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

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2022 or

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

For the transition period from to
Commission File Number 001-35243

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

Delaware	**90-0640593**
(State of or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

1011 Warrenville Road, Suite 600
Lisle, Illinois 60532
(Address of principal executive offices, including zip code)
(630) 824-1000
(Registrant's telephone number, including area code)

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

Title of Each Class	Trading symbol(s)	Name of Each Exchange on which Registered
Common Stock, $0.01 par value	**SXC**	**New York Stock Exchange**

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes ☐ No ☒

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

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

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

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

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. Yes ☒ No ☐

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

The aggregate market value of the registrant's common stock on June 30, 2022 (based upon the closing price of $6.81 on June 30, 2022, the last trading day of the registrant's most recently completed second fiscal quarter, on the New York Stock Exchange) held by non-affiliates was approximately $563,318,889.

The number of shares of common stock outstanding as of February 17, 2023 was 83,412,818

Portions of the SunCoke Energy, Inc. 2023 definitive Proxy Statement, which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2022, are incorporated by reference in Part III of this Annual Report on Form 10-K.

SUNCOKE ENERGY, INC.

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CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

We have made forward-looking statements in this Annual Report on Form 10-K, including, among others, in the sections entitled "Business," "Risk Factors," "Quantitative and Qualitative Disclosures About Market Risk" and "Management's Discussion and Analysis of Financial Condition and Results of Operations." Forward-looking statements include all statements that are not historical facts and may be identified by the use of forward-looking terminology such as the words "believe," "expect," "plan," "intend," "anticipate," "estimate," "predict," "potential," "continue," "may," "will," "should" or the negative of these terms or similar expressions. Such forward-looking statements are based on management's beliefs, expectations and assumptions based upon information currently available, and include, but are not limited to, statements concerning our possible or assumed future results of operations, business strategies, financing plans, competitive position, potential growth opportunities (including, among other things, anticipated expansion into the foundry coke market), the influence of competition, and the effects of future legislation or regulations. Forward-looking statements also include statements regarding the potential, assumed, or expected future impacts of COVID-19 and related economic conditions on our business, financial condition and results of operations, and/or potential operating performance. In addition, statements in this Annual Report on Form 10-K concerning future dividend declarations are subject to approval by our Board of Directors and will be based upon circumstances then existing. Forward-looking statements are not guarantees of future performance, but are based upon the current knowledge, beliefs and expectations of SunCoke management, and upon assumptions by SunCoke concerning future conditions, any or all of which ultimately may prove to be inaccurate.

Forward-looking statements involve risks, uncertainties and assumptions. Actual results may differ materially from those expressed in these forward-looking statements. You should not put undue reliance on any forward-looking statements. We do not have any intention or obligation to update any forward-looking statement (or its associated cautionary language), whether as a result of new information or future events, after the date of this Annual Report on Form 10-K, except as required by applicable law.

The risk factors discussed in "Risk Factors" could cause our results to differ materially from those expressed in the forward-looking statements made in this Annual Report on Form 10-K. There also may be other risks that are currently unknown to us or that we are unable to predict at this time. Such risks and uncertainties include, without limitation:

- the potential operating and financial impacts on our operations, or those of our customers and suppliers, and the general impact on our industry and on the U.S. and global economy, resulting from COVID-19 or any other widespread contagion,
- actual or potential impacts of the Russia-Ukrainian crisis on global commodity prices, inflationary pressures, and state sponsored cyber activity;
- the effect of inflation on wages and operating expenses
- volatility and cyclical downturns in the steel industry and in other industries in which our customers and/or suppliers operate;
- changes in the marketplace that may affect our cokemaking business, including the supply and demand for our coke products, as well as increased imports of coke from foreign producers;
- volatility, cyclical downturns and other change in the business climate and market for coal, affecting customers or potential customers for our logistics business;
- changes in the marketplace that may affect our logistics business, including the supply and demand for thermal and metallurgical coal;
- severe financial hardship or bankruptcy of one or more of our major customers, or the occurrence of a customer default or other event affecting our ability to collect payments from our customers;
- our ability to repair aging coke ovens to maintain operational performance;
- age of, and changes in the reliability, efficiency and capacity of the various equipment and operating facilities used in our cokemaking operations, and in the operations of our subsidiaries major customers, business partners and/or suppliers;
- changes in the expected operating levels of our assets;
- changes in the level of capital expenditures or operating expenses, including any changes in the level of environmental capital, operating or remediation expenditures;
- changes in levels of production, production capacity, pricing and/or margins for coal and coke;
- changes in product specifications for the coke that we produce or the coals we mix, store and transport;

- our ability to meet minimum volume requirements, coal-to-coke yield standards and coke quality standards in our coke sales agreements;
- variation in availability, quality and supply of metallurgical coal used in the cokemaking process, including as a result of non-performance by our suppliers;
- effects of geologic conditions, weather, natural disasters and other inherent risks beyond our control;
- effects of adverse events relating to the operation of our facilities and to the transportation and storage of hazardous materials or regulated media (including equipment malfunction, explosions, fires, spills, impoundment failure and the effects of severe weather conditions);
- the existence of hazardous substances or other environmental contamination on property owned or used by us;
- required permits and other regulatory approvals and compliance with contractual obligations and/or bonding requirements in connection with our cokemaking, logistics operations, and/or former coal mining activities;
- the availability of future permits authorizing the disposition of certain mining waste and the management of reclamation areas;
- risks related to environmental compliance;
- our ability to comply with applicable federal, state or local laws and regulations, including, but not limited to, those relating to environmental matters;
- risks related to labor relations and workplace safety;
- availability of skilled employees for our cokemaking, and/or logistics operations, and other workplace factors;
- our ability to service our outstanding indebtedness;
- our indebtedness and certain covenants in our debt documents;
- our ability to comply with the covenants and restrictions imposed by our financing arrangements;
- changes in the availability and cost of equity and debt financing;
- impacts on our liquidity and ability to raise capital as a result of changes in the credit ratings assigned to our indebtedness;
- competition from alternative steelmaking and other technologies that have the potential to reduce or eliminate the use of coke;
- our dependence on, relationships with, and other conditions affecting our customers and/or suppliers;
- consolidation of major customers;
- nonperformance or force majeure by, or disputes with, or changes in contract terms with, major customers, suppliers, dealers, distributors or other business partners;
- effects of adverse events relating to the business or commercial operations of our customers and/or suppliers;
- changes in credit terms required by our suppliers;
- our ability to secure new coal supply agreements or to renew existing coal supply agreements;
- effects of railroad, barge, truck and other transportation performance and costs, including any transportation disruptions;
- our ability to enter into new, or renew existing, long-term agreements upon favorable terms for the sale of coke, steam, or electric power, or for handling services of coal and other aggregates (including transportation, storage and mixing);
- our ability to enter into new, or renew existing, agreements upon favorable terms for logistics services;
- our ability to successfully implement domestic and/or international growth strategies;
- our ability to identify acquisitions, execute them under favorable terms, and integrate them into our existing business operations;
- our ability to realize expected benefits from investments and acquisitions;

- our ability to enter into joint ventures and other similar arrangements under favorable terms;
- our ability to consummate assets sales, other divestitures and strategic restructuring in a timely manner upon favorable terms, and/or realize the anticipated benefits from such actions;
- our ability to consummate investments under favorable terms, including with respect to existing cokemaking facilities, which may utilize by-product technology, and integrate them into our existing businesses and have them perform at anticipated levels;
- our ability to develop, design, permit, construct, start up, or operate new cokemaking facilities in the U.S. or in foreign countries;
- disruption in our information technology infrastructure and/or loss of our ability to securely store, maintain, or transmit data due to security breach by hackers, employee error or malfeasance, terrorist attack, power loss, telecommunications failure or other events;
- the accuracy of our estimates of reclamation and other environmental obligations;
- risks related to obligations under mineral leases retained by us in connection with the divestment of our legacy coal mining business;
- risks related to the ability of the assignee(s) to perform in compliance with applicable requirements under mineral leases assigned in connection with the divestment of our legacy coal mining business;
- proposed or final changes in existing, or new, statutes, regulations, rules, governmental policies and taxes, or their interpretations, including those relating to environmental matters and taxes;
- proposed or final changes in accounting and/or tax methodologies, laws, regulations, rules, or policies, or their interpretations, including those affecting inventories, leases, post-employment benefits, income, or other matters;
- changes in federal, state, or local tax laws or regulations, including the interpretations thereof;
- claims of noncompliance with any statutory or regulatory requirements;
- changes in insurance markets impacting cost, level and/or types of coverage available, and the financial ability of our insurers to meet their obligations;
- inadequate protection of our intellectual property rights;
- volatility in foreign currency exchange rates affecting the markets and geographic regions in which we conduct business; and
- historical consolidated financial data may not be reliable indicators of future results.

The factors identified above are believed to be important factors, but not necessarily all of the important factors, that could cause actual results to differ materially from those expressed in any forward-looking statement made by us. Other factors not discussed herein also could have material adverse effects on us. All forward-looking statements included in this Annual Report on Form 10-K are expressly qualified in their entirety by the foregoing cautionary statements.

PART I

Item 1. Business

Overview

SunCoke Energy, Inc. (“SunCoke Energy,” “SunCoke,” “Company,” “we,” “our” and “us”) is the largest independent producer of high-quality coke in the Americas, as measured by tons of coke produced each year, and has more than 60 years of coke production experience. Coke is produced by heating metallurgical coal in a refractory oven, which releases certain volatile components from the coal, thus transforming the coal into coke. Our coke is primarily used as a principal raw material in the blast furnace steelmaking process as well as in the foundry production of casted iron, and the majority of our sales are derived from blast furnace coke sales made under long-term, take-or-pay agreements. We also export coke to international customers seeking high-quality product for their blast furnaces. We have designed, developed and built, and we currently own and operate five cokemaking facilities in the United States (“U.S.”) with collective nameplate capacity to produce approximately 4.2 million tons of blast furnace coke per year. Additionally, we designed and currently operate one cokemaking facility in Brazil under licensing and operating agreements on behalf of ArcelorMittal Brasil S.A. ("ArcelorMittal Brazil”), which has approximately 1.7 million tons of annual cokemaking capacity.

We also own and operate a logistics business that provides export and domestic material handling and/or mixing services to steel, coke (including some of our domestic cokemaking facilities), electric utility, coal producing and other manufacturing based customers. Our logistics terminals, which are strategically located to reach Gulf Coast, East Coast, Great Lakes and international ports, have the collective capacity to mix and/or transload more than 40 million tons of product annually and have storage capacity of approximately 3 million tons.

We report our business results through three segments: Domestic Coke, Brazil Coke and Logistics.

Domestic Coke

Our Domestic Coke segment consists of cokemaking facilities and heat recovery operations at our Jewell, Indiana Harbor, Haverhill, Granite City and Middletown plants. Our core business model is predicated on providing steelmakers an alternative to investing capital in their own captive coke production facilities and to serve as the long-term supplier of high quality coke by investing in our facilities with leading technology, as well as safety and environmental performance. Our cokemaking ovens utilize efficient, modern heat recovery technology designed to combust the coal’s volatile components during the cokemaking process and use the hot flue gas to generate steam and electricity for sale through steam generation facilities or cogeneration plants, respectively. This differs from by-product cokemaking, which repurposes the coal’s volatile components for other uses. Steam generated is generally sold to customers pursuant to steam supply and purchase agreements, and electricity generated is generally sold into the regional power market or to customers pursuant to energy sales agreements.

We believe our advanced heat recovery cokemaking process has numerous advantages over by-product cokemaking, including producing higher quality coke, using waste heat to generate derivative energy for resale, and reducing the environmental footprint. The Clean Air Act Amendments of 1990 specifically directed the U.S. Environmental Protection Agency (“EPA”) to evaluate our heat recovery coke oven technology as a basis for establishing Maximum Achievable Control Technology (“MACT”) standards for new cokemaking facilities. In addition, each of the four cokemaking facilities that we have built since 1990 has either met or exceeded the applicable Best Available Control Technology (“BACT”), or Lowest Achievable Emission Rate (“LAER”) standards, as applicable, set forth by the EPA for cokemaking facilities at that time. We have constructed the only greenfield cokemaking facilities in the U.S. in over 30 years and are the only North American coke producer that utilizes heat recovery technology in the cokemaking process.

The following table sets forth information about our cokemaking facilities:

Facility	Location	Year of Start Up	Use of Waste Heat	Number of Coke Ovens	Annual Cokemaking Nameplate Capacity[1] (thousands of tons)	Customer[3]	Contract Expiration	Contract Volume (thousands of tons)
Owned and Operated:								
Middletown[2]	Middletown, Ohio	2011	Power generation	100	550	Cliffs Steel	December 2032	Capacity
Haverhill II	Franklin Furnace, Ohio	2008	Power generation	100	550	Cliffs Steel	June 2025	Capacity
Granite City	Granite City, Illinois	2009	Steam for power generation	120	650	U.S. Steel	December 2024	Capacity
Indiana Harbor	East Chicago, Indiana	1998	Heat for power generation	268	1,220	Cliffs Steel	October 2023	Capacity
Jewell	Vansant, Virginia	1962	Partially used for thermal coal drying	142	720	Cliffs Steel/ Algoma Steel[4]	December 2025/ December 2026	400 / 165
Haverhill I	Franklin Furnace, Ohio	2005	Process steam	100	550			
Total				830	4,240			
Operated:								
Vitória	Vitória, Brazil	2007	Steam for power generation	320	1,700	ArcelorMittal Brazil	January 2028	Capacity
Total				1,150	5,940			

(1) Cokemaking nameplate capacity represents stated capacity for production of blast furnace coke equivalent production. The production of foundry coke tons does not replace blast furnace coke tons on a ton for ton basis, as foundry coke requires longer coking time.

(2) The Middletown coke sales agreement provides for coke sales on a “run of oven” basis, which includes both blast furnace coke and small coke. Middletown nameplate capacity on a “run of oven” basis is 578 thousand tons per year.

(3) Customers under long-term, take-or-pay agreements include Cleveland-Cliffs Steel Holding Corporation and Cleveland-Cliffs Steel LLC, both subsidiaries of Cleveland-Cliffs Inc. and collectively referred to as "Cliffs Steel," United States Steel Corporation ("U.S. Steel"), and Algoma Steel Inc. ("Algoma Steel").

(4) Under the long-term, take-or-pay agreement with Cliffs Steel, Jewell and Haverhill I supplies a combined 400 thousand tons annually for 2022 through 2025. Additionally, the long-term, take-or-pay agreement between Haverhill I and Algoma Steel provides for coke supply to shift to Jewell. Tonnage produced in excess of those contracted under our long-term, take-or-pay agreements at Jewell and Haverhill I is generally sold into the foundry and export coke markets.

Blast Furnace Coke

Our blast furnace coke sales are primarily made pursuant to long-term, take-or-pay agreements with the customers noted in the table above. These agreements require us to produce the contracted volumes of coke and require our customers to purchase such volumes of coke up to a specified tonnage or pay the contract price for any tonnage they elect not to take. As a result, our ability to produce the contracted coke volume is a key determinant of our profitability. Our domestic capacity is largely consumed by these long-term agreements, therefore, we have limited exposure to the domestic spot prices for blast furnace coke.

Our long-term, take-or-pay coke sales agreements contain pass-through provisions for costs we incur in the cokemaking process, including coal and coal procurement costs, subject to meeting contractual coal-to-coke yields, operating and maintenance expenses, costs related to the transportation of coke to our customers, taxes (other than income taxes) and costs associated with changes in regulation. When targeted coal-to-coke yields are achieved, the price of coal is not a significant determining factor in the profitability of these facilities, although it does affect our revenue and cost of sales for

these facilities in approximately equal amounts. However, to the extent that the actual coal-to-coke yields are less than the contractual standard, we are responsible for the cost of the excess coal used in the cokemaking process. Conversely, to the extent our actual coal-to-coke yields are higher than the contractual standard, we realize gains. As coal prices increase, the benefits associated with favorable coal-to-coke yields also increase. These features of our long-term, take-or-pay coke sales agreements reduce our exposure to variability in coal price changes and inflationary costs over the remaining terms of these agreements.

Coke prices in our long-term, take-or-pay agreements also include both an operating cost component and a fixed fee component. During 2022, operating costs under three of our coke sales agreements are fixed subject to an annual adjustment based on an inflation index. Under our other four coke sales agreements, operating costs are passed through to the respective customers subject to an annually negotiated budget, in some cases subject to a cap annually adjusted for inflation, and we share any difference in costs from the budgeted amounts with our customers. Accordingly, actual operating costs in excess of caps or budgets can have a significant impact on the profitability of all of our domestic cokemaking facilities. The fixed fee component for each ton of coke sold to the customer is determined at the time the coke sales agreement is signed and is effective for the term of each sales agreement. The fixed fee is intended to provide an adequate return on invested capital and may differ based on investment levels and other considerations. The actual return on invested capital at any facility is based on the fixed fee per ton and favorable or unfavorable performance on pass-through cost items.

We also sell blast furnace coke into the export coke market, utilizing capacity in excess of that reserved for our long-term, take-or-pay agreements. Export coke sales are generally made on a spot basis at the current market price and do not contain the same provisions as our long-term, take-or-pay agreements discussed above.

Foundry Coke

While the revenues in our Domestic Coke segment are primarily tied to blast furnace coke sales made under long-term, take-or-pay agreements, we also produce and sell foundry coke out of our Jewell cokemaking facility. Foundry coke is a high-quality grade of coke that is used at foundries to melt iron and various metals in cupola furnaces, which is further processed via casting or molding into products used in various industries such as construction, transportation and industrial products. Foundry coke sales are generally made under annual agreements with our customers for an agreed upon price and do not contain take-or-pay volume commitments.

Brazil

Our Brazil segment consists of our cokemaking operations located in Vitória, Brazil, where we operate the ArcelorMittal Brazil cokemaking facility for a Brazilian subsidiary of ArcelorMittal S.A. Revenues from the Brazilian cokemaking facility are derived from licensing and operating fees, which are based upon the level of production required by our customer and full pass-through of the operating costs of the facility.

Logistics

Our Logistics segment consists of Convent Marine Terminal ("CMT"), Kanawha River Terminal ("KRT"), Lake Terminal and Dismal River Terminal (“DRT”). Our terminals act as intermediaries between our customers and end users by providing transloading and mixing services. Materials are transported in numerous ways, including rail, truck, barge or ship. We do not take possession of materials handled but instead derive our revenues by providing handling and/or mixing services to our customers on a per ton basis. CMT is located in Convent, Louisiana, with strategic access to seaborne markets for coal and other industrial materials. The terminal provides loading and unloading services and has direct rail access and the current capability to transload 15 million tons annually with its top of the line ship loader. The facility serves coal mining customers as well as other merchant business, including aggregates (crushed stone), petroleum coke and iron ore. CMT's efficient barge unloading capabilities complement its rail and truck offerings and provide the terminal with the ability to transload and mix a significantly broader variety of materials, including coal, petroleum coke and other materials from barges at its dock. KRT is a leading metallurgical and thermal coal mixing and handling terminal service provider with collective capacity to mix and transload 25 million tons annually through its operations in Ceredo and Belle, West Virginia. Lake Terminal and DRT provide coal handling and mixing services to SunCoke's Indiana Harbor and Jewell cokemaking operations, respectively.

Market Discussion and Competition

Cokemaking

The majority of our current production from our cokemaking business is committed under long-term, take-or-pay agreements. As a result, competition mainly affects our ability to obtain new contracts supporting development of additional cokemaking capacity, including foundry coke, re-contracting existing facilities, as well as the sale of coke in the export market. We direct our marketing efforts principally towards these areas.

The cokemaking market is highly competitive. Competitors include merchant coke producers as well as the cokemaking facilities owned and operated by blast furnace steel companies. The principal competitive factors affecting our cokemaking business include coke quality and price, reliability of supply, proximity to market, access to metallurgical coals and environmental performance. Most of the world's coke production capacity is owned by blast furnace steel companies. The international merchant coke market is largely supplied by Chinese, Colombian and Ukrainian producers, among others, but it can be challenging to maintain high quality coke in the export market, and when coupled with transportation costs, coke imports into the U.S. are often not economical. However, the supply of coke from international merchants does impact our ability to sell tons in excess of those contracted under out long-term, take-or-pay agreements into the coke export market.

We believe we are well-positioned to compete with other coke producers. In recent years, our Domestic Coke segment has accounted for approximately 35 percent of the U.S. blast furnace coke market capacity. We are the only coke producer who has built new cokemaking facilities in the U.S. in over 30 years, which will allow us to absorb additional market share from aging by-product coke batteries owned by other coke producers. Additionally, our facilities and ovens were constructed using proven, industry-leading technology with many proprietary features allowing us to produce consistently higher quality coke than our competitors produce. Our technology also allows us to produce heat that can be converted into steam or electrical power.

We monitor the development of competing technologies carefully. In recent years, steelmakers have begun to explore alternatives to blast furnace technology that require less or alternatives to coke, such as electric arc furnaces. We also monitor ferrous technologies, such as direct reduced iron production, as these could indirectly impact our blast furnace customers.

During the first half of 2022, the price of and demand for export coke out of the U.S. increased as a result of the ongoing global coke trade imbalance, which was driven by a decrease in global coke supply and geopolitical events including the Russian invasion of Ukraine and the related sanctions imposed on Russia in 2022, benefiting our export coke sales. During the second half of 2022, the export coke market declined as compared to the first half of the year due to economic uncertainty, inflation, volatility in commodity pricing and lower Chinese coke prices, resulting in a decrease in price of global export coke.

Logistics

Our principal competitors of CMT are located on the U.S. Gulf Coast or U.S. East Coast. CMT is one of the largest export terminals on the U.S. Gulf Coast and provides strategic access to seaborne markets for coal and other bulk materials. Additionally, CMT is the largest bulk material terminal in the lower U.S. with direct rail access on the Canadian National Railway. In 2022, CMT accounted for approximately 42.5 percent of U.S. thermal coal exports from the U.S. Gulf Coast and approximately 19.5 percent of total U.S. thermal coal exports. CMT has a state-of-the-art ship loader, the largest of its kind in the world. We believe this ship loader has the fastest loading rate available in the Gulf Region, which should allow our customers to benefit from lower shipping costs. Additionally, CMT has a strategic alliance with a company that performs barge unloading services for the terminal, which provides CMT with the ability to transload and mix a significantly broader variety of materials.

Certain CMT customers are impacted by seaborne export market dynamics. Fluctuations in the benchmark price for coal delivery into northwest Europe, as referenced in the Argus/McCloskey's Coal Price Index Report ("API2 index price"), as well as Newcastle index coal prices, as referenced in the Argus/McCloskey's Coal Price Index ("API6 index price"), which reflect low-ash coal prices shipped from Australia, contribute to our customers' decisions to place tons into the export market and thus impact transloading volumes through CMT. During 2022, high natural gas prices resulted in increased global demand for coal to meet European energy needs. Additionally, geopolitical events discussed above further contributed to the increased coal demand in Europe. The API2 index price remained high throughout 2022 as a result of this higher global demand for coal, which has benefited certain CMT customers and resulted in a positive impact on CMT's results in 2022.

Our KRT terminals serve two primary domestic markets, metallurgical coal trade and thermal coal trade. Metallurgical markets are primarily impacted by steel prices and blast furnace operating levels whereas thermal markets are impacted by natural gas prices and electricity demand. Our KRT competitors are generally located within 100 miles of our

operations. KRT has fully automated and computer-controlled mixing capabilities that mix coal to within two percent accuracy of customer specifications. KRT also has the ability to provide pad storage and has access to both CSX and Norfolk Southern rail lines as well as the Ohio River system.

Lake Terminal and DRT provide coal handling and/or mixing services to our Indiana Harbor and Jewell cokemaking facilities, respectively, and therefore, do not have any competitors.

Seasonality

Our revenues in our Domestic Coke segment are largely tied to long-term, take-or-pay agreements and as such, are not seasonal. However, our cokemaking profitability is tied to coal-to-coke yields, which improve in drier weather. Accordingly, the coal-to-coke yield component of our profitability tends to be more favorable in the third quarter. Extreme weather may also challenge our operating costs and production in the winter months for our Domestic Coke segment. KRT service demand fluctuates due to changes in the domestic electricity markets. Excessively hot summer weather or cold winter weather may increase commercial and residential needs for heat or air conditioning, which in turn may increase electricity usage and the demand for thermal coal and, therefore, may favorably impact our logistics business. Additionally, operating costs at CMT are impacted by water levels on the Mississippi River, which are often higher in the spring months.

Raw Materials

Metallurgical coal is the principal raw material for our cokemaking operations. All of the metallurgical coal used to produce coke at our domestic cokemaking facilities is purchased from third-parties. We believe there is an adequate supply of metallurgical coal available in the U.S. and worldwide, and we have been able to supply coal to our domestic cokemaking facilities without any significant disruption in coke production.

Each ton of blast furnace coke produced at our facilities requires approximately 1.4 tons of metallurgical coal. We purchased 6.0 million tons of metallurgical coal in 2022. Metallurgical coal is generally purchased on an annual basis via one-year contracts with costs primarily passed through to our customers in accordance with the applicable long-term, take-or-pay coke sales agreements. Occasionally, shortfalls in deliveries by metallurgical coal suppliers require us to procure supplemental coal volumes. As with typical annual purchases, the cost of these supplemental purchases is also generally passed through to our customers. Most metallurgical coal procurement decisions are made through a coal committee structure with customer participation. The customer can generally exercise an overriding vote on most coal procurement decisions. In 2023, our metallurgical coal contracts are generally based on coke production requirements. Refer to our Management's Discussion and Analysis for further detail on our coal contractual obligations.

Transportation and Freight

For inbound transportation of metallurgical coal purchases, our facilities that access a single rail provider have long-term transportation agreements, and where necessary, coal-mixing agreements that run concurrently with the associated long-term, take-or-pay coke sales agreements for the facility. At facilities with multiple transportation options, including rail and barge, we enter into short-term transportation contracts from year to year. Delivery costs, and annual volume commitments included in certain agreements, are generally passed through to the customers.

For coke sales, the point of delivery varies by agreement and facility. The destination for coke sales under long-term, take-or-pay agreements from our Jewell and Haverhill cokemaking facilities is generally designated by the customer and shipments are made by railcar under long-term transportation agreements, which may include annual volume commitments, and are generally passed through to our customers. At our Middletown, Indiana Harbor and Granite City cokemaking facilities, coke is delivered primarily by a conveyor belt leading to the customer’s blast furnace, with the customer responsible for additional transportation costs, if any. Most transportation and freight costs in our Logistics segment are paid by the customer directly to the transportation provider.

Research and Development and Intellectual Property and Proprietary Rights

Our research and development program seeks to improve existing and develop promising new cokemaking technologies, including new product development, and enhance our heat recovery processes. Over the years, this program has produced numerous patents related to our heat recovery coking design and operation, including patents for pollution control systems, oven pushing and charging mechanisms, oven flue gas control mechanisms and various others. Additionally, we have continued to successfully utilize our existing coke ovens to produce foundry coke in addition to our primary product of blast furnace coke.

At Vitória, Brazil, where we operate one cokemaking facility on behalf of ArcelorMittal Brazil, we have intellectual property and licensing agreements in place for the entity’s use of our technology.

Human Capital Management

Our human capital strategy is focused on attracting, developing and retaining diverse talent. At SunCoke we foster an inclusive work environment where our employees are respected, trusted and feel empowered to provide value as individuals and as a collaborative team. Our employees offer a fresh perspective on SunCoke operations. We welcome their ideas on process improvement and value each employee's contribution across the business. Company leadership and our Board of Directors are actively involved in overseeing the Company's human capital management programs. The leadership of our Human Resources department, in partnership with local Human Resources and General Managers, as well as our Legal department, including our Chief Compliance Officer, sponsor the development and oversight of all human capital programs in the organization including: (i) safety, (ii) workforce composition, recruitment and retention, (iii) culture and our commitment to diversity, equity and inclusion, (iv) workforce stability, (v) employee development and training, (vi) benefits, (vii) talent management and total compensation, and (viii) ethics and compliance.

Workforce Culture

Our culture at SunCoke is driven by our core values. SunCoke's values of excellence, innovation, commitment, integrity and stewardship are at the heart of who we are and how we work every day. They guide our actions and decisions so we can always strive to do the right thing for our stakeholders, our business and each other.

- Excellence: expect the best from yourself, remove obstacles, inspire and support others, embrace diversity and celebrate success.
- Innovation: master the science and process, create a better way, find a better solution and push the envelope.
- Commitment: deliver results, be accountable, work as a team, continuously improve and grow and always communicate effectively.
- Integrity: do what is right, say what you mean, do what you say, earn trust and treat others with respect.
- Stewardship: provide safe, reliable and environmentally sound operations for our people and their families, our customers and the communities where we do business.

Workforce Composition, Recruitment and Our Commitment to Diversity, Equity and Inclusion ("DEI")

As of December 31, 2022, we have 887 employees in the U.S. Approximately 40 percent of our domestic employees, principally at our cokemaking operations, are represented by the United Steelworkers union under various local collective bargaining agreements. Additionally, approximately 3 percent of our domestic employees are represented by the International Union of Operating Engineers.

As of December 31, 2022, we have 285 employees at the cokemaking facility in Vitória, Brazil, all of whom are represented by a union under a labor agreement.

We recognize that our commitment to advance a diverse, equitable and inclusive environment starts with how we put that vision into practice inside our company. We incorporate diversity into recruiting, training, developing and retaining our employees. We partner with reputable recruitment firms to fill key positions. Through those partnerships, we have a commitment to fill our candidate slates with a diverse group of qualified candidates. Hiring managers then focus on ensuring a qualified diverse pool of candidates are interviewed and considered for job openings. In 2022, we required all frontline leaders and all SunCoke management to attend a diversity and inclusion training. The training was conducted by an outside firm to further develop the ability to foster diversity and inclusion and create an environment where everyone feels valued and has the opportunity to succeed.

Approximately 9 percent of the Company's global workforce is female, and minorities represent approximately 17 percent of the Company's U.S. workforce. The tables below provide breakdowns of gender representation globally and racial/ethnic group representation for U.S. employees.

Gender Representation for Global Employees

	Female		Male	
	Number of employees	Percent of employee level	Number of employees	Percent of employee level
Executive[1]	5	36 %	9	64 %
Non-Executive Management[2]	28	27 %	77	73 %
Senior Leaders[3]	33	28 %	86	72 %
Professionals[4]	31	31 %	68	69 %
All Other Employees[5]	47	5 %	907	95 %
Grand Total	111	9 %	1061	91 %

Racial/Ethnic Representation of US Employees

	Asian		Black or African American		Hispanic or Latino		White		Other	
	Number of employees	Percent of employee level	Number of employees	Percent of employee level	Number of employees	Percent of employee level	Number of employees	Percent of employee level	Number of employees	Percent of employee level
Executive[1]	1	7 %	0	— %	0	— %	13	93 %	0	— %
Non-Executive Management[2]	3	3 %	3	3 %	5	5 %	83	88 %	1	1 %
Senior Leaders[3]	4	4 %	3	3 %	5	4 %	96	88 %	1	1 %
Professionals[4]	4	5 %	2	3 %	2	3 %	66	89 %	0	— %
All Other Employees[5]	0	— %	72	10 %	52	7 %	571	82 %	9	1 %
Grand Total	8	1 %	77	9 %	59	7 %	733	82 %	10	1 %

(1) Represents Executives/Senior Officers and Managers as defined by the EEO-1 Job Classification Guide

(2) Represents First/Mid Officers and Managers as defined by the EEO-1 Job Classification Guide

(3) Represents a weighted average of Executive Management and Non-Executive Management

(4) Represents Professionals and Administrative Support Workers as defined by the EEO-1 Job Classification Guide

(5) Represents all other classified employees as defined by the EEO-1 Job Classification Guide

Workforce Stability & Leadership Experience

Our commitment to employee retention through our talent management, benefits, performance management and total compensation programs is shown through our low turnover rate of less than 1 percent in 2022. The stability of our workforce is anchored by our experienced corporate leadership team along with our General Managers that lead the day-to-day operations at our facilities. Our leaders each have an average of nearly 20 years of leadership experience and an average tenure (or length of service) of over 10 years with SunCoke.

