must irrevocably deposit with the Trustee for such Securities, in trust, for the benefit of the Holders of such Securities, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm, or firm of independent public accountants, to pay the principal of, premium, if any, and interest on, the outstanding Securities of such Series on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether such Securities are being defeased to such stated date for payment or to a particular redemption date;

(2) in the case of an election under Section 8.02 hereof, the Company must deliver to the Trustee for such Securities an Opinion of Counsel confirming that:

(A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling; or

(B) since the date of this Indenture, there has been a change in the applicable federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders and Beneficial Owners of the outstanding Securities of such Series will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of an election under Section 8.03 hereof, the Company must deliver to the Trustee for such Securities an Opinion of Counsel confirming that the Holders of such Securities will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default with respect to such Securities shall have occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness), and the granting of Liens to secure such borrowings);

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture and the agreements governing any other Indebtedness being defeased, discharged or replaced) to which the Company or any of the guarantors, if any, is a party or by which the Company or any of the guarantors, if any, is bound;

(6) the Company must deliver to the Trustee for such Securities an Officer's Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of such Securities over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and

(7) the Company must deliver to the Trustee for such Securities an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 *Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.*

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "*Trustee*") pursuant to Section 8.04 hereof in respect of the outstanding Securities of any Series shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Securities of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Securities of the applicable Series.

Notwithstanding anything in this Article 8 to the contrary, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06 *Repayment to Company.*

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on, any Series of Securities and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall be paid to the Company on its written request or (if then held by the Company) will be discharged from such trust; and the Holders of such Securities will thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, will thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining shall be repaid to the Company.

Section 8.07 *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any U.S. dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and any applicable guarantor's obligations under this Indenture and the applicable Securities and the guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium, if any, or interest on, any such Securities following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 *Without Consent of Holders.*

Notwithstanding Section 9.02 of this Indenture, without the consent of any Holder of Securities of a Series, the Company and the Trustee may amend or supplement this Indenture, the Securities of one or more Series, the Collateral Trust Agreement or the Note Security Documents:

(1) to cure any ambiguity, mistake, defect or inconsistency;

(2) to provide for uncertificated Securities in addition to or in place of certificated Securities (provided that such uncertificated Securities are issued in registered form for U.S. tax purposes);

(3) to provide for the assumption of the Company's Obligations to Holders of Securities in the case of a merger or consolidation or sale of all or substantially all of the Company's assets;

(4) to add Collateral with respect to any or all of the Securities;

(5) to make any change that would provide any additional rights or benefits to the Holders of the Securities or that does not materially adversely affect the legal rights under this Indenture of any such Holder;

(6) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;

(7) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee with respect to the Securities of one or more Series pursuant to the requirements hereof;

(8) to provide for the issuance of Securities of any Series in accordance with the limitations set forth in this Indenture as of the date hereof;

(9) to allow any guarantor of the Securities of such Series to execute a supplemental indenture and/or a Subsidiary Guarantee with respect to the Securities of such Series;

(10) in the case of any Note Security Document, to include therein any legend required to be set forth therein pursuant to the Collateral Trust Agreement or to modify any such legend as required by the Collateral Trust Agreement;

(11) to release Collateral from the Lien securing the Securities of such Series when permitted or required by the Note Security Documents, the indenture or the Collateral Trust Agreement;

(12) to enter into any intercreditor agreement having substantially similar terms with respect to the Holders as those set forth in the Collateral Trust Agreement, or any joinder thereto; or

(13) with respect to the Note Security Documents or the Collateral Trust Agreement, as provided in the Collateral Trust Agreement (including to add or replace Priority Lien Secured Parties or Second Lien Secured Parties).

Upon the request of the Company accompanied by a Board Resolution authorizing the execution of any such amendment or supplement, and upon receipt by the Trustee of an Officer's Certificate and Opinion of Counsel certifying that such amendment or supplement is authorized or permitted by the terms of this Indenture and the Note Security Documents, the Trustee shall join with the Company in the execution of such amendment or supplement and make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amendment or supplement that affects its own rights, duties or immunities under this Indenture or otherwise.

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, the Securities of any Series or the Note Security Documents or the Collateral Trust Agreement with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Securities of each Series of Securities affected thereby (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, any Series of Securities), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on, any Securities, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Securities of any Series may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Securities of each Series of Securities affected thereby (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, any Series of Securities). Section 2.08 hereof shall determine which Securities are considered to be "outstanding" for purposes of this Section 9.02.

Upon the request of the Company accompanied by a Board Resolution and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Securities as aforesaid, and upon receipt by the Trustee of an Officer's Certificate and Opinion of Counsel certifying that such amendment, supplement or waiver is authorized or permitted by the terms of this Indenture and the Note Security Documents, the Trustee shall join with the Company in the execution of such amendment, supplement or waiver unless such amendment, supplement or waiver directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amendment, supplement or waiver.

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

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall mail to the Holders of Securities affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Securities of any particular Series then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture or the Securities of any Series. However, without the consent of each Holder of any Security affected, an amendment, supplement or waiver under this Section 9.02 may not (with respect to any Security held by a non-consenting Holder):

(1) reduce the principal amount of Securities of such Series whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the principal of or change the fixed maturity of any Security or alter the provisions with respect to the redemption of the Securities (other than provisions relating to the number of days of notice to be given in case of redemption);

(3) reduce the rate of or change the time for payment of interest on any Security;

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

(5) make any Security payable in currency other than that stated in the Securities;

(6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Securities to receive payments of principal of, premium, if any, or, interest on, the Securities;

(7) waive a redemption payment with respect to any Security; or

(8) make any change in the preceding amendment and waiver provisions.

Notwithstanding the foregoing, without the consent of the Holders of at least 66 2/3% in aggregate principal amount of the Securities of a Series then outstanding, no amendment or waiver may (A) make any change in any Note Security Documents, the Collateral Trust Agreement or the provisions in the indenture dealing with Collateral or application of trust proceeds of the Collateral with the effect of releasing the Liens on all or substantially all of the Collateral which secure the Obligations in respect of the Securities of such Series or (B) change or alter the priority of the Liens securing the Obligations in respect of the Securities of such Series in any material portion of the Collateral in any way adverse to the Holders of the Securities of such Series in any material respect, other than, in each case, as provided under the terms of the Note Security Documents or the Collateral Trust Agreement.

Section 9.03 *[Reserved]*

Section 9.04 *Revocation and Effect of Consents.*

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Security is a continuing consent by the Holder of a Security 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 of a Security or subsequent Holder of a Security may revoke the consent as to its Security if the Trustee receives written notice of revocation before 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.

Section 9.05 *Notation on or Exchange of Securities.*

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Security of any Series thereafter authenticated. The Company in exchange for all Securities of that Series may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Securities of that Series that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Security will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 *Trustee to Sign Amendments, etc.*

Upon its receipt of any documentation required to be delivered to it pursuant to this Article 9, the Trustee shall sign any amendment or supplement authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplement until the Board of Directors of the Company approves it. In executing any amendment or supplement pursuant to this Article 9, the Trustee will be entitled to receive and (subject to Section 7.01 hereof) will be fully protected in relying upon an Officer's Certificate and an Opinion of Counsel stating that the execution of such amendment or supplement is authorized or permitted by this Indenture and the Note Security Documents.

ARTICLE 10
SATISFACTION AND DISCHARGE

For purposes of this Indenture, Article 10 hereof provides the terms upon which satisfaction and discharge can occur. For purposes of any Series of Securities issued under this Indenture, the Supplemental Indenture in respect of such Series of Securities will specify the terms upon which satisfaction and discharge can occur for such Securities, which may include some, all or none of the terms contained in this Article 11 hereof.

Section 10.01 *Satisfaction and Discharge.*

This Indenture will be discharged and will cease to be of further effect as to all Securities issued hereunder, when:

(1) either:

(a) all such Securities that have been authenticated, except lost, stolen or destroyed Securities that have been replaced or paid and Securities for whose payment money has been deposited in trust and thereafter repaid to the Company, have been delivered to the Trustee for such Securities for cancellation; or

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

(2) in respect of subclause (b) of clause (1) of this Section 10.01, no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any guarantor, as applicable, of such Securities is a party or by which the Company or any such guarantor, as applicable, is bound;

(3) the Company or any guarantor or such Securities has paid or caused to be paid all sums payable by it under this Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee for such Securities under this Indenture to apply the deposited money toward the payment of such Securities at maturity or on the redemption date, as the case may be.

In addition, the Company must deliver an Officer's Certificate and an Opinion of Counsel to the Trustee for such Securities stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 10.01, the provisions of Sections 10.02 and 8.06 hereof will survive. In addition, nothing in this Section 10.01 will be deemed to discharge those provisions of Section 7.07 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 10.02 *Application of Trust Money.*

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 10.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as such Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, and interest for whose payment such money has been deposited with such Trustee; but such money need not be segregated from other funds except to the extent required by law.

If such Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 10.01 hereof 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 such application, the Company's and any applicable guarantor's obligations under this Indenture and the applicable Securities shall be revived and reinstated as though no deposit had occurred pursuant to Section 10.01 hereof; *provided* that if the Company has made any payment of principal of, premium, if any, or interest on, any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 11
COLLATERAL AND SECURITY

Section 11.01 *Note Security Documents*

The due and punctual payment of the principal of, premium on, if any, and interest on, the Securities when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise, and interest on the overdue principal of, premium on, if any, and interest, if any (to the extent permitted by law), on the Securities and performance of all other obligations of the Company to the Holders of Securities or the Trustee under this Indenture and the Securities (including, without limitation, the Note Guarantees), according to the terms hereunder or thereunder, are secured as provided in the Note Security Documents and the Collateral Trust Agreement. Each Holder of Securities, by its acceptance thereof, consents and agrees to the terms of the Note Security Documents and the Collateral Trust Agreement (including, without limitation, the provisions providing for foreclosure, subordination of Liens and release of Collateral) as the same may be in effect or may be amended from time to time in accordance with its terms and authorizes and directs the Collateral Trustee to enter into the Note Security Documents and the Collateral Trust Agreement and to perform its obligations and exercise its rights thereunder in accordance therewith. The Company will deliver to the Trustee copies of all documents delivered to the Collateral Trustee pursuant to the Note Security Documents, and will do or cause to be done all such acts and things as may be necessary or proper, or as may be required by the provisions of the Note Security Documents, to assure and confirm to the Trustee and the Collateral Trustee the security interest in the Collateral contemplated hereby, by the Note Security Documents or any part thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Securities secured hereby, according to the intent and purposes herein expressed. The Company will take, and will cause its Subsidiaries to take any and all actions reasonably required to cause the Note Security Documents to create and maintain, as security for the Obligations of the Company hereunder, a valid and enforceable perfected first priority Lien in and on all the Collateral, in favor of the Collateral Trustee for the benefit of the Holders of Securities and the Trustee, superior to and prior to the rights of all third Persons and subject to no other Liens than Permitted Liens; *provided* that, to the extent that any Note Security Document expressly states that any actions necessary to perfect such security interests are not required to be taken, no such actions will be necessary.

Section 11.02 *Release of Collateral; Subordination of Liens.*

(a) Subject to subsection (b) of this Section 11.02, Collateral may be released from the Lien and security interest securing the Securities of a Series created by the Note Security Documents at any time or from time to time in accordance with the provisions of the Note Security Documents, the Collateral Trust Agreement or as provided hereby and the Collateral Trustee's Liens may be subordinated, in whole or in part, on any Collateral at any time or from time to time in accordance with the provisions of the Note Security Documents or as provided hereby.

(b) The release of any Collateral from the terms of this Indenture and the Note Security Documents will not be deemed to impair the security under this Indenture in contravention of the provisions hereof if and to the extent the Collateral is released pursuant to the terms of this Indenture, the Note Security Documents or the Collateral Trust Agreement.

(c) Collateral will be released from the Lien and security interest securing the Securities of a Series created by the Note Security Documents upon the occurrence of an Investment Grade Event and delivery to the Trustee of an Officer's Certificate certifying such occurrence.

The Trustee may, to the extent permitted by Sections 7.01 and 7.02 hereof, accept as conclusive evidence of compliance with the foregoing provisions the appropriate statements contained in any documents received by it pursuant to Article 7.

Section 11.03 *Certificates of the Trustee.*

In the event that the Company wishes to release Collateral from the Lien and security interest securing the Securities of a Series in accordance with the Note Security Documents, it must deliver the certificates and documents required by the Note Security Documents to the Trustee and/or the Collateral Trustee, as applicable.

Each Holder of Securities, by its acceptance thereof, consents and agrees that the Lien held by the Collateral Trustee for its benefit may be released without the consent of the Trustee pursuant to the terms of Article 4 of the Collateral Trust Agreement. Notwithstanding the foregoing or anything contained in the Collateral Trust Agreement to the contrary, in no event shall the Trustee, in its capacity as a Secured Debt Representative (as defined in the Collateral Trust Agreement) under the Collateral Trust Agreement, be required to perform any independent investigation, diligence or analysis with respect to the confirmations, statements or requests set forth in Section 4.1(d)(i) of the Collateral Trust Agreement in connection with any release of Collateral. By their acceptance of the Securities issued hereunder or under any related Supplemental Indenture, the Holders hereby confirm that the Trustee shall (i) be entitled to conclusively rely upon the Officer's Certificate of the Company delivered to it in accordance with Section 4.1(b) of the Collateral Trust Agreement in delivering any confirmation, statement or request in connection with Section 4.1(d)(i) of the Collateral Trust Agreement and (ii) incur no liability in connection with the delivery of any confirmation, statement or request in connection with Section 4.1(d)(i) of the Collateral Trust Agreement.

Section 11.04 *Authorization of Actions to Be Taken by the Trustee Under the Note Security Documents.*

Subject to the provisions of Sections 6.05, 7.01 and 7.02 hereof, the Trustee may, at the direction of Holders of a majority in principal amount of the then outstanding Securities of any Series, direct, on behalf of the Holders of Securities of such Series, the Collateral Trustee to, take all actions necessary or appropriate in order to:

(1) enforce any of the terms of the Note Security Documents;

(2) collect and receive any and all amounts payable in respect of the Obligations of the Company hereunder;

(3) release any Collateral from the Lien and security interest securing the Securities of a series created by the Note Security Documents, or subordinate such Lien and security interest, to the extent expressly permitted under this Indenture.

The Trustee will have power to institute and maintain such suits and proceedings as Holders of a majority in principal amount of the then outstanding Securities of such Series deem expedient to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of the Note Security Documents or this Indenture, and such suits and proceedings as the Holders of a majority in principal amount of the then outstanding Securities of such Series deem expedient to preserve or protect the interests of the Trustee and the interests of the Holders of Securities of such Series in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest hereunder or be prejudicial to the interests of the Holders of Securities of such Series or of the Trustee).

Section 11.05 *Authorization of Receipt of Funds by the Trustee Under the Note Security Documents.*

The Trustee is authorized to receive any funds for the benefit of the Holders of Securities of a Series distributed under the Note Security Documents, and to make further distributions of such funds to the Holders of Securities according to the provisions of this Indenture.

Section 11.06 *Termination of Security Interest.*

Upon the full and final payment and performance of all Obligations of the Company under this Indenture and the Securities or upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of this Indenture in accordance with Article 11 hereof, the Trustee will, at the request of the Company, deliver a certificate to the Collateral Trustee stating that such Obligations have been paid in full.

Section 11.07 *Reinstatement of Collateral.*

(a) In the event that on any date subsequent to a Release Event (the "*Reversion Date*"), any two of the three Rating Agencies withdraw their Investment Grade rating of the senior, unsecured, non-credit enhanced, long-term debt securities of the Company or downgrade such rating below Investment Grade, then the Company and the guarantors of the Securities of each Series will be required to secure the Securities of such Series with the Collateral within 30 days after the Reversion Date and will thereafter again be subject to the Lien and security interest securing the Securities of a Series created by the Note Security Documents, as in effect prior to the Release Event, with respect to future events. The period of time between the Release Event and the Reversion Date is referred to in this description as the "*Release Period*."

(b) Notwithstanding a release of Collateral from the Lien and security interest securing the Securities of a Series created by the Note Security Documents described in Section 11.02 of this Indenture, in the event of any such reinstatement, no action taken or omitted to be taken by the Company or any of the guarantors of the Securities of a Series relating to the Company and such guarantors' obligations to secure the Securities of such Series with the Collateral will give rise to a Default or Event of Default with respect to a Series of Securities, and no Default or Event of Default will be deemed to exist or have occurred as a result of any failure by the Company or any such guarantor to secure the Series of Securities with the Collateral; *provided* that all Liens incurred during the Release Period in accordance with this Indenture will be permitted to remain outstanding following the Reversion Date.

(c) Notwithstanding that obligations to secure the Securities of a Series may be reinstated after the Reversion Date, no Default, Event of Default or breach of any kind related to the obligations to secure the Securities of such Series with the Collateral or any limitations in respect of the creation or incurrence of Liens that would apply other than during a Release Period will be deemed to exist, and none of the Company or any of the guarantors of the Securities of a Series shall bear any liability for any actions taken or events occurring during the Release Period, or any actions taken at any time pursuant to any contractual obligation arising during any Release Period, in each case as a result of a failure to comply with such covenants during the Release Period (or, upon termination of the Release Period or after that time based solely on any action taken or event that occurred during the Release Period).

ARTICLE 12
MISCELLANEOUS

Section 12.01 *[Reserved]*

Section 12.02 *Notices.*

Any notice or communication by the Company or the Trustee to the others is duly given if in writing, in English, and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telecopier, as a ".pdf" attachment to an email, or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company:

NRG Energy, Inc.
804 Carnegie Place
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer, General Counsel
E-mail: ogc@nrg.com and LoanCompliance@nrg.com

If to the Trustee:

Deutsche Bank Trust Company Americas
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, New York 10019
USA
Attn: Corporates Team, NRG Energy, AA5698
Facsimile: (732) 578-4635
E-mail: Sebastian-a.hidalgo@db.com

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 (other than those sent to Holders) will 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; when receipt acknowledged, if telecopied; 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 will be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Failure to mail a notice or communication to a Holder of any Series of Securities or any defect in it will not affect its sufficiency with respect to other Holders of Securities of that or any other Series.

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.

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

Section 12.03 *Communication by Holders of Securities with Other Holders of Securities.*

Holders of any Series may communicate with other Holders of that Series or any other Series with respect to their rights under this Indenture or the Securities of that Series or all Series.

Section 12.04 *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 or the Note Security Documents, the Company shall furnish to the Trustee:

(1) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 12.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture and the Note Security Documents relating to the proposed action have been satisfied; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 12.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 12.05 *Statements Required in Certificate or Opinion.*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture must include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 12.06 *Rules by Trustee and Agents.*

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

Section 12.07 *No Personal Liability of Directors, Officers, Employees and Stockholders.*

No director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under any Securities or this Indenture, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Securities by accepting any Security waives and releases all such liability. The waiver and release are part of the consideration for issuance of any Securities. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 12.08 *Governing Law.*

THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE SECURITIES AND ANY GUARANTEES OF THE SECURITIES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 12.09 *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.10 *Successors.*

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

Section 12.11 *Severability.*

In case any provision in this Indenture or in any Securities is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

Section 12.12 *Counterpart Originals.*

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement. Facsimile, documents executed, scanned and transmitted electronically and electronic signatures, including those created or transmitted through a software platform or application, shall be deemed original signatures for purposes of this Indenture and all matters and agreements related thereto, with such facsimile, scanned and electronic signatures having the same legal effect as original signatures. The parties agree that this Indenture or any instrument, agreement or document necessary for the consummation of the transactions contemplated by this Indenture or related hereto or thereto (including, without limitation, addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications) ("*Executed Documentation*") may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable laws, rules and regulations in effect from time to time applicable to the effectiveness and enforceability of electronic signatures. Any Executed Documentation accepted, executed or agreed to in conformity with such laws, rules and regulations will be binding on all parties hereto to the same extent as if it were physically executed and each party hereby consents to the use of any third party electronic signature capture service providers as may be reasonably chosen by a signatory hereto or thereto. When the Trustee or an Agent acts on any Executed Documentation sent by electronic transmission, the Trustee or Agent will not be responsible or liable for any losses, costs or expenses arising directly or indirectly from its reliance upon and compliance with such Executed Documentation, notwithstanding that such Executed Documentation (a) may not be an authorized or authentic communication of the party involved or in the form such party sent or intended to send (whether due to fraud, distortion or otherwise) or (b) may conflict with, or be inconsistent with, a subsequent written instruction or communication; it being understood and agreed that the Trustee and each Agent shall conclusively presume that Executed Documentation that purports to have been sent by an authorized officer of a Person has been sent by an authorized officer of such Person. The party providing Executed Documentation through electronic transmission or otherwise with electronic signatures agrees to assume all risks arising out of such electronic methods, including, without limitation, the risk of the Trustee or an Agent acting on unauthorized instructions and the risk of interception and misuse by third parties.

Section 12.13 *Table of Contents, Headings, etc.*

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 of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

Section 12.14 *Anti-Money Laundering Laws*.

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States ("*Applicable AML Law*"), the Trustee is required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustee. Accordingly, each of the parties agree to provide to the Trustee, upon its request from time to time such identifying information and documentation as may be available for such party in order to enable the Trustee to comply with Applicable AML Law.

[Signatures on following page]

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

NRG Energy, Inc.

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Sr. Vice President, Treasurer & Head of Investor Relations

[Signature Page to Indenture]

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Trustee

By: /s/ Robert Peschler
Name: Robert Peschler
Title: Vice President

By: /s/ Sebastian Hidalgo
Name: Sebastian Hidalgo
Title: Assistant Vice President

[Signature Page to Indenture]

Exhibit 4.5

Execution Version

NRG ENERGY, INC.

AND EACH OF THE GUARANTORS PARTY HERETO

7.467% SENIOR SECURED FIRST LIEN NOTES DUE 2028

SUPPLEMENTAL INDENTURE

Dated as of August 29, 2023

Deutsche Bank Trust Company Americas

Trustee

TABLE OF CONTENTS

SUPPLEMENTAL INDENTURE, dated as of August 29, 2023, by and among NRG Energy, Inc., a Delaware corporation (the "*Company*"), the Guarantors (as defined herein) and Deutsche Bank Trust Company Americas, as trustee (the "*Trustee*").

The Company has heretofore executed and delivered to the Trustee an Indenture, dated as of August 29, 2023 (the "*Base Indenture*"), providing for the issuance from time to time of one or more series of the Company's securities.

The Company and the Guarantors desire and have requested the Trustee, pursuant to Section 9.01 of the Base Indenture, to join with them in the execution and delivery of this Supplemental Indenture in order to supplement the Base Indenture as and to the extent set forth herein to provide for the issuance and terms of the Notes (as defined below).

Section 9.01 of the Base Indenture provides that the Company and the Trustee, without the consent of any holders of the Company's Securities, may amend or waive certain terms and covenants in the Indenture as otherwise permitted under the Base Indenture.

The execution and delivery of this Supplemental Indenture has been duly authorized by a Board Resolution of the Company and each of the Guarantors.

All conditions and requirements necessary to make this Supplemental Indenture a valid, binding and legal instrument in accordance with its terms have been performed and fulfilled by the parties hereto and the execution and delivery thereof have been in all respects duly authorized by the parties hereto.

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined herein) of the 7.467% Senior Secured First Lien Notes due 2028 (the "*Notes*").

Pursuant to the terms of the Base Indenture and this Supplemental Indenture, the Company and the Guarantors have duly authorized the creation, issuance and sale on one or more occasions to Alexander Funding Trust II, a Delaware statutory trust (the "*Trust*"), pursuant to the Facility Agreement, dated as of August 29, 2023, among the Company, the Trust, the Guarantors and the Trustee (the "*Facility Agreement*") of the Notes, not to exceed the Maximum Amount at any one time outstanding:

ARTICLE 1
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 *Definitions*.

For all purposes of this Supplemental Indenture, the following terms will have the respective meanings set forth in this Section 1.01.

"*144A Global Note*" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"*Additional Indebtedness*" means Indebtedness of the Company for borrowed money (excluding Indebtedness under the Credit Agreement) under any debt securities or term loans broadly syndicated to institutional investors in a principal amount in excess of $300.0 million.

"*Affiliate*" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"*Agent*" means any Registrar, co-registrar, Paying Agent or additional paying agent.

"*Aggregate Secured Debt*" means, as of any date of determination, the aggregate principal amount of Indebtedness of the Company and the Guarantors secured by Liens on any property or assets of the Company or any of the Guarantors (other than Permitted Post-Release Liens) in the amount that would be reflected on a balance sheet prepared at such time on a consolidated basis in accordance with GAAP; *provided* that (i) Aggregate Secured Debt will include only the amount of payments that the Company or any of the Guarantors is required to make, on the date Aggregate Secured Debt is being determined, as a result of any early termination or similar event on such date of determination and (ii) for the avoidance of doubt, Aggregate Secured Debt will not include the undrawn amount of any outstanding letters of credit.

"*Applicable Laws*" means, as to any Person, any law, rule, regulation, ordinance or treaty, or any determination, ruling or other directive by or from a court, arbitrator or other governmental authority, including the Electric Reliability Council of Texas, or any other entity succeeding thereto, in each case applicable to or binding on such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"*Applicable Procedures*" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary, Euroclear and Clearstream that apply to such transfer or exchange.

"*Automatic Exercise*" has the meaning set forth in the Facility Agreement.

"*Automatic Exercise Event*" has the meaning set forth in the Facility Agreement.

"*Available Amount*" has the meaning set forth in the Facility Agreement.

"*Bankruptcy Law*" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"*Base Indenture*" has the meaning set forth in the preamble to this Supplemental Indenture, as amended, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"*Beneficial Owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"*Board of Directors*" means:

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

(2) with respect to a partnership, the Board of Directors of the general partner of the partnership;

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

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

"*Board Resolution*" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been adopted by the Board of Directors or pursuant to authorization by the Board of Directors and to be in full force and effect on the date of the certificate and delivered to the Trustee.

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which (1) banking institutions in The City of New York or the State of Delaware are authorized or obligated by law or executive order to close or (2) the Federal Reserve Bank of New York is closed.

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

"*Capital Stock*" means:

(1) in the case of a corporation, corporate stock;

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

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

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"*Cash Settlement Amount*" has the meaning set forth in the Facility Agreement.

"*Certificate*" has the meaning set forth in the Trust Declaration.

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

(1) the sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d) of the Exchange Act, but excluding any employee benefit plan of the Company or any of its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of such plan); or

(2) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), other than a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportion as their ownership of stock of the Company prior to such transaction, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares.

"*Change of Control Offer Expiration Date*" means the third Business Day preceding the Change of Control Payment Date.

"*Change of Control Offer Issuance Amount*" has the meaning set forth in the Facility Agreement.

"*Change of Control Triggering Event*" means, with respect to Notes, (i) a Change of Control has occurred and (ii) the Notes are downgraded by two or more Rating Agencies on any date during the 60-day period commencing after the earlier of (a) the occurrence of a Change of Control and (b) public disclosure by the Company of the occurrence of a Change of Control or the Company's intention to effect a Change of Control; provided, however, that a particular reduction in rating will not be deemed to have occurred in respect of a particular Change of Control (and thus will not constitute a Change of Control Triggering Event) if the Rating Agencies making the reduction in rating to which this definition would otherwise apply do not announce or publicly confirm or inform the Trustee in writing at the Company's or the Trustee's request that such downgrade was the result of the applicable Change of Control (whether or not the applicable Change of Control has occurred at the time of such downgrade); provided further that no Change of Control Triggering Event shall occur if following such downgrade, (x) the Notes are rated Investment Grade by at least two of the Rating Agencies or (y) the ratings of the Notes by at least two of the Rating Agencies are equal to or better than their respective ratings on the Issue Date.

"*Clearstream*" means Clearstream Banking, S.A.

"*Collateral Agreement*" means the Second Amended and Restated Guarantee and Collateral Agreement, dated as of June 30, 2016, among the Company, each Subsidiary of the Company party thereto, the Collateral Trustee, Citicorp North America, as collateral agent, and the other parties thereto from time to time, as amended, amended and restated, supplemented, waived, modified, renewed or replaced from time to time.

"*Collateral Enforcement Amount*" has the meaning set forth in the Facility Agreement.

"*Collateral Trust Agreement*" means the Second Amended and Restated Collateral Trust Agreement dated as of July 1, 2011 among the Company, the other Grantors, Deutsche Bank Trust Company Americas, as the Priority Collateral Trustee and Second Lien Collateral Trustee, and the other persons party thereto (as amended, including pursuant to the amendments dated as of February 6, 2013, June 4, 2013 and August 20, 2020, and the Collateral Trust Joinder, dated as of November 20, 2020, and as further amended, amended and restated, supplemented, waived, modified, renewed or replaced from time to time).

"*Collateral Trustee*" means each of the Priority Collateral Trustee and the Second Lien Collateral Trustee, or both, as the context may require.

"*Commodity Hedging Agreements*" means certain specified commodity hedging agreements identified in the Credit Agreement and any other agreement (including each confirmation or transaction entered into or consummated pursuant to any Master Agreement) providing for swaps, caps, collars, puts, calls, floors, futures, options, spots, forwards, any physical or financial commodity contracts or agreements, power purchase, sale or exchange agreements, fuel purchase, sale, exchange or tolling agreements, emissions and other environmental credit purchase or sales agreements, power transmission agreements, fuel transportation agreements, fuel storage agreements, netting agreements, commercial or trading agreements, capacity agreements or weather derivatives agreements, each with respect to, or involving the purchase, exchange (including an option to purchase or exchange), transmission, distribution, sale, lease, transportation, storage, processing or hedge of (whether physical, financial, or a combination thereof), any Covered Commodity, service or risk, price or price indices for any such Covered Commodities, services or risks or any other similar agreements, any renewable energy credits, emission, carbon and other environmental credits and any other credits, assets or attributes, howsoever entitled or designated, including related to any "cap and trade," renewable portfolio standard or similar program with an economic value, and any other similar agreements, in each case, entered into by the Company or any other Grantor.

"*Commodity Hedging Obligations*" means, with respect to any specified Person, the obligations of such Person under a Commodity Hedging Agreement.

"*Company*" means NRG Energy, Inc., and any and all successors thereto.

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

(1) an amount equal to any extraordinary loss (including any loss on the extinguishment or conversion of Indebtedness or any net loss on the disposition of assets), to the extent such losses were deducted in computing such Consolidated Net Income; *plus*

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

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

(4) any expenses or charges related to any equity offering, investment, acquisition, disposition, recapitalization or Indebtedness permitted to be incurred by this Indenture including a refinancing thereof (whether or not successful), including such fees, expenses or charges related to the offering of the Notes and the Credit Agreement, and deducted in computing Consolidated Net Income; *plus*

(5) any professional and underwriting fees related to any equity offering, investment, acquisition, recapitalization or Indebtedness permitted to be incurred under this Indenture and, in each case, deducted in such period in computing Consolidated Net Income; *plus*

(6) the amount of any minority interest expense deducted in calculating Consolidated Net Income (less the amount of any cash dividends paid to the holders of such minority interests); *plus*

(7) any non-cash gain or loss attributable to mark-to-market adjustments in connection with Hedging Obligations; *plus*

(8) without duplication, any writeoffs, writedowns or other non-cash charges reducing Consolidated Net Income for such period, excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period; *plus*

(9) all items classified as extraordinary, unusual or nonrecurring non-cash losses or charges (including, without limitation, severance, relocation and other restructuring costs), and related tax effects according to GAAP to the extent such non-cash charges or losses were deducted in computing such Consolidated Net Income; *plus*

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

(11) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business; in each case, on a consolidated basis and determined in accordance with GAAP (including, without limitation, any increase in amortization or depreciation or other non-cash charges resulting from the application of purchase accounting in relation to any acquisition that is consummated after the Issue Date); *minus*

(12) interest income for such period.

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

(1) the Net Income of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions (including pursuant to other intercompany payments but excluding concurrent cash distributions) paid in cash to the specified Person or a Subsidiary of the Person;

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

(3) any net after-tax non-recurring or unusual gains, losses (less all fees and expenses relating thereto) or other charges or revenue or expenses (including, without limitation, relating to severance, relocation and one-time compensation charges) shall be excluded;

(4) any non-cash compensation expense recorded from grants of stock appreciation or similar rights, stock options, restricted stock or other rights to officers, directors or employees shall be excluded, whether under FASB 123R or otherwise;

(5) any net after-tax income (loss) from disposed or discontinued operations and any net after-tax gains or losses on disposal of disposed or discontinued operations shall be excluded;

(6) any gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions shall be excluded; and

(7) any impairment charge or asset write-off pursuant to Financial Accounting Statement No. 142 and No. 144 or any successor pronouncement shall be excluded.

"*Consolidated Net Tangible Assets*" means the total consolidated assets of the Company and its Subsidiaries, less the sum of goodwill and other intangible assets, in each case determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Company and calculated on a pro forma basis in a manner consistent with the adjustments set forth in the definition of "Secured Leverage Ratio."

"*continuing*" means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

"Corporate Trust Office of the Trustee" means (i) for purposes of surrender, transfer or exchange of any Note, Deutsche Bank Trust Company Americas, c/o DB Services Americas, Inc., 5022 Gate Parkway, Suite 200, Jacksonville, FL 32256, Attn: Transfer Department and (ii) for all other purposes, at the address of the Trustee specified in Section 12.02 or such other address as to which the Trustee may give written notice to the Company.

"*Covered Commodity*" means any energy, electricity, generation capacity, power, heat rate, congestion, natural gas, nuclear fuel (including enrichment and conversion), diesel fuel, fuel oil, other petroleum-based liquids, coal, lignite, weather, emissions and other environmental credits, assets or attributes, waste by-products, renewable energy credit, or other energy related commodity or service (including ancillary services and related risks (such as location basis or other commercial risks)).

"*Credit Agreement*" means the Second Amended and Restated Credit Agreement, dated as of June 30, 2016, among the Company, the lenders party thereto, Citicorp North America, Inc., as administrative agent and collateral agent, and various other parties acting as joint bookrunner, joint lead arranger or in various agency capacities, as amended through March 13, 2023 and as may be further amended, restated, modified, renewed, refunded, replaced or refinanced from time to time.

"*Credit Facilities*" means (i) one or more debt facilities (including, without limitation, the Credit Agreement) or commercial paper facilities, in each case with banks or other institutional lenders or other counterparties providing for revolving credit loans, term loans, credit-linked deposits (or similar deposits), receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, (ii) debt securities sold to institutional investors and/or (iii) Hedging Obligations with any counterparties, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

"*Custodian*" means the Trustee, as custodian with respect to the Notes in global form, or any successor entity thereto.

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

"*Definitive Note*" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.05 hereof. Definitive Notes will be substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"*Depositary*" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 of the Base Indenture as the Depositary, and any and all successors thereto appointed as depositary hereunder and having become such pursuant to the applicable provision of the Indenture.

"*Derivative Instrument*" with respect to a Person, means any contract, instrument or other right to receive payment or delivery of cash or other assets to which such Person or any Affiliate of such Person that is acting in concert with such Person in connection with such Person's investment in the Notes (other than a Screened Affiliate) is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any material portion thereof) are materially affected by the value and/or performance of the Notes and/or the creditworthiness of the Company (the "*Performance References*").

"*Environmental CapEx Debt*" means Indebtedness of the Company or any of its Subsidiaries incurred for the purpose of financing capital expenditures to the extent deemed reasonably necessary, as determined by the Company or any of its Subsidiaries, as applicable, in good faith and pursuant to prudent judgment, to comply with applicable Environmental Laws.

"*Environmental Laws*" means all former, current and future federal, state, local and foreign laws (including common law), treaties, regulations, rules, ordinances and codes, and legally binding decrees, judgments, directives and orders (including consent orders), in each case, relating to protection of the environment, natural resources, occupational health and safety or the presence, release of, or exposure to, hazardous materials, substances or wastes, or the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport, recycling or handling of, or the arrangement for such activities with respect to, hazardous materials, substances or wastes.

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"*Euroclear*" means Euroclear Bank, S.A./N.V., as operator of the Euroclear system.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

"*Existing Liens*" means Liens on the property or assets of the Company and/or any of its Subsidiaries existing on the date of this Supplemental Indenture securing Indebtedness of the Company or any of its Subsidiaries (other than Liens incurred pursuant to clause (1) of the definition of "Permitted Liens").

"*Facility Agreement*" has the meaning assigned to it in the preamble to this Supplemental Indenture.

"*Fitch*" means Fitch Ratings Inc. or any successor entity.

"*Fixed Charges*" means, with respect to any specified Person for any period, the sum, without duplication, of:

(1) the consolidated interest expense of such Person and its Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, and net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates; *plus*

(2) the consolidated interest of such Person and its Subsidiaries that was capitalized during such period; *plus*

(3) any interest accruing on Indebtedness of another Person that is Guaranteed by such Person or one of its Subsidiaries or secured by a Lien on assets of such Person or one of its Subsidiaries, whether or not such Guarantee or Lien is called upon; *plus*

(4) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of such Person or any of its Subsidiaries, other than dividends on Equity Interests payable in Equity Interests of the Company or to the Company or a Subsidiary of the Company, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP; *minus*

(5) interest income for such period.

"*GAAP*" means generally accepted accounting principles 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 have been approved by a significant segment of the accounting profession, which are in effect from time to time; *provided* that any lease that would not be considered a capital lease pursuant to GAAP prior to the effectiveness of Accounting Standards Codification 842 (whether or not such lease was in effect on such date) shall be treated as an operating lease for all purposes under the Indenture and shall not be deemed to constitute a capitalized lease or Indebtedness hereunder.