Employee Development & Training

SunCoke provides a robust training program that meets or exceeds all applicable regulatory requirements. In addition to the annual interactive video-based SunCoke Code of Business Conduct and Ethics training we provide to all employees, we also provide specialized trainings on an as-needed basis for current topics throughout the year. Over the past several years, special training topics have included Active Shooter Preparedness, Harassment, Worker's Compensation, Diversity and Inclusion, Conducting Effective Investigations, Retirement Planning, and Substance Abuse Awareness.

SunCoke's Personal Information & Privacy Policy outlines specific procedures to ensure that employees handle sensitive information in a secure and responsible manner. The Personal Information & Privacy Policy is updated to remain consistent with data security best practices. SunCoke utilizes a variety of information security training methods, including

training segments on data security best practices and periodic security awareness communications that remind employees to stay vigilant with respect to data security.

We believe in developing our employees both within their daily roles and to be ready for their next assignment at SunCoke. Development occurs in the form of leadership training, cross training, stretch assignments, and on the job training. For example, in 2022, through partnership with a global leadership consulting firm, SunCoke Human Resources leaders delivered frontline leadership training courses to field new leaders and supervisors. The courses focus on a number of areas that are essential for frontline leadership development, including training on high-quality decision making, communication, coaching, and improving workplace performance.

We pride ourselves on being a lean workforce that focuses on developing and promoting talent internally. We engage in succession planning to ensure that development and training opportunities are identified for high performing talent, preparing potential successors for our most critical roles.

Benefits

We offer comprehensive benefits to our employees and their families, including health care coverage, retirement benefits, life and disability insurance, competitive vacation and leave policies. We also offer supplemental benefits programs designed to enhance the daily life and well-being of our employees, including: supplemental life insurance for all eligible family members, supplemental short-term disability, a legal services plan, a weight-loss program, an identity theft and device protection program, financial retirement planning education and coaching, paid-time off (including time for community service), tuition reimbursement, health management for chronic conditions, a 24/7 employee assistance program, and telemedicine.

Talent Management and Total Compensation

Our full-year performance management process begins with setting annual goals for the Company, which guide the development of functional, local and individual employee goals. Employees and their managers are accountable for the goals and must review their performance against the goals on an ongoing basis. We provide employee base wages that are competitive and consistent with employees' positions, skill levels, experience, and geographic location. We use an annual review process to evaluate employees' performance and assist in their development. We believe that individual performance and the results of the Company are directly linked, which is why a significant portion of employee compensation is performance-based. Our short-term incentives include both financial metrics as well as performance-based environmental and safety metrics. The level of pay at risk increases progressively with positions of greater responsibility, with long-term cash and equity incentives with multi-year vesting periods granted at the Director, Vice President and Senior Vice President levels. Further, below the Director level, top performers may be granted long-term cash and equity incentives with multi-year vesting for retention. This helps the Company to retain those identified as having the top skills and abilities that are critical to our business.

Safety

We live by the ethos: Think Safe. Act Safe. Be Safe.

Our top priority has always been the safety and health of our employees, contractors and visitors.

Safety is so important to SunCoke that we include safety in our core values and also incorporate safety as a metric in our short-term incentive program. We have an ambition of zero incidents and injuries in the workplace. To reach our goal, we follow our Safety Vision, which is comprised of five core components including:

- Visible safety leadership - Site and corporate leadership have made a commitment to safety as the paramount value within the Company and our site leadership practices visible safety leadership on a daily basis.
- Communication and training - All team members and contractors take responsibility for their own safety and the safety of those around them, and we train to ensure proper safety knowledge.
- Safe work practices - All team members and contractors take the time necessary to properly identify and mitigate all hazards and safely do each job.
- Incident investigation – We comply with all applicable laws and regulations and perform root cause analysis on all incidents.
- Continuous improvement – We are always focused on preventing safety incidents and Thinking Safe, Acting Safe and Being Safe.

Our target for Total Recordable Incident Rate ("TRIR") at SunCoke for 2022 was 0.80 company-wide, which includes both employees and contractors. We improved our safety performance in 2022 (0.69 TRIR).

Our excellent safety record is best understood in comparison to industry-wide safety performance. According to the Bureau of Labor Statistics, the TRIR of Other Petroleum and Coal Products (Coke) Manufacturing was 4.3 for 2021 and 2.8 for the Iron and Steel Mills sector, based on the most recent data available. Our year-over-year safety performance is consistently significantly lower than average industry-wide rates, demonstrating our strong commitment to safety.

Year	Total TRIR
2020	0.81
2021	0.76
2022	0.69

Ethics & Compliance

We have adopted a Code of Business Conduct and Ethics that applies to all of our officers, directors and employees, including senior financial officers and executives. Our Code of Business Conduct and Ethics, along with our Core Values, establish the principles that guide our daily actions to uphold the highest standards of ethical and legal behavior. Whether working with customers, vendors, business partners or neighbors, we always strive to act with integrity. All employees must complete annual training on our Code of Business Conduct and Ethics, which we review and update as needed. We educate all employees to avoid potential conflicts of interest. Our Prohibited Payments and Political Contributions Policy addresses payments made to U.S. officials, including campaign contributions. Our Gifts, Entertainment and Sponsored Travel Policy provides guidance regarding business courtesies, including reporting obligations and value limitations. We also have a Human Rights Policy, which affirms our commitment to a fair living wage for all employees.

Guidance & Reporting Without Fear of Retaliation

All employees, officers and directors must report suspected policy violations of our Code of Business Conduct and Ethics to the Compliance Team, which is led by our Chief Compliance Officer and includes representatives from our Human Resources and Legal departments. They can do so through a variety of channels, including, but not limited to, directly reporting to a supervisor, providing email or verbal reports directly to the Compliance Team and using our confidential, third-party 24/7 reporting hotline or website. Calls and online submissions are anonymous, unless the notifying party discloses his or her identity. We take the anonymity of these communications seriously and SunCoke's Compliance Team follows up on each submission. In addition to the anonymous hotline, hourly employees represented by a collective bargaining unit can also file a report using the applicable union grievance process.

Legal and Regulatory Requirements

Our operations are subject to extensive governmental regulation, including environmental laws, which are a significant factor in our business. The following discussion summarizes the principal legal and regulatory requirements that we believe may significantly affect us.

Permitting and Bonding

- **Permitting Process for Cokemaking Facilities.** The permitting process for our cokemaking facilities is administered by each state individually. However, the main requirements for obtaining environmental construction and operating permits are found in the federal regulations. A construction permit allows construction and commencement of operations at the facility and is generally valid for at least 18 months. Generally, construction commences during this period, while many states allow this period to be extended in certain situations. A facility's operating permit may be a state operating permit or a Title V operating permit.
- **Air Quality.** Our cokemaking facilities employ MACT standards designed to limit emissions of certain hazardous air pollutants. Specific MACT standards apply to oven door leaks, charging, oven pressure, pushing and quenching. Certain MACT standards for cokemaking facilities were developed using test data from SunCoke's Jewell cokemaking facility located in Vansant, Virginia. Additionally, under applicable federal air quality regulations, permitting requirements may differ among facilities, depending upon whether the cokemaking facility will be located in an “attainment” area—i.e., one that meets the national ambient air quality standards (“NAAQS”) for certain pollutants, or in a “non-attainment” or "unclassifiable" area. The status of an area may change over time as new NAAQS standards are adopted, resulting in an area changing from one status or classification to another. In an attainment area, the facility must install air pollution control equipment or employ BACT. In a non-attainment area, the facility must install air pollution control equipment or employ procedures that meet LAER standards. LAER standards are the most stringent emission limitation achieved in practice by existing facilities. Unlike the BACT analysis, cost is generally not considered as part of a LAER analysis, and emissions in a non-attainment area must be offset by emission reductions obtained from other sources. Any changes in attainment status for areas where our facilities are located presents a risk that we may be required to install additional pollution controls, which may require us to incur greater operating costs at those facilities.
    - More stringent NAAQS for ambient nitrogen dioxide ("NO2") and sulfur dioxide ("SO2") went into effect in 2010. In July 2013, the EPA identified or "designated" as non-attainment 29 areas in 16 states where monitored air quality showed violations of the 2010 1-hour SO2 NAAQS. In December 2017, EPA issued a final designation of attainment or unclassifiable for all areas where our facilities are located. These designations mean that no action is required for the facilities with respect to SO2 emissions at this time. However, it is possible for these areas to be redesignated in the future as non-attainment areas. If redesignated, we may be required to install additional pollution controls and incur greater costs of operating at those of our facilities located in areas that EPA determines to be non-attainment with the 1-hour SO2 NAAQS.
    - In 2012, more stringent NAAQS for fine particulate matter ("PM"), or PM 2.5, went into effect. In January 2015, the areas where the Granite City and Indiana Harbor facilities are located were designated unclassifiable for PM 2.5, and the areas where the Haverhill and Jewell facilities are located were designated unclassifiable/attainment for PM 2.5. In April 2015, the area where the Middletown facility is located was designated unclassifiable/attainment for PM 2.5. These designations mean that no action is required for the facilities with respect to PM 2.5 emissions at this time. However, it is possible for these areas to be redesignated in the future as non-attainment areas. If redesignated, we may be required to install additional pollution controls and incur greater costs of operating at those of our facilities located in areas that EPA determines to be non-attainment with the annual PM 2.5 NAAQS.
    - In 2015, the EPA revised the existing NAAQS for ground level ozone to make the standard more stringent. In January 2018, EPA designated the areas where the Haverhill and Jewell facilities are located as attainment/unclassifiable for ozone. In June 2018, EPA designated the areas where the Granite City, Indiana Harbor, and Middletown facilities are located as marginal nonattainment for ozone. The status of the area where the Indiana Harbor facility is located was challenged in litigation and upheld in July 2020. As a result of the same litigation, the status of the area where the Granite City facility is located was remanded to EPA, which finalized the area as nonattainment in January 2021. On June 9, 2022, the U.S. EPA redesignated the area where the Middletown facility is located as an attainment area for the 2015 ozone NAAQS based on a request for redesignation by the Ohio Environmental Protection Agency on December 21, 2021. Nonattainment designations under the new standard and any future more stringent standard for ozone have two potential impacts: (1) demonstrating compliance with the standard using dispersion modeling for permitting new facilities or significant new projects may be more difficult; and (2) facilities operating in areas that are classified as moderate non-attainment areas may be required to install

Reasonably Available Control Technology ("RACT") or demonstrate that they already meet RACT standards. While we are not able to determine the extent to which the 2015 ozone standard will impact our business at this time, it presents a potential risk of having an impact on our operations.

- The EPA adopted a rule in 2010 requiring a new facility that is a major source of greenhouse gases ("GHGs") to install equipment or employ BACT procedures. Currently, there is little information on what may be acceptable as BACT to control GHGs (primarily carbon dioxide from our facilities), but the database and additional guidance may be enhanced in the future.
- Several states have additional requirements and standards other than those in the federal statutes and regulations. Many states have lists of "air toxics" with emission limitations determined by dispersion modeling. States also often have specific regulations that deal with visible emissions, odors and nuisance. In some cases, the state delegates some or all of these functions to local agencies.

- **Wastewater and Stormwater.** Our heat recovery cokemaking technology does not discharge process wastewater as is typically associated with by-product cokemaking. Our cokemaking facilities, in some cases, have non-process wastewater and/or stormwater discharge permits.
- **Waste.** The primary solid waste product from our heat recovery cokemaking technology is calcium sulfate from flue gas desulfurization, which is generally taken to a solid waste landfill. The material from periodic cleaning of heat recovery steam generators has been disposed of off-site as hazardous waste. Our facilities only generate wastes and do not have permits for waste transportation, storage or disposal.
- **U.S. Endangered Species Act.** The U.S. Endangered Species Act of 1973 and certain counterpart state regulations are intended to protect species whose populations allow for categorization as either endangered or threatened. With respect to permitting additional cokemaking facilities, protection of endangered or threatened species may have the effect of prohibiting, limiting the extent of or placing permitting conditions on soil removal, road building and other activities in areas containing the affected species. Based on the species that have been designated as endangered or threatened on our properties and the current application of these laws and regulations, we do not believe that they are likely to have a material adverse effect on our operations.
- **Permitting and Bonding for Former Coal Mining Operations.** The Surface Mining Control and Reclamation Act of 1977 ("SMCRA") and applicable state equivalents govern mining permits and reclamation plans, documents defining ownership and agreements pertaining to coal, minerals, oil and gas, water rights, rights of way and surface land and documents required by the Office of Surface Mining Reclamation and Enforcement's ("OSM's") Applicant Violator System.

  We currently have no applications pending for new SMCRA permits, but hold several permits for which reclamation is incomplete.

  Our reclamation obligations under applicable environmental laws could be substantial. Under accounting principles generally accepted in the U.S. ("GAAP"), we are required to account for the costs related to the closure of mines and the reclamation of the land upon exhaustion of coal reserves. The fair value of an asset retirement obligation is recognized in the period in which it is incurred if a reasonable estimate of fair value can be made. At which time, the present value of the estimated asset retirement costs is capitalized as part of the carrying amount of the long-lived asset. At December 31, 2022, we had an asset retirement obligation of $2.9 million related to estimated mine reclamation costs. The amounts recorded are dependent upon a number of variables, including the estimated future retirement costs, inflation rates, and the assumed credit-adjusted interest rates. Our future operating results would be adversely affected if these accruals were determined to be insufficient. These obligations are unfunded. Failure to comply with the regulatory requirements can result in sanctions.
- **Bonding Requirements for Permits Related to Former Coal Mining Operations and Coal Terminals with Surface Mining Permits.** Before a SMCRA permit or a surface mining permit is issued, a mine operator must submit a bond or other form of financial security to guarantee the payment and performance of certain long-term mine closure and reclamation obligations. The costs of these bonds or other forms of financial security have fluctuated in recent years and the market terms of surety bonds generally have become less favorable to those entities with legacy mining obligations or terminal operators and others with such permits. These changes in the terms of such bonds have been accompanied, at times, by a decrease in the number of companies willing to issue surety bonds. As of December 31, 2022, we have posted $9.6 million in surety bonds or other forms of financial security for future reclamation.

Regulation of Operations

- **Clean Air Act.** The Clean Air Act ("CAA") and similar state laws and regulations affect our cokemaking operations, primarily through permitting and/or emissions control requirements relating to criteria pollutants and MACT standards. The CAA air emissions programs that may affect our operations, directly or indirectly, include, but are not limited to: the Acid Rain Program; NAAQS implementation for SO2, PM, NO2, lead, ozone, and carbon monoxide; GHG rules; the Cross-State Air Pollution Rule; MACT emissions standards for hazardous air pollutants; the Regional Haze Program; New Source Performance Standards ("NSPS"); and New Source Review.
    - The CAA requires, among other things, the regulation of hazardous air pollutants through the development and promulgation of various industry-specific MACT standards. Our cokemaking facilities are subject to two categories of MACT standards. The first category applies to pushing and quenching. The second category applies to emissions from charging and coke oven doors. The EPA is required to make a risk-based determination for pushing and quenching emissions and determine whether additional emissions reductions are necessary. In 2016, EPA issued a request for information and testing to our cokemaking facilities and other companies as part of its residual risk and technology review of the MACT standard for pushing and quenching, and a technology review of the MACT standard for coke ovens and charging emissions. Testing was conducted by our cokemaking facilities in 2017. EPA was required to finalize any changes to these MACT standards by December 26, 2022 pursuant to a settlement agreement with environmental groups. However, in June 2022, EPA petitioned the court to extend the deadline, which the Court decided in November 2022 to extend to a May 23, 2024 deadline. EPA issued a new information request to our cokemaking facilities and other companies in 2022 associated with this rulemaking. While we are not able to determine the extent to which any new standards would impact our business at this time, it presents a potential risk of having an impact on our operations and costs.
    - The Regional Haze program under the CAA requires that states submit State Implementation Plans that demonstrate reasonable progress towards achieving natural visibility conditions in Class I areas. On November 5, 2020, the Virginia Department of Environmental Quality ("VDEQ") requested that the Jewell facility conduct an analysis of potential controls for SO2 under the Regional Haze program. VDEQ is currently reviewing Jewell's determination that the installation of new controls is not feasible and any new requirements should be limited to operating pollution controls already present at the facility. While we are not able to determine the extent to which a different determination by VDEQ or EPA would impact our business at this time, it presents a potential risk of having an impact on our operations and costs at the Jewell facility.
    - On April 6, 2022, EPA proposed a Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone NAAQS, which includes requirements applicable to certain coke plant operations. SunCoke submitted comments on the proposed rule requesting clarification that the rule does not apply to our facilities. While we are not able to determine the extent to which a different determination by EPA would impact our business at this time, it presents a potential risk of having an impact on our operations and costs at certain of our facilities.
- **Terminal Operations.** Our terminal operations located along waterways and the Gulf of Mexico are also governed by permitting requirements under the CWA (as defined below) and CAA. These terminals are subject to U.S. Coast Guard regulations and comparable state statutes regarding design, installation, construction, and management. Many such terminals owned and operated by other entities that are also used to transport coal and petcoke, including for export, have been pursued by environmental interest groups for alleged violations of their permits' requirements, or have seen their efforts to obtain or renew such permits contested by such groups. While we believe that our operations are in material compliance with these permits, it is possible that such challenges or claims will be made against our operations in the future. Moreover, our terminal operations may be affected by the impacts of additional regulation on petcoke or on the mining of all types of coal and use of thermal coal for fuel, which is restricting supply in some markets and may reduce the volumes of coal that our terminals manage.
- **Federal Energy Regulatory Commission.** The Federal Energy Regulatory Commission ("FERC") regulates the sales of electricity from our Haverhill and Middletown facilities, including the implementation of the Federal Power Act ("FPA") and the Public Utility Regulatory Policies Act of 1978 ("PURPA"). The nature of the operations of the Haverhill and Middletown facilities makes each facility a qualifying facility under PURPA, which exempts the facilities and the Company from certain regulatory burdens, including the Public

Utility Holding Company Act of 2005 (“PUHCA”), limited provisions of the FPA, and certain state laws and regulation. FERC has granted requests for authority to sell electricity from the Haverhill and Middletown facilities at market-based rates and the entities are subject to FERC’s market-based rate regulations, which require regular regulatory compliance filings.

- **Clean Water Act of 1972.** The Clean Water Act of 1972 (“CWA”) may affect our operations by requiring water quality standards generally and through the National Pollutant Discharge Elimination System (“NPDES”) program. Regular monitoring, reporting requirements and performance standards are requirements of NPDES permits that govern the discharge of pollutants into water. Discharges must either meet state water quality standards or be authorized through available regulatory processes such as alternate standards or variances. Additionally, through the CWA Section 401 certification program, states have approval authority over water discharge permits or licenses that might result in a discharge to their waters. Similarly, for permitting or any future water intake and/or discharge projects, our facilities could be subject to the Army Corps of Engineers Section 404 permitting process.
- **Resource Conservation and Recovery Act.** We may generate wastes, including “solid” wastes and “hazardous” wastes that are subject to the Resource Conservation and Recovery Act (“RCRA”) and comparable state statutes. The EPA has limited the disposal options for certain wastes that are designated as hazardous wastes under RCRA. Furthermore, it is possible that certain wastes generated by our operations that currently are exempt from regulation as hazardous wastes may in the future be designated as hazardous wastes, and therefore be subject to more rigorous and costly management, disposal and clean-up requirements. Certain of our wastes are also subject to Department of Transportation regulations for shipping of materials. Any changes to hazardous waste standards or the constituents in the wastes generated at our facilities presents a potential risk of having an impact on our operations and cost structure.
- **Comprehensive Environmental Response, Compensation, and Liability Act.** Under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), also known as Superfund, and similar state laws, responsibility for the entire cost of clean-up of a contaminated site, as well as natural resource damages, can be imposed upon current or former site owners or operators, or upon any party who released one or more designated “hazardous substances” at the site, regardless of the lawfulness of the original activities that led to the contamination. In the course of our operations we may have generated and may generate wastes that fall within CERCLA’s definition of hazardous substances. We also may be an owner or operator of facilities at which hazardous substances have been released by previous owners or operators. Under CERCLA, we may be responsible for all or part of the costs of cleaning up facilities at which such substances have been released and for natural resource damages. We also must comply with reporting requirements under the Emergency Planning and Community Right-to-Know Act and the Toxic Substances Control Act.
    - Pursuant to a court-mandated deadline, EPA published a final rule in December 2020 that does not impose financial assurance requirements for managing hazardous substances on the coal products manufacturing sector under Section 108(b) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA 108(b)”). EPA’s final rule determined that the risks associated with these facilities’ operations are addressed by existing federal and state programs and regulations and modern industry practices.
- **Climate Change Legislation and Regulations.** Our facilities are presently subject to the GHG reporting rule, which obligates us to report annual emissions of GHGs. The EPA also finalized a rule in 2010 requiring a new facility that is a major source of GHGs to install equipment or employ BACT procedures. In 2014, the Supreme Court issued an opinion holding that although EPA may not treat GHGs as a pollutant for the purpose of determining whether a source must obtain a PSD or Title V permit, EPA may continue to require GHG limitations in permits for sources classified as major based on their emission of other pollutants. Currently there is little information as to what may constitute BACT for GHG in most industries. Under this rule, certain modifications to our facilities could subject us to the additional permitting and other obligations related to emissions of GHGs under the New Source Review/Prevention of Significant Deterioration ("NSR/PSD") and Title V programs of the CAA based on whether the facility triggered NSR/PSD because of emissions of another pollutant such as SO2, NOx, PM, ozone or lead.
    - The EPA has engaged in rulemakings in recent years to regulate GHG emissions from existing and new coal fired power plants. These various rules were vacated and/or determined to exceed EPA's authority by the U.S. Court of Appeals for the District of Columbia and the United States Supreme

Court. If EPA replaces these rules with a new rule that applies to our facilities, it may present a potential risk of having an impact on our operations and cost structure.

- The impact current and future GHG-related legislation and regulations have on us will depend on a number of factors, including whether GHG sources in multiple sectors of the economy are regulated, whether an overall GHG emissions cap level is established, the degree to which GHG offsets are allowed, the allocation of emission allowances to specific sources, and actions by the states in implementing these requirements. Any new GHG reduction laws or regulations that apply to us will likely require us to incur increased operating and capital costs and/or increased taxes for GHG emissions. We may not recover the costs related to compliance with regulatory requirements imposed on us from our customers due to limitations in our agreements. The imposition of a carbon tax or similar regulation could materially and adversely affect our revenues. Collectively, these requirements along with restrictions and requirements regarding the mining of all types of coal may reduce the volumes of coal that we manage and may adversely impact our revenues.
- The Securities and Exchange Commission ("SEC") intends to finalize new climate rules that, among other matters, will likely require disclosure of certain climate change-related information. We expect that our operations will be subject to this disclosure rule. However, we cannot predict what such rules may require, the timing of such rules and how significantly they will affect the Company.

- **Occupational Safety and Health ACT (OSH Act).** Our facilities are subject to regulation by OSHA or MSHA under the OSH Act and other agencies with standards designed to ensure worker safety. These standards impose minimum requirements for our operations to maintain and operate sites and equipment in a safe manner. As noted above, we have consistently operated within the top quartiles for OSHA's recordable injury rates as measured and reported by the American Coke and Coal Chemicals Institute.
- **Security.** CMT is subject to regulation by the U.S. Coast Guard pursuant to the Maritime Transportation Security Act. We have an internal inspection program designed to monitor and ensure compliance by CMT with these requirements. We believe that we are in material compliance with all applicable laws and regulations regarding the security of the facility.
- **Black Lung Benefits Revenue Act of 1977 and Black Lung Benefits Reform Act of 1977, as amended in 1981.** Under these laws, U.S. coal mine operators must pay federal black lung benefits and medical expenses to claimants who are current and former employees and last worked for the operator after July 1, 1973. The Patient Protection and Affordable Care Act ("PPACA"), which was implemented in 2010, amended previous legislation and provides for the automatic extension of awarded lifetime benefits to surviving spouses and changes the legal criteria used to assess and award claims. SunCoke is not an active coal mine operator and does not perform or oversee coal mining. However, SunCoke has retained certain black lung liabilities associated with legacy coal operations. Our obligation related to black lung benefits at December 31, 2022 was $58.1 million and was estimated based on various assumptions, including actuarial estimates, discount rates, number of active claims, changes in health care costs and the impact of PPACA.

Available Information

We make available free of charge on our website, www.suncoke.com, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and any amendments to such reports as soon as reasonably practicable after such materials are electronically filed with, or furnished to, the SEC. The SEC maintains an Internet site (www.sec.gov) that contains our electronically filed information. Our website also includes our Code of Business Conduct and Ethics, our Governance Guidelines, our Related Persons Transaction Policy and the charters of our Board Committees.

A copy of any of these documents will be provided without charge upon written request to Investor Relations, SunCoke Energy, Inc., 1011 Warrenville Road, Suite 600, Lisle, Illinois 60532. The Company may also use its website as a channel of distribution of material company information. Investors may visit www.suncoke.com to find more information. However, the Company's website is expressly not incorporated by reference herein.

Information about our Executive Officers

Our executive officers and their ages as of February 24, 2023, were as follows:

Michael G. Rippey	65	Chief Executive Officer
Katherine T. Gates	46	President
Mark W. Marinko	61	Senior Vice President and Chief Financial Officer
P. Michael Hardesty	60	Senior Vice President, Commercial Operations, Business Development, Terminals and International Coke
Bonnie M. Edeus	39	Vice President, Controller
Shantanu Agrawal	36	Vice President, Finance and Treasurer
John F. Quanci	61	Vice President, Chief Technology Officer
Patrick G. Nigl	56	Vice President, Coke Operations

Michael G. Rippey. Since January 1, 2023. Mr. Rippey has been Chief Executive Officer of SunCoke Energy, Inc., focusing on strategic objectives and growth initiatives for the company. Prior to that, he was Chief Executive Officer and President since December 1, 2017. He has been a director of SunCoke's Board of Directors since December 2017. At that time, he also was appointed as Chairman, Chief Executive Officer and President of SunCoke Energy Partners GP LLC, the general partner of SunCoke Energy Partners, L.P., our former sponsored master limited partnership. Prior to joining SunCoke, Mr. Rippey served as Senior Advisor to Nippon Steel & Sumitomo Metal Corporation (a leading global steelmaker) since 2015. From 2014 to 2015, he was Chairman of the Board of ArcelorMittal USA (a major domestic steel manufacturer), and from August 2006 through October 2014, he was ArcelorMittal USA's President and Chief Executive Officer. Prior to that, he successfully rose through progressively responsible financial, commercial and administrative leadership roles at ArcelorMittal USA and its predecessor companies: (i) from 2005 to 2006, he was Executive Vice President, Sales and Marketing at Mittal Steel USA; (ii) from 2000 to 2005, he was Executive Vice President and Chief Financial Officer at lspat Inland Inc.; and (iii) from 1998 to 2000, he served as Vice President, Finance and Chief Financial Officer of Ispat Inland Inc. He began his career with Inland Steel Company (a predecessor to ArcelorMittal USA) in 1984. Mr. Rippey currently serves on the Board of Directors of Olympic Steel, Inc. [NASDAQ: ZEUS] (a leading U.S. metals service center), where he is a member of the Nominating Committee and serves as Chair of the Audit and Compliance Committee. In addition to ArcelorMittal USA, Mr. Rippey's previous board service also includes the National Association of Manufacturers and the American Iron & Steel Institute, where he was a past Chairman of the Board.

Katherine T. Gates. Ms. Gates was elected President of SunCoke Energy, Inc., and was appointed as a director on SunCoke's Board of Directors, effective January 1, 2023. Prior to that, she was Senior Vice President, Chief Legal Officer and Chief Human Resource Officer since November 14, 2019. In both of these roles Ms. Gates led the Company's environmental and sustainability function, including all Environmental, Social, and Governance matters. Ms. Gates joined SunCoke in February 2013 as Senior Health, Environment and Safety Counsel. She was promoted to Vice President and Assistant General Counsel in July 2014, where she focused on litigation, regulatory and commercial matters. Ms. Gates has been practicing law for two decades, and began her legal career in private practice as a Partner at Beveridge & Diamond, P.C. She served on the firm's Management Committee, where she addressed budget, compensation, commercial, and other issues. Ms. Gates also co-chaired the civil litigation section of the firm's Litigation Practice Group. In addition, from October 2015 through June 2019, Ms. Gates served as a director of SunCoke Energy Partners GP LLC, the general partner of our former master limited partnership subsidiary SunCoke Energy Partners, L.P.

We believe that Ms. Gates' legal knowledge and skill, along with experience with SunCoke's operations and Human Resources management, provides the Board of Directors with valuable expertise regarding senior level strategic planning and relevant legal matters, including those related to corporate governance, litigation, health, environment, safety, mergers, acquisitions, compliance and commercial matters.

Mark W. Marinko. Mr. Marinko was appointed as SunCoke Energy, Inc.'s Senior Vice President and Chief Financial Officer in March 2022. Prior to joining SunCoke, Mr. Marinko served as the Senior Vice President and Chief Financial Officer with Great Lakes Dredge and Dock Corporation (the largest dredging company within the United States). Prior to joining Great Lakes Dredge & Dock Corporation, Mr. Marinko was President of the Consumer Services division at TransUnion, LLC, a global provider of information and decision-processing services.

P. Michael Hardesty. Mr. Hardesty was appointed Senior Vice President, Commercial Operations, Business Development, Terminals and International Coke of SunCoke Energy, Inc., effective October 1, 2015. Mr. Hardesty joined SunCoke Energy, Inc. in 2011 as Senior Vice President, Sales and Commercial Operations, and has more than 30 years of

experience in the mining industry. Before joining SunCoke, Mr. Hardesty served as Senior Vice President for International Coal Group, Inc. ("ICG"), where he was responsible for leading the sales and marketing functions and was a key member of the executive management team. Prior to ICG, Mr. Hardesty served as Vice President of Commercial Optimization at Arch Coal, where he developed and executed trade strategies, optimized production output and directed coal purchasing activities. He is a past board member and Secretary-Treasurer of the Putnam County Development Authority in West Virginia. In addition, from October 2015 through June 2019, Mr. Hardesty served as a director of SunCoke Energy Partners GP LLC, the general partner of SunCoke Energy Partners, L.P., our former master limited partnership subsidiary.

Bonnie M. Edeus. Ms. Edeus was appointed as SunCoke Energy, Inc.'s Vice President and Controller in July 2021. Ms. Edeus joined the Company in 2013 and has assumed increasing responsibility within financial leadership roles, most recently serving as Assistant Controller since January 2016. Ms. Edeus is a Certified Public Accountant and holds a Master's degree in Accounting from Northern Illinois University. Prior to coming to the Company, Ms. Edeus worked in assurance services for BDO USA, LLP, the United States member firm of BDO International, a major global public accounting network, which she joined in 2007.

Shantanu Agrawal. Mr. Agrawal was appointed Vice President, Finance and Treasurer of SunCoke Energy, Inc. in July, 2021 and subsequently also assumed responsibility for the Procurement function in January, 2023. Prior to that he was Director, Financial Performance & Analysis ("FP&A") and Investor Relations. Mr. Agrawal began his career with SunCoke as an FP&A Analyst in 2014. He has been with SunCoke for more than eight years and has increasingly taken on more responsibilities and oversight over that period. Mr. Agrawal is an accomplished finance executive with a rich mix of finance, operations and strategic planning. In his current roles, Mr. Agrawal has led the Company's finance function, including budgeting, forecasting, financial analysis, cash management, investor relations and procurement.

John F. Quanci. Dr. John F. Quanci joined SunCoke Energy, Inc. in October, 2010, and was appointed to his current position as Vice President, Chief Technology Officer in May 2019. Prior to joining SunCoke, Dr. Quanci was Director, Corporate Technology of Sunoco, Inc. (a leading transportation fuel provider with interests in logistics). Dr. Quanci has over 30 years of domestic and international experience in process research, development, plant optimization, manufacturing, rebuilding/turnarounds, and taking new technologies from ideation to full production. Over the course of his career, Dr. Quanci has managed several major engineering and technology organizations both internal and external to the petroleum industry, including those of: Mobil Research, Mobil Oil, BP/Mobil, Exxon/Mobil, Rodel and Rohm and Haas Electronic Materials (now DuPont Electronic Materials). Dr. Quanci holds a Ph.D. in Chemical Engineering from Princeton University and is a registered Professional Engineer with over one hundred U.S. and international patents and patent applications.