"*Global Legend*" means the legend set forth in Section 2.05(f)(2) hereof, which is required to be placed on all Global Notes issued under this Supplemental Indenture.

"*Global Notes*" means, individually and collectively, each Restricted Global Note and each Unrestricted Global Note deposited with or on behalf of and registered in the name of the Depositary or its nominee that bears the Global Legend and that has the "Schedule of Exchanges of Interests in the Global Security" attached thereto, issued in accordance with Sections 2.01, 2.02, 2.05(b)(3), 2.05(b)(4), 2.05(d)(2) or 2.05(f) hereof.

"*Government Securities*" means direct obligations of, or obligations guaranteed by, the United States of America (including any agency or instrumentality thereof) for the payment of which obligations or guarantees the full faith and credit of the United States of America is pledged and which are not callable or redeemable at the issuer's option.

"*Guarantee*" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

"*Guarantors*" means, with respect to the Notes, each of:

(1) the Company's Subsidiaries that Guarantee the Notes on the date of this Supplemental Indenture, until such time as they are released pursuant to Section 10.05 of this Supplemental Indenture; and

(2) any other Subsidiary that executes a Subsidiary Guarantee with respect to the Notes in accordance with the provisions of this Supplemental Indenture,

and their respective successors and assigns.

"*Hedging Obligations*" means, with respect to any specified Person,

(1) all Interest Rate/Currency Hedging Obligations,

(2) all Commodity Hedging Obligations,

(3) the Obligations and other obligations under any and all other rate swap transactions, basis swaps, credit derivative transactions, forward transactions, equity or equity index swaps or options, bond or bond price or bond index swaps or options, cap transactions, floor transactions, collar transactions or any other similar transactions or any combination of any of the foregoing (including any options to enter into the foregoing), whether or not such transaction is governed by or subject to any Master Agreement, and

(4) the Obligations and other obligations under any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc. (or any successor thereof), any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement, in each case under clauses (1), (2), (3) and (4), entered into by such Person.

"*Holder*" means a Person in whose name a Note is registered.

"*IAI Global Note*" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes.

"*Indebtedness*" means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables, except as provided in clause (5) below, and surety bonds), whether or not contingent:

(1) in respect of borrowed money;

(2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);

(3) in respect of banker's acceptances;

(4) representing Capital Lease Obligations in respect of sale and leaseback transactions;

(5) representing the balance of deferred and unpaid purchase price of any property or services with a scheduled due date more than six months after such property is acquired or such services are completed; or

(6) representing the net amount owing under any Hedging Obligations, if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP.

In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person; *provided* that the amount of such Indebtedness shall be deemed not to exceed the lesser of the amount secured by such Lien and the value of the Person's property securing such Lien.

"*Indenture*" means the Base Indenture, as amended or supplemented by this Supplemental Indenture, governing the Notes, in each case, as amended, supplemented or otherwise modified from time to time in accordance with its respective terms.

"*Indirect Participant*" means a Person who holds a beneficial interest in a Global Note through a Participant.

"*Initial Purchasers*" means Mizuho Securities USA LLC., RBC Capital Markets, LLC, BofA Securities, Inc., BMO Capital Markets Corp., J.P. Morgan Securities LLC, Deutsche Bank Securities Inc., MUFG Securities Americas Inc., Natixis Securities Americas LLC, BNP Paribas Securities Corp., Citigroup Global Markets Inc., Credit Agricole Securities (USA) Inc., Goldman Sachs & Co. LLC, SMBC Nikko Securities America, Inc. and KeyBanc Capital Markets Inc.

"*Institutional Accredited Investor*" means an institution that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, who are not also QIBs.

"*Interest Rate/Currency Hedging Obligations*" means, with respect to the Company and the other Grantors, the Obligations and any other obligations under (i) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements, interest rate collar agreements, interest rate floor transactions or any other similar transactions or any combination of any of the foregoing (including any options to enter into the foregoing), whether or not such transaction is governed by or subject to any Master Agreement, (ii) any other agreements or arrangements designed to manage interest rates or interest rate risk and (iii) any agreements or arrangements designed to protect the Company or any other Grantor against fluctuations in currency exchange rates, including currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, forward foreign exchange transactions or any other similar transactions or any combination of any of the foregoing (including any options to enter into the foregoing), whether or not such transaction is governed by or subject to any Master Agreement, in each case under clauses (i), (ii) and (iii), entered into by the Company or any other Grantor and not for speculative purposes.

"*Investment Grade*" means a rating of (i) Baa3 or better by Moody's, (ii) BBB- or better by S&P, (iii) BBB- or better by Fitch, (iv) the equivalent of such rating by such organization, or (v) if another Rating Agency has been selected by the Company, the equivalent of such rating by such other Rating Agency.

"*Investment Grade Event*" means, with respect to the Notes, (i) the senior, unsecured, non-credit enhanced, long-term debt securities of the Company are rated Investment Grade by any two of the three Rating Agencies; (ii) the Notes are rated Investment Grade by any two of the three Rating Agencies after giving effect to the proposed release of all of the Collateral securing the Notes; (iii) all Liens securing Obligations under the Credit Agreement shall be released substantially concurrently and (iv) no Event of Default shall have occurred and be continuing with respect to the Notes.

"*Issuance Right*" has the meaning set forth in the Facility Agreement.

"*Issue Date*" means August 29, 2023.

"*Lien*" means, with respect to any asset:

(1) any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset;

(2) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; and

(3) in the case of Equity Interests or debt securities, any purchase option, call or similar right of a third party with respect to such Equity Interests or debt securities.

"*Long Derivative Instrument*" means a Derivative Instrument (i) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with positive changes to the Performance References and/or (ii) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with negative changes to the Performance References.

"*Mandatory Exercise*" has the meaning set forth in the Facility Agreement.

"*Mandatory Exercise Event*" has the meaning set forth in the Facility Agreement.

"*Master Agreement*" has the meaning ascribed to such term in the definition of "*Hedging Obligations.*"

"*Maximum Amount*" means, at any time, in respect of the Notes, $500,000,000 aggregate principal amount of Notes less the aggregate principal amount of Notes, if any, that the Company has previously redeemed or as to which the Company has paid the Cash Settlement Amount.

"*Moody's*" means Moody's Investors Service, Inc. or any successor entity.

"*Nationally Recognized Statistical Organization*" means a nationally recognized statistical rating organization within the meaning of Section 3(a)(62) under the Exchange Act.

"*Necessary CapEx Debt*" means Indebtedness of the Company or any of its Subsidiaries incurred for the purpose of financing capital expenditures (other than capital expenditures financed by Environmental CapEx Debt) that are required by Applicable Law or are undertaken for health and safety reasons. The term "Necessary CapEx Debt" does not include any Indebtedness incurred for the purpose of financing capital expenditures undertaken primarily to increase the efficiency of, expand or re-power any power generation facility.

"*Net Income*" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends or accretion, excluding, however:

(1) any gain or loss, together with any related provision for taxes on such gain or loss, realized in connection with the disposition of any securities by such Person or any of its Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Subsidiaries; and

(2) any extraordinary gain or loss, together with any related provision for taxes on such extraordinary gain or loss.

"*Net Short*" means, with respect to a Holder or Beneficial Owner, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of (x) the value of its Notes plus (y) the value of its Long Derivative Instruments as of such date of determination or (ii) it is reasonably expected that such would have been the case were a Failure to Pay or Bankruptcy Credit Event (each as defined in the 2014 ISDA Credit Derivatives Definitions) to have occurred with respect to the Company or any Guarantor immediately prior to such date of determination.

"*Non-Recourse Debt*" means, with respect to the Notes, Indebtedness as to which neither the Company nor any of the Guarantors is liable as a guarantor or otherwise.

"*Non-U.S. Person*" means a Person who is not a U.S. Person.

"*Notes*" has the meaning assigned to it in the preamble to this Supplemental Indenture.

"*Note Security Documents*" means the Collateral Agreement (including any joinder thereto) and any mortgages, security agreements, pledge agreements or other instruments evidencing or creating Liens on the assets of the Company and the Guarantors to secure the obligations under the Notes and the Indenture, as amended, amended and restated, supplemented, waived, modified, renewed or replaced from time to time.

"*Obligations*" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"*Offering Memorandum*" means the Offering Memorandum, dated August 15, 2023, related to the issuance and sale of the Notes.

"*Officer*" means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Chief Accounting Officer, the General Counsel, the Treasurer, any Assistant Treasurer, the Secretary, the Controller, Assistant Secretary or any Vice-President of such Person.

"*Officer's Certificate*" means a certificate signed on behalf of the Company by one of its Officers and that meets the requirements of Section 12.05 of the Base Indenture.

"*Opinion of Counsel*" means an opinion from legal counsel that meets the requirements of Section 11.05 of the Base Indenture, subject to customary qualifications and exclusions. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"*Original Issue Discount Legend*" means the legend set forth in Section 2.05(f)(3) hereof to be placed on all Notes issued under this Indenture, if applicable.

"*P-Caps*" means the pre-capitalized trust securities to be issued by the Trust in the form of the Certificates evidencing undivided beneficial interests in the assets of the Trust in accordance with the terms of the Trust Declaration and designated as the "Pre-Capitalized Trust Securities Redeemable July 31, 2028."

"*Participant*" means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"*Performance References*" has the meaning ascribed to such term in the definition of "Derivative Instrument."

"*Permitted Liens*" means:

(1) Liens securing Indebtedness of the Company or any Guarantor under one or more Credit Facilities in an aggregate principal amount, measured as of the date of creation of any such Lien and the date of incurrence of any such Indebtedness, not exceeding the greatest of (a) 31.5% of Total Assets, (b) $11.0 billion and (c) such amount as would not cause the Secured Leverage Ratio to exceed 3.5 to 1.0;

(2) Existing Liens and, following the occurrence of a Reversion Date, any Liens incurred during the Release Period ending on such Reversion Date;

(3) Liens securing Indebtedness of any Person that (a) is acquired by the Company or any of its Subsidiaries after the date hereof, (b) is merged or amalgamated with or into the Company or any of its Subsidiaries after the date hereof or (c) becomes consolidated in the financial statements of the Company or any of its Subsidiaries after the date hereof in accordance with GAAP; *provided, however*, that in each case contemplated by this clause (3), such Indebtedness was not incurred in contemplation of such acquisition, merger, amalgamation or consolidation and is only secured by Liens on the Equity Interests and assets of, the Person (and Subsidiaries of the Person) acquired by, or merged or amalgamated with or into, or consolidated in the financial statements of, the Company or any of its Subsidiaries;

(4) Liens securing Indebtedness of the Company or any Guarantor incurred to finance (whether prior to or within 365 days after) the acquisition, construction or improvement of assets (whether through the direct purchase of assets or through the purchase of the Equity Interests of any Person owning such assets or through an acquisition of any such Person by merger); *provided, however*, that such Indebtedness is only secured by Liens on the Equity Interests and assets acquired, constructed or improved in such financing (and related contracts, intangibles, and other assets that are incidental thereto or arise therefrom (including accessions thereto and replacements or proceeds thereof));

(5) Liens in favor of the Company or any of its Subsidiaries;

(6) Liens securing Hedging Obligations; *provided* that such agreements were not entered into for speculative purposes (as determined by the Company in its reasonable discretion acting in good faith);

(7) Liens relating to current or future escrow arrangements securing Indebtedness of the Company or any Guarantor;

(8) Liens to secure Environmental CapEx Debt or Necessary CapEx Debt that encumber only the assets purchased, installed or otherwise acquired with the proceeds of such Environmental CapEx Debt or Necessary CapEx Debt;

(9) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Company or any Guarantor, including rights of offset and set-off;

(10) Liens arising in relation to any securitization or other structured finance transaction where (a) the primary source of payment of any obligations of the issuer is linked or otherwise related to cash flow from particular property or assets (or where payment of such obligations is otherwise supported by such property or assets) and (b) recourse to the issuer in respect of such obligations is conditional on cash flow from such property or assets;

(11) Refinancing Liens;

(12) Liens on the stock or assets of Project Subsidiaries securing Project Debt or tax equity financing of one or more Project Subsidiaries;

(13) Liens securing the Notes and the related Note Guarantees; and

(14) other Liens, in addition to those permitted in clauses (1) through (13) above, securing Indebtedness having an aggregate principal amount, measured as of the date of creation of any such Lien and the date of incurrence of any such Indebtedness, not to exceed the greater of (i) 3.5% of Total Assets and (ii) $1.25 billion.

Liens securing Indebtedness under the Credit Agreement existing on the date of this Supplemental Indenture will be deemed to have been incurred on such date in reliance on the exception provided by clause (1) above. For purposes of determining compliance with this "Liens" covenant, in the event that a Lien meets the criteria of more than one of the categories described in clauses (1) through (14) above, the Company (a) will be permitted, in its sole discretion, to (i) classify such Lien on the date of incurrence and may later reclassify such Lien in any manner (based on the circumstances existing at the time of any such reclassification) and (ii) divide and redivide the amount of such Lien arising among more than one of such clauses and (b) will only be required to include such Lien in one of any such clauses.

"*Permitted Post-Release Liens*" means:

(1) Liens securing Obligations in respect of Notes outstanding on the effective date of the Release Event;

(2) Liens in effect as of the effective date of the Release Event (other than Permitted Liens incurred pursuant to clause (1) or (14) of the definition thereof);

(3) Liens securing Indebtedness of any Person that (a) is acquired by the Company or any of its Subsidiaries after the date hereof, (b) is merged or amalgamated with or into the Company or any of its Subsidiaries after the date hereof or (c) becomes consolidated in the financial statements of the Company or any of its Subsidiaries after the date hereof in accordance with GAAP; *provided, however*, that in each case contemplated by this clause (3), such Indebtedness was not incurred in contemplation of such acquisition, merger, amalgamation or consolidation and is only secured by Liens on the Equity Interests and assets of, the Person (and Subsidiaries of the Person) acquired by, or merged or amalgamated with or into, or consolidated in the financial statements of, the Company or any of its Subsidiaries;

(4) Liens securing Indebtedness of the Company or any Guarantor incurred to finance (whether prior to or within 24 months after) the acquisition, construction or improvement of assets (whether through the direct purchase of assets or through the purchase of the Equity Interests of any Person owning such assets or through an acquisition of any such Person by merger); *provided, however*, that such Indebtedness is only secured by Liens on the Equity Interests and assets acquired, constructed or improved in such financing (and related contracts, intangibles, and other assets that are incidental thereto or arise therefrom (including accessions thereto and replacements or proceeds thereof));

(5) Liens in favor of the Company or any of its Subsidiaries;

(6) Liens securing Hedging Obligations; *provided* that such agreements were not entered into for speculative purposes (as determined by the Company in its reasonable discretion acting in good faith);

(7) Liens relating to current or future escrow arrangements securing Indebtedness of the Company or any Guarantor;

(8) Liens to secure Environmental CapEx Debt or Necessary CapEx Debt that encumber only the assets purchased, installed or otherwise acquired with the proceeds of such Environmental CapEx Debt or Necessary CapEx Debt;

(9) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Company or any Guarantor, including rights of offset and set-off;

(10) Liens arising in relation to any securitization or other structured finance transaction where (a) the primary source of payment of any obligations of the issuer is linked or otherwise related to cash flow from particular property or assets (or where payment of such obligations is otherwise supported by such property or assets) and (b) recourse to the issuer in respect of such obligations is conditional on cash flow from such property or assets;

(11) Refinancing Liens; and

(12) Liens on the stock or assets of Project Subsidiaries securing Project Debt or tax equity financing of one or more Project Subsidiaries.

"*Person*" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"*Pledge Agreement*" has the meaning set forth in the Facility Agreement.

"*Principal Property*" means any building, structure or other facility, and all related property, plant or equipment or other long-term assets used or useful in the ownership, development, construction or operation of such building, structure or other facility owned or leased by the Company or any Guarantor and having a net book value in excess of 2.0% of Total Assets, except any such building, structure or other facility (or related property, plant or equipment) that in the reasonable opinion of the Company is not of material importance to the business conducted by the Company and its consolidated Subsidiaries, taken as a whole.

"*Priority Collateral Trustee*" means Deutsche Bank Trust Company Americas, acting as priority collateral trustee under the Collateral Trust Agreement, or its successors appointed in accordance with the terms thereof.

"*Private Placement Legend*" means the legend set forth in Section 2.05(f)(1) hereof to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"*Pro Forma Cost Savings*" means, without duplication, with respect to any period, reductions in costs and related adjustments that have been actually realized or are projected by the Company's Chief Financial Officer, the treasurer or another accounting officer in good faith to result from reasonably identifiable and factually supportable actions or events, but only if such reductions in costs and related adjustments are so projected by the Company to be realized during the consecutive four-quarter period commencing after the transaction giving rise to such calculation.

"*Project Debt*" means Indebtedness of one or more Project Subsidiaries incurred for the purpose of holding, constructing or acquiring power generation facilities or related or ancillary assets or properties; *provided* that the Company is not liable with respect to such Indebtedness except to the extent of a non-recourse pledge of equity interests in one or more Project Subsidiaries.

"*Project Subsidiary*" means any Subsidiary of the Company held for the purpose of holding, constructing or acquiring power generation facilities or related or ancillary assets or properties and any Subsidiary of the Company whose assets consist primarily of equity interests in one or more other Project Subsidiaries; *provided* that a Subsidiary will cease to be a Project Subsidiary if it Guarantees any Indebtedness of the Company other than obligations of the Company related to Project Debt of one or more Project Subsidiaries.

"*QIB*" means a "qualified institutional buyer" as defined in Rule 144A.

"*Rating Agency*" means (i) each of Moody's, S&P and Fitch and (ii) if any of Moody's, S&P or Fitch, ceases to rate the Notes or fails to make a rating of the Notes publicly available, a Nationally Recognized Statistical Organization selected by the Company which shall be substituted for Moody's, S&P or Fitch, as the case may be.

"*Refinancing Liens*" means Liens granted in connection with amending, extending, modifying, renewing, replacing, refunding or refinancing in whole or in part any Indebtedness secured by Liens described in the definitions of "Permitted Liens" and "Permitted Post-Release Liens"; *provided* that Refinancing Liens do not (a) extend to property or assets other than property or assets of the type that were subject to the original Lien or (b) secure Indebtedness having a principal amount in excess of the amount of Indebtedness being extended, renewed, replaced or refinanced, plus the amount of any fees and expenses (including premiums) related to any such extension, renewal, replacement or refinancing.

"*Regulation S*" means Regulation S promulgated under the Securities Act.

"*Regulation S Global Note*" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 903 of Regulation S.

"*Release Event*" means, with respect to the Notes, the occurrence of an event as a result of which all Collateral securing the Notes is permitted to be released in accordance with the terms of this Indenture and the Note Security Documents, it being understood that any action taken by the Company or its Affiliates to, solely at its option, provide Collateral to secure the Notes that is not required to be provided pursuant to the terms of this Indenture and the Note Security Documents, shall not be deemed to cause such Release Event to not have occurred.

"*Repurchase Right*" has the meaning set forth in the Facility Agreement.

"*Restricted Definitive Note*" means a Definitive Note bearing the Private Placement Legend.

"*Restricted Global Note*" means a Global Note bearing the Private Placement Legend.

"*Restricted Period*" means the 40-day distribution compliance period as defined in Regulation S.

"*Rule 144*" means Rule 144 promulgated under the Securities Act.

"*Rule 144A*" means Rule 144A promulgated under the Securities Act.

"*Rule 903*" means Rule 903 promulgated under the Securities Act.

"*Rule 904*" means Rule 904 promulgated under the Securities Act.

"*S&P*" means S&P Global Ratings, a division of S&P Global Inc., or any successor entity.

"*Screened Affiliate*" means any Affiliate of a Holder of the Notes (i) that makes investment decisions independently from such Holder and any other Affiliate of such Holder that is not a Screened Affiliate, (ii) that has in place customary information screens between it and such Holder and any other Affiliate of such Holder that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Company or their Subsidiaries, (iii) whose investment policies are not directed by such Holder or any other Affiliate of such Holder that is acting in concert with such Holder in connection with its investment in the Notes, and (iv) whose investment decisions are not influenced by the investment decisions of such Holder or any other Affiliate of such Holder that is acting in concert with such Holder in connection with its investment in the Notes.

"*SEC*" means the Securities and Exchange Commission.

"*Second Lien Collateral Trustee*" means Deutsche Bank Trust Company Americas, acting as parity collateral trustee under the Collateral Trust Agreement, or its successors appointed in accordance with the terms thereof.

"*Secured Leverage Ratio*" means, as of any date of determination (for purposes of this definition, the "*Calculation Date*"), the ratio of (a) the Total Secured Debt as of such date to (b) the Consolidated Cash Flow of the Company for the four most recent full fiscal quarters ending immediately prior to such date for which financial statements are publicly available. For purposes of making the computation referred to above:

(1) investments and acquisitions that have been made by the Company or any of its Subsidiaries, including through mergers or consolidations, or any Person or any of its Subsidiaries acquired by the Company or any of its Subsidiaries, and including any related financing transactions and including increases in ownership of Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect (in accordance with Regulation S-X under the Securities Act, but including all Pro Forma Cost Savings) as if they had occurred on the first day of the four-quarter reference period;

(2) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded;

(3) any Person that is a Subsidiary on the Calculation Date will be deemed to have been a Subsidiary at all times during such four-quarter period; and

(4) any Person that is not a Subsidiary on the Calculation Date will be deemed not to have been a Subsidiary at any time during such four-quarter period.

For purposes of the calculation of the Secured Leverage Ratio, in connection with the Incurrence of any Lien pursuant to clause (1) of the definition of "Permitted Liens," the Company may elect, pursuant to an Officer's Certificate, to treat all or a portion of the commitment under any Indebtedness which is to be secured by such Lien as being Incurred as of such determination date and any subsequent Incurrence of Indebtedness under such commitment that was so treated shall not be deemed, for purposes of this calculation, to be an Incurrence of additional Indebtedness or additional Lien at such subsequent time; provided that if the Company makes such an election, for purposes of the calculation of the Secured Leverage Ratio in connection with any subsequent Incurrence of any Lien pursuant to clause (1) of the definition of "Permitted Liens" (other than under such commitment), the amount under such commitment that was so treated shall be deemed to be Incurred as of such determination date; provided, further, that the Company may elect to revoke such election at any time pursuant to an Officer's Certificate.

"*Securities*" means all debentures, notes and other debt instruments of the Company of any Series authenticated and delivered under the Base Indenture, including all Notes.

"*Securities Act*" means the Securities Act of 1933, as amended.

"*Series*" or "*Series of Securities*" means each series of Securities created pursuant to Section 2.01 of the Base Indenture (for the avoidance of doubt, the Notes constitute a Series of Securities).

"*Short Derivative Instrument*" means a Derivative Instrument (i) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with positive changes to the Performance References and/or (ii) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with negative changes to the Performance References.

"*Significant Subsidiary*" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

"*Stated Maturity*" means, with respect to any installment of interest or principal on any Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the first date it was incurred in compliance with the terms of this Indenture, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"*Subsidiary*" means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"*Subsidiary Guarantee*" means the Guarantee by each Guarantor of the Company's obligations under the Indenture and the Notes, executed pursuant to the provisions of the Indenture.

"*Supplemental Indenture*" means this Supplemental Indenture, dated as of the Issue Date, by and among the Company, the Guarantors and the Trustee, governing the Notes, as amended, supplemented or otherwise modified from time to time in accordance with the Base Indenture and the terms hereof.

"*Total Assets*" means the total consolidated assets of the Company and its Subsidiaries determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Company and calculated on a pro forma basis in a manner consistent with the adjustments set forth in the definition of "Secured Leverage Ratio."

"*Total Secured Debt*" means, as of any date of determination, the aggregate principal amount of Indebtedness of the Company and the Guarantors outstanding on such date that is secured by a Lien on any property or assets of the Company or any of the Guarantors (including Capital Stock of Subsidiaries of the Company or Indebtedness of Subsidiaries of the Company) *minus* the aggregate cash and cash equivalents of the Company and its Subsidiaries, in each case, in the amount that would be reflected on a balance sheet prepared at such time on a consolidated basis in accordance with GAAP; *provided* that (i) Total Secured Debt will include only the amount of payments that the Company or any of the Guarantors is required to make, on the date Total Secured Debt is being determined, as a result of any early termination or similar event on such date of determination and (ii) for the avoidance of doubt, Total Secured Debt will not include the undrawn amount of any outstanding letters of credit.

"*Treasury Rate*" means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to the par call date; *provided*, *however*, that if the period from the redemption date to the par call date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"*Trust*" has the meaning assigned to it in the preamble to this Supplemental Indenture.

"*Trust Declaration*" means the Amended and Restated Declaration of Trust, dated as of August 29, 2023, among the Company, in its individual capacity and as depositor, Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee, and Deutsche Bank Trust Company Delaware, a Delaware corporation, as Delaware trustee.

"*Unrestricted Definitive Note*" means a Definitive Note that does not bear and is not required to bear the Private Placement Legend.

"*Unrestricted Global Note*" means a Global Note that does not bear and is not required to bear the Private Placement Legend.

"*U.S. Person*" means a U.S. Person as defined in Rule 902(k) promulgated under the Securities Act.

"*Voluntary Exercise*" has the meaning set forth in the Facility Agreement.

"*Voting Stock*" of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

Section 1.02 *Other Definitions*.

For purposes of the Notes, the following terms will have the meanings set forth in this Section 1.02.

Term	Defined in Section
"*Authentication Order*"	2.03
"*Change of Control Offer*"	4.09(a)
"*Change of Control Payment*"	4.09(a)
"*Change of Control Payment Date*"	4.09(a)(2)
"*Covenant Defeasance*"	8.03
"*Default Direction*"	6.01(b)
"*Directing Holder*"	6.01(b)
"*DTC*"	2.05
"*Electronic Signature*"	12.09
"*Event of Default*"	6.01(a)
"*Fixed Amounts*"	4.11(c)
"*Incur*"	4.07
"*Incurrence-Based Amounts*"	4.11(c)
"*Initial Note Certificate*"	2.01
"*Legal Defeasance*"	8.02
"*Noteholder Direction*"	6.01(b)
"*Owner Trustee*"	12.10
"*par call date*"	3.07
"*Payment Default*"	6.01(a)(4)(A)
"*Position Representation*"	6.01(b)
"*Testing Party*"	4.11(a)
"*Transaction Date*"	4.11(a)
"*Verification Covenant*"	6.01(b)

Section 1.03 *[Reserved]*.

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) "including" is not limiting;

(5) words in the singular include the plural, and in the plural include the singular;

(6) "will" shall be interpreted to express a command;

(7) provisions apply to successive events and transactions;

(8) references to sections of or rules under the Securities Act will be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time; and

(9) references to sections of the Indenture refer to sections of this Supplemental Indenture.

Section 1.05 *Relationship with Base Indenture*.

The terms and provisions contained in the Base Indenture shall constitute, and are hereby expressly made, a part of this Supplemental Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of the Base Indenture conflicts with the express provisions of this Supplemental Indenture, the provisions of this Supplemental Indenture shall govern and be controlling.

The Trustee accepts the amendment of the Base Indenture effected by this Supplemental Indenture and agrees to execute the trust created by the Base Indenture as hereby amended, but only upon the terms and conditions set forth in the Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Trustee in the performance of the trust created by the Base Indenture, and without limiting the generality of the foregoing, the Trustee shall not be responsible in any manner whatsoever for or with respect to any of the recitals or statements contained herein, all of which recitals or statements are made solely by the Company and the Guarantors, or for or with respect to (1) the validity or sufficiency of this Supplemental Indenture or any of the terms or provisions hereof, (2) the proper authorization hereof by the Company and the Guarantors, (3) the due execution hereof by the Company and the Guarantors or (4) the consequences (direct or indirect and whether deliberate or inadvertent) of any amendment herein provided for, and the Trustee makes no representation with respect to any such matters; and for the avoidance of doubt, the terms, provisions and covenants of Articles 3, 4, 5, 6, 8, 9 and 10 of the Base Indenture are superseded in their entirety with respect to the Notes by this Supplemental Indenture.

ARTICLE 2
THE NOTES

Section 2.01 *Establishment*.

On the date of entry into the Facility Agreement, the Company will issue to the Trust a Note in definitive form with an initial principal amount of $0 (the "*Initial Note Certificate*"). Any delivery of Notes by the Company to the Trust as contemplated by the Facility Agreement upon any exercise of the Issuance Right (including any Voluntary Exercise, Automatic Exercise or Mandatory Exercise) will be effected by increasing the principal amount of the Initial Note Certificate and recording such increase in the Schedule of Increases and Decreases attached to the Initial Note Certificate and the Security Register. Any redemption of the Notes held by the Trust and any delivery of the Notes by the Trust to the Company upon the Company's exercise of the Repurchase Right or pursuant to the Company's rights to redeem the Notes as described below under Section 3.07 will be effected by decreasing the principal amount of the Initial Note Certificate and recording such decrease in the Schedule of Increases and Decreases attached to the Initial Note Certificate and the Security Register.

The Company may exercise the Issuance Right under the Facility Agreement to sell Notes to the Trust at its discretion at any time up to the Available Amount of the Notes. The Company must exercise the Issuance Right under the Facility Agreement to sell to the Trust the entire Available Amount of the Notes (in respect of a Mandatory Exercise Event occurring under clauses (1), (2), (3) or (6) of the definition of "Mandatory Exercise Event" in the Facility Agreement), the Collateral Enforcement Amount of the Notes (in respect of a Mandatory Exercise Event occurring under clause (4) of the definition of "Mandatory Exercise Event") or the Change of Control Offer Issuance Amount (in respect of a Mandatory Exercise Event occurring under clause (5) of the definition of "Mandatory Exercise Event" in the Facility Agreement). The Issuance Right under the Facility Agreement to sell to the Trust the Available Amount of Notes is automatically exercised in full upon the occurrence of an Automatic Exercise Event in accordance with the Facility Agreement.

Section 2.02 *Form and Dating*.

(a) *The Notes*. The Notes (other than the Initial Certificate) shall be issued in registered global form without interest coupons. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. The Company shall furnish any such notations, legends or endorsements to the Trustee in writing. Each Note shall be dated the date of its authentication. The Notes shall be in minimum denominations of $2,000 and integral multiples of $1,000.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of the Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of the Notes conflicts with the express provisions of the Base Indenture, the provisions of the Notes shall govern and be controlling, and to the extent any provision of the Notes conflicts with the express provisions of this Supplemental Indenture, the provisions of this Supplemental Indenture shall govern and be controlling.

(b) *Global Notes*. Notes issued in global form shall be substantially in the form of Exhibit A attached hereto (including the Global Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time as reflected in the records of the Trustee and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. The Trustee's records shall be noted to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby, in accordance with instructions given by the Holder thereof as required by Section 2.05 hereof.

(c) *Euroclear and Clearstream Procedures Applicable*. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream will be applicable to transfers of beneficial interests in the Regulation S Global Note that are held by Participants through Euroclear or Clearstream.

Section 2.03 *Execution and Authentication*.

One Officer must sign the Notes for the Company by manual signature, Electronic Signature (as defined below) or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note will nevertheless be valid.

A Note will not be valid until authenticated by the manual signature or Electronic Signature of the Trustee. The signature will be conclusive evidence that the Note has been authenticated under this Supplemental Indenture.

The Trustee shall, upon receipt of a written order of the Company signed by at least one Officer (an "*Authentication Order*"), authenticate Notes for original issue under this Supplemental Indenture. The aggregate principal amount of Notes outstanding at any time may not exceed the Maximum Amount, except as provided in Section 2.07 of the Base Indenture.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Supplemental Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders, the Company or an Affiliate of the Company.

Section 2.04 *Holder Lists*.

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 all Holders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each interest payment date 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 the Holders.

Section 2.05 *Transfer and Exchange*.

In the event that the Company or any of its Affiliates requests that the trustee of the Trust exchange P-Caps for Notes pursuant to Section 5.4(e) of the Trust Declaration, the Trustee shall register the transfer of such Notes to the Company or any of its Affiliates or, if requested by the Company or any of its Affiliates, cancel such Notes in accordance with Section 2.11 of the Base Indenture. The Company shall provide the Trustee with a copy of any request by the Company or any of its Affiliates under Section 5.4(e) of the Trust Declaration promptly after such a request is made, accompanied by an Officer's Certificate that the exchange complies with the Trust Declaration and is permitted hereunder.

In the event the Notes are distributed to the holders of the P-Caps upon the termination of the Trust, such Notes will be exchangeable for other Notes, in any authorized denominations, for the same aggregate principal amount and having the same terms.

(a) *Transfer and Exchange of Global Notes*. A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes shall be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary;

(2) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the Notes.

Upon the occurrence of any of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names and in any approved denominations as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 of the Base Indenture. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.05 or Sections 2.07 or 2.10 of the Base Indenture, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.05(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.05(b), (c) or (f) hereof.

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes*. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Supplemental Indenture and the Applicable Procedures. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.05(b)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.05(b)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

(A) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

(B) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above.

(3) *Transfer of Beneficial Interests to Another Restricted Global Note.* A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.05(b)(2) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transferee will take delivery in the form of a beneficial interest in the IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(4) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note*. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.05(b)(2) above and the Registrar receives the following:

(A) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(B) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case of this Section 2.05(b)(4), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to this Section 2.05(b)(4) at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.03 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to this Section 2.05(b)(4).

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) *Transfer or Exchange of Beneficial Interests in Global Notes for Definitive Notes.* Transfers or exchanges of beneficial interests in Global Notes for Definitive Notes shall in each case be subject to the satisfaction of any applicable conditions set forth in Section 2.05(b)(2) hereof, and to the requirements set forth below in this Section 2.05(c).

(1) *Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes.* If any Holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2) (a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3) (a) thereof;

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.05(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.05(c) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.05(c)(1) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(2) *Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes.* A Holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if the Registrar receives the following:

(A) if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1) (b) thereof; or

(B) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this Section 2.05(c)(2), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes.* If any Holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.05(b)(2) hereof, the Trustee shall cause the aggregate principal amount of the applicable Unrestricted Global Note to be reduced accordingly pursuant to Section 2.05(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.05(c)(3) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.05(c)(3) will not bear the Private Placement Legend.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests in Global Notes*.

(1) *Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes.* If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note (in each case, other than an exchange or transfer to DTC as set forth in Section 2.06 below), then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof, the Trustee will cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, in the case of clause (C) above, the Regulation S Global Note, and in all other cases, the IAI Global Note.

(2) *Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this Section 2.05(d)(2), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of this Section 2.05(d)(2), the Trustee will cancel the Restricted Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(3) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes*. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraphs (2)(B), (2)(D) or (3) above at a time when an Unrestricted Global Note has not yet been issued, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 2.03 hereof, the Trustee will authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes*. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.05(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.05(e).

(1) *Restricted Definitive Notes to Restricted Definitive Notes*. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(2) *Restricted Definitive Notes to Unrestricted Definitive Notes.* Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this Section 2.05(e)(2), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Unrestricted Definitive Notes to Unrestricted Definitive Notes.* A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) *Legends.* The following legends will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER ANY STATE SECURITIES LAWS AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS NOTE IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ACQUIRING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ONE OR MORE QUALIFIED INSTITUTIONAL BUYERS IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A OR PURSUANT TO RULE 144 UNDER THE SECURITIES ACT, IF APPLICABLE, OR ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

ANY PURCHASER OR HOLDER OF THIS NOTE OR ANY INTEREST HEREIN REPRESENTS BY ITS PURCHASE AND HOLDING OF THIS NOTE OR SUCH INTEREST THAT EITHER (1) IT IS NOT (A) AN EMPLOYEE BENEFIT PLAN AS DEFINED IN SECTION 3(3) OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA") OR THAT IS SUBJECT TO ERISA OR A PLAN DESCRIBED IN SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), (B) AN EMPLOYEE BENEFIT PLAN THAT IS A GOVERNMENTAL PLAN (AS DEFINED IN SECTION 3(32) OF ERISA), A CHURCH PLAN (AS DEFINED IN SECTION 3(33) OF ERISA) OR A NON-U.S. PLAN (AS DESCRIBED IN SECTION 4(B)(4) OF ERISA) THAT IS NOT SUBJECT TO THE REQUIREMENTS OF ERISA OR THE CODE BUT IS SUBJECT TO SIMILAR PROVISIONS UNDER APPLICABLE FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS ("SIMILAR LAWS") OR (C) AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE "PLAN ASSETS" OF ANY SUCH PLANS PURSUANT TO SECTION 3(42) OF ERISA, DEPARTMENT OF LABOR REGULATIONS OR OTHERWISE, OR (2) THE PURCHASE AND HOLDING OF THE NOTES WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA, SECTION 4975 OF THE CODE OR UNDER ANY APPLICABLE SIMILAR LAWS.

NRG ENERGY, INC. RESERVES THE RIGHT TO MODIFY THE FORM OF THE NOTES FROM TIME TO TIME TO REFLECT ANY CHANGES IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THEIR PURCHASE OR RESALE. THE NOTES AND RELATED DOCUMENTATION, INCLUDING THIS LEGEND, MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY RESTRICTIONS ON AND PROCEDURES FOR RESALES AND OTHER TRANSFERS OF THE SECURITIES TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFER OF NOTES SUCH AS THE NOTES GENERALLY. EACH HOLDER OF THIS CERTIFICATE SHALL BE DEEMED, BY THE ACCEPTANCE OF THIS CERTIFICATE, TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(4), (c)(2), (c)(3), (d)(2), (d)(3), (e)(2), (e)(3) or (f) of this Section 2.05 (and all Notes issued in exchange therefor or substitution thereof) will not bear the Private Placement Legend.