Patrick G. Nigl. Mr. Nigl was appointed as SunCoke Energy, Inc.'s Vice President, Coke Operations in January 2022. Prior to that, he served as General Manager at the Company's Indiana Harbor cokemaking operations, located in East Chicago, Indiana, from September 2015. From March 2015 to September 2015, he was Operations Manager at the Indiana Harbor facility. Since joining SunCoke in February 2011, as Maintenance Manager at the Company's Haverhill, Ohio cokemaking facility, Mr. Nigl has progressed into leadership and oversight roles for the Company's domestic cokemaking operations. Prior to joining SunCoke, Mr. Nigl was Machining General Manager at DMAX Ltd., an American manufacturer of diesel engines for heavy-duty trucks.

Item 1A. Risk Factors

In addition to the other information included in this Annual Report on Form 10-K and in our other filings with the SEC, the following risk factors should be considered in evaluating our business and future prospects. These risk factors represent what we believe to be the known material risk factors with respect to us and our business. Our business, operating results, cash flows and financial condition are subject to these risks and uncertainties, any of which could cause actual results to vary materially from recent results or from anticipated future results.

These risks are not the only risks we face. Additional risks and uncertainties not currently known to us, or that we currently deem to be immaterial also may materially and adversely affect our business, financial condition, or results of operations.

Risks Inherent in Our Business and Industry

Our cokemaking and logistics businesses are subject to operating risks, some of which are beyond our control. Equipment failures or deterioration of assets, may lead to production curtailments, shutdowns, impairments, or additional expenditures, which could have a material adverse effect on our results of operations and financial condition.

Factors beyond our control could disrupt our cokemaking and logistics operations, adversely affect our ability to service the needs of our customers and increase our operating costs, all of which could have a material and adverse effect on

our results of operations. Adverse developments at our cokemaking facilities could significantly disrupt our ability to produce and supply coke, steam, and/or electricity to our customers. Adverse developments at our logistics operations could significantly disrupt our ability to provide handling, mixing, storage, terminalling, transloading and/or transportation services, of coal and other dry and liquid bulk commodities, to our customers. Our operations depend upon critical pieces of equipment that occasionally may be out of service for scheduled upgrades or maintenance or as a result of unanticipated failures. Assets and equipment critical to these operations also may deteriorate or become depleted materially sooner than we currently estimate, resulting in additional maintenance spending or additional replacement capital expenditures.

Our cokemaking and logistics operations are subject to significant hazards and risks, any of which could result in production and transportation difficulties and disruptions, equipment failures and risk of catastrophic loss, permit non-compliance, pollution, personal injury or wrongful death claims and other damage to our properties and the property of others. Such hazards and risks include, but are not limited to:

- geological, hydrologic, or other conditions that may cause damage to infrastructure or personnel;
- fire, explosion, or other major incident causing injury to personnel and/or equipment that causes a cessation, or significant curtailment, of all or part of our cokemaking or logistics operations at a site for a period of time;
- processing and plant equipment failures or malfunction, operating hazards and unexpected maintenance problems affecting our cokemaking or logistics operations, or our customers;
- adverse weather conditions and natural disasters, such as severe winds, heavy rains or snow, flooding, extreme temperatures and other natural events, including those resulting from climate change, affecting our cokemaking or logistics operations, transportation, or our customers; and
- possible legal challenges to the renewal of key permits, which may lead to their renewal on terms that restrict our cokemaking or logistics operations, or impose additional costs on us.

If any of these conditions or events occur, our cokemaking or logistics operations may be disrupted, operating costs could increase significantly and we could incur substantial losses. Such disruptions in our operations could materially and adversely affect our financial condition or results of operations. In particular, to the extent a disruption leads to our failure to maintain the temperature inside our coke oven batteries, we may not be able to maintain the integrity of the ovens or to continue operation of such coke ovens, which could adversely affect our ability to meet our customers' requirements for coke and, in some cases, electricity and/or steam.

If our assets do not generate the amount of future cash flows that we expect, or we are not able to execute on capital maintenance or procure replacement assets in an economically feasible manner, our future results of operations may be materially and adversely affected.

The financial performance of our cokemaking and logistics businesses is substantially dependent upon a limited number of customers, and the loss of any of these customers, or any failure by them to perform under their contracts with us, could materially and adversely affect our financial condition, permit compliance, results of operations and cash flows.

Substantially all of our coke sales currently are made pursuant to long-term contracts with Cliffs Steel and U.S. Steel. We expect these customers to continue to account for a significant portion of our revenues for the foreseeable future.

We are subject to the credit risk of our major customers and other parties. If we fail to adequately assess the creditworthiness of existing or future customers or unanticipated deterioration of their creditworthiness, any resulting increase in nonpayment or nonperformance by them could have a material adverse effect on our cash flows, financial position or results of operations. During periods of weak demand for steel or coal, our customers may experience significant reductions in their operations, or substantial declines in the prices of the steel, or coal products, they sell. These and other factors such as labor relations or bankruptcy filings may lead certain of our customers to seek renegotiation or cancellation of their existing contractual commitments to us, or reduce their utilization of our services.

The loss of any of these customers (or financial difficulties at any of these customers, which result in nonpayment or nonperformance) could have a significant adverse effect on our business. If one or more of these customers were to significantly reduce its purchases of coke or logistics services from us without a make-whole payment, or default on their agreements with us, or terminate or fail to renew their agreements with us, or if we were unable to sell such coke or logistics

services to these customers on terms as favorable to us as the terms under our current agreements, our cash flows, financial position, permit compliance, or results of operations could be materially and adversely affected.

We face competition, both in our cokemaking operations and in our logistics business, which has the potential to reduce demand for our products and services, and that could have an adverse effect on our financial condition and results of operations.

We face competition, both in our cokemaking operations and in our logistics business:

- Cokemaking operations: Historically, coke has been used as a main input in the production of steel in blast furnaces. However, some blast furnace operators have relied upon natural gas, pulverized coal, and/or other coke substitutes. Many steelmakers also are exploring alternatives to blast furnace technology that require less or no use of coke or alternatives that reduce the amount of GHG emissions from the process. For example, electric arc furnace technology is a commercially proven process widely used in the United States. As these alternative processes for production of steel become more widespread, the demand for blast furnace coke, including the coke we produce, may be significantly reduced. We also face competition from alternative cokemaking technologies, including both by-product and heat recovery technologies. As these technologies improve and as new technologies are developed, competition in the cokemaking industry may intensify. As alternative processes for production of steel become more widespread, the demand for blast furnace coke, including the coke we produce, may be significantly reduced.
- Logistics business: Decreased throughput and utilization of our logistics assets could result indirectly due to competition in the electrical power generation business from abundant and relatively inexpensive supplies of natural gas displacing thermal coal as a fuel for electrical power generation by utility companies. In addition, competition in the steel industry from processes such as electric arc furnaces, or blast furnace injection of pulverized coal or natural gas, may reduce the demand for metallurgical coals processed through our logistics facilities. In the future, additional coal handling facilities and terminals with rail and/or barge access may be constructed in the Eastern United States. Such additional facilities could compete directly with us in specific markets now served by our logistics business. Certain coal mining companies and independent terminal operators in some areas may compete directly with our logistics facilities. In some markets, trucks may competitively deliver mined coal to certain shorter-haul destinations, resulting in reduced utilization of existing terminal capacity.

Such competition could reduce demand for our products and services, thus having an adverse effect on our financial condition and results of operations.

We are subject to extensive laws and regulations, which may increase our cost of doing business and have an adverse effect on our cash flows, financial position or results of operations.

Our operations are subject to strict regulation by federal, state and local authorities with respect to: discharges of substances into the surrounding environment including the air, water and ground; emissions of GHGs; compliance with the NAAQS; management and disposal of hazardous substances and wastes; cleanup of contaminated sites; protection of groundwater quality and availability; protection of plants and wildlife; reclamation and restoration of properties after completion of mining or drilling; sales of electric power; installation of safety equipment in our facilities; and protection of employee health and safety. Complying with these and other regulatory requirements, including the terms of our permits, can be costly and time-consuming, and may hinder operations. In addition, these requirements are complex, change frequently and have become more stringent over time. Regulatory requirements, including those related to GHGs, and various CAA programs, may change in the future in a manner that could result in substantially increased capital, operating and compliance costs, which could have a material adverse effect on our business, financial condition and results of operations.

Failure to comply with applicable laws, regulations or permits may result in the assessment of administrative, civil and criminal penalties, the imposition of cleanup and site restoration costs and liens, the issuance of injunctions to limit or cease operations, the suspension or revocation of permits and other enforcement measures that could cause delays in permitting or development of projects or materially limit, or increase the cost of, our operations. We may not have been, or may not be, at all times, in complete compliance with all such requirements, and we may incur material costs or liabilities in connection with such requirements, or in connection with remediation at sites we own, or third-party sites where it has been alleged that we have liability, in excess of the amounts we have accrued. For a description of certain environmental laws and matters applicable to us and associated risks, see “Item 1. Business-Legal and Regulatory Requirements.”

Our operations may impact the environment or cause exposure to hazardous substances, which could result in material liabilities to us.

Our operations result in emissions of various substances to the air, including GHGs, use hazardous materials, and generate solid and hazardous waste. We have in the past and could in the future be subject to claims under federal, state and local laws and regulations arising from these activities, including for the investigation and clean-up of soil, surface water, or groundwater. We previously have been and could again in the future be subject to litigation for alleged bodily injuries or property damage arising from claimed exposure to emissions or hazardous substances allegedly used, released, or disposed of by us, as well as litigation related to climate change by governments, private entities, or individuals. Although we make every effort to avoid litigation, these matters are not totally within our control. We will contest these matters vigorously and have made insurance claims where appropriate, but because of the uncertain nature of litigation and coverage decisions, we cannot predict the outcome of these matters. Environmental impacts resulting from our operations, including exposures to emissions, hazardous substances, or wastes associated with our operations, could result in costs and liabilities that could adversely impact our financial condition and results of operations.

We may be unable to obtain, maintain or renew permits or leases necessary for our operations, which could materially reduce our production, cash flows or profitability.

Our cokemaking and logistics operations require us to obtain a number of permits that impose strict regulations on various environmental and operational matters. These, as well as our facilities and operations (including our generation of electricity), require permits issued by various federal, state and local agencies and regulatory bodies. The permitting rules, and the interpretations of these rules, are complex, change frequently, and are often subject to discretionary interpretations by our regulators, all of which may make compliance more costly, difficult or impractical, and may possibly preclude the continuance of ongoing operations or the development of future cokemaking and/or logistics facilities. Non-governmental organizations, environmental groups and individuals have certain rights to engage in the permitting process, and may comment upon, or object to, the requested permits. Such persons also have the right to bring citizen's lawsuits to challenge the issuance of permits, or the validity of environmental impact statements related thereto. If any permits or leases are not issued or renewed in a timely fashion or at all, or if permits issued or renewed are conditioned in a manner that restricts our ability to efficiently and economically conduct our operations, our cash flows or profitability could be materially and adversely affected.

Our businesses are subject to inherent risks, some for which we maintain third party insurance and some for which we self-insure. We may incur losses and be subject to liability claims that could have a material adverse effect on our financial condition, results of operations or cash flows.

We maintain insurance policies that provide limited coverage for some, but not all, potential risks and liabilities associated with our business. We may not obtain insurance if we believe the cost of available insurance is excessive relative to the risks presented. As a result of market conditions, premiums and deductibles for certain insurance policies can increase substantially, and in some instances, certain insurance may become unavailable or available only for reduced amounts of coverage. As a result, we may not be able to renew our existing insurance policies or procure other desirable insurance on commercially reasonable terms, if at all. In addition, certain risks, such as certain environmental and pollution risks, and certain cybersecurity risks, generally are not fully insurable. We must compensate employees for work-related injuries. If we do not make adequate provision for our workers' compensation liabilities, or we are pursued for applicable sanctions, costs, and liabilities, our operations and our profitability could be adversely affected. Even where insurance coverage applies, insurers may contest their obligations to make payments. Our financial condition, results of operations and cash flows could be materially and adversely affected by losses and liabilities from un-insured or under-insured events, as well as by delays in the payment of insurance proceeds, or the failure by insurers to make payments.

We may not be able to successfully implement our growth strategies or plans, and we may experience significant risks associated with future acquisitions, investments and/or divestitures. If we are unable to execute our strategic plans, whether as a result of unfavorable market conditions in the industries in which our customers operate, or otherwise, our future results of operations could be materially and adversely affected.

A portion of our strategy to grow our business is dependent upon our ability to acquire and operate new assets that result in an increase in our earnings. We may not derive the financial returns we expect on our investment in such additional assets or such operations may not be profitable. We cannot predict the effect that any failed expansion may have on our core businesses. The success of our future acquisitions and/or investments will depend substantially on the accuracy of our analysis concerning such businesses and our ability to complete such acquisitions or investments on favorable terms, as well as to finance such acquisitions or investments and to integrate the acquired operations successfully with existing operations. Risks associated with acquisitions include the diversion of management's attention from other business concerns, the

potential loss of key employees and customers of the acquired business, the possible assumption of unknown liabilities, potential disputes with the sellers, and the inherent risks in entering markets or lines of business in which we have limited or no prior experience. Antitrust and other laws may prevent us from completing acquisitions. If we are not able to execute our strategic plans effectively, or successfully integrate new operations, whether as a result of unfavorable market conditions in the industries in which our customers operate, or otherwise, our business reputation could suffer and future results of operations could be materially and adversely affected.

In the event we form joint ventures or other similar arrangements, we must pay close attention to the organizational formalities and time-consuming procedures for sharing information and making decisions. We may share ownership and management with other parties who may not have the same goals, strategies, priorities, or resources as we do. The benefits from a successful investment in an existing entity or joint venture will be shared among the co-owners, so we will not receive the exclusive benefits from a successful investment. Additionally, if a co-owner changes, our relationship may be materially and adversely affected.

We regularly review strategic opportunities to further our business objectives, and may eliminate assets that do not meet our return-on-investment criteria. The anticipated benefits of divestitures and other strategic transactions may not be realized, or may be realized more slowly than we expected. Such transactions also could result in a number of financial consequences having a material adverse effect on our results of operations and our financial position, including reduced cash balances; higher fixed expenses; the incurrence of debt and contingent liabilities (including indemnification obligations); restructuring charges; loss of customers, suppliers, distributors, licensors or employees; legal, accounting and advisory fees; and impairment charges.

Impairment in the carrying value of long-lived assets could adversely affect our business, financial condition and results of operations.

We have a significant amount of long-lived assets on our Consolidated Balance Sheets. Under generally accepted accounting principles, long-lived assets must be reviewed for impairment whenever adverse events or changes in circumstances indicate a possible impairment. We are required to perform impairment tests on our assets whenever events or changes in circumstances lead to a reduction of the estimated useful life or estimated future cash flows that would indicate that the carrying amount may not be recoverable or whenever management's plans change with respect to those assets. If business conditions or other factors cause profitability and cash flows to decline, we may be required to record non-cash impairment charges.

Events and conditions that could result in impairment in the value of our long-lived assets include: the impact of a downturn in the global economy, competition, advances in technology, adverse changes in the regulatory environment, and other factors leading to a reduction in expected long-term sales or profitability, or a significant decline in the trading price of our common stock or market capitalization, lower future cash flows, slower industry growth rates and other changes in the industries in which we or our customers operate.

Our operating results have been and may continue to be affected by fluctuations in our costs of production, and, if we cannot pass increases in our costs of production to our customers, our financial condition, results of operations and cash flows may be negatively affected.

Our operations require a reliable supply of equipment, replacement parts and metallurgical coal. If the cost to produce coke and provide logistics services, including cost of supplies, equipment, metallurgical coal or labor, experience significant price inflation and we cannot pass such increases in our costs of production to our customers, our profit margins may be reduced and our financial condition, results of operations and cash flows may be adversely affected.

We may incur costs and liabilities resulting from claims for damages to property or injury to persons arising from our operations, and such costs and liabilities could have a material and adverse effect on our financial condition or results of operations.

Our success depends, in part, on the quality, efficacy and safety of our products and services. If our operations do not meet applicable safety standards, or our products or services are found to be unsafe, our relationships with customers could suffer and we could lose business or become subject to liability or claims. In addition, our cokemaking and logistics operations have inherent safety risks that may give rise to events resulting in death, injury, or property loss to employees, customers, or unaffiliated third parties. Depending upon the nature and severity of such events, we could be exposed to significant financial loss, reputational damage, potential civil or criminal government or other regulatory enforcement actions, or private litigation, the settlement or outcome of which could have a material and adverse effect on our financial condition or results of operations.

A new or more stringent greenhouse gas emission standard designed to address climate change and physical effects attributed to climate change may adversely affect our operations and impose significant costs on our business and our customers and suppliers.

There is increasing regulatory attention concerning the issue of climate change and the impact of GHGs, particularly from fossil fuels, which are integral to our cokemaking and logistics businesses. Our business and operations, as well as the business and operations of our key suppliers and customers, may become subject to legislation or regulation intended to limit GHG emissions, the use of fossil fuels or the effects of climate change, or may be impacted by the increasing drive towards a lower carbon economy in an effort to limit the impacts of climate change. It is not possible to foresee the details of such legislation or regulations or changes in the economy or their resulting effects on our business. Because our coking process is dependent on coal as a raw material and the coking process generates carbon dioxide, we are limited in our ability to reduce our GHG emissions and could be affected by future regulation of GHGs, although we are evaluating the feasibility of reducing our GHG emissions profile. Any new regulations, legislation or taxes that affect other industries that use coal or other fossil fuels processed through our terminals could reduce throughput and utilization of our logistics assets. Future legislation or regulation regarding climate change and GHG emissions could impose significant costs on our business and our customers and suppliers due to increased energy, capital equipment, emissions controls, environmental monitoring and reporting and other costs in order to comply with these laws and regulations. Failure to comply with these regulations could result in fines to our company and could affect our business, financial condition and results of operations. Additionally, our suppliers may face cost increases to comply with any new legislation or regulations leading to higher costs to us for goods or services.

Climate change may cause changes in weather patterns and increase the frequency or severity of weather events and flooding. An increase in severe weather events and flooding may adversely impact us, our operations, and our ability to procure raw materials and manufacture and transport our products and could result in an adverse effect on our business, financial condition and results of operations. Extreme weather conditions may increase our costs, temporarily impact our production capabilities or cause damage to our facilities. For example, our terminals are located near bodies of water and may be impacted by flooding or hurricanes, disrupting our or our customers' ability to move products. Our coke plants are also generally located near bodies of water and may be impacted by the effects of climate change. Additionally, extreme cold could prevent coal delivery and unloading at our coke plants, impeding operation, or create a more hazardous outdoor working environment for our employees. Severe weather may also adversely impact our suppliers and our customers and their ability to purchase and transport our products.

Investor interest in climate change, fossil fuels, and sustainability could adversely affect our business and our stock price.

Climate change and sustainability have increasingly become important topics to investors and the community at large. As such, there have been recent efforts aimed at the investment community to encourage the divestment of shares of companies associated with energy, coal and/or fossil fuels, as well as to pressure lenders and other financial services companies to limit or curtail business relations with coal and fossil fuel companies. If these efforts are successful, our stock price and our ability to access capital markets may be negatively impacted. Members of the investment community are also increasing their focus on sustainability practices, including management of GHGs and climate change. As a result, we may face increasing pressure regarding our sustainability disclosures and practices.

Risks Related to Our Cokemaking Business

If a substantial portion of our agreements to supply coke, electricity, and/or steam are modified or terminated, our cash flows, financial position, permit compliance or results of operations may be adversely affected if we are not able to replace such agreements, or if we are not able to enter into new agreements at the same level of profitability.

We make substantially all of our coke, electricity and steam sales under long-term agreements. If a substantial portion of these agreements are modified or terminated or if force majeure is exercised, our results of operations may be adversely affected if we are not able to replace such agreements, or if we are not able to enter into new agreements at the same level of profitability. The profitability of our long-term coke, energy and steam sales agreements depends on a variety of factors that vary from agreement to agreement and fluctuate during the agreement term. We may not be able to obtain long-term agreements at favorable prices, compared either to market conditions or to our cost structure. Price changes provided in long-term supply agreements may not reflect actual increases in production costs. As a result, such cost increases may reduce profit margins on our long-term coke and energy sales agreements. In addition, contractual provisions for adjustment or renegotiation of prices and other provisions may increase our exposure to short-term price volatility.

From time to time, we discuss the extension of existing agreements and enter into new long-term agreements for the supply of coke, steam, and energy to our customers, but these negotiations may not be successful and these customers may

not continue to purchase coke, steam, or electricity from us under long-term agreements. In addition, declarations of bankruptcy by customers can result in changes in our contracts with less favorable terms. If any one or more of these customers were to become financially distressed and unable to pay us, significantly reduce their purchases of coke, steam, or electricity from us, or if we were unable to sell coke or electricity to them on terms as favorable to us as the terms under our current agreements, our cash flows, financial position, permit compliance or results of operations may be materially and adversely affected.

Further, because of certain technological design constraints, we do not have the ability to shut down our cokemaking operations if we do not have adequate customer demand. If a customer refuses to take or pay for our coke, we must continue to operate our coke ovens even though we may not be able to sell our coke immediately and may incur significant additional costs for natural gas to maintain the temperature inside our coke oven batteries and fees under our rail contracts to account for reductions in inbound coal or outbound coke shipments at our plants, which may have a material and adverse effect on our cash flows, financial position or results of operations.

Excess capacity in the global steel industry, and/or increased exports of coke from producing countries, may weaken our customers' demand for our coke and could materially and adversely affect our future revenues and profitability.

In some countries steelmaking capacity exceeds demand for steel products. Rather than reducing employment by matching production capacity to consumption, steel manufacturers in these countries (often with local government assistance or subsidies in various forms) may export steel at prices that are significantly below their home market prices and that may not reflect their costs of production or capital. Our steelmaking customers may decrease the prices they charge for steel, or take other action, as the supply of steel increases. The profitability and financial position of our steelmaking customers may be adversely affected, causing such customers to reduce their demand for our coke and making it more likely that they may seek to renegotiate their contracts with us or fail to pay for the coke they are required to take under our contracts. In addition, future increases in exports of coke from China and/or other coke-producing countries also may reduce our customers' demand for coke capacity. Such reduced demand for our coke could adversely affect the certainty of our long-term relationships with our customers, depress coke prices, and limit our ability to enter into new, or renew existing, commercial arrangements with our customers, as well as our ability to sell excess capacity in the spot market, and could materially and adversely affect our future revenues and profitability.

Certain provisions in our long-term coke agreements may result in economic penalties to us, or may result in termination of our coke sales agreements for failure to meet minimum volume requirements, coal-to-coke yields or other required specifications, and certain provisions in these agreements and our energy sales agreements may permit our customers to suspend performance.

Our agreements for the supply of coke, energy and/or steam, contain provisions requiring us to supply minimum volumes of our products to our customers. To the extent we do not meet these minimum volumes, we are generally required under the terms of our long-term agreements to procure replacement supply to our customers at the applicable contract price or potentially be subject to cover damages for any shortfall. If future shortfalls occur, we will work with our customer to identify possible other supply sources while we implement operating improvements at the facility, but we may not be successful in identifying alternative supplies and may be subject to paying the contract price for any shortfall or to cover damages, either of which could adversely affect our future revenues and profitability. Our long-term agreements also contain provisions requiring us to deliver coke that meets certain quality thresholds. Failure to meet these specifications could result in economic penalties, including price adjustments, the rejection of deliveries or termination of our agreements. To the extent that we do not meet the coal-to-coke yield standard in an agreement, we are responsible for the cost of the excess coal used in the cokemaking process.

Our coke and energy sales agreements contain force majeure provisions allowing temporary suspension of performance by our customers for the duration of specified events beyond the control of our customers. Declaration of force majeure, coupled with a lengthy suspension of performance under one or more coke or energy sales agreements, may seriously and adversely affect our cash flows, financial position and results of operations.

Failure to maintain effective quality control systems at our cokemaking facilities could have a material adverse effect on our results of operations.

The quality of our coke is critical to the success of our business. For instance, our coke sales agreements contain provisions requiring us to deliver coke that meets certain quality thresholds. If our coke fails to meet such specifications, we could be subject to significant contractual damages or contract terminations, and our sales could be negatively affected. The quality of our coke depends significantly on the effectiveness of our quality control systems, which, in turn, depends on a number of factors, including the design of our quality control systems, our quality-training program, our laboratories and our

ability to ensure that our employees adhere to our quality control policies and guidelines. Any significant failure or deterioration of our quality control systems could have a material adverse effect on our results of operations.

Disruptions to our supply of coal and coal mixing services may reduce the amount of coke we produce and deliver, and if we are not able to cover the shortfall in coal supply or obtain replacement mixing services from other providers, our results of operations and profitability could be adversely affected.

Substantially all of the metallurgical coal used to produce coke at our cokemaking facilities is purchased from third-parties under one-year contracts. We cannot assure that there will continue to be an ample supply of metallurgical coal available or that these facilities will be supplied without any significant disruption in coke production, as economic, environmental, and other conditions outside of our control may reduce our ability to source sufficient amounts of coal for our forecasted operational needs. If we are not able to make up the shortfalls resulting from such supply failures through purchases of coal from other sources, the failure of our coal suppliers to meet their supply commitments could materially and adversely impact our results of operations and, ultimately, impact the structural integrity of our coke oven batteries.

At our Granite City and Haverhill cokemaking facilities, we rely on third-parties to mix coals that we have purchased into coal mixes that we use to produce coke. We have entered into long-term agreements with coal mixing service providers that are coterminous with our coke sales agreements. However, there are limited alternative providers of coal mixing services and any disruptions from our current service providers could materially and adversely impact our results of operations. In addition, if our rail transportation agreements are terminated, we may have to pay higher rates to access rail lines or make alternative transportation arrangements.

Limitations on the availability and reliability of transportation, and increases in transportation costs, particularly rail systems, could materially and adversely affect our ability to obtain a supply of coal and deliver coke to our customers.

Our ability to obtain coal depends primarily on third-party rail systems and to a lesser extent river barges. If we are unable to obtain rail or other transportation services, or are unable to do so on a cost-effective basis, our results of operations could be adversely affected. Alternative transportation and delivery systems are generally inadequate and not suitable to handle the quantity of our shipments or to ensure timely delivery. The loss of access to rail capacity could create temporary disruption until the access is restored, significantly impairing our ability to receive coal and resulting in materially decreased revenues. Our ability to open new cokemaking facilities may also be affected by the availability and cost of rail or other transportation systems available for servicing these facilities.

Our coke production obligations at our Jewell cokemaking facility and one half of our Haverhill cokemaking facility require us to deliver coke to certain customers via railcar. We have entered into long-term rail transportation agreements to meet these obligations. Disruption of these transportation services because of weather-related problems, including those related to climate change, mechanical difficulties, train derailments, infrastructure damage, strikes, lock-outs, lack of fuel or maintenance items, fuel costs, transportation delays, accidents, terrorism, domestic catastrophe or other events could temporarily, or over the long-term, impair our ability to produce coke, and therefore, could materially and adversely affect our business and results of operations.

If we are unable to effectively protect our intellectual property, third parties may use our technology, which would impair our ability to compete in our markets.

Our future success will depend in part on our ability to obtain and maintain meaningful patent protection for certain of our technologies and products throughout the world. The degree of future protection for our proprietary rights is uncertain. We rely on patents to protect our intellectual property portfolio and to enhance our competitive position. However, our presently pending or future patent applications may not issue as patents, and any patent previously issued to us or our subsidiaries may be challenged, invalidated, held unenforceable or circumvented. Furthermore, the claims in patents that have been issued to us or our subsidiaries or that may be issued to us in the future may not be sufficiently broad to prevent third parties from using cokemaking technologies and heat recovery processes similar to ours. In addition, the laws of various foreign countries in which we plan to compete may not protect our intellectual property to the same extent as do the laws of the United States. If we fail to obtain adequate patent protection for our proprietary technology, our ability to be commercially competitive may be materially impaired.

We are subject to certain political or country risks due to the Vitória, Brazil cokemaking facility that could adversely affect our financial results.

The Vitória cokemaking facility is owned by ArcelorMittal Brazil. We earn income from the Vitória, Brazil operations through licensing and operating fees earned at the Brazilian cokemaking facility payable to us under long-term agreements with ArcelorMittal Brazil. These revenues depend on continuing operations and, in some cases, certain minimum production levels being achieved at the Vitória cokemaking facility. In the past, the Brazilian economy has been

characterized by frequent and occasionally extensive intervention by the Brazilian government and unstable economic cycles. The Brazilian government has changed in the past, and may change monetary, taxation, credit, tariff and other policies to influence Brazil's economy in the future. If the operations at the Vitória cokemaking facility are interrupted or if certain minimum production levels are not achieved, we will not be able to earn the same licensing and operating fees as we are currently earning, which could have an adverse effect on our financial position, results of operations and cash flows.

Additionally, the Vitória, Brazil operations require us to comply with a number of U.S. and international laws and regulations, including those involving anti-bribery, anti-corruption and anti-fraud. In particular, our international operations are subject to U.S. and foreign anti-corruption laws and regulations, including the regulations imposed by the Foreign Corrupt Practices Act ("FCPA"), which generally prohibits issuers and their strategic or local partners, agents or representatives, which we refer to as our intermediaries (even if those intermediaries are not themselves subject to the FCPA or other similar laws), from making improper payments to foreign officials for the purpose of obtaining or keeping business or obtaining an improper business benefit.

We take precautions to comply with these laws. However, these precautions may not protect us against liability, particularly as a result of actions by our intermediaries through whom we have exposure under these anti-bribery, anti-corruption and anti-fraud laws even though we may have limited or no ability to control such intermediaries. Any violations of such laws could be punishable by criminal fines, imprisonment, civil penalties, disgorgement of profits, injunctions and exclusion from government contracts, as well as other remedial measures. Investigations of alleged violations can be very expensive, disruptive and damaging to our reputation and could negatively impact our stock price. Failure by us or our intermediaries to comply with the foregoing or other anti-bribery, anti-corruption and anti-fraud laws could adversely impact our results of operations, financial position, and cash flows, damage our reputation and negatively impact our stock price.

Risks Related to Our Logistics Business

The growth and success of our logistics business depends upon our ability to find and contract for adequate throughput volumes, and an extended decline in demand for coal could affect the customers for our logistics business adversely. As a consequence, the operating results and cash flows of our logistics business could be materially and adversely affected.

The financial results of our logistics business segment are significantly affected by the demand for both thermal coal and metallurgical coal. An extended decline in our customers' demand for either thermal or metallurgical coals, including as a result of legislation or regulations promoting renewable energy or limiting carbon emissions from the energy sector, could result in a reduced need for the coal mixing, terminalling and transloading services we offer, thus reducing throughput and utilization of our logistics assets. Demand for such coals may fluctuate due to factors beyond our control:

- Thermal coal demand: may be impacted by changes in the energy consumption pattern of industrial consumers, electricity generators and residential users, as well as weather conditions and extreme temperatures. The amount of thermal coal consumed for electric power generation is affected primarily by the overall demand for electricity, the availability, quality and price of competing fuels for power generation, including natural gas, and governmental regulation. For example, state and federal mandates and market demand for increased use of electricity from renewable energy sources, or mandates for the retrofitting of existing coal-fired generators with pollution control systems, could adversely impact the demand for thermal coal. Finally, unusually warm winter weather may reduce the commercial and residential needs for heat and electricity which, in turn, may reduce the demand for thermal coal; and
- Metallurgical coal demand: may be impacted adversely by economic downturns resulting in decreased demand for steel and an overall decline in steel production. A decline in blast furnace production of steel may reduce the demand for furnace coke, an intermediate product made from metallurgical coal. Decreased demand for metallurgical coal also may result from increased steel industry utilization of processes that do not use, or reduce the need for, furnace coke, such as electric arc furnaces, or blast furnace injection of pulverized coal or natural gas.