(2) *Global Legend*. Each Global Note will bear a legend in substantially the following form:

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO NRG ENERGY, INC. 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 DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF DTC OR A NOMINEE THEREOF. THIS NOTE MAY NOT BE EXCHANGED IN WHOLE OR IN PART FOR A NOTE REGISTERED, AND NO TRANSFER OF THIS NOTE IN WHOLE OR IN PART MAY BE REGISTERED, IN THE NAME OF ANY PERSON OTHER THAN DTC OR SUCH NOMINEE, EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

(3) *Original Issue Discount Legend*. Each Note issued with original issue discount, if any, will bear a legend in substantially the following form:

"FOR THE PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THIS NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT; FOR EACH $1,000 IN AGGREGATE PRINCIPAL AMOUNT OF THIS NOTE, THE ISSUE PRICE IS $[ ], THE AMOUNT OF ORIGINAL ISSUE DISCOUNT IS $[ ], THE ISSUE DATE IS [ ], 202[ ] AND THE YIELD TO MATURITY IS [ ]% PER ANNUM."

(g) *Cancellation and/or Adjustment of Global Notes.* At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 of the Base Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and a notation will be made on the records maintained by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and a notation will be made on the records maintained by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges*.

(1) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.03 hereof or at the Registrar's request.

(2) No service charge shall be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, 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 any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 3.06, 4.09 and 9.05 hereof and Sections 2.10, 3.06 and 9.05 of the Base Indenture).

(3) The Registrar shall not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Supplemental Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) The Company shall not be required:

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company shall deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.03 hereof.

(8) All orders, certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.05 to effect a registration of transfer or exchange may be submitted by facsimile or electronic format (e.g. "pdf" or "tif").

(9) All references in this Section 2.05 to the exchange or transfer of Notes, Global Notes, Definitive Notes or any beneficial interests therein shall be deemed to refer to the exchange or transfer of the applicable P-Caps, Global Notes, Definitive Notes or any beneficial interests therein.

Section 2.06 *Trust Dissolution*.

If the Trust distributes the Notes to the holders of the P-Caps upon its dissolution and termination, then prior to such distribution, the Notes shall, and the Company shall take commercially reasonable efforts to cause the Notes to, be exchanged for one or more Global Notes and the Depository shall be DTC; *provided* that, if such Notes are not eligible to be settled through DTC at the time of such distribution, such Notes will be distributed in the form of one or more individual Securities. Any such Global Notes shall be Global Notes for purposes of the Base Indenture and shall be subject to the provisions thereof governing Global Notes, except as modified hereby.

ARTICLE 3
REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee*.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it must furnish to the Trustee, at least 10 days (or such shorter period as the Trustee may in its sole discretion allow) but not more than 60 days before a redemption date, an Officer's Certificate setting forth:

(1) the clause of this Supplemental Indenture pursuant to which the redemption shall occur;

(2) the redemption date;

(3) the principal amount of Notes to be redeemed; and

(4) the redemption price or, where the redemption price cannot be calculated at the time of such notice, the method of calculation thereof.

Section 3.02 *Selection of Notes to Be Redeemed or Purchased*.

If less than all of the Notes are to be redeemed at any time, the Trustee shall select Notes for redemption on a *pro rata* basis among all outstanding Notes or, if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed, in either case, unless otherwise required by law or depositary requirements.

In the event of partial redemption by lot, the particular Notes to be redeemed or purchased shall be selected, unless otherwise provided herein, not less than 10 nor more than 60 days prior to the redemption by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in amounts of $2,000 or whole multiples of $1,000 in excess of $2,000; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not a multiple of $1,000 shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Supplemental Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

No Notes of $2,000 or less shall be redeemed in part. Notices of redemption shall be mailed by first class mail or delivered electronically at least 10 but not more than 60 days before the redemption date to each Holder of Notes to be redeemed at its registered address, except that redemption notices may be mailed or delivered electronically more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Supplemental Indenture.

If any Note is to be redeemed in part only, the notice of redemption that relates to that Note shall state the portion of the principal amount of that Note that is to be redeemed. A new Note in principal amount equal to the unredeemed portion of the original Note shall be issued in the name of the Holder of Notes upon cancellation of the original Note. Notes called for redemption become due on the date fixed for redemption, subject to the satisfaction or waiver of any conditions. On and after the redemption date, interest ceases to accrue on Notes or portions of them called for redemption.

Section 3.03 *Notice of Redemption*.

At least 10 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, or delivered electronically, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed or delivered more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Supplemental Indenture pursuant to Articles 8 or 11 hereof.

The notice will identify the Notes to be redeemed and will state:

(1) the redemption date;

(2) the redemption price or, where the redemption price cannot be calculated at the time of such notice, the method of calculation thereof;

(3) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note;

(4) the name and address of the Paying Agent;

(5) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(6) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;

(7) the paragraph of the Notes and/or Section of this Supplemental Indenture pursuant to which the Notes called for redemption are being redeemed; and

(8) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least four (4) Business Days prior to the date such notice of redemption is to be distributed to the Holders (or such shorter period as the Trustee in its sole discretion may allow), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Any redemption or notice of any redemption may, at the Company's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an offering or financing, Change of Control or other corporate transaction or event. In addition, if such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice shall state that, in the Company's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied and a new redemption date will be set by the Company in accordance with applicable DTC procedures, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so delayed.

Section 3.04 *Effect of Notice of Redemption*.

Once notice of redemption is mailed or delivered in accordance with Section 3.03 hereof, Notes called for redemption become, subject to any conditions precedent set forth in the notice of redemption, irrevocably due and payable on the redemption date at the redemption price.

Section 3.05 *Deposit of Redemption or Purchase Price*.

No later than 10:00 a.m. Eastern Time on the redemption or purchase date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of, accrued interest and premium, if any, on all Notes to be redeemed or purchased on that date. Promptly after the Company's written request, the Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, accrued interest and premium, if any, on, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Section 3.06 *Notes Redeemed or Purchased in Part*.

Upon surrender of a Note that is redeemed or purchased in part, the Company shall issue and, upon receipt of an Authentication Order, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered.

Section 3.07 *Optional Redemption*.

(a) At any time prior to June 30, 2028 (one month prior to the maturity date of the Notes) (the "*par call date*"), the Company may on any one or more occasions redeem all or a part of the Notes, upon not less than 10 nor more than 60 days' prior notice, at a redemption price equal to the greater of:

(1) 100% of the principal amount of the Notes to be redeemed; and

(2) the sum, calculated by the Company, of the present value at such redemption date of all remaining scheduled payments of principal and interest due on the Notes to be redeemed through the par call date (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points;

plus, in either case, accrued and unpaid interest to, but not including, the date of redemption, subject to the rights of Holders of the Notes on the relevant record date to receive interest due on the relevant interest payment date.

In addition, at any time and from time to time on or after the par call date, the Notes will be redeemable, in whole or in part at any time, at the Company's option, at a redemption price equal to 100% of the principal amount of the Notes being redeemed plus accrued and unpaid interest to, but not including, the redemption date.

(b) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

(c) Notwithstanding anything to the contrary in this Article 3, once the Notes are distributed to holders of the P-Caps upon the Trust's dissolution and termination, in connection with any tender offer for (or other offer to purchase) the Notes, if Holders of not less than 90% in aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in such tender offer (or other offer to purchase) and the Company, or any third party making such a tender offer (or other offer to purchase) in lieu of the Company, purchases all of the Notes validly tendered and not withdrawn by such Holders, all of the Holders of the outstanding Notes will be deemed to have consented to such tender offer (or other offer to purchase), and accordingly the Company will have the right, upon not less than 10 nor more than 60 days' prior notice, given not more than 30 days following such tender offer expiration date (or purchase date pursuant to such other offer), to redeem all Notes that remain outstanding following such purchase at a redemption price in cash equal to the price paid to each other Holder (excluding any early tender, incentive or similar fee) in such tender offer (or other offer to purchase), plus, to the extent not included in the tender offer payment (or payment pursuant to another offer to purchase), accrued and unpaid interest to, but not including, the date of redemption. In determining whether the Holders of at least 90% of the aggregate principal of the then outstanding Notes have validly tendered and not withdrawn such Notes in a tender offer or other offer to purchase, such calculation shall include all Notes owned by an Affiliate of the Company (notwithstanding any provision of this Supplemental Indenture to the contrary).

Except pursuant to the preceding paragraphs, the Notes will not be redeemable at the Company's option. The Company is not prohibited, however, from acquiring the Notes in market transactions by means other than a redemption, whether pursuant to a tender offer or otherwise.

Section 3.08 *Mandatory Redemption*.

The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

ARTICLE 4
COVENANTS

Section 4.01 *Payment of Notes*.

The Company shall pay or cause to be paid the principal of, premium, if any, and interest on, the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest will be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

Section 4.02 *Maintenance of Office or Agency*.

The Company will maintain in the Borough of Manhattan, the City of New York, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company fails to maintain any such required office or agency or fails to furnish the Trustee with the address thereof, such 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 Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission will in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, the City of New York for such 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.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with this Section 4.02.

Section 4.03 *Reports*.

(a) Whether or not required by the SEC's rules and regulations, so long as any Notes are outstanding, the Company shall furnish to Holders or cause the Trustee to furnish to the Holders of the Notes, within the time periods (including any extensions thereof) specified in the SEC's rules and regulations:

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

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

All such reports shall be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports. Each annual report on Form 10-K will include a report on the Company's consolidated financial statements by the Company's independent registered public accounting firm. In addition, the Company shall file a copy of each of the reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the rules and regulations applicable to such reports (unless the SEC will not accept such a filing). To the extent such filings are made, the reports shall be deemed to be furnished to the Trustee and Holders of Notes. The Trustee shall not be responsible for determining whether such filings have been made.

If, at any time, the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company shall nevertheless continue filing the reports specified in this Section 4.03(a) with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Company agrees that it shall not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company's filings for any reason, the Company shall post the reports referred to in this Section 4.03(a) on its website within the time periods that would apply if the Company were required to file those reports with the SEC.

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

(c) To the extent any information is not filed or provided within the time periods specified in this Section 4.03 and such information is subsequently filed or provided, the Company will be deemed to have satisfied its obligations with respect thereto at such time and any Default with respect thereto shall be deemed to have been cured; provided that such cure shall not otherwise affect the rights of the Holders if the Holders of at least 30% in aggregate principal amount of such Notes that are outstanding have declared all the Notes to be due and payable immediately and such declaration shall not have been rescinded prior to such cure.

(d) Delivery of the reports and documents described above to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute actual or constructive notice or knowledge 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 conclusively rely on an Officer's Certificate).

Section 4.04 *Compliance Certificate*.

(a) The Company and each Guarantor shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officer's Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officer(s) with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her 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 of this Indenture (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of, premium, if any, and interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) So long as any of the Notes are outstanding, the Company shall deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officer's Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05 *Taxes*.

The Company shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders.

Section 4.06 *Stay, Extension and Usury Laws*.

The Company and each of the Guarantors covenant (to the extent that they may lawfully do so) that they shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of the Indenture; and the Company and each of the Guarantors (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and covenant that they shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 *Liens*.

Prior to the occurrence of a Release Event, the Company will not, and will not permit any Guarantor, to create or permit to exist any Lien (except Permitted Liens) upon the Collateral or any Principal Property owned by the Company or any Guarantor or upon any Equity Interests issued by, or Indebtedness of, any direct or indirect Subsidiary of the Company, to secure any Indebtedness of the Company or any Guarantor.

Following the occurrence of a Release Event, the Company will not, and will not permit any Guarantor, to create or permit to exist any Lien (except Permitted Post-Release Liens) upon any Principal Property owned by the Company or any Guarantor or upon any Equity Interests issued by, or Indebtedness of, any direct or indirect Subsidiary of the Company to secure any Indebtedness of the Company or any Guarantor without providing for the Notes to be equally and ratably secured with (or prior to) any and all such Indebtedness and any other Indebtedness similarly entitled to be equally and ratably secured for so long as such Indebtedness is so secured.

Notwithstanding the immediately preceding paragraph, following the occurrence of a Release Event, the Company and the Guarantors may, without equally and ratably securing the Notes, create, incur, assume or suffer to exist (collectively, "*Incur*") any Lien which would otherwise be prohibited by such paragraph if, after giving effect thereto and at the time of determination, Aggregate Secured Debt does not exceed at any one time outstanding the greater of (x) $4.0 billion and (y) 15.0% of Consolidated Net Tangible Assets.

Section 4.08 *Corporate Existence*.

Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary; and

(2) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries;

provided, however, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if (a) the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes or (b) if a Subsidiary is to be dissolved, such Subsidiary has no assets.

Section 4.09 *Offer to Repurchase Upon Change of Control Triggering Event*.

(a) Upon the occurrence of a Change of Control Triggering Event, the Company will make an offer (a *"Change of Control Offer"*) to each Holder to repurchase all or any part (equal to $2,000 or an integral multiple of $1,000 in excess of $2,000) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest to, but not including, the date of purchase, subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date (the "*Change of Control Payment"*). Within 30 days following any Change of Control Triggering Event, the Company will mail (or deliver electronically) a notice to each Holder describing the transaction or transactions that constitute the Change of Control and stating:

(1) that the Change of Control Offer is being made pursuant to this Section 4.09 and that all Notes tendered will be accepted for payment;

(2) the purchase price and the purchase date, which shall be no earlier than 10 days and no later than 60 days from the date such notice is mailed or delivered (the "*Change of Control Payment Date*");

(3) that any Note not tendered will continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest after the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer shall be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Notes purchased; and

(7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be in a minimum principal amount of $2,000 or in integral multiples of $1,000 in excess thereof.

The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control Triggering Event. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.09, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.09 by virtue of such compliance.

With respect to any Notes issued to the Trust in the amount of a Change of Control Offer Issuance Amount in connection with a Mandatory Exercise Event or other Notes already held by the Trust, to the extent holders of the P-Caps have accepted the Change of Control Offer with respect to P-Caps upon a Change of Control Offer Expiration Date, the Company will be required to repurchase such Notes on the Change of Control Payment Date for an amount equal to the Change of Control Payment in accordance with this Section 4.09.

(b) On the Change of Control Payment Date, the Company shall, to the extent lawful:

(1) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.

The Paying Agent shall promptly distribute to each Holder of Notes properly tendered the Change of Control Payment for the Notes, and the Trustee shall promptly authenticate and deliver (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each new Note shall be in a minimum principal amount of $2,000 or in integral multiples of $1,000 in excess of $2,000. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(c) The provisions described in Section 4.09(a) and (b) shall apply whether or not other provisions of this Supplemental Indenture are applicable. Except as described in Section 4.09(a) and (b) hereof, Holders of Notes shall not be permitted to require that the Company repurchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

(d) Notwithstanding anything to the contrary in this Section 4.09, the Company shall not be required to make a Change of Control Offer upon a Change of Control Triggering Event if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.09 and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to Section 3.07 hereof, unless and until there is a default in payment of the applicable redemption price. A Change of Control Offer may be made in advance of a Change of Control Triggering Event, with the obligation to pay and the timing of payment conditioned upon the occurrence of a Change of Control Triggering Event, if a definitive agreement to effect a Change of Control is in place at the time the Change of Control Offer is made.

(e) If Holders of not less than 90% in aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company in accordance with Section 4.09(d)(1), purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company will have the right, upon not less than 10 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer, to redeem all Notes that remain outstanding following such purchase at a redemption price in cash equal to the applicable Change of Control Payment, plus, to the extent not included in the Change of Control Payment, accrued and unpaid interest, if any, to the date of redemption. In determining whether the Holders of at least 90% of the aggregate principal of the then outstanding Notes have validly tendered and not withdrawn such Notes in a Change of Control Offer, such calculation shall include all Notes owned by an Affiliate of the Company (notwithstanding any provision of this Supplemental Indenture to the contrary).

Section 4.10 *Additional Subsidiary Guarantees*.

If,

(1) the Company or any of its Subsidiaries acquires or creates another Subsidiary after the date of this Supplemental Indenture and such Subsidiary Guarantees the Obligations of the Company under the Credit Agreement, or

(2) any Subsidiary that does not Guarantee the Obligations of the Company under the Credit Agreement as of the date of this Supplemental Indenture (as amended, restated, modified, renewed, refunded, replaced or refinanced from time to time) subsequently Guarantees the Obligations of the Company under the Credit Agreement, or

(3) if there is no Indebtedness of the Company outstanding under the Credit Agreement at that time, any Subsidiary of the Company (including any newly acquired or created Subsidiary) Guarantees the Obligations with respect to any other Additional Indebtedness,

then such newly acquired or created Subsidiary or Subsidiary that subsequently Guarantees Obligations under the Credit Agreement or other Additional Indebtedness, as the case may be, will become a Guarantor of the Notes and execute a supplemental indenture in the form attached hereto as Exhibit E and deliver an Opinion of Counsel as to satisfaction of conditions precedent within 60 Business Days of the date on which it was acquired or created or guaranteed other Indebtedness for borrowed money of the Company, as the case may be.

Section 4.11 *Measuring Compliance*.

(a) With respect to:

(1) whether any Lien is permitted to be Incurred in compliance with this Indenture;

(2) any calculation of the ratios, baskets or financial metrics, including, but not limited to, Consolidated Cash Flow, Consolidated Net Tangible Assets, Secured Leverage Ratio, Total Assets and/or pro forma cost savings, and whether a Default or Event of Default exists in connection with the foregoing; and

(3) whether any condition precedent to the Incurrence of Liens is satisfied,

at the option of the Company, any of its Subsidiaries, or a third party (the "*Testing Party*"), a Testing Party may select a date prior to the incurrence of any such Lien if such Testing Party has a reasonable expectation that the Company and/or any of its Subsidiaries will Incur Liens at a future date in connection with a corporate event, including payment of a dividend, repurchase of equity, an acquisition, merger, amalgamation, or similar transaction or repayment, repurchase or refinancing of Indebtedness (any such date, the "*Transaction Date*") as the applicable date of determination, as the case may be, in each case with such pro forma adjustments as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of "Secured Leverage Ratio."

(b) For the avoidance of doubt, if the Testing Party elects to use the Transaction Date as the applicable date of determination in accordance with this Section 4.11(a),

(1) any fluctuation or change in the ratios, baskets or financial metrics from the Transaction Date to the date of Incurrence of such Lien will not be taken into account for purposes of determining (i) whether any such Lien is permitted to be Incurred or (ii) in connection with compliance by the Company or any of its Subsidiaries with any other provision of this Indenture or the Notes;

(2) if financial statements for one or more subsequent fiscal quarters shall have become available, the Testing Party may elect, in its sole discretion, to redetermine all such baskets, ratios and financial metrics on the basis of such financial statements, in which case such date of redetermination shall thereafter be deemed to be the applicable Transaction Date for purposes of such baskets, ratios and financial metrics; and

(3) until such corporate event is consummated or such definitive agreements relating to such corporate event are terminated, such corporate event and all transactions proposed to be undertaken in connection therewith (including the Incurrence of Liens) will be given pro forma effect when determining compliance of other transactions that are consummated after the Transaction Date and on or prior to the date of consummation of such corporate event. In addition, this Indenture provides that compliance with any requirement relating to the absence of a Default or Event of Default may be determined as of the Transaction Date (including any new Transaction Date) and not as of any later date as would otherwise be required under this Indenture.

(c) Notwithstanding anything to the contrary herein, with respect to any amounts Incurred or transactions entered into (or consummated) in reliance on a provision of this Indenture that does not require compliance with a financial ratio or financial test (including, but not limited to, any Secured Leverage Ratio, Consolidated Net Tangible Assets and Total Assets test) (any such amounts, the "*Fixed Amounts*") substantially concurrently with any amounts Incurred or transactions entered into (or consummated) in reliance on a provision of this Indenture that requires compliance with a financial ratio or financial test (including any Secured Leverage Ratio, Consolidated Net Tangible Assets and Total Assets test) (any such amounts, the "*Incurrence-Based Amounts*"), it is understood and agreed that the Fixed Amounts shall be disregarded in the calculation of the financial ratio or test applicable to the Incurrence-Based Amounts.

ARTICLE 5
SUCCESSORS

Section 5.01 *Merger, Consolidation or Sale of Assets*.

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

(1) either:

(A) the Company is the surviving corporation; or

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

(2) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Company under the Notes and the Indenture pursuant to a supplemental indenture or other documents and agreements reasonably satisfactory to the Trustee;

(3) immediately after such transaction, no Default or Event of Default exists; and

(4) prior to a Release Event, to the extent any assets of the Person which is merged, consolidated or amalgamated with or into the Person formed by or surviving any such consolidation or merger (if other than the Company) would constitute Collateral under the Note Security Documents, the Person formed by or surviving any such consolidation or merger (if other than the Company) will take such action as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the Note Security Documents in the manner and to the extent required in this Indenture or any of the Note Security Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the Note Security Documents.

In addition, the Company will not lease all or substantially all of the properties and assets of it and the Guarantors taken as a whole, in one or more related transactions, to any other Person.

This Section 5.01 shall not apply to:

(1) a merger of the Company with an Affiliate solely for the purpose of reincorporating the Company in another jurisdiction or forming a direct or indirect holding company of the Company; and

(2) any sale, transfer, assignment, conveyance, lease or other disposition of assets between or among the Company and its Subsidiaries, including by way of merger or consolidation.

Section 5.02 *Successor Corporation Substituted*.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, the successor Person formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the successor Person and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; *provided, however*, that the predecessor Company shall not be relieved from the obligation to pay the principal of, premium, if any, and interest on, the Notes except in the case of a sale of all of the Company's assets in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 *Events of Default*.

(a) Each of the following is an "*Event of Default*" with respect to the Notes:

(1) default for 30 days in the payment when due of interest on the Notes;

(2) default in the payment when due of the principal of, or premium, if any, on the Notes;

(3) failure by the Company or any Guarantor for 60 days (or 120 days with respect to a default under Section 4.03 hereof) after written notice to the Company by the Trustee or the Holders of at least 30% in aggregate principal amount of the Notes that are then outstanding to comply with any of the agreements in this Supplemental Indenture (other than a default referred to in clause (1) or (2) of this Section 6.01(a));

(4) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any Guarantor (or the payment of which is Guaranteed by the Company or any Guarantor), whether such Indebtedness or Guarantee now exists, or is created after the date of this Supplemental Indenture, if that default:

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

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, exceeds the greater of (i) 1.5% of Total Assets and (ii) $600.0 million; *provided* that this clause (4) shall not apply to (i) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness to a Person that is not an Affiliate of the Company; (ii) Non-Recourse Debt (except to the extent that the Company or any of the Guarantors that are not parties to such Non-Recourse Debt becomes directly or indirectly liable, including pursuant to any contingent obligation, for any such Non-Recourse Debt and such liability, individually or in the aggregate, exceeds the greater of (a) 1.5% of Total Assets and (b) $600.0 million), and (iii) to the extent constituting Indebtedness, any indemnification, guarantee or other credit support obligations of the Company or any of the Guarantors in connection with any tax equity financing entered into by a non-Guarantor Subsidiary or any standard securitization undertakings of the Company or any of the Guarantors in connection with any securitization or other structured finance transaction entered into by a non-Guarantor Subsidiary;

(5) except as permitted by this Supplemental Indenture, any Subsidiary Guarantee of any Guarantor that constitutes a Significant Subsidiary (or any group of Guarantors that, taken together, would constitute a Significant Subsidiary) shall be held in any final and non-appealable judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor that constitutes a Significant Subsidiary (or any group of Guarantors that, taken together, would constitute a Significant Subsidiary), or any Person acting on behalf of any Guarantor that constitutes a Significant Subsidiary (or any group of Guarantors that taken together, would constitute a Significant Subsidiary), shall deny or disaffirm its or their obligations under its or their Subsidiary Guarantee(s);

(6) the Company or any Guarantor that constitutes a Significant Subsidiary (or any group of Guarantors that, taken together, would constitute a Significant Subsidiary):

(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 custodian of it or for all or substantially all of its property,

(D) makes a general assignment for the benefit of its creditors, or

(E) generally is not paying its debts as they become due;

(7) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any Guarantor of the Notes that is a Significant Subsidiary or any group of Guarantors of the Notes that, taken together, would constitute a Significant Subsidiary;

(B) appoints a custodian of the Company or any Guarantor of the Notes that is a Significant Subsidiary or any group of Guarantors of the Notes that, taken together, would constitute a Significant Subsidiary for all or substantially all of the property of the Company or any Guarantor; or

(C) orders the liquidation of the Company or any Guarantor of the Notes that is a Significant Subsidiary or any group of Guarantors of the Notes that, taken together, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days; or

(8) other than by reason of the satisfaction in full of all obligations under this Indenture and discharge of this Indenture with respect to the Notes or the release of such Collateral with respect to the Notes in accordance with the terms of this Indenture and the Note Security Documents,

(A) in the case of any security interest with respect to Collateral having a fair market value in excess of 5% of Total Assets, individually or in the aggregate, such security interest under the Note Security Documents shall, at any time, cease to be a valid and perfected security interest or shall be declared invalid or unenforceable and any such default continues for 30 days after notice of such default shall have been given to the Company by the Trustee or the Holders of at least 30% in aggregate principal amount of the Notes of such series that are outstanding, except to the extent that any such default (i) results from the failure of the Collateral Trustee to maintain possession of certificates, promissory notes or other instruments actually delivered to it representing securities pledged under the Note Security Documents, or (ii) to the extent relating to Collateral consisting of real property, is covered by a title insurance policy with respect to such real property and such insurer has not denied coverage; or

(B) the Company or any Guarantor of the Notes that is a Significant Subsidiary (or any group of Guarantors of the Notes that, taken together, would constitute a Significant Subsidiary) shall assert, in any pleading in any court of competent jurisdiction, that any security interest under any Note Security Document is invalid or unenforceable.

(b) Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a "*Noteholder Direction*") provided by any one or more Holders of the then outstanding Notes (each, a "*Directing Holder*") must be accompanied by a written representation with a medallion guaranteed signature from each such Holder to the Company and the Trustee that such Holder is not (or, in the case such Holder is DTC or its nominee, that such Holder is being instructed solely by Beneficial Owners that are not) Net Short (a "*Position Representation*"), which representation, in the case of a Noteholder Direction relating to a notice of Default (a "*Default Direction*") shall be deemed repeated at all times until the resulting Event of Default is cured or otherwise ceases to exist or the Notes are accelerated. In addition, each Directing Holder must, at the time of providing a Noteholder Direction, covenant to provide the Company with such other information as the Company may reasonably request from time to time in order to verify the accuracy of such Directing Holder's Position Representation within five Business Days of request therefor (a "*Verification Covenant*"). In any case in which the Holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the Beneficial Owner of the Notes in lieu of DTC or its nominee, and DTC shall be entitled to rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Company determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time, in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Company has initiated litigation in a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Event of Default that resulted from the applicable Noteholder Direction, the cure period with respect to such Event of Default shall be automatically stayed and the cure period with respect to such Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter. If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Company provides to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such Event of Default shall be automatically stayed and the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed until such time as the Company provides the Trustee with an Officer's Certificate that the Verification Covenant has been satisfied; provided that the Company shall promptly deliver such Officer's Certificate to the Trustee upon becoming aware that the Verification Covenant has been satisfied. Any breach of the Position Representation (as evidenced by the delivery to the Trustee of the Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant) shall result in such Holder's participation in such Noteholder Direction being disregarded; and if, without the participation of such Holder, the percentage of Notes held by the remaining Holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio, with the effect that such Event of Default shall be deemed never to have occurred, acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, (i) any Noteholder Direction delivered to the Trustee during the pendency of an Event of Default specified in clause (6) or (7) of Section 6.01(a) shall not require compliance with the foregoing paragraphs and (ii) a notice of Default may not be given with respect to any action taken, and reported publicly or to Holders, more than two years prior to such notice of Default. The Trustee shall have no obligation to monitor or determine whether a Holder is Net Short and can rely conclusively on a Directing Holder's Position Representation, the Officer's Certificates delivered by the Company and determinations made by a court of competent jurisdiction.

Section 6.02 *Acceleration*.

In the case of an Event of Default specified in clause (6) or (7) of Section 6.01(a) hereof, with respect to the Company, any Guarantor of the Company that is a Significant Subsidiary or any group of Guarantors of the Company that, taken together, would constitute a Significant Subsidiary, all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 30% in aggregate principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately.

Section 6.03 *Other Remedies*

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

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note 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. All remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults*.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may, on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes (including in connection with an offer to purchase); *provided, however*, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of the 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*.

Subject to the terms of the Collateral Trust Agreement and certain other limitations, Holders of a majority in principal amount of the Notes that are then outstanding may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee in its exercise of any trust or power. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

Section 6.06 *Limitation on Suits*.

No Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

(1) such Holder has previously given the Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 30% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders have offered the Trustee security or indemnity reasonably satisfactory to the Trustee against any loss, liability or expense it may incur;

(4) the Trustee does not comply with such request within 60 days after receipt of the request and the offer of security or indemnity; and

(5) during such 60-day period, Holders of a majority in aggregate principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07 *Rights of Holders of Notes to Receive Payment*.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal of, premium, if any, or interest on, the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08 *Collection Suit by Trustee*.

If an Event of Default specified in Section 6.01(a)(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest on, remaining unpaid on, the Notes and interest on overdue principal and, to the extent lawful, 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 Claims*.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order 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 of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property 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 custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such 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 to the Trustee under this Indenture, including without limitation, under Section 7.01 hereof. 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 to the Trustee under this Indenture, including without limitation, under Section 7.01 hereof 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 may be entitled to receive in such 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 Notes or the rights of any Holder, 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 pursuant to this Article 6 or, after an Event of Default, any money or other property distributable in respect of the Company's obligations under this Indenture, such money shall be applied in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 of the Base Indenture, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

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 a 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 of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Notes.

ARTICLE 7
TRUSTEE

Section 7.01 *Compensation and Indemnity*.

(a) The Company will pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel. The Trustee may earn compensation in the form of short-term interest on items like uncashed distribution checks (from the date issued until the date cashed), funds that the Trustee is directed not to invest, deposits awaiting investment direction or received too late to be invested overnight in previously directed investments.

(b) The Company and the Guarantors will indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company and the Guarantors (including this Section 7.01) and defending itself against any claim (whether asserted by the Company, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its gross negligence, bad faith or willful misconduct. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company or any of the Guarantors of their obligations hereunder. The Company or such Guarantor will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Company will pay the reasonable fees and expenses of such counsel. Neither the Company nor any Guarantor need pay for any settlement made without its consent, which consent will not be unreasonably withheld.

(c) The obligations of the Company and the Guarantors under this Section 7.01 will survive the satisfaction and discharge of this Indenture.

(d) To secure the Company's and the Guarantors' payment obligations in this Section 7.01, the Trustee will have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium, if any, or interest on, particular Notes. Such Lien will survive the satisfaction and discharge of this Indenture.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in clause (6) or (7) of Section 6.01(a) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

(f) The Company's and Guarantors' obligations under this Section 7.01 shall survive the resignation or removal of the Trustee, any termination of this Supplemental Indenture, including any termination or rejection of this Supplemental Indenture in any insolvency or similar proceeding and the repayment of all the Notes.

ARTICLE 8
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 *Option to Effect Legal Defeasance or Covenant Defeasance*.

The Notes will be subject to Legal Defeasance as described below only if they are distributed to holders of the P-Caps upon the Trust's dissolution and termination. The Company may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officer's Certificate, elect to have either Section 8.02 or Section 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02 *Legal Defeasance and Discharge*.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and each of the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Subsidiary Guarantees) on the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and the Guarantors shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Subsidiary Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of the Indenture referred to in clauses (1) and (2) below, and to have satisfied all their other obligations under such Notes, the Subsidiary Guarantees and this Supplemental Indenture and, to the extent applicable, the Base Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

(1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium, if any, or interest on such Notes when such payments are due from the trust referred to in Section 8.04 hereof;

(2) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof;

(3) the rights, powers, trusts, duties, indemnities and immunities of the Trustee hereunder and under the Base Indenture, and the Company's and the Guarantors' obligations in connection therewith; and

(4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03 *Covenant Defeasance*.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of their obligations under Sections 4.07, 4.09 and 4.10 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes will not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and Subsidiary Guarantees, the Company and the Guarantors may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01(a) hereof, but, except as specified above, the remainder of the Indenture and such Notes and Subsidiary Guarantees shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Section 6.01(a)(3), (4), (5) and (8) hereof shall not constitute Events of Default.

Section 8.04 *Conditions to Legal or Covenant Defeasance*.

In order to exercise either Legal Defeasance or Covenant Defeasance under either Sections 8.02 or 8.03 hereof:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm, or firm of independent public accountants, to pay the principal of, premium, if any, and interest on, the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to such stated date for payment or to a particular redemption date;

(2) in the case of an election under Section 8.02 hereof, the Company must deliver to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that:

(A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling; or

(B) since the date of this Supplemental Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders and Beneficial Owners of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of an election under Section 8.03 hereof, the Company must deliver to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that the Holders and Beneficial Owners of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default shall have occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness), and the granting of Liens to secure such borrowings);

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture and the agreements governing any other Indebtedness being defeased, discharged or replaced) to which the Company or any of the Guarantors is a party or by which the Company or any of the Guarantors is bound;

(6) the Company must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of Notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and

(7) the Company must deliver to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 *Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions*.

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "*Trustee*") pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06 *Repayment to Company*.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on, any Note and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall be paid to the Company on its written request or (if then held by the Company) will be discharged from such trust; and the Holder of such Note will thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, will thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining shall be repaid to the Company.

Section 8.07 *Reinstatement*.

If the Trustee or Paying Agent is unable to apply any U.S. dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and the Guarantors' obligations under the Indenture and the Notes and the Subsidiary Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium, if any, or interest on, any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 *Without Consent of Holders of Notes*.

Notwithstanding Article 9 of the Base Indenture and Section 9.02 of this Supplemental Indenture, without the consent of any Holder of Notes, the Company and the Trustee may amend or supplement this Supplemental Indenture, the Notes, the Subsidiary Guarantees, the Collateral Trust Agreement or the Note Security Documents:

(1) to cure any ambiguity, mistake, defect or inconsistency;

(2) to provide for uncertificated Notes in addition to or in place of certificated Notes (provided that such uncertificated Notes are issued in registered form for U.S. tax purposes);

(3) to provide for the assumption of the Company's Obligations to Holders of Notes in the case of a merger or consolidation or sale of all or substantially all of the Company's assets;

(4) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not materially adversely affect the legal rights under this Supplemental Indenture of any such Holder;

(5) to conform the text of this Supplemental Indenture or the Notes to any provision of the "Description of the Senior Notes" section of the Company's Offering Memorandum;

(6) to evidence and provide for the acceptance and appointment under this Supplemental Indenture of a successor Trustee pursuant to the requirements hereof;

(7) to allow any Guarantor to execute a supplemental indenture and/or a Subsidiary Guarantee with respect to the Notes;

(8) to add Collateral with respect to any or all of the Notes;

(9) in the case of any Note Security Document, to include therein any legend required to be set forth therein pursuant to the Collateral Trust Agreement or to modify any such legend as required by the Collateral Trust Agreement;

(10) to release Collateral from the Lien securing the Notes when permitted or required by the Note Security Documents, the Indenture or the Collateral Trust Agreement;

(11) to enter into any intercreditor agreement having substantially similar terms with respect to the holders as those set forth in the Collateral Trust Agreement, or any joinder thereto;

(12) with respect to the Note Security Documents or the Collateral Trust Agreement, as provided in the Collateral Trust Agreement (including to add or replace secured parties thereunder); or

(13) to comply with the requirements of the SEC in order to effect or maintain the qualification of any Indenture under the Trust Indenture Act.

Upon the request of the Company accompanied by a Board Resolution authorizing the execution of any such amendment or supplement, and upon receipt by the Trustee of an Officer's Certificate and Opinion of Counsel certifying that such amendment or supplement is authorized or permitted by the terms of this Supplemental Indenture, the Trustee shall join with the Company and the Guarantors in the execution of such amendment or supplement and make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amendment or supplement that affects its own rights, duties or immunities under the Indenture or otherwise.

Section 9.02 *With Consent of Holders of Notes*.

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Supplemental Indenture (including, without limitation, Section 4.09 hereof), the Notes, the Subsidiary Guarantees, the Collateral Trust Agreement or the Note Security Documents with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, any Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Supplemental Indenture, such Notes or the Subsidiary Guarantees may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 of the Base Indenture shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

Upon the request of the Company accompanied by a Board Resolution and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of an Officer's Certificate and Opinion of Counsel certifying that such amendment, supplement or waiver is authorized or permitted by the terms of this Supplemental Indenture, the Trustee shall join with the Company and the Guarantors in the execution of such amendment, supplement or waiver unless such amendment, supplement or waiver directly affects the Trustee's own rights, duties or immunities under the Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amendment, supplement or waiver.

It is not 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 is sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall mail or deliver electronically to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail or deliver such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07 hereof and Section 9.02 of the Base Indenture, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Supplemental Indenture, the Notes or the Subsidiary Guarantees. However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

(1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes (other than provisions relating to the covenants described in Section 4.09 hereof and provisions relating to the number of days' notice to be given in case of redemption);

(3) reduce the rate of or change the time for payment of interest on any Note;

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

(5) make any Note payable in currency other than that stated in the Notes;

(6) make any change in the provisions of this Supplemental Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, premium, if any, or, interest on, the Notes;

(7) waive a redemption payment with respect to any Note (other than a payment required by Section 4.09 hereof); or

(8) make any change in Section 9.02 hereof or Section 9.02 of the Base Indenture, as to the Notes, or in the preceding amendment and waiver provisions.