Additionally, fluctuations in the market price of coal can greatly affect production rates and investments by third-parties in the development of new and existing coal reserves. Mining activity may decrease as spot coal prices decrease. We have no control over the level of mining activity by coal producers, which may be affected by prevailing and projected coal prices, demand for hydrocarbons, the level of coal reserves, geological considerations, governmental regulation and the availability and cost of capital. A material decrease in coal mining production in the areas of operation for our logistics business, whether as a result of depressed commodity prices or otherwise, could result in a decline in the volume of coal processed through our logistics facilities, which would reduce our revenues and operating income.

Decreased demand for thermal or metallurgical coals, and extended or substantial price declines for coal could adversely affect our operating results for future periods and our ability to generate cash flows necessary to improve productivity and expand operations. The cash flows associated with our logistics business may decline unless we are able to secure new volumes of coal or other dry bulk products, by attracting additional customers to these operations. Future growth and profitability of our logistics business segment will depend, in part, upon whether we can contract for additional coal and other bulk commodity volumes at a rate greater than that of any decline in volumes from existing customers. Accordingly, decreased demand for coal, or other bulk commodities, or a decrease in the market price of coal, or other bulk commodities, could have a material adverse effect on the results of operations or financial condition of our logistics business.

The geographic location of CMT could expose us to potential significant liabilities, including operational hazards and unforeseen business interruptions, that could substantially and adversely affect our future financial performance.

CMT is located in the Gulf Coast region, and its operations are subject to operational hazards and unforeseen interruptions, including interruptions from hurricanes, floods, or other potential effects of climate change, which have historically impacted the region with some regularity. If any of these events were to occur, we could incur substantial losses because of personal injury or loss of life, severe damage to and destruction of property and equipment, and pollution or other environmental damage resulting in curtailment or suspension of our related operations.

Risks Related to Indebtedness, Liquidity and Financial Position

We may need additional capital in the future to meet our financial obligations and to pursue our business objectives. Additional capital may not be available on favorable terms, or at all, which could compromise our ability to meet our financial obligations and grow our business.

We may need to raise additional capital to fund operations in the future or to finance acquisitions or other business objectives. Such additional capital may not be available on favorable terms or at all. Lack of sufficient capital resources could significantly limit our ability to meet our financial obligations or to take advantage of business and strategic opportunities. Any additional capital raised through the sale of equity or convertible debt securities would dilute stock ownership, and any new equity securities we issue could have rights, preferences and privileges superior to those of holders of our common stock. Any debt financing we secure in the future could involve restrictive covenants relating to our capital raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities. If we are unable to obtain adequate financing or financing on terms satisfactory to us when we require it, we may be required to delay or reduce the scope of our business strategy.

We face material debt maturities which may adversely affect our consolidated financial position.

Over the next five years, we have $43.8 million of total consolidated debt maturing. See Note 11 to the consolidated financial statements. We may not be able to refinance this debt, or may be forced to do so on terms substantially less favorable than our currently outstanding debt. We may be forced to delay or not make capital expenditures, which may adversely affect our competitive position and financial results.

We may be adversely affected by the effects of inflation.

Inflation has the potential to adversely affect our liquidity, business, financial condition and results of operations by increasing our overall cost structure. The existence of inflation in the economy has resulted in, and may continue to result in, higher interest rates and capital costs, increased costs of labor, weakening exchange rates and other similar effects. Although we may take measures to mitigate the impact of this inflation, if these measures are not effective, our business, financial condition, results of operations and liquidity could be materially adversely affected. Even if such measures are effective, there could be a difference between the timing of when these beneficial actions impact our results of operations and when the cost of inflation is incurred.

Our level of indebtedness could adversely affect our financial condition and prevent us from fulfilling our obligations under our credit facilities and other debt documents. Further, our credit facilities contain operating and financial covenants that may restrict our business and financing activities.

Subject to the limits contained in our credit agreements and our other debt instruments, we may be able to incur additional debt from time to time to finance working capital, capital expenditures, investments or acquisitions, or for other purposes. If we do so, the risks related to our level of debt could intensify. Specifically, a higher level of debt could have important consequences, including:

- making it more difficult for us to satisfy our obligations with respect to the notes and our other debt;
- limiting our ability to obtain additional financing to fund future working capital, capital expenditures, acquisitions, distributions or other general corporate requirements;

- requiring a substantial portion of our cash flows to be dedicated to debt service payments instead of other purposes, thereby reducing the amount of cash flows available for the payment of dividends, working capital, capital expenditures, acquisitions and other general corporate purposes;
- increasing our vulnerability to general adverse economic and industry conditions;
- exposing us to the risk of increased interest rates as certain of our borrowings, including borrowings under the credit facilities, are at variable rates of interest;
- limiting our flexibility in planning for and reacting to changes in the industry in which we compete;
- placing us at a competitive disadvantage to other, less leveraged competitors; and
- increasing our cost of borrowing.

Our ability to meet our debt obligations and reduce our level of indebtedness depends upon our future performance and general economic, financial, business, and other factors, many of which are beyond our control. Factors affecting our ability to raise cash through an offering of our common stock or a refinancing of our debt include financial market conditions, the value of our assets, and our performance at the time we need capital.

In addition, the credit agreement governing our credit facilities contains restrictive covenants that limit our ability to engage in activities (such as incurring additional debt) that may be in our long-term best interest. Our failure to comply with those covenants could result in an event of default which, if not cured or waived, could result in the acceleration of all our debt. In the event of an acceleration of all our debt, we may not have sufficient cash on hand to repay the indebtedness in full or refinance such debt on favorable terms, or at all. Such event could materially adversely affect our business, financial condition and results of operations.

Risks Related to Our Legacy Coal Mining Business

Our former coal mining operations were subject to governmental regulations pertaining to employee health and safety and mandated benefits for retired coal miners. Following the divestiture of our coal mining operations, compliance with such regulations has continued to impose significant costs on our business.

Our former coal mining operations were subject to strict regulation by federal, state and local authorities with respect to environmental matters such as reclamation, and to matters such as employee health and safety and mandated benefits for retired coal miners. Even after divestiture of our coal mining business, compliance with these reclamation and benefits requirements has continued to impose significant costs on us. As a former coal mine operator, federal law requires us to secure payment of federal black lung benefits to claimants who were employees, and to contribute to a trust fund for payment of benefits and medical expenses to claimants who last worked in the coal industry before January 1, 1970. At December 31, 2022, our liabilities for coal workers' black lung benefits totaled $58.1 million. Our business could be materially and adversely harmed if these liabilities, including the number and award size of claims, were increased. See "Item 1. Business-Legal and Regulatory Requirements-Regulation of Operations."

General Risks

The COVID-19 pandemic has in the past and may continue to adversely impact or disrupt our, and our customers' and suppliers', business, operations, cash flows, financial condition and results of operations. Any future outbreak of COVID-19 variants or any other highly infectious or contagious disease could have a similar impact.

The COVID-19 pandemic had, and may continue to have, adverse impacts on our business. While our facilities continued to operate during the COVID-19 pandemic due to our inclusion in the Critical Manufacturing Sector as defined by the U.S. Department of Homeland Security, COVID-19 negatively impacted our business and results of operations primarily due to the impacts of the COVID-19 pandemic on our customers and suppliers. For example, certain of our steelmaking and logistics customers were adversely impacted by the idling of manufacturing plants as a result of the COVID-19 pandemic. In an effort to assist certain of our steelmaking customers impacted by the COVID-19 pandemic, we implemented volume relief measures by providing near-term coke supply relief for such customers in exchange for extending of certain contracts. The extent to which COVID-19 or other future pandemics impact our business and results of operations, and our customers' and suppliers' business and results of operations, are out of our control and will depend on future developments that are highly uncertain and cannot be predicted, including rising inflation and supply chain issues, the emergence of new variants, the severity and duration of the pandemic and actions taken to contain it or mitigate its effects, as well as the effectiveness of vaccine rollout plans, the public's perception of the safety of the vaccines and their willingness to take the vaccines, public safety measures and the impact of the pandemic on the global economy. Therefore, the impact of COVID-19, including any

resurgences of the virus, new variants, or other similar future health crises may heighten other risks discussed herein, which could adversely impact or disrupt our business, financial condition, results of operations, cash flows and market value.

Sustained uncertainty in financial markets, or unfavorable economic conditions in the industries in which our customers operate, may lead to a reduction in the demand for our products and services, and adversely impact our cash flows, financial position or results of operations.

Sustained volatility and disruption in worldwide capital and credit markets in the U.S. and globally could restrict our ability to access the capital market at a time when we would like, or need, to raise capital for our business including for potential acquisitions, or other growth opportunities.

Deteriorating or unfavorable economic conditions in the industries in which our customers operate, such as steelmaking and electric power generation, may lead to reduced demand for steel products, coal, and other bulk commodities which, in turn, could adversely affect the demand for our products and services and negatively impact the revenues, margins and profitability of our business.

Labor disputes with the unionized portion of our workforce could affect us adversely. Union represented labor creates an increased risk of work stoppages and higher labor costs.

We rely, at one or more of our facilities, on unionized labor, and there is always the possibility that we may be unable to reach agreement on terms and conditions of employment or renewal of a collective bargaining agreement. When collective bargaining agreements expire or terminate, we may not be able to negotiate new agreements on the same or more favorable terms as the current agreements, or at all, and without production interruptions, including labor stoppages. If we are unable to negotiate the renewal of a collective bargaining agreement before its expiration date, our operations and our profitability could be adversely affected. A prolonged labor dispute, which may include a work stoppage, could adversely affect our ability to satisfy our customers' orders and, as a result, adversely affect our operations, or the stability of production and reduce our future revenues, or profitability. It is also possible that, in the future, additional employee groups may choose to be represented by a labor union.

Our ability to operate our company effectively could be impaired if we fail to attract and retain key personnel.

We have implemented recruitment, training and retention efforts to optimally staff our operations. Our ability to operate our business and implement our strategies depends in part on the efforts of our executive officers and other key employees. In addition, our future success will depend on, among other factors, our ability to attract and retain other qualified personnel. The loss of the services of any of our executive officers or other key employees or the inability to attract or retain other qualified personnel in the future could have a material adverse effect on our business or business prospects. With respect to our represented employees, we may be adversely impacted by the loss of employees who retire or obtain other employment during a layoff or a work stoppage.

We currently are, and likely will be, subject to litigation, the disposition of which could have a material adverse effect on our cash flows, financial position or results of operations.

The nature of our operations exposes us to possible litigation claims in the future, including disputes relating to our operations and commercial and contractual arrangements. Although we make every effort to avoid litigation, these matters are not totally within our control. We will contest these matters vigorously and have made insurance claims where appropriate, but because of the uncertain nature of litigation and coverage decisions, we cannot predict the outcome of these matters. Litigation is very costly, and the costs associated with prosecuting and defending litigation matters could have a material adverse effect on our financial condition and profitability. In addition, our profitability or cash flow in a particular period could be affected by an adverse ruling in any litigation currently pending in the courts or by litigation that may be filed against us in the future. We are also subject to significant environmental and other government regulation, which sometimes results in various administrative proceedings. For additional information, see "Item 3. Legal Proceedings."

Security breaches and other information systems failures could disrupt our operations, compromise the integrity of our data, expose us to liability, cause increased expenses and cause our reputation to suffer, any or all of which could have a material and adverse effect on our business or financial position.

Our business is dependent on financial, accounting and other data processing systems and other communications and information systems, including our enterprise resource planning tools. We process a large number of transactions on a daily basis and rely upon the proper functioning of computer systems. If a key system were to fail or experience unscheduled downtime for any reason, our operations and financial results could be affected adversely. Our systems could be damaged or interrupted by a security breach, terrorist attack, fire, flood, power loss, telecommunications failure or similar event. Our

disaster recovery plans may not entirely prevent delays or other complications that could arise from an information systems failure. Our business interruption insurance may not compensate us adequately for losses that may occur.

In the ordinary course of our business, we collect and store sensitive data in our data centers, on our networks, and in our cloud vendors. In addition, we rely on third party service providers, for support of our information technology systems, including the maintenance and integrity of proprietary business information and other confidential company information and data relating to customers, suppliers and employees. The secure processing, maintenance and transmission of this information is critical to our operations and business strategy. We have instituted data security measures for confidential company information and data stored on electronic and computing devices, whether owned or leased by us or a third party vendor. However, despite such measures, there are risks associated with customer, vendor, and other third-party access and our information technology and infrastructure may be vulnerable to attacks by hackers or breached due to: employee error or malfeasance, failure of third parties to meet contractual, regulatory and other obligations to us, or other disruptions.

Any such breach could compromise our networks and the information stored there could be accessed, publicly disclosed, lost or stolen. Any such access, disclosure or other loss of information could result in legal claims or proceedings, liability under laws that protect the privacy of personal information, and regulatory penalties, disrupt our operations, and damage our reputation, which could materially and adversely affect our business and financial position.

We are exposed to, and may be adversely affected by, interruptions to our computer and information technology systems and sophisticated cyber-attacks.

We rely on our information technology systems and networks in connection with many of our business activities. Some of these networks and systems are managed by third-party service providers and are not under our direct control. Our operations routinely involve receiving, storing, processing and transmitting sensitive information pertaining to our business, customers, dealers, suppliers, employees and other sensitive matters. Cyber-attacks could materially disrupt operational systems; result in loss of trade secrets or other proprietary or competitively sensitive information; compromise personally identifiable information regarding customers or employees; and jeopardize the security of our facilities. A cyber-attack could be caused by malicious outsiders using sophisticated methods to circumvent firewalls, encryption and other security defenses. Because techniques used to obtain unauthorized access or to sabotage systems change frequently and generally are not recognized until they are launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. Information technology security threats, including security breaches, computer malware and other cyber-attacks are increasing in both frequency and sophistication and could create financial liability, subject us to legal or regulatory sanctions or damage our reputation with customers, dealers, suppliers and other stakeholders. We continuously seek to maintain a robust program of information security and controls, but a cyber-attack could have a material adverse effect on our competitive position, reputation, results of operations, financial condition and cash flows. As cyber-attacks continue to evolve, we may be required to expend additional resources to continue to modify or enhance our protective measures or to investigate and remediate any information security vulnerabilities.

We are or may become subject to privacy and data protection laws, rules and directives relating to the processing of personal data in the states and countries where we operate.

The growth of cyber-attacks has resulted in an evolving legal landscape which imposes costs that are likely to increase over time. For example, new laws and regulations governing data privacy and the unauthorized disclosure of confidential information, including the European Union General Data Protection Regulation and recent California legislation (which, among other things, provides for a private right of action), pose increasingly complex compliance challenges and could potentially elevate our costs over time. Any failure by us to comply with such laws and regulations could result in penalties and liabilities. It is also possible under certain legislation that if we acquire a company that has violated or is not in compliance with applicable data protection laws, we may incur significant liabilities and penalties as a result.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

We own the following real property as of December 31, 2022:

- Approximately 1,700 acres in Vansant (Buchanan County), Virginia on which the Jewell cokemaking facility is located, along with the offices, warehouse and support buildings for our Jewell coke affiliates as well as other general property holdings and unoccupied land.
- Approximately 400 acres in Franklin Furnace (Scioto County), Ohio, at and around the area where the Haverhill cokemaking facility (both the first and second phases) is located.

- Approximately 45 acres in Granite City (Madison County), Illinois, adjacent to the U.S. Steel Granite City Works facility, on which the Granite City cokemaking facility is located. Upon the earlier of ceasing production at the facility or the end of 2044, U.S. Steel has the right to repurchase the property, including the facility, at the fair market value of the land. Alternatively, U.S. Steel may require us to demolish and remove the facility and remediate the site to original condition upon exercise of its option to repurchase the land.
- Approximately 250 acres in Middletown (Butler County), Ohio near Cliff's Middletown Works facility, on which the Middletown cokemaking facility is located.
- Approximately 180 acres in Ceredo (Wayne County), West Virginia on which KRT has two terminals for its mixing and/or handling services along the Ohio and Big Sandy Rivers.
- Approximately 175 acres in Convent (St. James Parish), Louisiana, on which CMT is located.

We lease the following real property as of December 31, 2022:

- Approximately 90 acres of land located in East Chicago (Lake County), Indiana, on which the Indiana Harbor cokemaking facility is located and the coal handling and/or mixing facilities (Lake Terminal) that service the Indiana Harbor cokemaking facility. The leased property is inside ArcelorMittal's Indiana Harbor Works facility and is part of an enterprise zone. As lessee of the property, we are responsible for restoring the leased property to a safe and orderly condition.
- Approximately 310 acres of land located in Buchanan County, Virginia, at and around the area where our DRT coal handling terminal is located.
- Approximately 30 acres in Belle (Kanawha County), West Virginia, on which KRT has a terminal for its mixing and/or handling services along the Kanawha River.
- Our corporate headquarters is located in leased office space in Lisle, Illinois under a 9 year lease that commenced in 2021.

While the Company completed the disposal of its coal mining business in April 2016, we continue to have rights to small parcels of land, mineral rights and coal mining rights for approximately 5 thousand acres of land in Buchanan and Russell Counties, Virginia. These agreements convey mining rights to us in exchange for payment of certain immaterial royalties and/or fixed fees.

Item 3. Legal Proceedings

The information presented in Note 12 to our consolidated financial statements within this Annual Report on Form 10-K is incorporated herein by reference.

Many legal and administrative proceedings are pending or may be brought against us arising out of our current and past operations, including matters related to commercial and tax disputes, product liability, employment claims, personal injury claims, premises-liability claims, allegations of exposures to toxic substances and general environmental claims. Although the ultimate outcome of these proceedings cannot be ascertained at this time, it is reasonably possible that some of them could be resolved unfavorably to us. Our management believes that any liabilities that may arise from such matters would not likely be material in relation to our business or our consolidated financial position, results of operations or cash flows at December 31, 2022.

Item 4. Mine Safety Disclosures

While the Company divested substantially all of its remaining coal mining assets in April 2016, the Company remains responsible for reclamation of certain legacy coal mining locations that are subject to Mine Safety and Health Administration ("MSHA") regulatory purview and the Company continues to own certain logistics assets that are regulated by MSHA. The information concerning mine safety violations and other regulatory matters that we are required to report in accordance with Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Item 104 of Regulation S-K (17 CFR 229.014) is included in Exhibit 95.1 to this Annual Report on Form 10-K.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholders Matters and Issuer Purchases of Equity Securities

Market Information

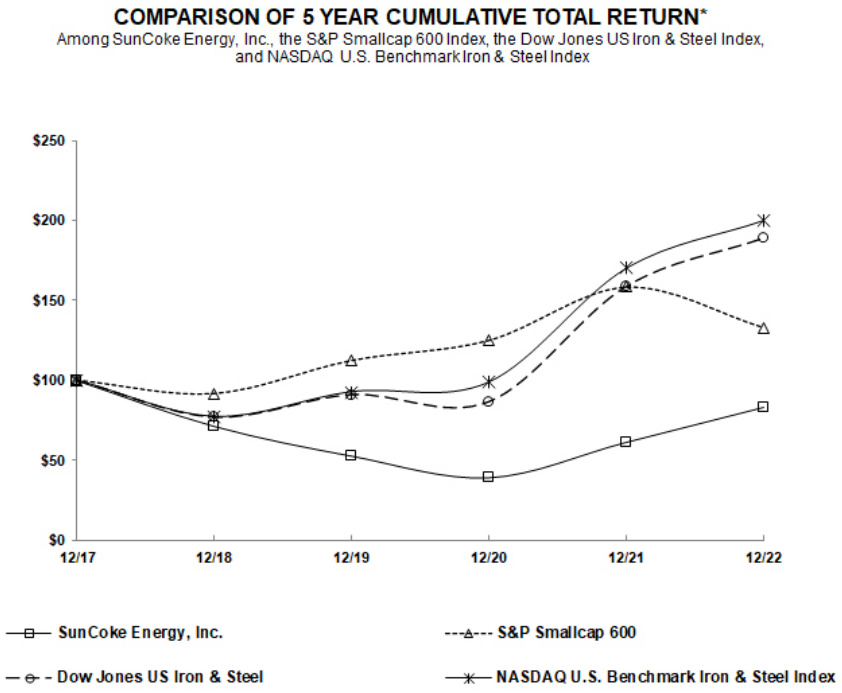
Shares of our common stock trade under the stock trading symbol "SXC" on the New York Stock Exchange.

Performance Graph

The following performance graph and related information shall not be deemed "soliciting material" or be "filed" with the SEC, nor shall such information be incorporated by reference into any future filing under the Securities Act or Exchange Act, except to the extent we specifically incorporate it by reference into such filing.

The graph below matches the Company's cumulative 5-Year total shareholder return on common stock with the cumulative total returns of the S&P Small Cap 600 Index, the NASDAQ U.S. Benchmark Iron & Steel Index, and the Dow Jones U.S. Iron & Steel Index. The graph tracks the performance of a $100 investment in our common stock and in each index (with the reinvestment of all dividends) from December 31, 2017 to December 31, 2022.

In selecting the indices for comparison, we considered market capitalization and industry or line-of-business. The S&P Small Cap 600 Index is a broad equity market index comprised of companies of between $450 million and $2.1 billion. The Company is a part of this index. The NASDAQ U.S. Benchmark Iron and Steel Index is comprised of U.S.-based steel and metals manufacturing and coal and iron ore mining companies. While we do not manufacture steel, we do produce coke, an essential ingredient in the blast furnace production of steel. Accordingly, we believe the NASDAQ U.S. Benchmark Iron & Steel Index is appropriate for comparison purposes. The Company has elected to replace the Dow Jones U.S. Iron and Steel Index with the NASDAQ U.S. Benchmark Iron and Steel Index in this analysis and going forward, as the market capitalization profile is more comparable to that of the Company. In this transition year, the stock performance graph includes both the Dow Jones U.S. Iron and Steel Index and the NASDAQ U.S. Benchmark Iron and Steel Index.



Holders

As of February 17, 2023, we had 8,340 holders of record of our common stock.

Dividends

Our Board of Directors declared the following dividends during 2022 and through February 24, 2023:

Date Declared	Record Date	Dividend Per Share	Payment Date
February 1, 2022	February 17, 2022	$0.06	March 1, 2022
May 2, 2022	May 18, 2022	$0.06	June 1, 2022
August 2, 2022	August 18, 2022	$0.08	September 1, 2022
October 31, 2022	November 18, 2022	$0.08	December 1, 2022
February 2, 2023	February 16, 2023	$0.08	March 1, 2023

Our payment of dividends in the future, if any, will be determined by our Board of Directors and will depend on business conditions, our financial condition, earnings, liquidity and capital requirements, covenants in our debt agreements and other factors. Any dividend program may be canceled, suspended, terminated or modified at any time at the discretion of the Board of Directors.

Recent Sales of Unregistered Securities

None.

Issuer Purchases of Equity Securities

On October 28, 2019, the Company's Board of Directors authorized a program to repurchase outstanding shares of the Company’s common stock, $0.01 par value per share, from time to time in open market transactions at prevailing market prices, in privately negotiated transactions, or by other means in accordance with federal securities laws, for a total aggregate cost to the Company not to exceed $100.0 million. There have been no share repurchases since the first quarter of 2020 as the Company temporarily suspended additional repurchases, leaving $96.3 million available under the authorized repurchase program as of December 31, 2022.

Item 6. [Reserved]

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

This Annual Report on Form 10-K contains certain forward-looking statements, as defined in the Private Securities Litigation Reform Act of 1995. This discussion contains forward-looking statements about our business, operations and industry that involve risks and uncertainties, such as statements regarding our plans, objectives, expected future developments, expectations and intentions, and they involve known and unknown risks that are difficult to predict. As a result, our future results and financial condition may differ materially from those we currently anticipate as a result of the factors we describe under "Cautionary Statement Concerning Forward-Looking Statements" and "Risk Factors."

This Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is based on financial data derived from the financial statements prepared in accordance with United States generally accepted accounting principles ("GAAP") and certain other financial data that is prepared using a non-GAAP measure. For a reconciliation of the non-GAAP measure to its most comparable GAAP component, see "Non-GAAP Financial Measures" in this Item and Note 19 to our consolidated financial statements.

Our MD&A is provided in addition to the accompanying consolidated financial statements and notes to assist readers in understanding our results of operations, financial condition and cash flows. Our results of operations include reference to our business operations and market conditions, which are further described in Part I of this document.

2022 Overview

Our consolidated results of operations in 2022 were as follows:

	Year Ended December 31, 2022
	(Dollars in millions)
Net income	$ 104.9
Net cash provided by operating activities	$ 208.9
Adjusted EBITDA[(1)]	$ 297.7

(1) See Note 19 in our consolidated financial statements for both the definition of Adjusted EBITDA and the reconciliation from GAAP to the non-GAAP measurement.

The Company delivered strong financial results for the year ended 2022. Favorable pricing on export coke sales in our Domestic Coke segment and higher price realization and volumes within our Logistics segment drove record Adjusted EBITDA performance in 2022. We also increased our participation in the foundry coke market, while continuing to deliver on our long-term, take-or-pay coke contracts.

We returned meaningful capital to our shareholders through the declaration and payment of a dividend during each quarter of 2022, increasing from $0.06 per share during the first half of the year to $0.08 per share during the second half of the year, representing a quarterly increase of 33 percent. Additionally, we reduced total debt by approximately $83 million in 2022.

Recent Developments

- ***Granulated Pig Iron Project.*** On June 28, 2022, the Company entered into a non-binding letter of intent with U.S. Steel. The letter of intent sets out the principal terms and conditions upon which SunCoke would acquire two blast furnaces from U.S. Steel's Granite City Works facility and construct a granulated pig iron facility with an annual capacity of 2 million tons to be sold to U.S. Steel for a ten year initial term.

Items Impacting Comparability

- ***2021 Debt Refinancing.*** During the second quarter of 2021, the Company refinanced its debt obligations. The Company issued $500.0 million of 4.875 percent senior notes, due in 2029 ("2029 Senior Notes"), amended and extended the maturity of its revolving credit facility ("Revolving Facility") to June 2026 and reduced the Revolving Facility capacity by $50.0 million to $350.0 million. The Company used the proceeds of the 2029 Senior Notes along with borrowings under the Company's Revolving Facility to purchase and redeem all of the 7.500 percent senior notes, due in 2025 ("2025 Senior Notes"). As a result of the debt refinancing and revolver amendment, the year ended December 31, 2021 included a loss on extinguishment of debt on the Consolidated Statement of Income of $31.9 million, which consisted of the premium paid of $22.0 million and the write-off of unamortized debt issuance costs of $6.9 million and the remaining original issue discount of $3.0 million.

Consolidated Results of Operations

The following section includes year-over-year analysis of consolidated results of operations for the year ended December 31, 2022 as compared to the year ended December 31, 2021. See "Analysis of Segment Results" later in this section for further details of these results. Refer to Management's Discussion and Analysis of Financial Condition and Results of Operations in our 2021 Annual Report on Form 10-K for the year-over-year analysis of consolidated results of operations for the year ended December 31, 2021 as compared to the year ended December 31, 2020.

	Years Ended December 31,		Increase (Decrease)
	2022	2021	
	(Dollars in millions)		
Revenues			
Sales and other operating revenue	$ 1,972.5	$ 1,456.0	$ 516.5
Costs and operating expenses			
Cost of products sold and operating expenses	1,604.9	1,118.8	486.1
Selling, general and administrative expenses	71.4	61.8	9.6
Depreciation and amortization expense	142.5	133.9	8.6
Total costs and operating expenses	1,818.8	1,314.5	504.3
Operating income	153.7	141.5	12.2
Interest expense, net	32.0	42.5	(10.5)
Loss on extinguishment of debt	—	31.9	(31.9)
Income before income tax expense	121.7	67.1	54.6
Income tax expense	16.8	18.3	(1.5)
Net income	104.9	48.8	56.1
Less: Net income attributable to noncontrolling interests	4.2	5.4	(1.2)
Net income attributable to SunCoke Energy, Inc.	$ 100.7	$ 43.4	$ 57.3

Sales and Other Operating Revenue and Costs of Products Sold and Operating Expenses. Sales and other operating revenue and costs of products sold and operating expenses increased in 2022 as compared to 2021, primarily driven by the pass-through of higher coal prices in our Domestic Coke segment, which also resulted in lower margins. Additionally, revenues further benefited from favorable pricing on export coke sales in our Domestic Coke segment, which partially offset the impact of higher coal prices on margins.

Selling, General and Administrative Expenses. The increase in selling, general and administrative expense primarily reflects higher employee related expenses, higher cost of professional services, and transaction costs incurred as part of the granulated pig iron project. These higher costs were partially offset by valuation adjustments as a result of changes in discount rates on certain legacy liabilities, which decreased legacy costs by $3.3 million as compared to the prior year.

Depreciation and Amortization Expense. Depreciation and amortization expense increased as a result of depreciable assets placed into service since the prior year period.

Interest Expense, net. Interest expense, net, benefited in 2022 from a lower interest rate on the outstanding senior notes, which decreased to 4.875 percent from 7.500 percent as a result of the debt refinancing that occurred during the second quarter of 2021, as well as lower average debt balances during the current year period.

Income Tax Expense. Income tax expense during 2022 reflects the net impact of Foreign Tax Credit regulations signed in 2022 further described in Note 4 to our consolidated financial statements, which had a net result of an income tax benefit of $6.5 million during the current year period. Additionally, the current year period reflects the recognition of research and development credits and lower apportioned state income tax rates, which resulted in an income tax benefits of $4.0 million and $6.4 million, respectively, including the related revaluation of certain deferred tax liabilities. See Note 4 to our consolidated financial statements for further detail.

Noncontrolling Interest. Net income attributable to noncontrolling interest represents a 14.8 percent third-party interest in our Indiana Harbor cokemaking facility and fluctuates with the financial performance of that facility.

Results of Reportable Business Segments

We report our business results through three segments:

- Domestic Coke consists of our Jewell facility, located in Vansant, Virginia, our Indiana Harbor facility, located in East Chicago, Indiana, our Haverhill facility, located in Franklin Furnace, Ohio, our Granite City facility located in Granite City, Illinois, and our Middletown facility located in Middletown, Ohio.
- Brazil Coke consists of operations in Vitória, Brazil, where we operate the ArcelorMittal Brazil cokemaking facility.
- Logistics consists of Convent Marine Terminal ("CMT"), located in Convent, Louisiana, Kanawha River Terminal ("KRT"), located in Ceredo and Belle, West Virginia, SunCoke Lake Terminal ("Lake Terminal"), located in East Chicago, Indiana, and Dismal River Terminal ("DRT"), located in Vansant, Virginia. Lake Terminal and DRT are located adjacent to our Indiana Harbor and Jewell cokemaking facilities, respectively.

The operations of each of our segments are described in Part I of this document.

Corporate expenses that can be identified with a segment have been included in determining segment results. The remainder is included in Corporate and Other.

Management believes Adjusted EBITDA is an important measure of operating performance and uses it as the primary basis for the chief operating decision maker to evaluate the performance of each of our reportable segments. Adjusted EBITDA should not be considered a substitute for the reported results prepared in accordance with GAAP. See Note 19 to our consolidated financial statements.

Segment Operating Data

The following table sets forth financial and operating data by segment for the years ended December 31, 2022 and 2021:

	Years Ended December 31,		
	2022	2021	Increase (Decrease)
	(Dollars in millions, except per ton amounts)		
Sales and other operating revenue:			
Domestic Coke	$ 1,856.9	$ 1,354.5	$ 502.4
Brazil Coke	38.0	36.6	1.4
Logistics	77.6	64.9	12.7
Logistics intersegment sales	28.9	27.1	1.8
Elimination of intersegment sales	(28.9)	(27.1)	(1.8)
Total sales and other operating revenue	$ 1,972.5	$ 1,456.0	$ 516.5
Adjusted EBITDA[1]:			
Domestic Coke	$ 263.4	$ 243.4	$ 20.0
Brazil Coke	14.5	17.2	(2.7)
Logistics	49.7	43.5	6.2
Corporate and Other, net	(29.9)	(28.7)	(1.2)
Total Adjusted EBITDA	$ 297.7	$ 275.4	$ 22.3
Coke Operating Data:			
Domestic Coke capacity utilization[2]	100 %	101 %	(1)%
Domestic Coke production volumes (thousands of tons)	4,023	4,162	(139)
Domestic Coke sales volumes (thousands of tons)	4,031	4,183	(152)
Domestic Coke Adjusted EBITDA per ton[3]	$ 65.34	$ 58.19	$ 7.15
Brazilian Coke production—operated facility (thousands of tons)	1,585	1,685	(100)
Logistics Operating Data:			
Tons handled (thousands of tons)	22,291	19,933	2,358

(1) See Note 19 in our consolidated financial statements for both the definition of Adjusted EBITDA and the reconciliation from GAAP to the non-GAAP measurement.