Notwithstanding the foregoing, without the consent of the Holders of at least 66 2/3% in aggregate principal amount of the Notes then outstanding, no amendment or waiver may (A) make any change in any Note Security Documents, the Collateral Trust Agreement or the provisions in this Supplemental Indenture dealing with Collateral or application of trust proceeds of the Collateral with the effect of releasing the Liens on all or substantially all of the Collateral which secure the Obligations in respect of the Notes or (B) change or alter the priority of the Liens securing the Obligations in respect of the Notes in any material portion of the Collateral in any way adverse to the Holders of the Notes in any material respect, other than, in each case, as provided under the terms of the Note Security Documents or the Collateral Trust Agreement.

Other than as expressly provided in Section 9.02 above, the Base Indenture may only be amended, supplemented or otherwise modified as and to the extent provided in the Base Indenture.

Section 9.03 *[Reserved].*

Section 9.04 *Revocation and Effect of Consents*.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before 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.

Section 9.05 *Notation on or Exchange of Notes*.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 *Trustee to Sign Amendments, etc*.

Upon its receipt of any documentation required to be delivered to it pursuant to this Article 9, the Trustee shall sign any amendment or supplement authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplement until the Board of Directors of the Company approves it. In executing any amendment or supplement pursuant to this Article 9, the Trustee will be entitled to receive and (subject to Section 7.01 of the Base Indenture) will be fully protected in relying upon an Officer's Certificate and an Opinion of Counsel stating that the execution of such amendment or supplement is authorized or permitted by the Indenture and the Note Security Documents.

ARTICLE 10
SUBSIDIARY GUARANTEES

Section 10.01 *Guarantee*.

(a) Subject to this Article 10, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of the Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(1) the principal of, premium, if any, and interest on, the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, premium, if any, and interest on, the Notes, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder shall be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and the Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(d) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantee.

Section 10.02 *Limitation on Guarantor Liability*.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Subsidiary Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 10, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent transfer or conveyance.

Section 10.03 *Execution and Delivery of Subsidiary Guarantee*.

Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in Section 10.01 hereof will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

If an Officer whose signature is on this Supplemental Indenture or on the Subsidiary Guarantee no longer holds that office at the time the Trustee authenticates the Note on which a Subsidiary Guarantee is endorsed, the Subsidiary Guarantee will be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Subsidiary Guarantee set forth in this Supplemental Indenture on behalf of the Guarantors.

Section 10.04 *Guarantors May Consolidate, etc., on Certain Terms*.

Except as otherwise provided in Section 10.05 hereof, no Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Company or another Guarantor, unless:

(1) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(2) subject to Section 10.05 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor under its Subsidiary Guarantee and this Supplemental Indenture on the terms set forth herein pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee;

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Supplemental Indenture to be performed by the Guarantor, such successor Person shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Subsidiary Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Subsidiary Guarantees so issued will in all respects have the same legal rank and benefit under this Supplemental Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of this Supplemental Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding clause (2) above, nothing contained in this Supplemental Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

Section 10.05 *Releases*.

(a) The Subsidiary Guarantee of a Guarantor of the Notes shall be released automatically:

(1) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Company or a Subsidiary of the Company;

(2) in connection with any sale or other disposition of Capital Stock of that Guarantor to a Person that is not (either before or after giving effect to such transaction) the Company or a Subsidiary of the Company, if following such sale or other disposition, that Guarantor is not a direct or indirect Subsidiary of the Company;

(3) upon defeasance or satisfaction and discharge of the Notes as provided in Sections 8.01, 8.02, 8.03, 8.04 and 11.01 hereof;

(4) upon the dissolution of a Guarantor that is permitted under this Supplemental Indenture; or

(5) otherwise with respect to the Guarantee of any Guarantor:

(A) upon the prior consent of Holders of at least a majority in aggregate principal amount of the Notes then outstanding;

(B) if the Company has Indebtedness outstanding under the Credit Agreement at that time, upon the consent of the requisite lenders under the Credit Agreement to the release of such Guarantor's Guarantee of all Obligations under the Credit Agreement, or, if there is no Indebtedness of the Company outstanding under the Credit Agreement at that time, upon the requisite consent of the holders of all other Indebtedness for borrowed money of the Company that is guaranteed by such Guarantor at that time outstanding to the release of such Guarantor's Guarantee of all Obligations with respect to all other Indebtedness for borrowed money that is guaranteed by such Guarantor at that time outstanding; or

(C) if the Company has Indebtedness outstanding under the Credit Agreement at that time, upon the release of such Guarantor's Guarantee of all Obligations of the Company under the Credit Agreement, or, if there is no Indebtedness of the Company outstanding under the Credit Agreement at that time, upon the release of such Guarantor's Guarantee of all Obligations with respect to all other Indebtedness for borrowed money of the Company at that time outstanding.

(b) The Subsidiary Guarantee of a Guarantor shall be released with respect to the Notes automatically upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of this Supplemental Indenture pursuant to Articles 8 and 11 hereof.

(c) Upon delivery by the Company to the Trustee of an Officer's Certificate and an Opinion of Counsel to the effect that the action or event giving rise to the applicable release has occurred or was made by the Company in accordance with the provisions of this Supplemental Indenture the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Guarantee.

(d) Any Guarantor not released from its obligations under its Subsidiary Guarantee as provided in this Section 10.05 will remain liable for the full amount of principal of, premium, if any, and interest on, the Notes and for the other obligations of any Guarantor under the Indenture as provided in this Article 10.

ARTICLE 11
SATISFACTION AND DISCHARGE

Section 11.01 *Satisfaction and Discharge*.

This Supplemental Indenture will be discharged and will cease to be of further effect as to all Notes issued hereunder, when:

(1) either:

(a) all Notes that have been authenticated, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust and thereafter repaid to the Company, have been delivered to the Trustee for such Notes for cancellation; or

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

(2) in respect of subclause (b) of clause (1) of this Section 11.01, no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(3) the Company or any Guarantor has paid or caused to be paid all sums payable by it with respect to Notes under this Supplemental Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee under this Supplemental Indenture to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be.

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

Notwithstanding the satisfaction and discharge of this Supplemental Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 11.01, the provisions of Sections 11.02 and 8.06 hereof will survive. In addition, nothing in this Section 11.01 will be deemed to discharge those provisions of Section 7.07 of the Base Indenture, that, by their terms, survive the satisfaction and discharge of this Supplemental Indenture.

Section 11.02 *Application of Trust Money*.

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 11.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and the Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 hereof 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 such application, the Company's and any Guarantor's obligations under this Supplemental Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01 hereof; *provided* that if the Company has made any payment of principal of, premium, if any, or interest on, any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 12
MISCELLANEOUS

Section 12.01 *[Reserved].*

Section 12.02 *Notices*.

Any notice or communication by the Company, any Guarantor or the Trustee to the others is duly given if in writing, in English, and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telecopier, as a ".pdf" attachment to an email or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company and/or any Guarantor:

NRG Energy, Inc.
804 Carnegie Place
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel
E-Mail: ogc@nrg.com and LoanCompliance@nrg.com

If to the Trustee:
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

The Company, any Guarantor or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will 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; when receipt acknowledged, if telecopied; 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 will be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it will 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.

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

Section 12.03 *[Reserved]*.

Section 12.04 *No Personal Liability of Directors, Officers, Employees and Stockholders*.

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

Section 12.05 *Governing Law*.

THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 12.06 *No Adverse Interpretation of Other Agreements*.

This Supplemental Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Supplemental Indenture.

Section 12.07 *Successors*.

All agreements of the Company in the Indenture and the Notes will bind its successors. All agreements of the Trustee in the Indenture will bind its successors. All agreements of each Guarantor in this Supplemental Indenture will bind its successors, except as otherwise provided in Section 10.05 hereof.

Section 12.08 *Severability*.

In case any provision in the Indenture or in the Notes is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

Section 12.09 *Counterpart Originals*.

The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, but all of them together represent the same agreement. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the Electronic Signatures in Global and National Commerce Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law (*e.g.*, www.docusign.com)) (an "Electronic Signature") or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be legally valid, effective and enforceable for all purposes.

Section 12.10 *Multiple Roles*.

The parties expressly acknowledge and consent to the Trustee acting in the capacity of trustee under the Trust Declaration (the "*Owner Trustee*"), as Collateral Agent and Securities Intermediary under the Pledge Agreement, and as the Trustee under the Indenture and the Facility Agreement. Each of the Owner Trustee, the Securities Intermediary, the Collateral Agent and the Trustee may, in such capacity, discharge its separate functions fully, without hindrance or regard to conflict of interest principles, duty of loyalty principles or other breach of fiduciary duties to the extent any such conflict or breach arises from the performance by the Owner Trustee of express duties set forth in the Trust Declaration, the Collateral Agent and Securities Intermediary of express duties set forth in the Pledge Agreement or the Trustee of express duties set forth in the Facility Agreement and in the Indenture, all of which defenses, claims or assertions are hereby expressly waived by the other parties hereto and the Holders of the Notes.

Section 12.11 *Table of Contents, Headings, etc*.

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and will in no way modify or restrict any of the terms or provisions hereof.

[*Signatures on following page*]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

NRG ENERGY, INC.

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Sr. Vice President, Treasurer & Head of Investor Relations

GUARANTORS:

ASTORIA GAS TURBINE POWER LLC
CARBON MANAGEMENT SOLUTIONS LLC
DUNKIRK POWER LLC
ENERGY CHOICE SOLUTIONS LLC
HUNTLEY POWER LLC
INDIAN RIVER POWER LLC
NORWALK POWER LLC
NRG BUSINESS SERVICES LLC
NRG CEDAR BAYOU DEVELOPMENT COMPANY, LLC
NRG DISTRIBUTED ENERGY RESOURCES HOLDINGS LLC
NRG ECOKAP HOLDINGS LLC
NRG ENERGY SERVICES GROUP LLC
NRG HQ DG LLC
NRG INTERNATIONAL LLC
NRG RETAIL LLC
NRG RETAIL NORTHEAST LLC
NRG ROCKFORD ACQUISITION LLC
NRG WEST COAST LLC
SOMERSET POWER LLC
VIENNA POWER LLC

NRG ENERGY, INC., Sole Member

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Sr. Vice President, Treasurer & Head of Investor Relations

AIRTRON, INC.
AWHR AMERICA'S WATER HEATER RENTALS, L.L.C.
BOUNCE ENERGY, INC.
CPL RETAIL ENERGY L.P.
DIRECT ENERGY CONNECTED HOME US INC.
DIRECT ENERGY GP, LLC
DIRECT ENERGY HOLDCO GP LLC
DIRECT ENERGY LEASING, LLC
DIRECT ENERGY MARKETING INC.
DIRECT ENERGY OPERATIONS, LLC
DIRECT ENERGY SERVICES, LLC
DIRECT ENERGY US HOLDINGS INC.
DIRECT ENERGY, LP
FIRST CHOICE POWER, LLC
GATEWAY ENERGY SERVICES CORPORATION
HOME WARRANTY HOLDINGS CORP.
MASTERS, INC.
RSG HOLDING CORP.
WTU RETAIL ENERGY L.P.
NRG BUSINESS MARKETING LLC

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Vice President

ACE ENERGY, INC.
CABRILLO POWER I LLC
CABRILLO POWER II LLC
CIRRO ENERGY SERVICES, INC.
CIRRO GROUP, INC.
EASTERN SIERRA ENERGY COMPANY LLC
EL SEGUNDO POWER II LLC
EL SEGUNDO POWER, LLC
ENERGY PLUS HOLDINGS LLC
ENERGY PLUS NATURAL GAS LLC
EVERYTHING ENERGY LLC
FORWARD HOME SECURITY, LLC
GCP FUNDING COMPANY, LLC
GREEN MOUNTAIN ENERGY COMPANY
GREGORY PARTNERS, LLC
GREGORY POWER PARTNERS LLC
INDEPENDENCE ENERGY ALLIANCE LLC
INDEPENDENCE ENERGY GROUP LLC
INDEPENDENCE ENERGY NATURAL GAS LLC
INDIAN RIVER OPERATIONS INC.
MERIDEN GAS TURBINES LLC
NEO CORPORATION

NEW GENCO GP, LLC
NRG AFFILIATE SERVICES INC.
NRG ARTHUR KILL OPERATIONS INC.
NRG CABRILLO POWER OPERATIONS INC.
NRG CONNECTED HOME LLC
NRG CONTROLLABLE LOAD SERVICES LLC
NRG CURTAILMENT SOLUTIONS, INC.
NRG DEVELOPMENT COMPANY INC.
NRG DISPATCH SERVICES LLC
NRG DISTRIBUTED GENERATION PR LLC
NRG DUNKIRK OPERATIONS INC.
NRG ENERGY LABOR SERVICES LLC
NRG GENERATION HOLDINGS INC.
NRG HOME & BUSINESS SOLUTIONS LLC
NRG HOME SOLUTIONS LLC
NRG HOME SOLUTIONS PRODUCT LLC
NRG HOMER CITY SERVICES LLC
NRG HUNTLEY OPERATIONS INC.
NRG IDENTITY PROTECT LLC
NRG MEXTRANS INC.
NRG NORWALK HARBOR OPERATIONS INC.
NRG PORTABLE POWER LLC
NRG RENTER'S PROTECTION LLC
NRG SAGUARO OPERATIONS INC.
NRG SECURITY LLC
NRG SERVICES CORPORATION
NRG SIMPLYSMART SOLUTIONS LLC
NRG TEXAS GREGORY LLC
NRG TEXAS HOLDING INC.
NRG TEXAS LLC
NRG TEXAS POWER LLC
NRG WARRANTY SERVICES LLC
NRG WESTERN AFFILIATE SERVICES INC.
RELIANT ENERGY NORTHEAST LLC
RELIANT ENERGY POWER SUPPLY, LLC
RELIANT ENERGY RETAIL HOLDINGS, LLC
RELIANT ENERGY RETAIL SERVICES, LLC
RERH HOLDINGS, LLC
SAGUARO POWER LLC
SGE ENERGY SOURCING, LLC
SGE TEXAS HOLDCO, LLC
SOMERSET OPERATIONS INC.
STREAM ENERGY COLUMBIA, LLC
STREAM ENERGY DELAWARE, LLC
STREAM ENERGY ILLINOIS, LLC
STREAM ENERGY MARYLAND, LLC
STREAM ENERGY NEW JERSEY, LLC

STREAM ENERGY NEW YORK, LLC
STREAM ENERGY PENNSYLVANIA, LLC
STREAM GEORGIA GAS SPE, LLC
STREAM OHIO GAS & ELECTRIC, LLC
STREAM SPE GP, LLC
TEXAS GENCO GP, LLC
TEXAS GENCO HOLDINGS, INC.
TEXAS GENCO LP, LLC
TEXAS GENCO SERVICES, LP
US RETAILERS LLC
VIENNA OPERATIONS INC.
WCP (GENERATION) HOLDINGS LLC
WEST COAST POWER LLC
XOOM ALBERTA HOLDINGS, LLC
XOOM ENERGY GLOBAL HOLDINGS LLC
XOOM ENERGY, LLC
XOOM ONTARIO HOLDINGS, LLC
XOOM SOLAR, LLC

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Treasurer

ALLIED HOME WARRANTY GP LLC
ALLIED WARRANTY LLC
DIRECT ENERGY BUSINESS, LLC
NRG HOME SERVICES LLC
NRG HOME SOLUTIONS LLC
NRG PROTECTS INC.
XOOM ENERGY CALIFORNIA, LLC

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Vice President and Treasurer

NRG SOUTH TEXAS LP

TEXAS GENCO GP, LLC, General Partner

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Vice President and Treasurer

STREAM SPE, LTD.

STREAM SPE GP, LLC, General Partner

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Treasurer

XOOM BRITISH COLUMBIA HOLDINGS, LLC
XOOM ENERGY CONNECTICUT, LLC
XOOM ENERGY DELAWARE, LLC
XOOM ENERGY GEORGIA, LLC
XOOM ENERGY ILLINOIS, LLC
XOOM ENERGY INDIANA, LLC
XOOM ENERGY KENTUCKY, LLC
XOOM ENERGY MAINE, LLC
XOOM ENERGY MARYLAND, LLC
XOOM ENERGY MASSACHUSETTS, LLC
XOOM ENERGY MICHIGAN, LLC
XOOM ENERGY NEW HAMPSHIRE, LLC
XOOM ENERGY NEW JERSEY, LLC
XOOM ENERGY NEW YORK, LLC
XOOM ENERGY OHIO, LLC
XOOM ENERGY PENNSYLVANIA, LLC
XOOM ENERGY RHODE ISLAND, LLC
XOOM ENERGY TEXAS, LLC
XOOM ENERGY VIRGINIA, LLC
XOOM ENERGY WASHINGTON D.C., LLC

XOOM ENERGY LLC, Sole Member

By: /s/ Kevin L. Cole
Name: Kevin L. Cole
Title: Treasurer

NRG CALIFORNIA PEAKER OPERATIONS LLC
NRG OPERATING SERVICES, INC.

By: /s/ Matthew J. Pistner
Name: Matthew J. Pistner
Title: President

NRG ASTORIA GAS TURBINE OPERATIONS INC.
NRG EL SEGUNDO OPERATIONS INC.

By: /s/ Matthew J. Pistner
Name: Matthew J. Pistner
Title: Vice President

ENERGY ALTERNATIVES WHOLESALE, LLC

By: /s/ Robert J. Gaudette
Name: Robert J. Gaudette
Title: Vice President

NRG CONSTRUCTION LLC
NRG ENERGY SERVICES LLC
NRG MAINTENANCE SERVICES LLC
NRG RELIABILITY SOLUTIONS LLC

By: /s/ Linda Weigand
Name: Linda Weigand
Title: Treasurer

TRUSTEE:

DEUTSCHE BANK TRUST COMPANY AMERICAS

By: /s/ Robert Peschler
Name: Robert Peschler
Title: Vice President

By: /s/ Sebastian Hidalgo
Name: Sebastian Hidalgo
Title: Assistant Vice President

EXHIBIT A

[Face of Note]

CUSIP/CINS 629377 CV2

7.467% Senior Secured First Lien Notes due 2028

No. ____ $_____

as revised [by the Schedule of Increases and Decreases attached hereto] [*Include if this Security is issued to the Trust*] [by the Schedule of Increases and Decreases and Exchanges of Interests attached hereto] [*Include if this Security is in the form of a Global Note*] with a principal sum not to exceed $_____, and $_____ in the aggregate for the Securities of the Series.

NRG ENERGY, INC.

promises to pay to _____ or registered assigns,

the principal sum of _____DOLLARS on July 31, 2028.