(2) The production of foundry coke tons does not replace blast furnace coke tons on a ton for ton basis, as foundry coke requires longer coking time. The Domestic Coke capacity utilization is calculated assuming a single ton of foundry coke replaces approximately two tons of blast furnace coke.

(3) Reflects Domestic Coke Adjusted EBITDA divided by Domestic Coke sales volumes.

Analysis of Segment Results

Domestic Coke

The following table explains year-over-year changes in our Domestic Coke segment's sales and other operating revenues and Adjusted EBITDA results:

	Sales and other operating revenue	Adjusted EBITDA
	2022 vs 2021	2022 vs 2021
	(Dollars in millions)	
Beginning	$ 1,354.5	$ 243.4
Volume[1]	(46.4)	(13.9)
Price[2]	543.2	47.4
Operating and maintenance costs[3]	N/A	(13.1)
Energy and other[4]	5.6	(0.4)
Ending	$ 1,856.9	$ 263.4

(1) Volumes decreased during 2022 primarily due to changes in the mix of production.

(2) Revenues increased primarily as a result of the pass-through of higher coal prices on our long-term, take-or-pay agreements, which also had a favorable impact on Adjusted EBITDA due to higher coal-to-coke yield gains on higher coal prices. Favorable pricing on export coke sales also increased revenues and was the primary driver of the increase to Adjusted EBITDA during 2022.

(3) Higher operating and maintenance costs includes the impact of planned maintenance outages and higher cost of fuel.

(4) Favorable energy pricing at our Haverhill II facility increased both revenue and Adjusted EBITDA. This increase to Adjusted EBITDA was more than offset by higher allocation of corporate costs.

Logistics

The following table explains year-over-year changes in our Logistics segment's sales and other operating revenues and Adjusted EBITDA results:

	Sales and other operating revenue, inclusive of intersegment sales	Adjusted EBITDA
	2022 vs 2021	2022 vs 2021
	(Dollars in millions)	
Beginning	$ 92.0	$ 43.5
Transloading volumes[1]	5.9	3.6
Price/margin impact of mix in transloading services[2]	8.9	8.9
Other[3]	(0.3)	(6.3)
Ending	$ 106.5	$ 49.7

(1) Volumes improved as a result of increased demand driven by the strong domestic metallurgical and thermal coal markets.

(2) Revenues and Adjusted EBITDA increased as a result of favorable pricing at CMT driven by the strong export coal market.

(3) Other decreases in Adjusted EBITDA reflect higher operating and maintenance costs.

Brazil Coke

Sales and other operating revenue increased $1.4 million, or 4 percent, to $38.0 million in 2022 compared to $36.6 million in 2021. Adjusted EBITDA decreased $2.7 million, or 16 percent, to $14.5 million in 2022 compared to $17.2 million in 2021. Sales and other operating revenue and Adjusted EBITDA reflect the impact of lower volumes, including the absence of production bonuses for meeting certain volume targets received in the prior year. The impact of lower volumes on sales and other operating revenue was more than offset by the pass-through of higher reimbursable operating and maintenance costs as well as favorable translation adjustments.

Corporate and Other

Corporate and Other expenses, increased $1.2 million, or 4 percent, to $29.9 million in 2022 as compared to $28.7 million in 2021. The increase was driven by higher employee related expenses and higher cost of professional services. These increased costs were mostly offset by valuation adjustments as a result of changes in discount rates on certain legacy liabilities, which decreased legacy costs by $3.3 million.

Non-GAAP Financial Measures

In addition to the GAAP results provided in the Annual Report on Form 10-K, we have provided a non-GAAP financial measure, Adjusted EBITDA. Our management, as well as certain investors, uses this non-GAAP measure to analyze our current and expected future financial performance. This measure is not in accordance with, or a substitute for, GAAP and may be different from, or inconsistent with, non-GAAP financial measures used by other companies. See Note 19 in our consolidated financial statements for both the definition of Adjusted EBITDA and the reconciliation from GAAP to the non-GAAP measurement for 2022, 2021 and 2020.

Liquidity and Capital Resources

Our primary liquidity needs are to fund working capital, fund investments, service our debt, maintain cash reserves and replace partially or fully depreciated assets and other capital expenditures. Our sources of liquidity include cash generated from operations, borrowings under our Revolving Facility and, from time to time, debt and equity offerings. We believe our current resources are sufficient to meet our working capital requirements for our current business for at least the next 12 months and thereafter for the foreseeable future. As of December 31, 2022, we had $90.0 million of cash and cash equivalents and $315.0 million of borrowing availability under our Revolving Facility.

We may, from time to time, seek to retire or purchase additional amounts of our outstanding equity and/or debt securities through cash purchases and/or exchanges for other securities, in open market purchases, privately negotiated transactions or otherwise. Such repurchases or exchanges, if any, will depend on prevailing market conditions, our liquidity requirements, contractual restrictions and other factors. The amounts involved may be material. Refer to further liquidity discussion below as well as "Part II - Item 5 - Market for Registrant's Common Equity, Related Stockholders Matters and Issuer Purchases of Equity Securities."

During the first quarter of 2020, the U.S. Department of Labor's Division of Coal Mine Workers' Compensation (“DCMWC”) requested SunCoke provide additional collateral of approximately $32 million to secure certain of its black lung obligations. SunCoke exercised its right to appeal the DCMWC’s determination and provided additional information supporting the Company’s position in May 2020 and February 2021. If the Company’s appeal is unsuccessful, the Company may be required to provide additional collateral to receive its self-insurance reauthorization from the DCMWC, which could potentially reduce the Company’s liquidity. Additionally, on January 19, 2023, the Department of Labor issued a new proposed rule that would require self-insured companies to post collateral in the amount of 120 percent of the company's total expected lifetime black lung obligations as determined by the DCMWC. While this new proposed rule is not effective, if finalized, it could potentially reduce the Company's liquidity. We will submit comments on this proposed rule and continue to monitor any impact to the Company. See further discussion in Note 12 to our consolidated financial statements.

Cash Flow Summary

The following table sets forth a summary of the net cash provided by (used in) operating, investing and financing activities for the years ended December 31, 2022 and 2021:

	Years Ended December 31,	
	2022	2021
	(Dollars in millions)	
Net cash provided by operating activities	$ 208.9	$ 233.1
Net cash used in investing activities	(70.2)	(99.3)
Net cash used in financing activities	(112.5)	(118.4)
Net increase in cash and cash equivalents	$ 26.2	$ 15.4

Cash Provided by Operating Activities

Net cash provided by operating activities decreased by $24.2 million to $208.9 million in 2022 as compared to 2021. The decrease primarily reflects unfavorable year-over-year changes in primary working capital, which is comprised of accounts receivable, inventories and accounts payable, driven by higher coal prices. This decrease was partially offset by

higher operating results in our Domestic Coke segment, primarily driven by favorable pricing on export coke sales, and in our Logistics segment, driven by favorable pricing and higher transloading volumes.

Cash Used in Investing Activities

Net cash used in investing activities decreased $29.1 million to $70.2 million in 2022 as compared to 2021 primarily driven by the timing of payments related to capital expenditures as well as the completion of certain foundry cokemaking expansion projects in 2021. Refer to Capital Requirements and Expenditures below for further detail.

Cash Used in Financing Activities

Net cash used in financing activities decreased $5.9 million to $112.5 million in 2022 as compared to $118.4 million in 2021. This decrease was primarily driven by the absence of costs associated with the debt refinancing that took place during the second quarter of 2021, which consisted of a $22.0 million premium and $12.0 million of debt issuance costs. These decreases were partly offset by higher current period net repayments on the Company's debt of $19.7 million, excluding the impact of funding of the debt refinancing in the prior period, and $4.4 million of cash distributions made to noncontrolling interests. Additionally, dividends paid in 2022 increased $3.5 million as compared to the dividends paid in the prior year as a result of an increase in the dividend per share amount.

Dividends

In addition to the $23.6 million in dividends paid to our shareholders during 2022, on February 2, 2023, SunCoke's Board of Directors declared a cash dividend of $0.08 per share of the Company's common stock. This dividend will be paid on March 1, 2023, to stockholders of record of February 16, 2023. See further discussion in "Item 5. Market for Registrant’s Common Equity, Related Stockholders Matters and Issuer Purchases of Equity Securities."

Covenants

As of December 31, 2022, we were in compliance with all applicable debt covenants. We do not anticipate a violation of these covenants nor do we anticipate that any of these covenants will restrict our operations or our ability to obtain additional financing. See Note 11 to the consolidated financial statements for details on debt covenants.

Credit Rating

In May 2022, S&P Global Ratings reaffirmed our corporate credit rating of BB- (stable). In June 2022, Moody’s Investors Service reaffirmed our corporate credit rating of B1 and upgraded the outlook from stable to positive.

Contractual Obligations

As of December 31, 2022, significant contractual obligations related to our metallurgical coal procurement contracts, which are generally based on annual coke production requirements at fixed coal prices, were $1,092.8 million and extend through 2023. As of December 31, 2022 significant contractual obligations related to debt were $543.8 million of principal borrowings and $166.6 million of related interest, which will be repaid through 2029. Projected interest costs on variable rate instruments were calculated using market rates at December 31, 2022. See Note 11 to our consolidated financial statements. We also have contractual obligations for leases, including land, office space, equipment, railcars and locomotives. See Note 13 to our consolidated financial statements.

Capital Requirements and Expenditures

Our operations are capital intensive, requiring significant investment to upgrade or enhance existing operations and to meet environmental and operational regulations. The level of future capital expenditures will depend on various factors, including market conditions and customer requirements, and may differ from current or anticipated levels. Material changes in capital expenditure levels may impact financial results, including but not limited to the amount of depreciation, interest expense and repair and maintenance expense.

Our capital requirements have consisted, and are expected to consist, primarily of:

- Ongoing capital expenditures required to maintain equipment reliability, the integrity and safety of our coke ovens and steam generators and to comply with environmental regulations. Ongoing capital expenditures are made to replace partially or fully depreciated assets in order to maintain the existing operating capacity of the assets and/or to extend their useful lives and also include new equipment that improves the efficiency, reliability or effectiveness of existing assets. Ongoing capital expenditures do not include normal repairs and maintenance expenses, which are expensed as incurred;

- Expansion capital expenditures to acquire and/or construct complementary assets to grow our business and to expand existing facilities as well as capital expenditures made to enable the renewal of a coke sales agreement and/or logistics service agreement and on which we expect to earn a reasonable return; and
- Environmental remediation project expenditures required to implement design changes to ensure that our existing facilities operate in accordance with existing environmental permits.

The following table summarizes our capital expenditures:

	Years Ended December 31,	
	2022	2021
	(Dollars in millions)	
Ongoing capital	$ 72.1	$ 87.6
Expansion capital[1]	3.4	11.0
Total capital expenditures[2]	$ 75.5	$ 98.6

(1) Includes capital spending in connection with the foundry cokemaking growth project.

(2) Reflects actual cash payments during the periods presented for our capital requirements.

Critical Accounting Policies and Estimates

A summary of our significant accounting policies is included in Note 2 to the consolidated financial statements. Our management believes that the application of these policies on a consistent basis enables us to provide the users of our financial statements with useful and reliable information about our operating results and financial condition. The preparation of our consolidated financial statements requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, and the disclosures of contingent assets and liabilities. The Company's black lung benefit obligations is an item that is subject to such estimates and assumptions. Although our management bases its estimates on historical experience and various other assumptions that are believed to be reasonable under the circumstances, actual results may differ to some extent from the estimates on which our consolidated financial statements have been prepared at any point in time. Despite these inherent limitations, our management believes the "Management's Discussion and Analysis of Financial Condition and Results of Operations" and consolidated financial statements and footnotes provide a meaningful and fair perspective of our financial condition.

Black Lung Benefit Liabilities

The Company has obligations related to coal workers' pneumoconiosis, or black lung, to provide benefits to certain of its former coal miners and their dependents further described in Note 12 to our consolidated financial statements.

Our independent actuarial consultants calculate the present value of the estimated black lung liability annually based on actuarial models utilizing our population of former coal miners, historical payout patterns of both the Company and the industry, actuarial mortality rates, medical costs, death benefits, dependents, discount rates and the current federally mandated payout rates. The estimated liability may be impacted by future changes in the statutory mechanisms, modifications by court decisions and changes in filing patterns by claimants and their advisors, the impact of which cannot be estimated.

The following table summarizes discount rates utilized, active claims and the total black lung liabilities:

	December 31,	
	2022	2021
Discount rate[1]	4.9 %	2.4 %
Active claims	332	332
Total black lung liability (dollars in millions)[2]	$ 58.1	$ 63.3

(1) The discount rate is determined based on a portfolio of high-quality corporate bonds with maturities that are consistent with the estimated duration of our black lung obligations. A decrease of 25 basis points in the discount rate would have increased black lung expense by $1.1 million in 2022.

(2) The current portion of the black lung liability was $5.9 million and $5.4 million at December 31, 2022 and 2021, respectively, and was included in accrued liabilities on the Consolidated Balance Sheets.

The following table summarizes annual black lung payments and (benefit) expense:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Payments	$ 5.0	$ 4.4	$ 6.0
(Benefit) expense[1]	$ (0.2)	$ 3.1	$ 15.4

(1) Black lung (benefit) expense incurred in excess of annual accretion of the black lung liability reflects the impact of changes in discount rates, current filing and approval rate assumptions and/or other changes in our actuarial assumptions.

Recent Accounting Standards

See Note 2 to our consolidated financial statements.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Our primary areas of market risk include the following: (1) changes in the price of coal and coke in certain cases, as detailed below; (2) changes in interest rates; and (3) changes in foreign currency exchange rates. We do not enter into any market risk sensitive instruments for trading purposes.

Price of coal and coke

Although we have not previously done so, we may enter into derivative financial instruments from time to time in the future to economically manage our exposure related to these market risks.

Coal is the key raw material for our cokemaking business and is the largest component of the cost of our coke. Under our long-term, take-or-pay coke sales agreements at our Domestic Coke cokemaking facilities, coal costs are a pass-through component of the coke price, provided that we are able to realize certain targeted coal-to-coke yields. As such, when targeted coal-to-coke yields are achieved, the price of coal is not a significant determining factor in the profitability of coke sold under our long-term, take-or-pay agreements, which comprise the vast majority of our sales volumes in our Domestic Coke segment.

Our long-term, take-or-pay agreements require us to meet minimum production levels and generally require us to provide replacement coke if we do not meet contractual minimum volumes. To the extent any of our facilities are unable to produce their contractual minimum volumes, and we are unable to supply coke from one of our other facilities, we are subject to market risk related to the procurement of replacement supplies.

We are subject to market risk for the price of coals used to produce coke sold into the export coke market. Export coke sales are typically based on coke market pricing at the time of sale, rather than the pass-through provisions in our long-term, take-or-pay agreements. Generally over time, market prices for metallurgical coal and coke have been correlated. We monitor the market for our coal purchases versus pricing in the coke market to optimize profitability in our export business. However, we are exposed to market risk to the extent the coal and coke markets fall out of correlation. Additionally, the timing of contracting our coal purchases versus the timing of contracting our coke sales may cause favorable or unfavorable differences between the prices at which we procure our coals and the market rates at which we are able to sell our coke into the export market. We are also subject to market risk for the price of coal as it relates to the foundry coke sales. However, our foundry coke prices are largely set at the time we negotiate our coal purchases and therefore we are less exposed to market risk as it relates to the volatility in the price of coal on our foundry coke sales.

Interest rates

We are exposed to changes in interest rates as a result of borrowing activities with variable interest rates and interest earned on our cash balances. During the years ended December 31, 2022 and 2021, the daily average outstanding balance on borrowings with variable interest rates was $105.8 million and $102.8 million, respectively. Assuming a 50 basis point change in LIBOR, interest expense would have been impacted by $0.5 million in both 2022 and 2021, respectively. At December 31, 2022, we had outstanding borrowings with variable interest rates of $35.0 million under the Revolving Facility. Subsequent to December 31, 2022, we amended the Revolving Facility to transition from a variable interest rate based on LIBOR to a variable interest rate based on the secured overnight financing rate ("SOFR"). The Company does not expect the transition from LIBOR to SOFR to have a material impact on its consolidated financial statements and disclosures. Refer to Note 11 to our consolidated financial statements for further detail.

At December 31, 2022 and 2021, we had cash and cash equivalents of $90.0 million and $63.8 million, respectively, which accrue interest at various rates. Assuming a 50 basis point change in the rate of interest associated with our cash and cash equivalents, interest income would have been impacted by $0.4 million and $0.3 million for the years ended December 31, 2022 and 2021, respectively.

Foreign currency

Because we operate outside the U.S., we are subject to risk resulting from changes in the Brazilian real currency exchange rates. The currency exchange rates are influenced by a variety of economic factors including local inflation, growth, interest rates and governmental actions, as well as other factors. Revenues and expenses of our foreign operations are translated at average exchange rates during the period and balance sheet accounts are translated at period-end exchange rates. Balance sheet translation adjustments are excluded from the results of operations and are recorded in equity as a component of accumulated other comprehensive loss. If the currency exchange rates had changed by 10 percent, we estimate the impact to our net income in 2022 and 2021 would have been approximately $0.4 million and $0.5 million.

Item 8. Financial Statements and Supplementary Data

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Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors
SunCoke Energy, Inc.:

Opinions on the Consolidated Financial Statements and Internal Control Over Financial Reporting

We have audited the accompanying consolidated balance sheets of SunCoke Energy, Inc. and subsidiaries (the Company) as of December 31, 2022 and 2021, the related consolidated statements of income, comprehensive income, equity, and cash flows for each of the years in the three-year period ended December 31, 2022, and the related notes (collectively, the consolidated financial statements). We also have audited the Company's internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 2022, in conformity with U.S. generally accepted accounting principles. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022 based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Basis for Opinions

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's consolidated financial statements and an opinion on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of a critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Evaluation of the Company's estimated black lung benefit liability

As discussed in Note 12 to the consolidated financial statements, the Company has obligations related to coal workers' pneumoconiosis, or black lung, benefits to certain former coal miners and their dependents. As of December 31, 2022, the Company's black lung benefit liability was $58.1 million. The Company, with the assistance of an external expert, estimated the liability using an actuarial model with several assumptions.

We identified the evaluation of the Company's estimated black lung benefit liability as a critical audit matter. There was a high degree of subjective auditor judgment in evaluating the actuarial model and key assumptions in the actuarial model. The actuarial model included internally-developed assumptions related to expected claim filing patterns and expected claimant success rates. There was limited market information from which to develop these assumptions, and therefore subjective auditor judgment was required to evaluate the relevance and reliability of internally-developed information.

The following are the primary procedures we performed to address this critical audit matter. We evaluated the design and tested the operating effectiveness of certain internal controls over the Company's process to estimate the black lung benefit liability, including controls related to the development of assumptions related to the expected claim filing patterns and claimant success rates. We evaluated the Company's assumptions related to expected claim filing patterns and the claimant success rates by comparing the assumptions to industry filing patterns and claimant success rates. We performed sensitivity analyses over the expected claim filing patterns and claimant success rate assumptions to assess their impact on the Company's estimated black lung liability. We compared the Company's historical black lung payment estimates to actual payments to assess the accuracy of previous estimates related to its black lung benefit liability. In addition, we involved actuarial professionals with specialized skills and knowledge who assisted in evaluating the expected claim filing patterns and expected claimant success rates assumptions used by the Company to estimate its black lung benefit liability by comparing the assumptions to industry standards.

/s/ KPMG LLP

We have served as the Company's auditor since 2015.

Chicago, Illinois
February 24, 2023

SunCoke Energy, Inc.
Consolidated Statements of Income

	Years Ended December 31,		
	2022	2021	2020
	(Dollars and shares in millions, except per share amounts)		
Revenues			
Sales and other operating revenue	$ 1,972.5	$ 1,456.0	$ 1,333.0
Costs and operating expenses			
Cost of products sold and operating expenses	1,604.9	1,118.8	1,048.2
Selling, general and administrative expenses	71.4	61.8	81.4
Depreciation and amortization expense	142.5	133.9	133.7
Total costs and operating expenses	1,818.8	1,314.5	1,263.3
Operating income	153.7	141.5	69.7
Interest expense, net	32.0	42.5	56.3
Loss (gain) on extinguishment of debt, net	—	31.9	(5.7)
Income before income tax expense	121.7	67.1	19.1
Income tax expense	16.8	18.3	10.3
Net income	104.9	48.8	8.8
Less: Net income attributable to noncontrolling interests	4.2	5.4	5.1
Net income attributable to SunCoke Energy, Inc.	$ 100.7	$ 43.4	$ 3.7
Earnings attributable to SunCoke Energy, Inc. per common share:			
Basic	$ 1.20	$ 0.52	$ 0.04
Diluted	$ 1.19	$ 0.52	$ 0.04
Weighted average number of common shares outstanding:			
Basic	83.8	83.0	83.0
Diluted	84.6	83.7	83.2

(See Accompanying Notes)

SunCoke Energy, Inc.
Consolidated Statements of Comprehensive Income

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Net income	$ 104.9	$ 48.8	$ 8.8
Other comprehensive income (loss):			
Reclassifications of actuarial loss amortization and prior service benefit to earnings (net of related tax benefit of $0.1 million in both 2022 and 2021, and zero for 2020)	0.4	0.3	0.1
Retirement benefit plans funded status adjustment (net of related tax (expense) benefit of $(0.9) million, $(0.3) million and $0.4 million, respectively)	3.1	1.0	(1.6)
Currency translation adjustment	0.2	(0.9)	(1.2)
Comprehensive income	108.6	49.2	6.1
Less: Comprehensive income attributable to noncontrolling interests	4.2	5.4	5.1
Comprehensive income attributable to SunCoke Energy, Inc.	$ 104.4	$ 43.8	$ 1.0

(See Accompanying Notes)

SunCoke Energy, Inc.
Consolidated Balance Sheets

	December 31,	
	2022	2021
	(Dollars in millions, except par value amounts)	
Assets		
Cash and cash equivalents	$ 90.0	$ 63.8
Receivables, net	104.8	77.6
Inventories	175.2	127.0
Other current assets	4.0	3.5
Total current assets	374.0	271.9
Properties, plants and equipment (net of accumulated depreciation of $1,276.0 and $1,160.1 at December 31, 2022 and 2021, respectively)	1,229.3	1,287.9
Intangible assets, net	33.2	35.2
Deferred charges and other assets	18.1	20.4
Total assets	$ 1,654.6	$ 1,615.4
Liabilities and Equity		
Accounts payable	$ 159.3	$ 126.0
Accrued liabilities	61.4	53.0
Current portion of financing obligation	3.3	3.2
Total current liabilities	224.0	182.2
Long-term debt and financing obligation	528.9	610.4
Accrual for black lung benefits	52.2	57.9
Retirement benefit liabilities	16.4	21.8
Deferred income taxes	172.3	169.0
Asset retirement obligations	13.4	11.6
Other deferred credits and liabilities	24.7	27.1
Total liabilities	1,031.9	1,080.0
Equity		
Preferred stock, $0.01 par value. Authorized 50,000,000 shares; no issued shares at both December 31, 2022 and 2021	—	—
Common stock, $0.01 par value. Authorized 300,000,000 shares; issued 98,815,780 and 98,496,809 shares at December 31, 2022 and 2021, respectively	1.0	1.0
Treasury stock, 15,404,482 shares at both December 31, 2022 and 2021	(184.0)	(184.0)
Additional paid-in capital	728.1	721.2
Accumulated other comprehensive loss	(13.0)	(16.7)
Retained earnings (deficit)	53.5	(23.4)
Total SunCoke Energy, Inc. stockholders' equity	585.6	498.1
Noncontrolling interests	37.1	37.3
Total equity	622.7	535.4
Total liabilities and equity	$ 1,654.6	$ 1,615.4

(See Accompanying Notes)

SunCoke Energy, Inc.
Consolidated Statements of Cash Flows

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Cash Flows from Operating Activities:			
Net income	$ 104.9	$ 48.8	$ 8.8
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization expense	142.5	133.9	133.7
Deferred income tax expense	2.3	9.3	12.1
Share-based compensation expense	6.7	6.1	3.8
Loss (gain) on extinguishment of debt, net	—	31.9	(5.7)
Changes in working capital pertaining to operating activities:			
Receivables, net	(32.3)	(31.3)	13.2
Inventories	(48.2)	(1.1)	21.8
Accounts payable	27.4	29.5	(38.0)
Accrued liabilities	8.4	6.3	(1.0)
Other	(2.8)	(0.3)	9.1
Net cash provided by operating activities	208.9	233.1	157.8
Cash Flows from Investing Activities:			
Capital expenditures	(75.5)	(98.6)	(73.9)
Other investing activities	5.3	(0.7)	(1.4)
Net cash used in investing activities	(70.2)	(99.3)	(75.3)
Cash Flows from Financing Activities:			
Proceeds from issuance of long-term debt	—	500.0	—
Repayment of long-term debt	—	(609.3)	(55.9)
Proceeds from revolving facility	596.0	690.1	629.9
Repayment of revolving facility	(676.0)	(663.4)	(684.9)
Proceeds from financing obligation	—	—	10.0
Repayment of financing obligation	(3.2)	(2.9)	(3.0)
Debt issuance costs	—	(12.0)	—
Dividends paid	(23.6)	(20.1)	(19.9)
Shares repurchased	—	—	(7.0)
Cash distributions to noncontrolling interests	(4.4)	—	—
Other financing activities	(1.3)	(0.8)	(0.4)
Net cash used in financing activities	(112.5)	(118.4)	(131.2)
Net increase (decrease) in cash and cash equivalents	26.2	15.4	(48.7)
Cash and cash equivalents at beginning of year	63.8	48.4	97.1
Cash and cash equivalents at end of year	$ 90.0	$ 63.8	$ 48.4
Supplemental Disclosure of Cash Flow Information			
Interest paid, net of capitalized interest of zero, $0.5 million and $0.2 million, respectively	$ 28.5	$ 40.0	$ 51.8
Income taxes paid, net of refunds of $0.5 million, $2.9 million and $3.0 million, respectively	$ 14.5	$ 2.9	$ 1.1

(See Accompanying Notes)

SunCoke Energy, Inc.
Consolidated Statements of Equity

	Common Stock		Treasury Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Retained Deficit	Total SunCoke Energy, Inc. Equity	Non-controlling Interests	Total Equity
	Shares	Amount	Shares	Amount						
					(Dollars in millions)					
At December 31, 2019	98,047,389	$ 1.0	13,783,182	$ (177.0)	$ 712.1	$ (14.4)	$ (30.1)	$ 491.6	$ 26.8	$ 518.4
Net income	—	—	—	—	—	—	3.7	3.7	5.1	8.8
Reclassification of prior service benefit and actuarial loss amortization to earnings (net of related tax)	—	—	—	—	—	0.1	—	0.1	—	0.1
Retirement benefit plans funded status adjustment (net of related tax benefit of $0.4 million)	—	—	—	—	—	(1.6)	—	(1.6)	—	(1.6)
Currency translation adjustment	—	—	—	—	—	(1.2)	—	(1.2)	—	(1.2)
Share-based compensation	—	—	—	—	3.8	—	—	3.8	—	3.8
Share issuances, net of shares withheld for taxes	130,552	—	—	—	(0.2)	—	—	(0.2)	—	(0.2)
Share repurchases	—	—	1,621,300	(7.0)	—	—	—	(7.0)	—	(7.0)
Dividends	—	—	—	—	—	—	(20.2)	(20.2)	—	(20.2)
At December 31, 2020	98,177,941	$ 1.0	15,404,482	$ (184.0)	$ 715.7	$ (17.1)	$ (46.6)	$ 469.0	$ 31.9	$ 500.9
Net income	—	—	—	—	—	—	43.4	43.4	5.4	48.8
Reclassification of prior service benefit and actuarial loss amortization to earnings (net of related tax benefit of $0.1 million)	—	—	—	—	—	0.3	—	0.3	—	0.3
Retirement benefit plans funded status adjustment (net of related tax expense of $0.3 million)	—	—	—	—	—	1.0	—	1.0	—	1.0
Currency translation adjustment	—	—	—	—	—	(0.9)	—	(0.9)	—	(0.9)
Share-based compensation	—	—	—	—	6.1	—	—	6.1	—	6.1
Share issuances, net of shares withheld for taxes	318,868	—	—	—	(0.6)	—	—	(0.6)	—	(0.6)
Dividends	—	—	—	—	—	—	(20.2)	(20.2)	—	(20.2)
At December 31, 2021	98,496,809	$ 1.0	15,404,482	$ (184.0)	$ 721.2	$ (16.7)	$ (23.4)	$ 498.1	$ 37.3	$ 535.4

(See Accompanying Notes)

SunCoke Energy, Inc.
Consolidated Statements of Equity

	Common Stock		Treasury Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Retained (Deficit) Earnings	Total SunCoke Energy, Inc. Equity	Non-controlling Interests	Total Equity
	Shares	Amount	Shares	Amount						
	(Dollars in millions)									
At December 31, 2021	98,496,809	$ 1.0	15,404,482	$ (184.0)	$ 721.2	$ (16.7)	$ (23.4)	$ 498.1	$ 37.3	$ 535.4
Net income	—	—	—	—	—	—	100.7	100.7	4.2	104.9
Reclassification of prior service benefit and actuarial loss amortization to earnings (net of related tax benefit of $0.1 million)	—	—	—	—	—	0.4	—	0.4	—	0.4
Retirement benefit plans funded status adjustment (net of related tax expense of $0.9 million)	—	—	—	—	—	3.1	—	3.1	—	3.1
Currency translation adjustment	—	—	—	—	—	0.2	—	0.2	—	0.2
Share-based compensation	—	—	—	—	8.1	—	—	8.1	—	8.1
Share issuances, net of shares withheld for taxes	318,971	—	—	—	(1.2)	—	—	(1.2)	—	(1.2)
Dividends	—	—	—	—	—	—	(23.8)	(23.8)	—	(23.8)
Cash distribution to noncontrolling interests	—	—	—	—	—	—	—	—	(4.4)	(4.4)
At December 31, 2022	98,815,780	$ 1.0	15,404,482	$ (184.0)	$ 728.1	$ (13.0)	$ 53.5	$ 585.6	$ 37.1	$ 622.7

(See Accompanying Notes)

SunCoke Energy, Inc.

Notes to Consolidated Financial Statements

1. General and Basis of Presentation

Description of Business

SunCoke Energy, Inc. (“SunCoke Energy,” “SunCoke,” “Company,” “we,” “our” and “us”) is the largest independent producer of high-quality coke in the Americas, as measured by tons of coke produced each year, and has more than 60 years of coke production experience. Coke is produced by heating metallurgical coal in a refractory oven, which releases certain volatile components from the coal, thus transforming the coal into coke. Our coke is primarily used as a principal raw material in the blast furnace steelmaking process as well as in the foundry production of casted iron, and the majority of our sales are derived from blast furnace coke sales made under long-term, take-or-pay agreements. We also export coke to international customers seeking high-quality product for their blast furnaces. We have designed, developed and built, and we currently own and operate five cokemaking facilities in the United States (“U.S.”) with collective nameplate capacity to produce approximately 4.2 million tons of blast furnace coke per year. Additionally, we designed and currently operate one cokemaking facility in Brazil under licensing and operating agreements on behalf of ArcelorMittal Brasil S.A. ("ArcelorMittal Brazil”), which has approximately 1.7 million tons of annual cokemaking capacity.

We also own and operate a logistics business that provides export and domestic material handling and/or mixing services to steel, coke (including some of our domestic cokemaking facilities), electric utility, coal producing and other manufacturing based customers. Our logistics terminals, which are strategically located to reach Gulf Coast, East Coast, Great Lakes and international ports, have the collective capacity to mix and/or transload more than 40 million tons of coal and other aggregates annually and has storage capacity of approximately 3 million tons.

Consolidation and Basis of Presentation

The consolidated financial statements of the Company and its subsidiaries were prepared in accordance with accounting principles generally accepted in the U.S. ("GAAP") and include the assets, liabilities, revenues and expenses of the Company and all subsidiaries where we have a controlling financial interest. Intercompany transactions and balances have been eliminated in consolidation. Net income attributable to noncontrolling interest represents a 14.8 percent third-party interest in our Indiana Harbor cokemaking facility.

2. Summary of Significant Accounting Policies

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual amounts could differ from these estimates.

Revenue Recognition

The Company sells coke as well as steam and electricity and also provides mixing and/or handling services of coal and other aggregates. The Company also receives fees for operating the cokemaking plant in Brazil and for the licensing of its proprietary technology for use at this facility as well as reimbursement of substantially all of its operating costs. See Note 18.

Cash Equivalents

The Company considers all highly liquid investments with a remaining maturity of three months or less at the time of purchase to be cash equivalents. These cash equivalents consist principally of money market funds.

Inventories

Inventories are valued at the lower of cost or net realizable value. Cost is determined using the first-in, first-out method, except for the Company’s materials and supplies inventory, which are determined using the average-cost method. The Company primarily utilizes the contracted sales prices under its coke sales contracts to record lower of cost or net realizable value inventory adjustments. See Note 5.

Properties, Plants and Equipment

Plants and equipment are depreciated on a straight-line basis over their estimated useful lives. Coke and energy plant, machinery and equipment are generally depreciated over 25 to 30 years. Logistics plant and equipment are generally depreciated over 15 to 35 years. Depreciation and amortization is excluded from cost of products sold and operating

expenses and is presented separately on the Consolidated Statements of Income. Gains and losses on the disposal or retirement of fixed assets are reflected in earnings when the assets are sold or retired. Amounts incurred that extend an asset's useful life, increase its productivity or add production capacity are capitalized. Additionally, the Company generally capitalizes interest on capital projects with an expected construction period of one year or longer. The Company accounts for changes in useful lives, when appropriate, as a change in estimate, with prospective application only. Direct costs, such as outside labor, materials, internal payroll and benefits costs incurred during capital projects are capitalized; indirect costs are not capitalized. Normal repairs and maintenance costs are expensed as incurred. See Note 6.

Intangible Assets

Intangible assets are primarily comprised of permits. Intangible assets are amortized over their useful lives in a manner that reflects the pattern in which the economic benefit of the intangible asset is consumed. Intangible assets are assessed for impairment when a triggering event occurs. See Note 7.

Impairment of Long-Lived Assets

Long-lived assets, which includes intangible assets and properties, plants and equipment, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. A long-lived asset, or group of assets, is considered to be impaired when the undiscounted net cash flows expected to be generated by the asset are less than its carrying amount. Such estimated future cash flows are highly subjective and are based on numerous assumptions about future operations and market conditions. The impairment recognized is the amount by which the carrying amount exceeds the fair market value of the impaired asset, or group of assets. It is also difficult to precisely estimate fair market value because quoted market prices for our long-lived assets may not be readily available. Therefore, fair market value is generally based on the present values of estimated future cash flows using discount rates commensurate with the risks associated with the assets being reviewed for impairment. See Note 7.

Income Taxes

Income tax expense (benefit) is determined by applying the provisions of federal and state tax laws to taxable income (loss) during the period. We do business in a number of states with differing laws concerning how income subject to each state's tax structure is measured. These laws, as well as changes in tax legislation, impact what effective tax rate is applied to income generated in each state, and the Company makes estimates of how income will be apportioned among various states based on these factors. Deferred tax asset and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those differences are projected to be recovered or settled. The Company recognizes uncertain tax positions in its financial statements when minimum recognition threshold and measurement attributes are met in accordance with current accounting guidance. See Note 4.

Black Lung Benefit Liabilities

The Company has obligations related to coal workers' pneumoconiosis, or black lung, benefits of certain of our former coal miners and their dependents. We adjust our liability each year based upon actuarial calculations of our expected future payments for these benefits, including a provision for incurred but not reported losses. Adjustments are recognized in the period the adjustment occurs as a component of selling, general and administrative expense on the Consolidated Statements of Income. See Note 12.

Postretirement Benefit Plan Liabilities

The postretirement benefit plans, which are frozen, are unfunded and the accumulated postretirement benefit obligation is fully recognized on the Consolidated Balance Sheets. Actuarial gains (losses) and prior service costs (benefits) which have not yet been recognized in net income are recognized as a credit (charge) to accumulated other comprehensive income (loss). The credit (charge) to accumulated other comprehensive income (loss), which is reflected net of related tax effects, is subsequently recognized in net income when amortized as a component of postretirement benefit plans expense included in interest expense, net on the Consolidated Statements of Income. See Note 9.

Asset Retirement Obligations

The fair value of a liability for an asset retirement obligation is recognized in the period in which it is incurred if a reasonable estimate of fair value can be made. The associated asset retirement costs are capitalized as part of the carrying amount of the asset and depreciated over its remaining estimated useful life. When the assumptions used to estimate a recorded asset retirement obligation change, a revision is recorded to both the asset retirement obligation and the asset retirement cost capitalized to the extent remaining useful life exists. The Company's asset retirement obligations primarily relate to costs associated with restoring land to its original state. See Note 8.

Leases

We determine if an arrangement contains a lease at inception. We recognize right-of-use assets and lease liabilities associated with leases based on the present value of the future minimum lease payments over the lease term at the commencement date. Our leases do not provide an implicit rate of return, therefore, we use our incremental borrowing rate at the inception of the lease to calculate the present value of lease payments. Our incremental borrowing rate is determined through market sources for secured borrowings and approximates the interest rate at which we could borrow on a collateralized basis with similar terms and payments in similar economic environments. Lease terms reflect options to extend or terminate the lease when it is reasonably certain that the option will be exercised. The Company has elected to apply the short-term lease exception for all asset classes, therefore, excluding all leases with a term of less than 12 months from the balance sheet, and will recognize the lease payments in the period they are incurred. Additionally, the Company accounts for lease and non-lease components of an arrangement, such as assets and services, as a single lease component for all asset classes on existing leases. See Note 13.

Shipping and Handling Costs

Shipping and handling costs are included in cost of products sold and operating expenses on the Consolidated Statements of Income and are generally passed through to our customers. The Company has elected the practical expedient under Accounting Standards Codification ("ASC") 606, "Revenue from Contracts with Customers," to account for shipping and handling activities as a promise to fulfill the transfer of coke. See Note 18.

Share-Based Compensation

We measure the cost of employee services in exchange for equity instrument awards and cash awards based on the grant-date fair value of the award. Cash awards and the performance metrics of equity awards are remeasured on a quarterly basis. The market metrics of equity awards are not remeasured. The total cost is recognized over the requisite service period. Award forfeitures are accounted for as they occur. The costs of equity awards and cash awards are recorded to additional paid-in capital and accrued liabilities, respectively, on the Consolidated Balance Sheets. See Note 15.

Fair Value Measurements

The Company determines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. As required, the Company utilizes valuation techniques that maximize the use of observable inputs (levels 1 and 2) and minimize the use of unobservable inputs (level 3) within the fair value hierarchy included in current accounting guidance. Assets and liabilities are classified within the fair value hierarchy based on the lowest level (least observable) input that is significant to the measurement in its entirety. See Note 17.

Currency Translation

The functional currency of the Company’s Brazilian operations is the Brazilian real. The Company’s Brazil operations translate its assets and liabilities into U.S. dollars at the current exchange rates in effect at the end of the fiscal period. The gains or losses that result from this process are shown as cumulative translation adjustments within accumulated other comprehensive loss in the Consolidated Balance Sheets. The revenue and expense accounts of foreign operations are translated into U.S. dollars at the average exchange rates during the period.

Recent Accounting Pronouncements

In December, 2022 the Financial Accounting Standards Board ("FASB") issued ASU 2022-06 *Reference Rate Reform (Topic 848):Deferral of the Sunset Date of Topic 848* as an amendment to previously issued ASU 2020-04 *Reference Rate Reform (Topic 848):Facilitation of the Effects of Reference Rate Reform on Financial Reporting.* These updates help limit the accounting impact from contract modifications due to the transition from LIBOR to alternative reference rates that are completed by December 31, 2024. The Company does not expect the transition from LIBOR to SOFR to have a material impact on the consolidated financial statements and disclosures. Refer to Note 11 for further detail.

Labor Concentrations

As of December 31, 2022, we have 887 employees in the U.S. Approximately 40 percent of our domestic employees, principally at our cokemaking operations, are represented by the United Steelworkers union under various contracts. Additionally, approximately 3 percent of our domestic employees are represented by the International Union of Operating Engineers. Labor agreements at KRT, Lake Terminal, and Indiana Harbor were renewed in 2022 and will expire on April 30, 2025, June 30, 2025, and September 1, 2026, respectively.

As of December 31, 2022,we have 285 employees at the cokemaking facility in Vitória, Brazil, all of whom are represented by a union under a labor agreement. During 2022, the labor agreement at our Vitória, Brazil facility was renewed for an additional year, and it expires on October 31, 2023.

3. Customer Concentrations

In 2022, the Company sold approximately 3.4 million tons of coke under long-term, take-or-pay contracts to its two primary customers in the U.S.: Cleveland-Cliffs Steel Holding Corporation and Cleveland-Cliffs Steel LLC, subsidiaries of Cleveland-Cliffs Inc. and collectively referred to as "Cliffs Steel," and United States Steel Corporation ("U.S. Steel").

The tables below show sales to the Company's significant customers:

	Year Ended December 31,			
	2022		2021	
	Sales and other operating revenue	Percent of Company sales and other operating revenue	Sales and other operating revenue	Percent of Company sales and other operating revenue
	(Dollars in millions)			
Cliffs Steel[1]	$ 1,182.8	60.0 %	$ 994.6	68.3 %
U.S. Steel[2]	$ 284.8	14.4 %	$ 210.0	14.4 %

	Years Ended December 31,	
	2020	
	Sales and other operating revenue	Percent of Company sales and other operating revenue
	(Dollars in millions)	
Cliffs Steel / AM USA[1][3]	$ 687.3	51.6 %
Cliffs Steel / AK Steel[1][3]	$ 355.8	26.7 %
U.S. Steel[2]	$ 208.2	15.6 %

(1) Represents revenues included in our Domestic Coke segment.

(2) Represents revenues included in our Domestic Coke and Logistics segments.

(3) In March 2020, Cleveland-Cliffs Inc. completed the acquisition of AK Steel Holding Corporation ("AK Steel"), and subsequently changed the name of AK Steel to Cleveland-Cliffs Steel Holding Corporation. In December 2020, Cliffs completed the acquisition of ArcelorMittal USA LLC ("AM USA"), and subsequently changed the name of AM USA to Cleveland-Cliffs Steel LLC. As stated above, subsequent to the acquisitions we collectively refer to these subsidiaries as Cliffs Steel.

The Company generally does not require any collateral with respect to its receivables due under long-term, take-or-pay contracts. Receivables due from Cliffs Steel and U.S. Steel were approximately $33.5 million and $7.1 million as of December 31, 2022, respectively, and $30.0 million and $7.3 million as of December 31, 2021, respectively. These balances comprised approximately 39 percent and 48 percent of the Company's receivables balance as of December 31, 2022 and 2021, respectively. As a result, the Company experiences concentrations of credit risk in its receivables with these customers, which may be affected by changes in economic or other conditions affecting the steel industry.

4. Income Taxes

The components of income before income tax expense are as follows:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Domestic	$ 107.1	$ 50.4	$ 6.1
Foreign	14.6	16.7	13.0
Total	$ 121.7	$ 67.1	$ 19.1

Income tax expense consisted of the following:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Current tax expense (benefit):			
U.S. federal	$ 4.3	$ 0.8	$ (4.7)
State	5.4	3.7	(0.3)
Foreign	4.8	4.5	3.2
Total current tax expense (benefit)	14.5	9.0	(1.8)
Deferred tax expense (benefit):			
U.S. federal	8.6	11.0	3.6
State	(6.3)	(1.7)	8.5
Total deferred tax expense	2.3	9.3	12.1
Total	$ 16.8	$ 18.3	$ 10.3

The reconciliation of income tax expense at the U.S. statutory rate to income tax expense is as follows:

	Years Ended December 31,					
	2022		2021		2020	
	(Dollars in millions)					
Income tax expense at U.S. statutory rate	$ 25.6	21.0 %	$ 14.1	21.0 %	$ 4.0	21.0 %
Increase (reduction) in income taxes resulting from:						
Income attributable to noncontrolling interests in partnerships[1]	(0.9)	(0.7)%	(1.1)	(1.7)%	(1.1)	(5.6)%
State and other income taxes, net of federal income tax effects[2]	(0.9)	(0.7)%	1.6	2.4 %	7.8	41.2 %
Foreign income taxes[3]	4.8	4.0 %	—	— %	—	— %
Impact of CARES Act[4]	—	— %	—	— %	(1.5)	(7.9)%
R&D tax credit[5]	(4.0)	(3.4)%	—	— %	—	— %
Non-deductible equity compensation	3.0	2.5 %	3.4	4.9 %	1.0	5.5 %
Return to provision adjustments	(0.1)	(0.1)%	(0.1)	(0.1)%	1.2	6.5 %
Change in valuation allowance[3]	(11.0)	(9.0)%	0.5	0.8 %	(1.3)	(6.9)%
Other	0.3	0.2 %	(0.1)	(0.1)%	0.2	0.5 %
Income tax expense at effective tax rate	$ 16.8	13.8 %	$ 18.3	27.2 %	$ 10.3	54.3 %

(1) No income tax expense is reflected in the Consolidated Statements of Income for income attributable to noncontrolling interests in our Indiana Harbor cokemaking facility.

(2) Lower apportioned state tax rates required the revaluation of certain deferred tax liabilities and resulted in deferred tax benefits of $4.9 million and $1.3 million recorded during 2022 and 2021, respectively. The decrease in apportioned state tax rates in 2022 was partly driven by the dissolution of SunCoke Energy Partners Finance Corp. During 2020, lower apportioned state tax rates were primarily the result of a change in the tax filing status of our Convent Marine Terminal in Louisiana from a taxable partnership to a member of the consolidated return group resulted in the revaluation of certain deferred tax assets and deferred tax expense of $6.5 million.

(3) During 2022, new regulations impacting foreign tax credit utilization were published, which make foreign taxes paid in future years to certain countries, including Brazil, no longer creditable in the U.S. As a result of these regulations and the impact of the Company's tax planning, SunCoke released a valuation allowance established on deferred tax assets attributable to existing foreign tax credit carryforwards, resulting in a deferred tax benefit of $11.3 million. Additionally, foreign income taxes paid in 2022 reflected the absence of the generation of foreign tax credits for taxes paid in Brazil due to the new regulations.

(4) On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security ("CARES Act") was enacted. The enactment of the CARES Act allows the Company to carry back net operating losses generated in 2019 to each of the five years preceding 2019. As a result of the CARES Act, SunCoke recorded a tax benefit of $1.5 million during 2020.

(5) As part of tax planning, SunCoke conducted an analysis with respect to the Company's research and development activities, which resulted in a $4.0 million deferred tax benefit.

The tax effects of temporary differences that comprise the net deferred income tax liability from operations are as follows:

	December 31,	
	2022	2021
	(Dollars in millions)	
Deferred tax assets:		
Retirement benefit liabilities	$ 4.2	$ 5.5
Black lung benefit liabilities	13.2	14.4
Share-based compensation	2.0	2.6
Federal tax credit carryforward[1]	8.7	17.6
Foreign tax credit carryforward[2]	9.2	12.3
State net operating loss carryforward, net of federal income tax effects[3]	12.9	12.6
Other liabilities not yet deductible	12.9	10.4
Total deferred tax assets	63.1	75.4
Less: valuation allowance[4]	(9.2)	(20.2)
Deferred tax asset, net	53.9	55.2
Deferred tax liabilities:		
Properties, plants and equipment	(155.4)	(151.0)
Investment in partnerships	(70.8)	(73.2)
Total deferred tax liabilities	(226.2)	(224.2)
Net deferred tax liability	$ (172.3)	$ (169.0)

(1) Federal tax credit carryforward expires in 2033 through 2041.

(2) Foreign tax credit carryforward expires in 2027 through 2031.

(3) State net operating loss carryforward, net of federal income tax effects expires in 2032 through 2043.

(4) Primarily related to state net operating loss carryforwards.

The Company's consolidated federal income tax returns have been examined by the IRS for all years through the year ended December 31, 2014. SunCoke is currently open to examination by the IRS for tax years ended December 31, 2019 and forward.

State and foreign income tax returns are generally subject to examination for a period of three to five years after the filing of the respective returns. The state impact of any amended federal returns remains subject to examination by various states for a period of up to one year after formal notification of such amendments to the states.

Uncertain Tax Positions

During the year, the company recorded $0.3 million of expense related to uncertain prior year tax positions and the balance of unrecognized tax benefits at December 31, 2022 remains at approximately $0.3 million that, if recognized, will reduce the effective tax rate on income from continuing operations.

There were no uncertain tax positions recorded at December 31, 2021 and 2020, and there were no associated interest or penalties recognized for the years ended December 31, 2022, 2021 or 2020. The Company expects that nominal unrecognized tax benefits pertaining to income tax matters will be required in the next twelve months.

5. Inventories

The Company's inventory consists of metallurgical coal, which is the principal raw material for the Company's cokemaking operations, coke, which is the finished good sold by the Company to its customers, and materials, supplies and other. These components of inventories, net of lower of cost or net realizable value adjustments of $2.6 million, were as follows:

	December 31,	
	2022	2021
	(Dollars in millions)	
Coal	$ 109.4	$ 63.5
Coke	14.3	16.6
Materials, supplies and other	51.5	46.9
Total inventories	$ 175.2	$ 127.0

6. Properties, Plants, and Equipment

The components of net properties, plants and equipment were as follows:

	December 31,	
	2022	2021
	(Dollars in millions)	
Coke and energy plant, machinery and equipment	$ 2,134.9	$ 2,077.3
Logistics plant, machinery and equipment	176.6	170.7
Land and land improvements	106.8	105.5
Construction-in-progress	40.7	50.8
Other	46.3	43.7
Gross investment, at cost	2,505.3	2,448.0
Less: accumulated depreciation	(1,276.0)	(1,160.1)
Total properties, plants and equipment, net	$ 1,229.3	$ 1,287.9

7. Intangible Assets

Intangible assets, net, include goodwill allocated to our Domestic Coke segment of $3.4 million at both December 31, 2022 and 2021, and other intangibles detailed in the table below, excluding fully amortized intangible assets. There were no changes in the carrying amount of goodwill during the fiscal years ended December 31, 2022 and 2021, respectively.

		December 31, 2022			December 31, 2021		
	Weighted - Average Remaining Amortization Years	Gross Carrying Amount	Accumulated Amortization	Net	Gross Carrying Amount	Accumulated Amortization	Net
		(Dollars in millions)					
Customer relationships	2	6.7	5.6	1.1	6.7	5.0	1.7
Permits	20	31.7	4.5	27.2	31.7	3.1	28.6
Other	28	1.6	0.1	1.5	1.6	0.1	1.5
Total		$ 40.0	$ 10.2	$ 29.8	$ 40.0	$ 8.2	$ 31.8

The permits above represent the environmental and operational permits required to operate a coal export terminal in accordance with the U.S. Environmental Protection Agency ("EPA") and other regulatory bodies. Intangible assets are amortized over their useful lives in a manner that reflects the pattern in which the economic benefit of the asset is consumed. The permits' useful lives were estimated to be 27 years at acquisition based on the expected useful life of the significant operating equipment at the facility. We have historical experience of renewing and extending similar arrangements at our other facilities and intend to continue to renew our permits as they come up for renewal for the foreseeable future. The permits were renewed regularly prior to our acquisition of CMT. These permits have an average remaining renewal term of approximately 5.4 years.

Total amortization expense for intangible assets subject to amortization was $2.0 million, $2.0 million and $2.5 million for the years ended December 31, 2022, 2021 and 2020, respectively. Based on the carrying value of finite-lived intangible assets as of December 31, 2022, we estimate amortization expense for each of the next five years as follows:

	(Dollars in millions)
2023	$ 2.0
2024	1.9
2025	1.5
2026	1.5
2027	1.4
Thereafter	21.5
Total	$ 29.8

8. Asset Retirement Obligations

The Company has asset retirement obligations, primarily in the Domestic Coke segment, related to certain contractual obligations. These contractual obligations mostly relate to costs associated with restoring land to its original state, and may require the retirement and removal of long-lived assets from certain cokemaking properties as well as other reclamation obligations related to our former coal mining business. The Federal Surface Mining Control and Reclamation Act of 1977 and similar state statutes require that mine property be restored in accordance with specified standards and an approved reclamation plan. We do not have any unrecorded asset retirement obligations.

The following table provides a reconciliation of changes in the asset retirement obligation from operations during each period:

	Years ended December 31,	
	2022	2021
Asset retirement obligation at beginning of year	$ 12.3	$ 11.4
Liabilities settled	—	(0.1)
Accretion expense[1]	0.9	0.9
Revisions in estimated cash flows	0.6	0.1
Asset retirement obligation at end of year[2]	$ 13.8	$ 12.3

(1) Included in cost of products sold and operating expenses on the Consolidated Statements of Income.

(2) The current portion of asset retirement obligation liabilities, which totaled $0.4 million and $0.7 million at December 31, 2022 and December 31, 2021, respectively, is classified in accrued liabilities on the Consolidated Balance Sheets.

9. Retirement Benefits Plans

Postretirement Health Care and Life Insurance Plans

The Company has plans which provide health care and life insurance benefits for many of its retirees (“postretirement benefit plans”). The postretirement benefit plans are unfunded and the costs are borne by the Company. Effective January 1, 2011, postretirement medical benefits for future retirees were phased out or eliminated for non-mining employees with less than ten years of service.

Postretirement benefit plans expense consisted of the following components:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Interest cost on benefit obligations	$ 0.6	$ 0.5	$ 0.7
Amortization of:			
Actuarial losses	0.7	0.8	0.7
Prior service benefit	(0.2)	(0.4)	(0.5)
Total expense	$ 1.1	$ 0.9	$ 0.9

Postretirement benefit plans expense is determined using actuarial assumptions as of the beginning of the year or using weighted-average assumptions when curtailments, settlements and/or other events require a plan remeasurement. The following assumptions were used to determine postretirement benefit plans expense:

	December 31,		
	2022	2021	2020
Discount rate	2.50 %	2.00 %	2.90 %

The following amounts were recognized as components of other comprehensive income (loss) before related tax impacts:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Reclassifications to earnings of:			
Actuarial loss amortization	$ 0.7	$ 0.8	$ 0.7
Prior service benefit amortization	(0.2)	(0.4)	(0.5)
Retirement benefit plan funded status adjustments:			
Actuarial gains (losses)	4.0	1.3	(2.0)
	$ 4.5	$ 1.7	$ (1.8)

The following table sets forth the components of the changes in benefit obligations:

	Years Ended December 31,	
	2022	2021
	(Dollars in millions)	
Benefit obligation at beginning of year	$ 24.4	$ 27.5
Interest cost	0.6	0.5
Actuarial gains	(4.0)	(1.3)
Benefits paid	(2.2)	(2.3)
Benefit obligation at end of year[(1)]	$ 18.8	$ 24.4

(1) The current portion of retirement benefit liabilities, which totaled $2.4 million and $2.6 million at December 31, 2022 and 2021, respectively, is classified in accrued liabilities on the Consolidated Balance Sheets.

The following table sets forth the cumulative amounts not yet recognized in net income:

	Years Ended December 31,	
	2022	2021
	(Dollars in millions)	
Cumulative amounts not yet recognized in net income:		
Actuarial losses	$ 5.2	$ 10.0
Prior service benefits	(0.8)	(1.1)
Accumulated other comprehensive loss (before related tax benefit)	$ 4.4	$ 8.9

The expected benefit payments through 2032 for the postretirement benefit plan are as follows:

	(Dollars in millions)
Year ending December 31:	
2023	$ 2.4
2024	$ 2.3
2025	$ 2.1
2026	$ 1.9
2027	$ 1.8
2028 through 2032	$ 7.1

The measurement date for the Company's postretirement benefit plans is December 31. The following discount rates were used to determine the benefit obligation:

	December 31,	
	2022	2021
Discount rate	5.25 %	2.50 %

The health care cost trend assumption used at December 31, 2022 to compute the accumulated postretirement benefit obligation for the postretirement benefit plans was 7.00 percent, which is assumed to decline gradually to 5.00 percent in 2031 and to remain at that level thereafter. The health care cost trend assumption used at December 31, 2021 to compute the accumulated postretirement benefit obligation for the postretirement benefit plan was 6.00 percent, which is assumed to decline gradually to 5.00 percent in 2026 and to remain at that level thereafter.

Defined Contribution Plans

The Company has defined contribution plans which provide retirement benefits for certain of its employees. The Company's contributions, which are principally based on the Company's pretax income and the aggregate compensation levels of participating employees and are charged against income as incurred, amounted to $7.9 million, $6.9 million and $6.6 million for the years ended December 31, 2022, 2021 and 2020, respectively.

10. Accrued Liabilities

Accrued liabilities consist of following:

	December 31,	
	2022	2021
	(Dollars in millions)	
Accrued benefits	$ 29.7	$ 21.7
Current portion of postretirement benefit obligation	2.4	2.6
Other taxes payable	9.8	9.2
Current portion of black lung liability	5.9	5.4
Accrued legal	4.9	4.5
Other	8.7	9.6
Total accrued liabilities	$ 61.4	$ 53.0

11. Debt and Financing Obligations

Total debt and financing obligations consisted of the following:

	December 31,	
	2022	2021
	(Dollars in millions)	
4.875 percent senior notes, due 2029 ("2029 Senior Notes")	$ 500.0	$ 500.0
$350.0 revolving credit facility, due 2026 ("Revolving Facility")	35.0	115.0
5.346 percent financing obligation, due 2024	8.8	12.0
Total borrowings	$ 543.8	$ 627.0
Debt issuance costs	(11.6)	(13.4)
Total debt and financing obligation	$ 532.2	$ 613.6
Less: current portion of long-term debt and financing obligation	3.3	3.2
Total long-term debt and financing obligation	$ 528.9	$ 610.4

2029 Senior Notes

The 2029 Senior Notes are the senior secured obligations of the Company. Interest on the 2029 Senior Notes is payable semi-annually in cash in arrears on June 30 and December 30 of each year. The Company may redeem some or all of the 2029 Senior Notes at its option, in whole or part, at the dates and amounts set forth in the applicable indenture.

The applicable indenture for the 2029 Senior Notes contains covenants that, among other things, limit the Company's ability and, in certain circumstances, the ability of certain of the Company's subsidiaries to (i) borrow money, (ii) create liens on assets, (iii) pay dividends or make other distributions on or repurchase or redeem the Company's capital stock, (iv) prepay, redeem or repurchase certain debt, (v) make loans and investments, (vi) sell assets, (vii) incur liens, (viii) enter into transactions with affiliates, (ix) enter into agreements restricting the ability of subsidiaries to pay dividends and (x) consolidate, merge or sell all or substantially all of the Company's assets.

Revolving Facility

The proceeds of any borrowings made under the Revolving Facility can be used to finance working capital needs, acquisitions, capital expenditures and for other general corporate purposes. The obligations under the credit agreement are guaranteed by certain of the Company's subsidiaries and secured by liens on substantially all of the Company's and the guarantors' assets pursuant to a guarantee and collateral agreement.

As of December 31, 2022, the Revolving Facility had an outstanding balance of $35.0 million, leaving $315.0 million available. Additionally, the Company has certain letters of credit totaling $22.9 million, which do not reduce the Revolving Facility's available balance. Commitment fees are based on the unused portion of the Revolving Facility at a rate of 0.20 percent.

As of December 31, 2022, loans under the Revolving Facility bore interest at a variable per annum rate based upon, at SunCoke's option, either an adjusted base rate ("ABR") or an adjusted London Interbank Offered Rate ("LIBOR"), in each case plus an applicable margin. Subsequent to December 31, 2022, we amended the Revolving Facility to transition from a variable interest rate based on LIBOR to a variable interest rate based on the secured overnight financing rate ("SOFR"). After giving effect to that amendment, loans under the Revolving Facility bear interest, at SunCoke's option, at a rate per annum equal to either (i) an adjusted term SOFR rate (defined as SOFR for a specified term plus a credit spread adjustment of 10 basis points, subject to a zero percent floor) plus 1.75 percent or (ii) an ABR plus 0.75 percent. The applicable margin is subject to change based on SunCoke's consolidated leverage ratio, as defined in the credit agreement. The weighted-average interest rate for borrowings outstanding under the Revolving Facility was 3.3 percent during 2022.

The Company does not expect the transition from LIBOR to SOFR to have a material impact on its consolidated financial statements and disclosures.

Financing Obligation

The Company has a sale-leaseback arrangement related to certain coke and logistics equipment. The arrangement has an initial period of 48 months beginning December 2020, and an early buyout option after 36 months to purchase the equipment at a fixed rate. The arrangement is accounted for as a financing transaction, resulting in a financing obligation on the Consolidated Balance Sheets.

Covenants

Under the terms of the Revolving Facility, the Company is subject to a maximum consolidated leverage ratio of 4.50:1.00 and a minimum consolidated interest coverage ratio of 2.50:1.00. The Company's debt agreements contains other covenants and events of default that are customary for similar agreements and may limit our ability to take various actions including our ability to pay a dividend or repurchase our stock.

If we fail to perform our obligations under these and other covenants, the lenders' credit commitment could be terminated and any outstanding borrowings, together with accrued interest, under the Revolving Facility could be declared immediately due and payable. The Company has a cross default provision that applies to our indebtedness having a principal amount in excess of $35 million.

As of December 31, 2022, the Company was in compliance with all debt covenants. We do not anticipate violation of these covenants nor do we anticipate that any of these covenants will restrict our operations or our ability to obtain additional financing.

Maturities

As of December 31, 2022, the combined aggregate amount of maturities for long-term borrowings for each of the next five years is as follows:

	(Dollars in millions)
2023	$ 3.3
2024	5.5
2025	—
2026	35.0
2027	—
2028-Thereafter	500.0
Total	$ 543.8

12. Commitments and Contingent Liabilities

Legal Matters

Between 2005 and 2012, the EPA and the Ohio Environmental Protection Agency (“OEPA”) issued Notices of Violations (“NOVs”), alleging violations of air emission operating permits for our Haverhill and Granite City cokemaking facilities. We worked in a cooperative manner with the EPA, the OEPA and the Illinois Environmental Protection Agency to address the allegations and, in November 2014, entered into a consent decree with these parties in federal district court in the Southern District of Illinois. The consent decree included a civil penalty paid in December 2014, and a commitment to undertake capital projects to improve reliability and enhance environmental performance. Although all projects regarding the consent decree have been completed, the consent decree remains in effect and is being overseen for compliance.

Between 2010 and 2016, SunCoke Energy also received certain NOVs, Findings of Violations (“FOVs”), and information requests from the EPA, alleging violations of air operating permit conditions related to our Indiana Harbor cokemaking facility. To reach a settlement of these NOVs and FOVs, a consent decree with the EPA and the Indiana Department of Environmental Management was entered by the federal district court in the Northern District of Indiana during the fourth quarter of 2018. After Indiana Harbor completed all consent decree requirements, the federal district court terminated the consent decree in January, 2023.

The Company is a party to certain pending and threatened claims, including matters related to commercial disputes, employment claims, personal injury claims, common law tort claims, and environmental claims. Although the ultimate outcome of these claims cannot be ascertained at this time, it is reasonably possible that some portion of these claims could be resolved unfavorably to the Company. Management of the Company believes that any liability which may arise from these claims would likely not have a material adverse impact on our consolidated financial statements. SunCoke's threshold for disclosing material environmental legal proceedings involving a government authority where potential monetary sanctions are involved is $1 million.

Black Lung Benefit Liabilities

The Company has obligations related to coal workers' pneumoconiosis, or black lung, to provide benefits to certain of its former coal miners and their dependents. Such benefits are provided for under Title IV of the Federal Coal Mine and Safety Act of 1969 and subsequent amendments, as well as for black lung benefits provided in the states of Virginia, Kentucky and West Virginia pursuant to workers' compensation legislation. The Patient Protection and Affordable Care Act ("PPACA"), which was implemented in 2010 and amended previous legislation related to coal workers' black lung obligations, provides for the automatic extension of awarded lifetime benefits to surviving spouses and changes the legal criteria used to assess and award claims.