Interest Payment Dates: January 31 and July 31

Record Dates: January 15 and July 15

Dated:

This Note is one of the Securities
of the Series designated therein referred to
in the within-mentioned Base Indenture.

IN WITNESS WHEREOF, the Issuer has caused this instrument to be duly executed.

NRG ENERGY, INC.

By: _____
Name:
Title:

DEUTSCHE BANK TRUST COMPANY AMERICAS, as Trustee

By: _____
Name:
Title:

By: _____
Name:
Title:

[Insert the Global Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Original Issue Discount Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST*. NRG Energy, Inc., a Delaware corporation (the "*Company*"), promises to pay interest on the principal sum (not in excess of the Maximum Amount) [reflected on the Schedule of Increases and Decreases on Schedule A of this Note] [*Include if this Security is issued to the Trust*] [reflected on the Schedule of Increases and Decreases and Exchanges of Interests on Schedule A of this Note] [*Include if this Security is in the form of a Global Note*] and in the Security Register in accordance with the terms of the Indenture at 7.467% per annum from and including the date the Notes are delivered to the Trust or, if such date is not January 31 or July 31 (or if such date is prior to January 31, 2024, the date the P-Caps are issued) (the "*Issuance Date*"), and will be payable on each January 31 and July 31, commencing on January 31, 2024 (each, "*Distribution Date*"), or at any time the Notes are held by the Trust or in book-entry form only, at the close of business on the Business Day immediately preceding the Distribution Date. The Company shall pay interest semi-annually in arrears on January 31 and July 31 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "*Interest Payment Date*"). Interest on this Note will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Issuance Date; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(2) *METHOD OF PAYMENT*. The Company shall pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the January 15 and July 15 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Base Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest at the office or agency of the Paying Agent and Registrar within the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided*, that payment by wire transfer of immediately available funds will be required with respect to principal of, premium, if any, and interest on, all Global Notes and all other Notes the Holders of which will have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. If this Note has been distributed by the Trust to the holders of the P-Caps upon the dissolution and termination of the Trust and is not represented by a Global Note, at the option of the Company, payment may be made by (i) check mailed to the address of the person entitled thereto as such address shall appear in the Security Register or (ii) Holders of the Notes must make arrangements to have their payments picked up at or wired from the corporate trust office of the Trustee. That office is currently located at 1 Columbus Circle, 17th Floor, New York, New York 10019. The Company may arrange for additional payment offices or cancel or change these offices.

(3) *PAYING AGENT AND REGISTRAR*. Initially, Deutsche Bank Trust Company Americas, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change the Paying Agent or Registrar without prior notice to the Holders of the Notes. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

(4) *INDENTURE*. This Note is one of a duly authenticated series of securities of the Company issued and to be issued in one or more series under an Indenture (the "*Base Indenture*"), dated as of August 29, 2023, between the Company and the Trustee, as amended by the Supplemental Indenture (the "*Supplemental Indenture*" and, together with the Base Indenture, the "*Indenture*"), dated as of August 29, 2023, among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Base Indenture, the provisions of this Note shall govern and be controlling, and to the extent any provision of this Note conflicts with the express provisions of the Supplemental Indenture, the provisions of the Supplemental Indenture shall govern and be controlling. The Notes are secured first lien obligations of the Company.

(5) *OPTIONAL REDEMPTION*.

At any time prior to June 30, 2028 (one month prior to the maturity date of the Notes) (the "*par call date*"), the Company may on any one or more occasions redeem all or a part of the Notes, upon not less than 10 nor more than 60 days' prior notice, at a redemption price (the "*Optional Redemption Price*") equal to the greater of:

(i) 100% of the principal amount of the Notes to be redeemed; and

(ii) the sum, calculated by the Company, of the present value at such redemption date of all remaining scheduled payments of principal and interest due on the Notes to be redeemed through the par call date (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points;

plus, in either case, accrued and unpaid interest to, but not including, the redemption date, subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date.

In addition, at any time and from time to time on or after the par call date, the Notes will be redeemable, in whole or in part at any time, at the Company's option, at a redemption price equal to 100% of the principal amount of the Notes being redeemed plus accrued and unpaid interest to, but not including, the redemption date.

Except pursuant to the preceding paragraphs, the Notes will not be redeemable at the Company's option. The Company is not prohibited, however, from acquiring the Notes in market transactions by means other than a redemption, whether pursuant to a tender offer or otherwise.

Any redemption pursuant to this Section 5 shall be made pursuant to the provisions of Sections 3.01 through 3.07 of the Supplemental Indenture.

(6) *MANDATORY REDEMPTION*. The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

(7) *REPURCHASE AT THE OPTION OF HOLDER*. Upon the occurrence of a Change of Control Triggering Event, the Company will make an offer (a *"Change of Control Offer"*) to each Holder to repurchase all or any part (equal to $2,000 or an integral multiple of $1,000 in excess of $2,000) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest to, but not including, the date of purchase, subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date. Within 30 days following any Change of Control, the Company will mail (or deliver electronically) a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(8) *NOTICE OF REDEMPTION*. At least 10 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, or deliver electronically, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed or delivered more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Supplemental Indenture pursuant to Articles 8 or 11 thereof. Notes and portions of Notes selected will be in minimum principal amounts of $2,000 or in integral multiples of $1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder shall be redeemed or purchased.

(9) *DENOMINATIONS, TRANSFER, EXCHANGE*. The Notes are in registered form without coupons in denominations of $2,000 and integral multiples of $1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Supplemental Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Supplemental Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the next succeeding Interest Payment Date.

(10) *PERSONS DEEMED OWNERS*. The registered Holder of a Note may be treated as the owner of it for all purposes. Only registered Holders have rights under the Indenture.

(11) *AMENDMENT, SUPPLEMENT AND WAIVER.* The Base Indenture may be amended as provided therein. Subject to certain exceptions, the Supplemental Indenture, the Notes or the Subsidiary Guarantees may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes, voting as a single class, and any existing Default or Event of Default or compliance with any provision of the Supplemental Indenture or the Notes or the Subsidiary Guarantees may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes, voting as a single class. Without the consent of any Holder of Notes, the Supplemental Indenture, the Notes, the Subsidiary Guarantees, the Collateral Trust Agreement or the Note Security Documents may be amended or supplemented (i) to cure any ambiguity, mistake, defect or inconsistency, (ii) to provide for uncertificated Notes in addition to or in place of certificated Notes (provided that such uncertificated Notes are issued in registered form for U.S. tax purposes), (iii) to provide for the assumption of the Company's Obligations to Holders of the Notes in the case of a merger or consolidation or sale of all or substantially all of the Company's assets pursuant to Article 5 of the Supplemental Indenture, (iv) to add Collateral with respect to any or all of the Notes; (v) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not materially adversely affect the legal rights under the Supplemental Indenture of any such Holder, (vi) to conform the text of the Supplemental Indenture or the Notes to any provision of the "Description of the Senior Notes" section of the Company's Offering Memorandum, (vii) to evidence and provide for the acceptance and appointment under the Supplemental Indenture of a successor trustee pursuant to the requirements thereof, (viii) to allow any Guarantor to execute a supplemental indenture and/or a Subsidiary Guarantee with respect to the Notes, (ix) in the case of any Note Security Document, to include therein any legend required to be set forth therein pursuant to the Collateral Trust Agreement or to modify any such legend as required by the Collateral Trust Agreement, (x) to release Collateral from the Lien securing the notes when permitted or required by the Note Security Documents, the Indenture or the Collateral Trust Agreement, (xi) to enter into any intercreditor agreement having substantially similar terms with respect to the Holders as those set forth in the Collateral Trust Agreement, or any joinder thereto, (xii) with respect to the Note Security Documents, as provided in the Collateral Trust Agreement (including to add or replace secured parties) or (xiii) to comply with the requirements of the SEC in order to effect or maintain the qualification of any Indenture under the Trust Indenture Act.

(12) *DEFAULTS AND REMEDIES*. Events of Default include: (i) default for 30 days in the payment when due of interest on, the Notes; (ii) default in the payment when due of the principal of, or premium on, if any, the Notes; (iii) failure by the Company or any Guarantor for 60 days (or 120 days with respect to a default under Section 4.03 of the Supplemental Indenture) after written notice to the Company by the Trustee or the Holders of at least 30% in aggregate principal amount of the Notes then outstanding to comply with any of the agreements in the Supplemental Indenture (other than a default referred to in clause (i) or (ii) of Section 6.01 of the Indenture); (iv) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any Guarantor (or the payment of which is Guaranteed by the Company or any Guarantor), whether such Indebtedness or Guarantee now exists, or is created after the date of the Supplemental Indenture, if that default: (A) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "*Payment Default*"); or (B) results in the acceleration of such Indebtedness prior to its express maturity, and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, exceeds the greater of (1) 1.5% of Total Assets and (2) $600.0 million; *provided* that this clause (iv) shall not apply to (a) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness to a Person that is not an Affiliate of the Company; (b) Non-Recourse Debt (except to the extent that the Company or any of the Guarantors that are not parties to such Non-Recourse Debt becomes directly or indirectly liable, including pursuant to any contingent obligation, for any such Non-Recourse Debt and such liability, individually or in the aggregate, exceeds the greater of (i) 1.5% of Total Assets and (ii) $600.0 million); and (c) to the extent constituting Indebtedness, any indemnification, guarantee or other credit support obligations of the Company or any of the Guarantors in connection with any tax equity financing entered into by a non-Guarantor Subsidiary or any standard securitization undertakings of the Company or any of the Guarantors in connection with any securitization or other structured finance transaction entered into by a non-Guarantor Subsidiary; (v) except as permitted by the Supplemental Indenture, any Subsidiary Guarantee of any Guarantor that constitutes a Significant Subsidiary (or any group of Guarantors that, taken together, would constitute a Significant Subsidiary) shall be held in any final and non-appealable judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor that constitutes a Significant Subsidiary (or any group of Guarantors that, taken together, would constitute a Significant Subsidiary), or any Person acting on behalf of any Guarantor that constitutes a Significant Subsidiary (or any group of Guarantors that, taken together, would constituent a Significant Subsidiary), shall deny or disaffirm its or their obligations under its or their Subsidiary Guarantee(s); (vi) the Company or any Guarantor that constitutes a Significant Subsidiary (or any group of Guarantors that, taken together, would constitute a Significant Subsidiary):

(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 custodian of it or for all or substantially all of its property, (D) makes a general assignment for the benefit of its creditors, or (E) generally is not paying its debts as they become due; or (vii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (A) is for relief against the Company or any Guarantor that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary;

(B) appoints a custodian of the Company or Guarantor that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or any Guarantor that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary; or

(C) orders the liquidation of the Company or any Guarantor that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary; and the order or decree remains unstayed and in effect for 60 consecutive days.

(13) *TRUSTEE DEALINGS WITH COMPANY*. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to and entitled to the benefits of Article 7 of the Base Indenture.

(14) *NO RECOURSE AGAINST OTHERS*. No director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, the Indenture, the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

(15) *AUTHENTICATION*. This Note will not be valid until authenticated by the manual signature or Electronic Signature of the Trustee or an authenticating agent.

(16) *ABBREVIATIONS*. Customary abbreviations may be used in the name of a Holder 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 Gifts to Minors Act).

(17) *CUSIP NUMBERS*. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes, and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(18) *GOVERNING LAW.* THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE AND THE SUBSIDIARY GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company shall furnish to any Holder upon written request and without charge a copy of the Base Indenture and/or the Supplemental Indenture. Requests may be made to:

NRG Energy, Inc.
804 Carnegie Center
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: _____

(Insert assignee's legal name)

_____

(Insert assignee's soc. sec. or tax I.D. no.)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____ 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 face of this Note)

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

Option of Holder to Elect Purchase

If you want to elect to have this Note purchased by the Company pursuant to Section 4.09 of the Supplemental Indenture, check here: ☐

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.09 of the Supplemental Indenture, state the amount you elect to have purchased:

$ _____

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: _____

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE A

SCHEDULE OF INCREASES AND DECREASES IN THE NOTE

The following increases and decreases in this Note have been made:

Date of Change	Amount of decrease in Principal Amount of this Note	Amount of increase in Principal Amount of this Note	Principal Amount of this Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE *

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian

* *This schedule should be included only if the Note is issued in global form.*

FORM OF CERTIFICATE OF TRANSFER

NRG Energy, Inc.
804 Carnegie Place
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel

Deutsche Bank Trust Company Americas
c/o DB Services Americas, Inc.
5022 Gate Parkway, Suite 200
Jacksonville, FL 32256
Attn: Transfer Department

Copy

Deutsche Bank Trust Company Americas
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

Re: 7.467% Senior Secured First Lien Notes due 2028

Reference is hereby made to the Supplemental Indenture, dated as of August 29, 2023 (the "*Indenture*"), among NRG Energy, Inc., as issuer (the "*Company*"), the Guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the "*Transferor*") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of $_____ in such Note[s] or interests (the "*Transfer*"), to _____ (the "*Transferee*"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. ☐ Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the "*Securities Act*"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A, and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2. ☐ Check if Transferee will take delivery of a beneficial interest in the Regulation S Global Note or a Restricted Definitive Note pursuant to Regulation S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3. ☐ Check and complete if Transferee will take delivery of a beneficial interest in the IAI Global Note or a Restricted Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) ☐ such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) ☐ such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) ☐ such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

or

(d) ☐ such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than $250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the IAI Global Note and/or the Restricted Definitive Notes and in the Indenture and the Securities Act.

4. ☐ **Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.**

(a) ☐ **Check if Transfer is pursuant to Rule 144**. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) ☐ **Check if Transfer is Pursuant to Regulation S**. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) ☐ **Check if Transfer is Pursuant to Other Exemption**. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

_____
[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) ☐ a beneficial interest in the:

(i) ☐ 144A Global Note (CUSIP _____), or

(ii) ☐ Regulation S Global Note (CUSIP _____), or

(iii) ☐ IAI Global Note (CUSIP _____); or

(b) ☐ a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) ☐ a beneficial interest in the:

(i) ☐ 144A Global Note (CUSIP _____), or

(ii) ☐ Regulation S Global Note (CUSIP _____), or

(iii) ☐ IAI Global Note (CUSIP _____); or

(iv) ☐ Unrestricted Global Note (CUSIP _____); or

(b) ☐ a Restricted Definitive Note; or

(c) ☐ an Unrestricted Definitive Note, in accordance with the terms of the Indenture.

FORM OF CERTIFICATE OF EXCHANGE

NRG Energy, Inc.
804 Carnegie Place
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel

Deutsche Bank Trust Company Americas
c/o DB Services Americas, Inc.
5022 Gate Parkway, Suite 200
Jacksonville, FL 32256
Attn: Transfer Department

Copy

Deutsche Bank Trust Company Americas
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

Re: 7.467% Senior Secured First Lien Notes due 2028

(CUSIP [ ])

Reference is hereby made to the Supplemental Indenture, dated as of August 29, 2023 (the "*Indenture*"), among NRG Energy, Inc., as issuer (the "*Company*"), the Guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the "*Owner*") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of $_____ in such Note[s] or interests (the "*Exchange*"). In connection with the Exchange, the Owner hereby certifies that:

1. **Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note**

(a) ☐ **Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note**. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the "*Securities Act*"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) ☐ **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note**. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) ☐ **Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note**. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) ☐ **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note**. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. **Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes**

(a) ☐ **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) ☐ **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note**. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] ☐ 144A Global Note, ☐ Regulation S Global Note, ☐ IAI Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

_____
[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

FORM OF CERTIFICATE FROM
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

NRG Energy, Inc.
804 Carnegie Place
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel

Deutsche Bank Trust Company Americas
c/o DB Services Americas, Inc.
5022 Gate Parkway, Suite 200
Jacksonville, FL 32256
Attn: Transfer Department

Copy

Deutsche Bank Trust Company Americas
Trust and Agency Services
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
USA
Attn: Corporates Team, Alexander Funding Trust II, NRG Energy, AA5698
Facsimile: (732) 578-4635
Email: Sebastian-a.hidalgo@db.com

Re: 7.467% Senior Secured First Lien Notes due 2028

Reference is hereby made to the Supplemental Indenture, dated as of August 29, 2023 (the "*Indenture*"), among NRG Energy, Inc., as issuer (the "*Company*"), the Guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of $_____ aggregate principal amount of:

(a) ☐ a beneficial interest in a Global Note, or

(b) ☐ a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the "*Securities Act*").

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Notes, at the time of transfer of less than $250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144 under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

_____

[Insert Name of Accredited Investor]

By: _____

Name:

Title:

Dated: _____

FORM OF SUPPLEMENTAL INDENTURE
ADDITIONAL SUBSIDIARY GUARANTEES

SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture for Additional Guarantees*"), dated as of _____, among _____(the "*Guaranteeing Subsidiary*"), a subsidiary of NRG Energy, Inc. (or its permitted successor), a Delaware corporation (the "*Company*"), the Company and Deutsche Bank Trust Company Americas, as trustee under the Indenture referred to below (the "*Trustee*").

W I T N E S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "*Base Indenture*"), dated as of August 29, 2023, between the Company and the Trustee, as amended by a Supplemental Indenture (the "*Supplemental Indenture*" and, together with the Base Indenture, the "*Indenture*"), dated as of August 29, 2023, among the Company, the Guarantors named therein and the Trustee, providing for the original issuance of an aggregate principal amount of $0 of 7.467% Senior Secured First Lien Notes due 2028 (the "*Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "*Subsidiary Guarantee*"); and WHEREAS, pursuant to Sections 4.10 and 9.01 of the Supplemental Indenture, the Trustee, the Company and the other Guarantors are authorized to execute and deliver this Supplemental Indenture for Additional Guarantees.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Supplemental Indenture.

2. Agreement to Guarantee. The Guaranteeing Subsidiary hereby becomes a party to the Supplemental Indenture as a Guarantor and as such will have all the rights and be subject to all the Obligations and agreements of a Guarantor under the Indenture. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Subsidiary Guarantee and in the Supplemental Indenture including but not limited to Article 10 thereof.

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

4. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE FOR ADDITIONAL GUARANTEES BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. Counterparts. The parties may sign any number of copies of this Supplemental Indenture for Additional Guarantees. Each signed copy shall be an original, but all of them together represent the same agreement. Facsimile, documents executed, scanned and transmitted electronically and electronic signatures, including those created or transmitted through a software platform or application, shall be deemed original signatures for purposes of this Supplemental Indenture and all matters and agreements related thereto, with such facsimile, scanned and electronic signatures having the same legal effect as original signatures.

6. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. The Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture for Additional Guarantees or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

8. Ratification of Indenture; Supplemental Indenture for Additional Guarantees Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture for Additional Guarantees shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall by bound hereby.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture for Additional Guarantees to be duly executed and attested, all as of the date first above written.

Dated: _____,

[GUARANTEEING SUBSIDIARY]

By: _____
Name:
Title:

NRG Energy, Inc.

By: _____
Name:
Title:

[TRUSTEE],
as Trustee

By: _____
Authorized Signatory