We adjust our liability each year based upon actuarial calculations of our expected future payments for these benefits. Our independent actuarial consultants calculate the present value of the estimated black lung liability annually based on actuarial models utilizing our population of former coal miners, historical payout patterns of both the Company and the industry, actuarial mortality rates, medical costs, death benefits, dependents, discount rates and the current federally mandated payout rates. The estimated liability may be impacted by future changes in the statutory mechanisms, modifications by court decisions and changes in filing patterns by claimants and their advisors, the impact of which cannot be estimated.

The following table summarizes discount rates utilized, active claims and the total black lung liabilities:

	December 31,	
	2022	2021
Discount rate[1]	4.9 %	2.4 %
Active claims	332	332
Total black lung liability (dollars in millions)[2]	$ 58.1	$ 63.3

(1) The discount rate is determined based on a portfolio of high-quality corporate bonds with maturities that are consistent with the estimated duration of our black lung obligations. A decrease of 25 basis points in the discount rate would have increased black lung expense by $1.1 million in 2022.

(2) The current portion of the black lung liability was $5.9 million and $5.4 million at December 31, 2022 and 2021, respectively, and was included in accrued liabilities on the Consolidated Balance Sheets.

The following table summarizes annual black lung payments and (benefit) expense:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Payments	$ 5.0	$ 4.4	$ 6.0
(Benefit) expense [1]	$ (0.2)	$ 3.1	$ 15.4

(1) Black lung (benefit) expense incurred in excess of annual accretion of the black lung liability reflects the impact of changes in discount rates, current filing and approval rate assumptions and/or other changes in our actuarial assumptions.

On February 1, 2013, SunCoke obtained commercial insurance for black lung claims in excess of a deductible for employees with a last date of employment after that date. Also during 2013, we were reauthorized to continue to self-insure black lung liabilities incurred prior to February 1, 2013 by the U.S. Department of Labor's Division of Coal Mine Workers' Compensation ("DCMWC") in exchange for $8.4 million of collateral. In July 2019, the DCMWC required that SunCoke, along with a number of other companies, file an application and supporting documentation for reauthorization to self-insure any legacy black lung obligations incurred prior to February 1, 2013. The Company provided the requested information in the fourth quarter of 2019. The DCMWC subsequently notified the Company in a letter dated February 21, 2020 that the Company was reauthorized to self-insure certain of its black lung obligations; however, the reauthorization is contingent upon the Company providing collateral of $40.4 million to secure certain of its black lung obligations. This proposed collateral requirement is a substantial increase from the $8.4 million in collateral that the Company currently provides to secure these self-insured black lung obligations. The reauthorization process provided the Company with the right to appeal the security determination. SunCoke exercised its right to appeal the DCMWC's security determination and provided additional information supporting the Company's position in May 2020 and February 2021. If the Company's appeal is unsuccessful, the Company may be required to provide additional collateral to receive the self-insurance reauthorization from the DCMWC, which could potentially reduce the Company's liquidity. Additionally, on January 19, 2023, the Department of

Labor issued a new proposed rule that would require self-insured companies to post collateral in the amount of 120 percent of the company's total expected lifetime black lung obligations as determined by the DCMWC. While this new proposed rule is not effective, if finalized, it could potentially reduce the Company's liquidity. We will submit comments on this proposed rule and continue to monitor any impact to the Company.

13. Leases

The Company's operating leases consist primarily of leases for land, office space, equipment, railcars and locomotives. Certain of our long-term leases include one or more options to renew or to terminate, with renewal terms that can extend the lease term from one month to 50 years. The Company's finance leases are immaterial to our consolidated financial statements.

The components of lease expense were as follows:

	Year ended December 31, 2022	Year ended December 31, 2021
	(Dollars in millions)	
Operating leases:		
Cost of products sold and operating expenses	$ 2.3	$ 1.9
Selling, general and administrative expenses	0.4	0.5
	$ 2.7	$ 2.4
Short-term leases:		
Cost of products sold and operating expenses[1][2]	5.5	6.0
Total lease expense	$ 8.2	$ 8.4

(1) Includes expenses for month-to-month equipment leases, which are classified as short-term as the Company is not reasonably certain to renew the lease term beyond one month.

(2) Includes variable lease expenses, which are immaterial to the consolidated financial statements.

Supplemental balance sheet information related to leases was as follows:

	Financial Statement Classification	December 31, 2022	December 31, 2021
		(Dollars in millions)	
Operating ROU assets	Deferred charges and other assets	$ 11.3	$ 12.9
Operating lease liabilities:			
Current operating lease liabilities	Accrued liabilities	$ 2.0	$ 1.9
Noncurrent operating lease liabilities	Other deferred credits and liabilities	8.5	9.8
Total operating lease liabilities		$ 10.5	$ 11.7

The weighted average remaining lease term and weighted average discount rate were as follows:

	December 31, 2022	December 31, 2021
Weighted average remaining lease term of operating leases	5.9 years	6.7 years
Weighted average discount rate of operating leases	4.2 %	4.2 %

Supplemental cash flow information related to leases was as follows:

	Year Ended December 31, 2022	Year Ended December 31, 2021
	(Dollars in millions)	
Operating cash flow information:		
Cash paid for amounts included in the measurement of operating lease liabilities	$ 2.4	$ 2.7
Non-cash activity:		
ROU assets obtained in exchange for new operating lease liabilities	$ 0.6	$ 3.9

Maturities of operating lease liabilities as of December 31, 2022 are as follows:

	(Dollars in millions)
Year ending December 31:	
2023	$ 2.4
2024	2.2
2025	2.1
2026	1.5
2027	1.2
2028-Thereafter	2.5
Total lease payments	11.9
Less: imputed interest	1.4
Total lease liabilities	$ 10.5

14. Accumulated Other Comprehensive Loss

The following tables set forth the changes in the balance of accumulated other comprehensive loss, net of tax, by component:

	Benefit Plans	Currency Translation Adjustments	Total
	(Dollars in millions)		
At December 31, 2020	$ (8.2)	$ (8.9)	$ (17.1)
Other comprehensive income (loss) before reclassifications / adjustments	0.3	(0.9)	(0.6)
Retirement benefit plans funded status adjustment	1.0	—	1.0
Net current period change in accumulated other comprehensive loss	1.3	(0.9)	0.4
At December 31, 2021	$ (6.9)	$ (9.8)	$ (16.7)
Other comprehensive income before reclassifications / adjustments	0.4	0.2	0.6
Retirement benefit plans funded status adjustment	3.1	—	3.1
Net current period change in accumulated other comprehensive loss	3.5	0.2	3.7
At December 31, 2022	$ (3.4)	$ (9.6)	$ (13.0)

The tax benefit associated with the Company's benefit plans as of December 31, 2022 and 2021 was $1.0 million and $2.0 million, respectively.

The increase in net income due to reclassification adjustments from accumulated other comprehensive income were as follows[1]:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Amortization of benefit plans to net income:[2]			
Actuarial loss	$ (0.7)	$ (0.8)	$ (0.6)
Prior service benefit	0.2	0.4	0.5
Total before taxes	(0.5)	(0.4)	(0.1)
Income tax	0.1	0.1	—
Total, net of tax	$ (0.4)	$ (0.3)	$ (0.1)

(1) Amounts in parentheses indicate debits to net income.

(2) These accumulated other comprehensive loss components are included in the computation of postretirement benefit plan expense and included in interest expense, net on the Consolidated Statements of Income. See Note 9.

15. Share-Based Compensation

Equity Classified Awards.

On May 12, 2022, the Company adopted the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan (the "Omnibus Plan"). The Omnibus Plan provides for the grant of equity-based awards including stock options and share units, or restricted stock, to the Company's Board of Directors and certain employees selected for participation in the plan. The total number of shares of common stock authorized for issuance under the Omnibus Plan consists of (i) 2,700,000 new shares, (ii) 2,434,445 shares of common stock reserved for issuance primarily under the previous SunCoke Energy, Inc. Long-Term Performance Enhancement Plan ("SunCoke LTPEP"), which all equity based awards were issued under prior to the effective date of May 12, 2022, and (iii) any shares of common stock subject to awards granted under the SunCoke LTPEP that were outstanding on the effective date and that, on or after such date, are not issued or delivered to a participant. As of the effective date, new awards will no longer be granted under the SunCoke LTPEP. Awards previously granted under the SunCoke LTPEP, and described in further detail below, were not modified or impacted by the adoption of the Omnibus Plan.

Stock Options

Stock options granted by the Company vest in three equal annual installments beginning one year from the date of grant, and expire ten years from the date of grant. The Company calculates the value of each employee stock option, estimated on the date of grant, using the Black-Scholes option pricing model. There were no stock options granted by the Company during the years ended December 31, 2022, 2021 and 2020.

The following table summarizes information with respect to common stock option awards outstanding as of December 31, 2022 and stock option activity during the fiscal year then ended:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (years)	Aggregate Intrinsic Value (millions)
Outstanding at December 31, 2021	2,087,505	$ 14.59	3.2	0.1
Exercised	(60,618)	$ 6.03		
Expired	(506,677)	$ 14.23		
Outstanding and Exercisable at December 31, 2022	1,520,210	$ 15.06	2.7	0.2

Intrinsic value for stock options is defined as the difference between the current market value of our common stock and the exercise price of the stock options. Total intrinsic value of stock options exercised in 2022 and 2021 was $0.2 million and $0.3 million, respectively. In 2020 the amount was immaterial.

Restricted Stock Units Settled in Shares

The Company issues restricted stock units ("RSUs") to be settled in shares of the Company's common stock to certain employees and members of the Board of Directors. The Company granted the following RSUs during the years ended December 31, 2022, 2021 and 2020:

	Number of RSUs	Weighted Average Grant-Date Fair Value per Unit	Grant Date Fair Value
			(Dollars in millions)
2022 grants	346,600	$ 7.62	$ 2.6
2021 grants	463,476	$ 6.72	$ 3.1
2020 grants	304,332	$ 6.04	$ 1.8

The RSUs granted to employees vest and become payable in three annual installments beginning one year from the date of grant. RSUs granted to the Company's Board of Directors vest upon grant, but are paid upon termination of board service.

The following table summarizes information with respect to RSUs outstanding as of December 31, 2022 and RSU activity during the fiscal year then ended:

	Number of RSUs	Weighted Average Grant-Date Fair Value per Unit
Nonvested at December 31, 2021	568,018	$ 6.70
Granted	346,600	$ 7.62
Vested	(243,640)	$ 6.96
Nonvested at December 31, 2022	670,978	$ 7.08

Total grant date fair value of RSUs vested was $1.7 million, $1.2 million and $0.6 million during 2022, 2021 and 2020, respectively.

Performance Share Units

The Company grants performance share units ("PSUs"), which represent the right to receive shares of the Company's common stock, contingent upon the attainment of Company performance and market goals and continued employment.

The Company granted the following PSUs during the years ended December 31, 2022, 2021 and 2020:

	Number of PSUs	Weighted Average Grant Date Fair Value per Unit	Grant Date Fair Value
			(Dollars in millions)
2022 grant[(1)]	154,860	$ 8.40	$ 1.3
2021 grant[(1)]	177,176	$ 7.60	$ 1.3
2020 grant[(1)]	228,248	$ 6.70	$ 1.5

(1) The service period for the 2022, 2021, and 2020 PSUs ends on December 31, 2024, 2023 and 2022, and the awards will vest during the first quarter of 2025, 2024 and 2023, respectively. The service period for certain retiree eligible participants is accelerated.

The PSU grants were split 50/50 between the Company's three-year cumulative Adjusted EBITDA performance measure and the Company's three-year average pre-tax return on capital ("ROIC") performance measure for its coke and logistics businesses and unallocated corporate expenses. The number of PSUs ultimately awarded will be determined by the Adjusted EBITDA and ROIC performance versus targets and the Company's three-year total shareholder return ("TSR") as compared to the TSR of the companies making up the NASDAQ U.S. Benchmark Iron & Steel Index ("TSR Modifier"). The TSR Modifier can impact the payout (between 80 percent and 120 percent of the 2022 awards, and between 75 percent and 125 percent of the 2021 and 2020 awards) of the Company's final performance measure results. The 2022, 2021 and 2020 awards may vest between 25 percent and 250 percent of the original units granted. The fair value of the PSUs granted is based on the closing price of our common stock on the date of grant as well as a Monte Carlo simulation for the valuation of the TSR Modifier.

The following table summarizes information with respect to unearned PSUs outstanding as of December 31, 2022 and PSU activity during the fiscal year then ended:

	Number of PSUs	Weighted Average Grant Date Fair Value per Unit
Nonvested at December 31, 2021	527,015	$ 8.38
Granted	154,860	$ 8.40
Performance adjustments	(1,101)	$ 10.79
Vested	(182,028)	$ 10.79
Nonvested at December 31, 2022	498,746	$ 7.21

Liability Classified Awards

Restricted Stock Units Settled in Cash

During the years ended December 31, 2022, 2021 and 2020, the Company issued 250,615, 230,056 and 263,998 restricted stock units to be settled in cash ("Cash RSUs"), respectively, which vest in three annual installments beginning one year from the grant date. The weighted average grant date fair value of the Cash RSUs granted during the years ended December 31, 2022, 2021 and 2020, was $7.56, $6.68 and $6.04, respectively, and was based on the closing price of our common stock on the day of grant. The Cash RSU liability at December 31, 2022 was adjusted based on the closing price of our common stock on December 31, 2022 of $8.63 per share. The Cash RSU liability was $2.4 million at December 31, 2022 and was $1.9 million at December 31, 2021.

Cash Incentive Award

The Company also granted share-based compensation to eligible participants under the SunCoke Energy, Inc. Long-Term Cash Incentive Plan ("SunCoke LTCIP"), which became effective January 1, 2016. The SunCoke LTCIP is designed to provide for performance-based, cash-settled awards. All awards vest immediately upon a change in control and a qualifying termination of employment as defined by the SunCoke LTCIP. As of May 12, 2022, performance-based, cash settled awards will be granted under the new Omnibus Plan. The awards previously granted under the SunCoke LTCIP were not modified or impacted by the adoption of the Omnibus Plan. The cash incentive award liability will continue to be included in accrued liabilities and other deferred credits and liabilities on the Consolidated Balance Sheets under the Omnibus Plan.

The Company issued a grant date fair value award of $2.0 million, $2.1 million and $2.0 million during the years ended December 31, 2022, 2021 and 2020, respectively, for which the service periods end on December 31, 2024, 2023 and 2022, respectively, and the awards will vests during the first quarter of 2025, 2024 and 2023, respectively. The service period for certain retiree eligible participants is accelerated. The 2022, 2021 and 2020 awards are split 50/50 between the Adjusted EBITDA and ROIC metrics, consistent with the PSU awards, but is not impacted by the TSR modifier. See above for details.

The cash incentive award liability at December 31, 2022 was adjusted based on the Company's three-year cumulative Adjusted EBITDA performance and adjusted average pre-tax return on capital for the Company's coke and logistics businesses and unallocated corporate expenses. The cash incentive award liability was $8.7 million at December 31, 2022 and $4.1 million at December 31, 2021.

Summary of Share-Based Compensation Expense

Below is a summary of the compensation expense, unrecognized compensation costs, the period for which the unrecognized compensation cost is expected to be recognized over for each award:

	Years Ended December 31,						December 31, 2022	
	2022	2021	2020	2022	2021	2020		
	Compensation Expense[1]			Net of tax			Unrecognized Compensation Cost	Weighted Average Remaining Recognition Period
	(Dollars in millions)						(Dollars in millions)	(Years)
Equity Awards:								
Stock Options	$ —	$ 0.1	$ 0.3	$ —	$ 0.1	$ 0.3	$ —	—
RSUs	2.5	2.3	1.9	1.9	1.8	1.5	$ 0.4	1.7
PSUs	3.9	3.4	1.5	3.0	2.6	1.2	$ 0.7	1.7
Total equity awards	$ 6.4	$ 5.8	$ 3.7	$ 4.9	$ 4.5	$ 3.0		
Liability Awards:								
Cash RSUs	$ 2.1	$ 1.7	$ 0.8	$ 1.6	$ 1.3	$ 0.6	$ 1.6	1.8
Cash incentive award	5.1	3.4	0.6	3.9	2.6	0.4	$ 2.0	1.6
Total liability awards	$ 7.2	$ 5.1	$ 1.4	$ 5.5	$ 3.9	$ 1.0		

(1) Compensation expense is recognized by the Company in selling, general and administrative expenses on the Consolidated Statements of Income.

The Company issued $0.3 million, $0.3 million, and $0.1 million of share-based compensation to the Company's Board of Directors during the years ended December 31, 2022, 2021 and 2020, respectively.

16. Earnings Per Share

Basic earnings per share ("EPS") has been computed by dividing net income available to SunCoke Energy, Inc. by the weighted average number of shares outstanding during the period. Except where the result would be anti-dilutive, diluted earnings per share has been computed to give effect to share-based compensation awards using the treasury stock method.

The following table sets forth the reconciliation of the weighted-average number of common shares used to compute basic earnings per share to those used to compute diluted EPS:

	Years Ended December 31,		
	2022	2021	2020
	(Shares in millions)		
Weighted-average number of common shares outstanding-basic	83.8	83.0	83.0
Add: effect of dilutive share-based compensation awards	0.8	0.7	0.2
Weighted-average number of shares-diluted	84.6	83.7	83.2

The following table shows stock options, restricted stock units, and performance stock units that are excluded from the computation of diluted earnings per share as the shares would have been anti-dilutive:

	Years Ended December 31,		
	2022	2021	2020
	(Shares in millions)		
Stock options	1.6	2.5	3.2
Restricted stock units	—	—	0.2
Performance stock units	—	—	0.3
Total	1.6	2.5	3.7

17. Fair Value Measurements

The Company measures certain financial and non-financial assets and liabilities at fair value on a recurring basis. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in the principal or most advantageous market in an orderly transaction between market participants on the measurement date. Fair value disclosures are reflected in a three-level hierarchy, maximizing the use of observable inputs and minimizing the use of unobservable inputs.

The valuation hierarchy is based upon the transparency of inputs to the valuation of an asset or liability on the measurement date. The three levels are defined as follows:

- Level 1—inputs to the valuation methodology are quoted prices (unadjusted) for an identical asset or liability in an active market.
- Level 2—inputs to the valuation methodology include quoted prices for a similar asset or liability in an active market or model-derived valuations in which all significant inputs are observable for substantially the full term of the asset or liability.
- Level 3—inputs to the valuation methodology are unobservable and significant to the fair value measurement of the asset or liability.

Financial Assets and Liabilities Measured at Fair Value on a Recurring Basis

Cash and Cash Equivalents

Certain assets and liabilities are measured at fair value on a recurring basis. The Company's cash and cash equivalents were measured at fair value at December 31, 2022 and December 31, 2021 based on quoted prices in active markets for identical assets. These inputs are classified as Level 1 within the valuation hierarchy.

Certain Financial Assets and Liabilities not Measured at Fair Value

At December 31, 2022 and 2021, the fair value of the Company's long-term debt was estimated to be $471.9 million and $625.1 million, respectively, compared to a carrying amount of $543.8 million and $627.0 million, respectively. These fair values were estimated by management based upon estimates of debt pricing provided by financial institutions which are considered Level 2 inputs.

18. Revenue from Contracts with Customers

Cokemaking

Our blast furnace coke sales are largely made pursuant to long-term, take-or-pay agreements. These agreements require us to produce and deliver the contracted volumes of coke and require our customers to purchase such volumes of coke up to a specified tonnage or pay the contract price for any tonnage they elect not to take. As of December 31, 2022, our coke sales agreements have approximately 10.9 million tons of unsatisfied or partially unsatisfied performance obligations, which are expected to be delivered over a weighted average remaining contract term of approximately five years.

Our coke sales prices include an operating cost component, a coal cost component and a return of capital component. Operating costs under three of our coke sales agreements are fixed subject to an annual adjustment based on an inflation index. Under our other four coke sales agreements, operating costs are passed through to the respective customers subject to an annually negotiated budget, in some cases subject to a cap annually adjusted for inflation, and we share any difference in costs from the budgeted amounts with our customers. Our coke sales agreements contain pass-through provisions for coal and coal procurement costs, subject to meeting contractual coal-to-coke yields. To the extent that the actual coal-to-coke yields are less than the contractual standard, we are responsible for the cost of the excess coal used in the cokemaking process. Conversely, to the extent our actual coal-to-coke yields are higher than the contractual standard, we realize gains. The reimbursement of pass-through operating and coal costs from these coke sales agreements are considered to be variable consideration components included in the cokemaking sales price. The return of capital component for each ton of coke sold to the customer is determined at the time the coke sales agreement is signed and is effective for the term of each sales agreement. This component of our coke sales prices is intended to provide an adequate return on invested capital and may differ based on investment levels and other considerations. The actual return on invested capital at any facility is also impacted by favorable or unfavorable performance on pass-through cost items. Revenues are recognized when performance obligations to our customers are satisfied in an amount that reflects the consideration that we expect to receive in exchange for the coke.

We also sell blast furnace coke into the export coke market, utilizing capacity in excess of that reserved for our long-term, take-or-pay agreements. Export coke sales are generally made on a spot basis at the current market price and do not contain the same provisions as our long-term, take-or-pay agreements.

While the revenues in our Domestic Coke segment are primarily tied to blast furnace coke sales made under long-term, take-or-pay agreements, we also produce and sell foundry coke out of our Jewell cokemaking facility. Foundry coke sales are generally made under annual agreements with our customers for an agreed upon price and do not contain take-or-pay volume commitments.

Logistics

In our logistics business, handling and/or mixing services are provided to steel, coke (including some of our domestic cokemaking facilities), electric utility, coal producing and other manufacturing based customers. Materials are transported in numerous ways, including rail, truck, barge or ship. We do not take possession of materials handled, but rather act as intermediaries between our customers and end users, deriving our revenues from services provided on a per ton basis. The handling and mixing services consist primarily of two performance obligations, unloading and loading of materials. Revenues are recognized when the customer receives the benefits of the services provided, in an amount that reflects the consideration that we will receive in exchange for those services. Logistics services provided to our domestic cokemaking facilities are provided under contracts with terms equivalent to those of arm's-length transactions.

Estimated take-or-pay revenue of approximately $51.4 million from all of our multi-year logistics contracts is expected to be recognized over the next four years for unsatisfied or partially unsatisfied performance obligations as of December 31, 2022.

Energy

Our cokemaking ovens utilize efficient, modern heat recovery technology designed to combust the coal's volatile components liberated during the cokemaking process and use the resulting heat to create steam or electricity for sale. Our Middletown facility and the second phase of our Haverhill facility, or Haverhill II, have cogeneration plants that generate

electricity, which is either sold into the regional power market or to customers pursuant to energy sales agreements. Our Granite City facility and the first phase of our Haverhill facility, or Haverhill I, have steam generation facilities, which produce steam for sale to customers pursuant to steam supply and purchase agreements. The energy provided under these arrangements results in transfer of control over time. Revenues are recognized over time as energy is delivered to our customers, in an amount based on the terms of each arrangement. Energy generated at our remaining facilities is either used internally or provided, at minimal cost, to energy suppliers.

Operating and Licensing Fees

Operating and licensing fees are made pursuant to long-term contracts with ArcelorMittal Brazil, where we operate a Brazilian cokemaking facility. The licensing fees are based upon the level of production required by our customer. Operating fees include the full pass-through of the operating costs of the Brazilian facility as well as a per ton fee based on the level of production required by our customer. Revenues are recognized over time as our customers receive and consume the benefits in an amount that corresponds directly with the value provided to the customer to date.

Disaggregated Sales and Other Operating Revenue

The following table provides disaggregated sales and other operating revenue by product or service, excluding intersegment revenues:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Sales and other operating revenue:			
Cokemaking	$ 1,791.3	$ 1,293.6	$ 1,218.9
Energy	61.5	56.1	43.6
Logistics	76.7	64.3	35.5
Operating and licensing fees	38.0	36.6	31.6
Other	5.0	5.4	3.4
Sales and other operating revenue	$ 1,972.5	$ 1,456.0	$ 1,333.0

Disaggregated sales and other operating revenue by customer is discussed in Note 3.

19. Business Segment Information

The Company reports its business through three segments: Domestic Coke, Brazil Coke and Logistics. The Domestic Coke segment includes the Jewell, Indiana Harbor, Haverhill, Granite City and Middletown cokemaking facilities. Each of these facilities produces coke, and all facilities except Jewell recover waste heat, which is converted to steam or electricity through a similar production process.

The Brazil Coke segment includes the licensing and operating fees payable to us under long-term contracts with ArcelorMittal Brazil, under which we operate a cokemaking facility located in Vitória, Brazil through January, 2028.

Logistics operations are comprised of CMT, KRT, Lake Terminal, which provides services to our Indiana Harbor cokemaking facility, and DRT, which provides services to our Jewell cokemaking facility. Handling and mixing results are presented in the Logistics segment.

Corporate expenses that can be identified with a segment have been included in determining segment results. The remainder is included in Corporate and Other, which also includes activity from our legacy coal mining business.

Segment assets are those assets utilized within a specific segment and exclude taxes.

The following table includes Adjusted EBITDA, as defined below, which is the measure of segment profit or loss reported to the chief operating decision maker for purposes of allocating resources to the segments and assessing their performance:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Sales and other operating revenue:			
Domestic Coke	$ 1,856.9	$ 1,354.5	$ 1,265.4
Brazil Coke	38.0	36.6	31.6
Logistics	77.6	64.9	36.0
Logistics intersegment sales	28.9	27.1	22.1
Elimination of intersegment sales	(28.9)	(27.1)	(22.1)
Total sales and other operating revenue	$ 1,972.5	$ 1,456.0	$ 1,333.0
Adjusted EBITDA:			
Domestic Coke	$ 263.4	$ 243.4	$ 217.0
Brazil Coke	14.5	17.2	13.5
Logistics	49.7	43.5	17.3
Corporate and Other[(1)]	(29.9)	(28.7)	(41.9)
Total Adjusted EBITDA	$ 297.7	$ 275.4	$ 205.9
Depreciation and amortization expense:			
Domestic Coke	$ 126.8	$ 119.0	$ 119.1
Brazil Coke	0.2	0.4	0.5
Logistics	14.5	13.3	12.8
Corporate and Other	1.0	1.2	1.3
Total depreciation and amortization expense	$ 142.5	$ 133.9	$ 133.7
Capital expenditures:			
Domestic Coke	$ 70.3	$ 83.1	$ 60.0
Brazil Coke	0.1	0.3	0.4
Logistics	4.5	14.7	13.5
Corporate and Other	0.6	0.5	—
Total capital expenditures	$ 75.5	$ 98.6	$ 73.9

(1) Corporate and Other includes foundry related research and development costs of $3.9 million during 2020.

The following table sets forth the Company's segment assets:

	December 31,	
	2022	2021
	(Dollars in millions)	
Segment assets:		
Domestic Coke	$ 1,422.6	$ 1,370.6
Brazil Coke	15.7	18.0
Logistics	193.5	202.9
Corporate and Other	22.8	23.9
Total assets	$ 1,654.6	$ 1,615.4

The Company evaluates the performance of its segments based on segment Adjusted EBITDA, which is defined as earnings before interest, taxes, depreciation and amortization ("EBITDA"), adjusted for any impairments, restructuring costs, gains or losses on extinguishment of debt, and/or transaction costs ("Adjusted EBITDA"). EBITDA and Adjusted EBITDA do not represent and should not be considered alternatives to net income or operating income under GAAP and may not be comparable to other similarly titled measures in other businesses.

Management believes Adjusted EBITDA is an important measure in assessing operating performance. Adjusted EBITDA provides useful information to investors because it highlights trends in our business that may not otherwise be apparent when relying solely on GAAP measures and because it eliminates items that have less bearing on our operating performance. EBITDA and Adjusted EBITDA are not measures calculated in accordance with GAAP, and they should not be considered a substitute for net income, or any other measure of financial performance presented in accordance with GAAP. Additionally, other companies may calculate Adjusted EBITDA differently than we do, limiting its usefulness as a comparative measure.

Reconciliation of Non-GAAP Financial Measures

Below is the reconciliation of Adjusted EBITDA to net income, which is its most directly comparable financial measure calculated and presented in accordance with GAAP:

	Years Ended December 31,		
	2022	2021	2020
	(Dollars in millions)		
Net income attributable to SunCoke Energy, Inc.	$ 100.7	$ 43.4	$ 3.7
Add: Net income attributable to noncontrolling interests	4.2	5.4	5.1
Net income	$ 104.9	$ 48.8	$ 8.8
Add:			
Depreciation and amortization expense	142.5	133.9	133.7
Interest expense, net	32.0	42.5	56.3
Loss (gain) on extinguishment of debt, net	—	31.9	(5.7)
Income tax expense	16.8	18.3	10.3
Restructuring costs[1]	—	—	2.5
Transaction costs[2]	1.5	—	—
Adjusted EBITDA	$ 297.7	$ 275.4	$ 205.9
Subtract: Adjusted EBITDA attributable to noncontrolling interests[3]	8.4	9.3	9.1
Adjusted EBITDA attributable to SunCoke Energy, Inc.	$ 289.3	$ 266.1	$ 196.8

(1) Charges related to a company-wide restructuring and cost-reduction initiative.

(2) Costs incurred as part of the granulated pig iron project with U.S. Steel.

(3) Reflects noncontrolling interests in Indiana Harbor.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Management's Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, is responsible for evaluating the effectiveness of our disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)). Our disclosure controls and procedures are designed to provide reasonable assurance that the information required to be disclosed by us in reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure and is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded

that, as of the end of the period covered by this report, our disclosure controls and procedures were effective at the reasonable assurance level.

Management's Report on Internal Control over Financial Reporting

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, is responsible for establishing and maintaining adequate internal control over our financial reporting, as such term is defined under Exchange Act Rule 13a-15(f). Our internal control system was designed to provide reasonable assurance to management regarding the preparation and fair presentation of published financial statements.

In evaluating the effectiveness of our internal control over financial reporting as of December 31, 2022, management used the framework set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control -Integrated Framework* (2013). Based on such evaluation, management concluded that our internal control over financial reporting was effective as of December 31, 2022.

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal controls over financial reporting will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, misstatements, errors, and instances of fraud, if any, within our company have been or will be prevented or detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls also can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of controls effectiveness to future periods are subject to risks that internal controls may become inadequate as a result of changes in conditions, or through the deterioration of the degree of compliance with policies or procedures.

Our independent registered public accounting firm KPMG LLP, issued an attestation report on our internal control over financial reporting, which is contained in Item 8, "Financial Statements and Supplementary Data."

Changes in Internal Control over Financial Reporting

There was no change in the Company's internal control over financial reporting that occurred during the quarter ended December 31, 2022 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

None.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required to be disclosed by this item is incorporated herein by reference to our definitive proxy statement for the 2023 Annual Meeting of the Stockholders (the "2023 Proxy Statement"), which we expect to file with the SEC within 120 days of the end of our fiscal year ended December 31, 2022.

Item 11. Executive Compensation

The information required to be disclosed by this item is incorporated herein by reference to our 2023 Proxy Statement, which we expect to file with the SEC within 120 days of the end of our fiscal year ended December 31, 2022.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required to be disclosed by this item is incorporated herein by reference to our 2023 Proxy Statement, which we expect to file with the SEC within 120 days of the end of our fiscal year ended December 31, 2022.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required to be disclosed by this item is incorporated herein by reference to our 2023 Proxy Statement, which we expect to file with the SEC within 120 days of the end of our fiscal year ended December 31, 2022.

Item 14. Principal Accounting Fees and Services

Our independent registered accounting firm is KPMG LLP, Chicago, IL, Auditor Firm ID: 185.

The information required to be disclosed by this item is incorporated herein by reference to our 2023 Proxy Statement, which we expect to file with the SEC within 120 days of the end of our fiscal year ended December 31, 2022.

PART IV

Item 15. Exhibits and Financial Statement Schedules

)The following documents are filed as a part of this report:

1 Consolidated Financial Statements:

The consolidated financial statements are set forth under Item 8 of this report.

2 Financial Statements Schedules:

Financial statement schedules are omitted because required information is shown elsewhere in this report, is not necessary or is not applicable.

3 Exhibits:

2.1	Agreement and Plan of Merger dated as of February 4, 2019 by and among SunCoke Energy, Inc., SC Energy Acquisition LLC, SunCoke Energy Partners, L.P., and SunCoke Energy Partners GP LLC. (incorporated by reference herein to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed on February 5, 2019, File No. 001-35243)
3.1	Amended and Restated Certificate of Incorporation of the Company (incorporated by reference herein to Exhibit 3.1 to the Company's Amendment No. 4 to Registration Statement on Form S-1 filed on July 6, 2011, File No. 333-173022)
3.2*	Amended and Restated Bylaws of SunCoke Energy, Inc., effective as of February 23, 2023 (filed herewith)
4.1	Form of Common Stock Certificate of the Registrant (incorporated by reference herein to Exhibit 4.1 to the Company's Amendment No. 2 to Registration Statement on Form S-1, filed on June 3, 2011, File No. 333-173022)
4.2	Description of the Registrant's Securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 (incorporated by reference herein to Exhibit 4.2 to the Company's Annual Report on Form 10-K, filed on February 25, 2021, File No. 001-35243)
4.3	Indenture, dated June 22, 2021, by and among SunCoke Energy, Inc., the subsidiary guarantors party thereto and The Bank of New York Mellon Trust Company, N.A., as trustee and as notes collateral agent (incorporated by reference herein to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed on June 22, 2021, File No. 001-35243)
4.3.1	Form of 4.875% Senior Secured Notes due 2029 (incorporated by reference herein to Exhibit 4.2 to the Company's Current Report on Form 8-K, filed on June 22, 2021, File No. 001-35243)
10.1*	Third Amended and Restated Credit Agreement, dated February 16, 2023 by and among SunCoke Energy, Inc., and certain subsidiaries of SunCoke Energy, Inc., as joint and several borrowers, the several lenders party thereto from time to time and Bank of America, N.A., as administrative agent (filed herewith)
10.2^	SunCoke Energy, Inc. Annual Incentive Plan, amended and restated as of December 8, 2021 (incorporated by reference herein to Exhibit 10.4 to the Company's Annual Report on Form 10-K, filed on February 24, 2022, File No. 001-35243)
10.3^	SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan, effective May 12, 2022 (incorporated by reference herein to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q, filed on August 2, 2022, File No. 001-35243)
10.3.1^*	Form of Stock Settled Restricted Share Unit Agreement under the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan by and between SunCoke Energy, Inc. and employees of SunCoke Energy, Inc. or one of its Affiliates (filed herewith)
10.3.2^*	Form of Cash Settled Restricted Share Unit Agreement under the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan by and between SunCoke Energy, Inc. and employees of SunCoke Energy, Inc. or one of its Affiliates (filed herewith)
10.3.3^*	Form of Performance Share Unit Agreement under the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan by and between SunCoke Energy, Inc. and employees of SunCoke Energy, Inc. or one of its Affiliates (filed herewith)

10.3.4^*	Form of Long-Term Cash Incentive Award Agreement under the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan by and between SunCoke Energy, Inc. and employees of SunCoke Energy, Inc. or one of its Affiliates (filed herewith)
10.4^	SunCoke Energy, Inc. Long-Term Performance Enhancement Plan, amended and restated effective as of February 14, 2018 (incorporated by reference herein to Exhibit 10.5 to the Company's Annual Report on Form 10-K, filed on February 24, 2022, File No. 001-35243)
10.4.1^	Form of Stock Option Agreement under the SunCoke Energy, Inc. Long-Term Performance Enhancement Plan by and between SunCoke Energy, Inc. and employees of SunCoke Energy, Inc. or one of its Affiliates (incorporated by reference herein to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2016 filed on April 27, 2016, File No. 001-35243)
10.4.2^	Amendment to Stock Option Agreements under the SunCoke Energy, Inc. Long-Term Performance Enhancement Plan, entered into as of July 18, 2013, applicable to all Stock Option Awards outstanding as of July 18, 2012 (incorporated by reference herein to Exhibit 10.23 to the Company's Annual Report on Form 10-K for the year ended December 31, 2012, filed on February 22, 2013, File No. 001-35243)
10.4.3^	Form of Performance Stock Option Agreement under the SunCoke Energy, Inc. Long-Term Performance Enhancement Plan by and between SunCoke Energy, Inc. and employees of SunCoke Energy, Inc. or one of its Affiliates (incorporated by reference herein to Exhibit 10.5.3 to the Company's Annual Report on Form 10-K, filed on February 16, 2017, File No. 001-35243))
10.5^	SunCoke Energy, Inc. Long-Term Cash Incentive Plan (effective as of January 1, 2016) (incorporated by reference herein to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2016 filed on April 27, 2016, File No. 001-35243)
10.6^	SunCoke Energy, Inc. Savings Restoration Plan effective January 1, 2012 (incorporated by reference herein to Exhibit 10.1 to the Company's Form 8-K filed on December 9, 2011, File No. 001-35243)
10.6.1^	Amendment Number One to the SunCoke Energy, Inc. Savings Restoration Plan, effective as of January 1, 2012 (incorporated by reference herein to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2012 filed on May 2, 2012, File No. 001-35243)
10.6.2^	Second Amendment to the SunCoke Energy, Inc. Savings Restoration Plan, effective as of June 1, 2015 (incorporated by reference herein to Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2016 filed on April 27, 2016, File No. 001-35243)
10.6.3^	Third Amendment to the SunCoke Energy, Inc. Savings Restoration Plan, effective as of January 1, 2016 (incorporated by reference herein to Exhibit 10.8 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2016 filed on April 27, 2016, File No. 001-35243)
10.6.4^	Fourth Amendment to the SunCoke Energy, Inc. Savings Restoration Plan, effective as of January 1, 2017 incorporated by reference herein to Exhibit 10.7.4 to the Company's Annual Report on Form 10-K, filed February 25, 2021, File No. 001-35243)
10.7^	SunCoke Energy, Inc. Special Executive Severance Plan, amended and restated effective as of December 8, 2021 (incorporated by reference herein to Exhibit 10.8 to the Company's Annual Report on Form 10-K, filed on February 24, 2022, File No. 001-35243)
10.8^	SunCoke Energy, Inc. Executive Involuntary Severance Plan, amended and restated effective as of December 8, 2021 (incorporated by reference herein to Exhibit 10.9 to the Company's Annual Report on Form 10-K, filed on February 24, 2022, File No. 001-35243)
10.9^	SunCoke Energy, Inc. Amended and Restated Directors' Deferred Compensation Plan, effective as of February 23, 2022 (incorporated by reference herein to Exhibit 10.11 to the Company's Annual Report on Form 10-K, filed on February 24, 2022, File No. 001-35243)
10.10^	Form of Indemnification Agreement, individually entered into between SunCoke Energy, Inc. and each director of the Company (incorporated by reference herein to Exhibit 10.16 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2011 filed on November 2, 2011, File No. 001-35243)

10.11†	Amended and Restated Coke Supply Agreement, dated as of October 28, 2003, by and between Jewell Coke Company, L.P., ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.18 to the Company's Amendment No. 4 to Registration Statement on Form S-1 filed on July 6, 2011, File No. 333-173022)
10.11.1†	Amendment No. 1 to Amended and Restated Coke Supply Agreement, dated as of December 5, 2003, by and between Jewell Coke Company, L.P., ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.19 to the Company's Amendment No. 2 to Registration Statement on Form S-1 filed on June 3, 2011, File No. 333-173022)
10.11.2†	Letter Agreement, dated as of May 7, 2008, between ArcelorMittal USA Inc., Haverhill North Coke Company, Jewell Coke Company, L.P. and ISG Sparrows Point LLC, serving as (1) Amendment No. 2 to the Amended and Restated Coke Supply Agreement, by and between Jewell Coke Company, L.P., ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) and (2) Amendment No. 2 to the Coke Purchase Agreement, by and between Haverhill North Coke Company, ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.20 to the Company's Amendment No. 2 to Registration Statement on Form S-1 filed on June 3, 2011, File No. 333-173022)
10.11.3†	Amendment No. 3 to Amended and Restated Coke Supply Agreement, dated as of January 26, 2011, by and between Jewell Coke Company, L.P., ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.21 to the Company's Amendment No. 2 to Registration Statement on Form S-1 filed on June 3, 2011, File No. 333-173022)
10.11.4†	Amendment No. 7 to Coke Supply Agreement, dated July 30, 2020, by and among Jewell Coke Company, L.P., ArcelorMittal Cleveland LLC (f/k/a ArcelorMittal Cleveland Inc.) and ArcelorMittal USA LLC (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2020, filed on November 6, 2020, File No. 001-35243)
10.12†	Coke Purchase Agreement, dated as of October 28, 2003, by and between Haverhill North Coke Company, ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.22 to the Company's Amendment No. 4 to Registration Statement on Form S-1 filed on July 6, 2011, File No. 333-173022)
10.12.1†	Amendment No. 1 to Coke Purchase Agreement, dated as of December 5, 2003, by and between Haverhill North Coke Company, ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.23 to the Company's Amendment No. 2 to Registration Statement on Form S-1 filed on June 3, 2011, File No. 333-173022)
10.12.2†	Amendment No. 3 to Coke Purchase Agreement, dated as of May 8, 2008, by and between Haverhill North Coke Company, ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.25 to the Company's Amendment No. 2 to Registration Statement on Form S-1 filed on June 3, 2011, File No. 333-173022)
10.12.3†	Amendment No. 4 to Coke Purchase Agreement, dated as of January 26, 2011, by and between Haverhill North Coke Company, ArcelorMittal Cleveland Inc. (f/k/a ISG Cleveland Inc.) and ArcelorMittal Indiana Harbor (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.26 to the Company's Amendment No. 2 to Registration Statement on Form S-1 filed on June 3, 2011, File No. 333-173022)
10.12.4	Amendment No. 8 to Coke Purchase Agreement, dated July 30, 2020, by and among Haverhill Coke Company (f/k/a Haverhill North Coke Company), ArcelorMittal Cleveland LLC (f/k/a ArcelorMittal Cleveland Inc.) and ArcelorMittal USA LLC (f/k/a ISG Indiana Harbor Inc.) (incorporated by reference herein to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2020, filed on November 6, 2020, File No. 001-35243)
10.13†	Coke Purchase Agreement, dated as of August 31, 2009, by and between Haverhill North Coke Company and AK Steel Corporation (incorporated by reference herein to Exhibit 10.27 to the Company's Amendment No. 5 to Registration Statement on Form S-1 filed on July 18, 2011, File No. 333-173022)

10.13.1†	Second Amendment to Coke Purchase Agreement, dated July 7, 2020, between AK Steel Corporation and Haverhill Coke Company LLC (incorporated by reference herein to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2020, filed on August 3, 2020, File No. 001-35243)
10.13.2	Third Amendment to Coke Purchase Agreement, dated October 8, 2020, between AK Steel Corporation and Haverhill Coke Company LLC (incorporated by reference herein to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2020, filed on November 6, 2020, File No. 001-35243)
10.14†	Amended and Restated Coke Purchase Agreement, dated as of February 19, 1998, by and between Indiana Harbor Coke Company, L.P. and ArcelorMittal USA Inc. (f/k/a Inland Steel Company) (incorporated by reference herein to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2013 filed on October 30, 2013, File No. 001-35243)
10.14.1†	Amendment No. 1 to Amended and Restated Coke Purchase Agreement, dated as of November 22, 2000, by and between Indiana Harbor Coke Company, L.P., a subsidiary of the Company, and ArcelorMittal USA Inc. (f/k/a Inland Steel Company) (incorporated by reference herein to Exhibit 10.29 to the Company's Amendment No. 2 to Registration Statement on Form S-1 filed on June 3, 2011, File No. 333-173022)
10.14.2†	Amendment No. 2 to Amended and Restated Coke Purchase Agreement, dated as of March 31, 2001, by and between Indiana Harbor Coke Company, L.P. and ArcelorMittal USA Inc. (f/k/a Inland Steel Company) (incorporated by reference herein to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2013 filed on October 30, 2013, File No. 001-35243)
10.14.3†	Supplement to Amended and Restated Coke Purchase Agreement, dated as of February 3, 2011, by and between Indiana Harbor Coke Company, L.P. and ArcelorMittal USA Inc. (f/k/a Inland Steel Company) (incorporated by reference herein to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2013 filed on October 30, 2013, File No. 001-35243)
10.14.4†	Extension Agreement, dated as of September 5, 2013, by and between Indiana Harbor Coke Company, L.P. and ArcelorMittal USA Inc. (incorporated by reference herein to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2013 filed on October 30, 2013, File No. 001-35243)
10.14.5†	Supplement to the ArcelorMittal USA LLC and Indiana Harbor Coke Company, L.P. Coke Purchase Agreement Term Sheet and the ArcelorMittal Cleveland LLC, ArcelorMital Indiana Harbor LLC and Jewell Coke Company, L.P. Coke Supply Agreement , dated as of September 10, 2014 (incorporated by reference herein to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2014 filed on October 28, 2014, File No. 001-35243)
10.15†	Coke Sale and Feed Water Processing Agreement, dated as of February 28, 2008, by and between Gateway Energy & Coke Company, LLC and U.S. Steel Corporation (incorporated by reference herein to Exhibit 10.32 to the Company's Amendment No. 7 to Registration Statement on Form S-1 filed on July 20, 2011, File No. 333-173022)
10.15.1†	Amendment No. 1 to Coke Sale and Feed Water Processing Agreement, dated as of November 1, 2010, by and between Gateway Energy & Coke Company, LLC and U.S. Steel Corporation (incorporated by reference herein to Exhibit 10.33 to the Company's Amendment No. 2 to Registration Statement on Form S-1 filed on June 3, 2011, File No. 333-173022)
10.15.2	Amendment No. 2 to Coke Sale and Feed Water Processing Agreement, dated as of July 6, 2011, by and between Gateway Energy & Coke Company, LLC and U.S. Steel Corporation (incorporated by reference to Exhibit 10.23.2 to the Company's Annual Report on Form 10-K for the year ended December 31, 2014 filed on February 24, 2015, File No. 001-35243)
10.15.3†	Amendment No. 3 to Coke Sale and Feed Water Processing Agreement, dated as of January 12, 2015, by and among Gateway Energy & Coke Company, LLC, Gateway Cogeneration Company LLC and U.S. Steel Corporation (incorporated by reference to Exhibit 10.23.3 to the Company's Annual Report on Form 10-K filed on February 24, 2015, File No. 001-35243)
10.16†	Amended and Restated Coke Purchase Agreement, dated as of September 1, 2009, by and between Middletown Coke Company, LLC, a subsidiary of the Company and AK Steel Corporation (incorporated by reference herein to Exhibit 10.34 to the Company's Amendment No. 5 to Registration Statement on Form S-1 filed on July 18, 2011, File No. 333-173022)
21.1*	Subsidiaries of the Registrant (filed herewith)

22.1*		List of Issuers and Guarantor Subsidiaries (filed herewith)
23.1*		Consent of KPMG LLP (filed herewith)
31.1*		Chief Executive Officer Certification Pursuant to Exchange Act Rule 13a-14(a) or Rule 15d-14(a), as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith)
31.2*		Chief Financial Officer Certification Pursuant to Exchange Act Rule 13a-14(a) or Rule 15d-14(a), as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith)
32.1*		Chief Executive Officer Certification Pursuant to Exchange Act Rule 13a-14(b) or Rule 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the U.S. Code, as Adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith)
32.2*		Chief Financial Officer Certification Pursuant to Exchange Act Rule 13a-14(b) or Rule 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the U.S. Code, as Adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith)
95.1*		Mine Safety Disclosure (filed herewith)
101*		The following financial statements from SunCoke Energy, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2022, filed with the Securities and Exchange Commission on February 24, 2023, formatted in iXBRL (Inline eXtensible Business Reporting Language): (i) the Consolidated Statements of Income, (ii) the Consolidated Statements of Comprehensive Income (Loss), (iii) the Consolidated Balance Sheets, (iv) the Consolidated Statements of Cash Flows, (v) the Consolidated Statements of Equity, and (vi) the Notes to Consolidated Financial Statements.
104*		The cover page from SunCoke Energy, Inc's Annual Report on Form 10-K for the year ended December 31, 2022 formatted in iXBRL (Inline eXtensible Business Reporting Language) and contained in Exhibit 101.
	*	Provided herewith.
	^	Management contract or compensatory plan or arrangement.
	†	Certain portions have been omitted pursuant to a confidential treatment request. Omitted information has been separately filed with the Securities and Exchange Commission.

Item 16. Form 10-K Summary

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on February 24, 2023.

SUNCOKE ENERGY, INC.

By: /s/ Mark W. Marinko
Mark W. Marinko
Senior Vice President and Chief Financial Officer

Pursuant to the requirements of the Securities Act of 1934, this report has been signed by the following persons on behalf of the registrant and in the capacities indicated on February 24, 2023.

Signature	Title
/s/ Michael G. Rippey Michael G. Rippey	Chief Executive Officer and Director (Principal Executive Officer)
/s/ Katherine T. Gates Katherine T. Gates	President and Director
/s/ Mark W. Marinko Mark W. Marinko	Senior Vice President and Chief Financial Officer (Principal Financial Officer)
/s/ Bonnie M. Edeus Bonnie M. Edeus	Vice President, Controller (Principal Accounting Officer)
/s/ Arthur F. Anton Arthur F. Anton	Chairman of the Board
/s/ Martha Z. Carnes Martha Z. Carnes	Director
/s/ Ralph M. Della Ratta, Jr. Ralph M. Della Ratta	Director
/s/ Susan Landahl Susan Landahl	Director
/s/ Michael W. Lewis Michael W. Lewis	Director

BY-LAWS
OF
SUNCOKE ENERGY, INC.
(Amended and Restated as of February 23, 2023)

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These amended and restated By-laws (the "***By-laws***") of SunCoke Energy, Inc., a Delaware corporation (the "***Corporation***"), are effective as of February 23, 2023 and hereby amend and restate the previous by-laws of the Corporation which are hereby deleted in their entirety and replaced with the following:

ARTICLE I.
OFFICE AND RECORDS

Section 1.1 **Delaware Office**. The registered office of the Corporation in the State of Delaware shall be located in the City of Wilmington, County of New Castle, and the name and address of its registered agent is The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

Section 1.2 **Other Offices**. The Corporation may have such other offices, either inside or outside the State of Delaware, as the Board of Directors may designate or as the business of the Corporation may from time to time require.

Section 1.3 **Books and Records**. The books and records of the Corporation may be kept inside or outside the State of Delaware at such place or places as may from time to time be designated by the Board of Directors.

ARTICLE II.
STOCKHOLDERS

Section 2.1 **Annual Meeting**. The annual meeting of the stockholders of the Corporation shall be held on such date and at such place and time as may be fixed by resolution of the Board of Directors.

Section 2.2 **Special Meeting**. Subject to the rights of the holders of any series of stock having a preference over the Common Stock of the Corporation as to dividends, voting or upon liquidation ("Preferred Stock') with respect to such series of Preferred Stock, special meetings of the stockholders may be called only by (a) the Chairman of the Board, or (b) the Board of Directors pursuant to a resolution adopted by a majority of the total number of directors which the Corporation would have if there were no vacancies (the "Whole Board'). Business transacted at special meetings shall be confined to the purposes stated in the Corporation's notice of the meeting or in any supplemental notice delivered by the Corporation in accordance with Section 2.4 of these By-laws.

Section 2.3 **Place of Meeting**. The Board of Directors or the Chairman of the Board, as the case may be, may designate the place of meeting for any annual or special meeting of the stockholders. The Board of Directors or the Chairman of the Board may determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the General Corporation Law of the State of Delaware. If no designation is so made, the place of meeting shall be the principal office of the Corporation.

Section 2.4 **Notice of Meeting**. Written or printed notice, stating the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered by the Corporation not less than ten (10) days nor more than sixty (60) days before the date of the meeting. Meetings may be held without notice if all stockholders entitled to vote are present, or if notice is waived by those not present in accordance with Section 7.5 of these By-laws. Any previously scheduled meeting of the stockholders may be postponed, and (unless the Certificate of Incorporation otherwise provides) any special meeting of the stockholders may be cancelled, postponed or rescheduled, by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such meeting of stockholders.

Section 2.5 **Quorum and Adjournment**. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the outstanding shares of the Corporation entitled to vote generally in the election of directors (the "Voting Stock"), represented in person or by proxy, shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of a majority of the shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. The Chairman of the Board of Directors or the President may adjourn the meeting from time to time, whether or not there is a quorum. No notice of the time and place of adjourned meetings need be given except as required by law. The stockholders present at a duly called meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 2.6 **Organization**. Meetings of stockholders shall be presided over by the Chairman of the Board, or if none or in the Chairman of the Board's absence or inability to act, the Lead Director, or if none or in the Lead Director's absence or inability to act, the Chief Executive Officer, or in the Chief Executive Officer's absence or inability to act, the President, or if none or in the President's absence or inability to act, a Vice President, or, if none of the foregoing is present or able to act, by a chairman to be chosen by the stockholders entitled to vote who are present in person or by proxy at the meeting. The Secretary, or in the Secretary's absence an Assistant Secretary, shall act as secretary of every meeting, but if neither the Secretary nor an Assistant Secretary is present, the presiding officer of the meeting shall appoint any person present to act as secretary of the meeting.

The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and (for

any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures (which need not be in writing) and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the person presiding over the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present (including, without limitation, rules and procedures for removal of disruptive persons from the meeting); (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the person presiding over the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting (including, without limitation, determinations with respect to the administration and/or interpretation of any of the rules, regulations or procedures of the meeting, whether adopted by the Board of Directors or prescribed by the person presiding over the meeting), shall, if the facts warrant, determine and declare to the meeting that a matter of business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 2.7 **Proxies**. At all meetings of stockholders, each stockholder entitled to vote at a meeting of stockholders may vote by proxy executed in writing or by a transmission permitted by law, including Rule 14a-19 promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act") by the stockholder, or by his or her duly authorized attorney in fact, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the General Corporation Law of the State of Delaware. A proxy may be in the form of an electronic transmission which sets forth or is submitted with information from which it can be determined that the transmission was authorized by the stockholder.

Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

Section 2.8 **Order of Business**.

(A) Annual Meetings of Stockholders. At any annual meeting of the stockholders, only such nominations of persons for election to the Board of Directors shall be made, and only such other business shall be conducted or considered, as shall have been properly brought before the meeting. For nominations to be properly made at an annual meeting, and proposals of other

business to be properly brought before an annual meeting, nominations and proposals of other business must be (a) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly made at the annual meeting, by or at the direction of the Board of Directors or (c) otherwise properly requested to be brought before the annual meeting by a stockholder of the Corporation in accordance with these By-laws.

For nominations of persons for election to the Board of Directors or proposals of other business to be properly requested by a stockholder to be made at an annual meeting, a stockholder must (i) be a stockholder of record at the time of giving of notice of such annual meeting by or at the direction of the Board of Directors and at the time of the annual meeting, (ii) be entitled to vote at such annual meeting and (iii) comply with the procedures set forth in these By-laws as to such business or nomination. The immediately preceding sentence shall be the exclusive means for a stockholder to make nominations or other business proposals (other than matters properly brought under Rule 14a-8 under the Exchange Act and included in the Corporation's notice of meeting) before an annual meeting of stockholders.

(B) Special Meetings of Stockholders. At any special meeting of the stockholders, only such business shall be conducted or considered, as shall have been properly brought before the meeting pursuant to the Corporation's notice of meeting. To be properly brought before a special meeting, proposals of business must be (a) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors or (b) otherwise properly brought before the special meeting, by or at the direction of the Board of Directors. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (a) by or at the direction of the Board of Directors or (b) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who (i) is a stockholder of record at the time of giving of notice of such special meeting and at the time of the special meeting, (ii) is entitled to vote at the meeting, and (iii) complies with the procedures set forth in these By-laws as to such nomination.

(C) General. Except as otherwise provided by law, the Certificate of Incorporation or these By-laws, the Chairman of any annual or special meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with these By-laws and, if any proposed nomination or other business is not in compliance with these By-laws, to declare that no action shall be taken on such nomination or other proposal and such nomination or other proposal shall be disregarded.

Section 2.9 Advance Notice of Stockholder Business and Nominations.

(A) Annual Meeting of Stockholders. Without qualification or limitation, for any nominations or any other business to be properly brought before an annual meeting by a stockholder pursuant to Section 2.8(A) of these By-laws, the stockholder must have given timely notice thereof (including, in the case of nominations, the completed and signed questionnaire and

agreement required by Section 2.10 of these By-laws) and timely updates and supplements thereof in writing to the Secretary and such other business must otherwise be a proper matter for stockholder action.

To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the 120th day prior to the date of such annual meeting and not later than the close of business on the later of the 90th day prior to the date of such annual meeting or, if the first public announcement of the date of such annual meeting is less than 100 days prior to the date of such annual meeting, the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall any adjournment or postponement of an annual meeting, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above.

Notwithstanding anything in the immediately preceding paragraph to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased by the Board of Directors, and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least 100 days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 2.9(A) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

In addition, to be considered timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) business days prior to the date for the meeting or any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof. For the avoidance of doubt, the obligation to update and supplement as set forth in this Section 2.9 or any other Section of these By-laws shall not limit the Corporation's rights with respect to any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or enable or be deemed to permit a stockholder who has previously submitted notice hereunder to amend or update any nomination or to submit any new proposal, including by changing or adding nominees, matters, business or resolutions proposed to be brought before a meeting of the stockholders.

In no event may a stockholder provide timely notice with respect to a greater number of director candidates than are subject to election by stockholders at the annual meeting.

(B) Special Meetings of Stockholders. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, provided that the stockholder's notice with respect to any nomination (including the completed and signed questionnaire, representation and agreement required by Section 2.10 of these By-laws) shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to the date of such special meeting and not later than the close of business on the later of the 90th day prior to the date of such special meeting or, if the first public announcement of the date of such special meeting is less than 100 days prior to the date of such special meeting, the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall any adjournment or postponement of a special meeting, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above.

In addition, to be considered timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) business days prior to the date for the meeting or any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof.

In no event may a stockholder provide timely notice with respect to a greater number of director candidates than are subject to election by stockholders at any special meeting.

(C) Disclosure Requirements.

(1) To be in proper form, a stockholder's notice (whether given pursuant to Section 2.8(A) or Section 2.8(B) of these By-laws) to the Secretary must include the following, as applicable:

(I) As to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, and any participant (as defined in paragraphs (a)(ii)-(vi) of Instruction 3 to Item 4 of Schedule 14A), a stockholder's notice must set forth: (i) the name and address of such stockholder, as they appear on the Corporation's books, of such beneficial owner, if any, and of their respective affiliates or associates or others acting in concert therewith, (ii)

(A) the class or series and number of shares of the Corporation which are, directly or indirectly, owned beneficially (within the meaning of Rule 13-d under the Exchange Act) and of record by such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith, (B) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, any derivative or synthetic arrangement having the characteristics of a long position in any class or series of shares of the Corporation, or any contract, derivative, swap or other transaction or series of transactions designed to produce economic benefits and risks that correspond substantially to the ownership of any class or series of shares of the Corporation, including due to the fact that the value of such contract, derivative, swap or other transaction or series of transactions is determined by reference to the price, value or volatility of any class or series of shares of the Corporation, whether or not such instrument, contract or right shall be subject to settlement in the underlying class or series of shares of the Corporation, through the delivery of cash or other property, or otherwise, and without regard of whether the stockholder of record, the beneficial owner, if any, or any affiliates or associates or others acting in concert therewith, may have entered into transactions that hedge or mitigate the economic effect of such instrument, contract or right, or any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation (any of the foregoing, a "Derivative Instrument") directly or indirectly owned beneficially by such stockholder, the beneficial owner, if any, or any affiliates or associates or others acting in concert therewith, (C) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder has a right to vote any class or series of shares of the Corporation, (D) any agreement, arrangement, understanding, relationship or otherwise, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, involving such stockholder, directly or indirectly, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of any class or series of the shares of the Corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such stockholder with respect to any class or series of the shares of the Corporation, or which provides, directly or indirectly, the opportunity to profit or share in any profit derived from any decrease in the price or value of any class or series of the shares of the Corporation (any of the foregoing, a "Short Interest"), (E) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder that are separated or separable from the underlying shares of the Corporation, (F) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder is a general partner or, directly or indirectly, beneficially owns an interest in a general partner of such general or limited partnership, (G) any performance-related fees (other than an asset-based fee) to which such

stockholder is entitled, based upon any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, including without limitation any such interests held by members of such stockholder's immediate family sharing the same household, (H) any significant equity interests or any Derivative Instruments or Short Interests in any principal competitor of the Corporation held by such stockholder, (I) any material pending or threatened legal proceeding in which such stockholder is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, and (J) any direct or indirect interest of such stockholder in any contract with the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), and (iii) any other information relating to such stockholder and beneficial owner, if any, that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(II) If the notice relates to any business other than a nomination of a director or directors that the stockholder proposes to bring before the meeting, a stockholder's notice must, in addition to the matters set forth in paragraph (I) above, also set forth: (i) a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest of such stockholder and beneficial owner, if any, in such business, (ii) the text of the proposal or business (including the text of any resolutions proposed for consideration), and (iii) a description of all agreements, arrangements and understandings between such stockholder and beneficial owner, if any, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder;

(III) As to each person, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors, a stockholder's notice must, in addition to the matters set forth in paragraph (I) above, also set forth: (i) all information relating to such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected) and (ii) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such stockholder and beneficial owner, if any, and their respective affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, or others acting in concert therewith, on the

other hand, including, without limitation all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant; and

(IV) With respect to each person, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors, a stockholder's notice must, in addition to the matters set forth in paragraphs (I) and (III) above, also include a completed and signed questionnaire, representation and agreement required by Section 2.10 of these By-laws. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee, or to comply with the director qualification standards and additional selection criteria in accordance with the Corporation's Corporate Governance Guidelines.

(2) For purposes of this By-law, "public announcement" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(3) Notwithstanding the foregoing provisions of this By-law, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this By-law; provided, however, that any references in these By-laws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to nominations or proposals as to any other business to be considered pursuant to Section 2.8 of these By-laws. Nothing in this By-law shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a 8 under the Exchange Act or (ii) of the holders of any series of Preferred Stock if and to the extent provided for under law, the Certificate of Incorporation or these By-laws. Subject to Rule 14a-8 under the Exchange Act, nothing in these By-laws shall be construed to permit any stockholder, or give any stockholder the right, to include or have disseminated or described in the Corporation's proxy statement any nomination of director or directors or any other business proposal.

(4) Notwithstanding the foregoing provisions of this By-law, unless otherwise required by law, (i) no such shareholder shall solicit proxies in support of director nominees other than the Corporation's nominees unless such stockholder has compiled with Rule 14a-19 promulgated under the Exchange Act in connection with the solicitation of such proxies, including the provision to the Corporation of notices required thereunder

in a timely manner and (ii) if such shareholder (1) provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act and (2) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act, including the provision to the Corporation of notices required thereunder in a timely manner, then the Corporation shall disregard any proxies or votes solicited for such stockholder's director nominees. Upon request by the Corporation, if any such stockholder provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act, such stockholder shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

Section 2.10 **Submission of Questionnaire, Representation and Agreement**. To be eligible to be a nominee for election or reelection as a director of the Corporation, a person must deliver (in accordance with the time periods prescribed for delivery of notice under Section 2.9 of these By-laws) to the Secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the Secretary upon written request of any stockholder of record), and a written representation and agreement (in the form provided by the Secretary upon written request of any stockholder of record) that such person (A) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or (2) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, (C) if elected as a director of the Corporation, will comply with all applicable corporate governance, conflict of interest, confidentiality, stock ownership and trading and other policies and guidelines of the Corporation applicable to directors and in effect during such person's term in office as a director (and, if requested by any candidate for nomination, the Secretary of the Corporation shall provide to such candidate for nomination all such policies and guidelines then in effect), and (D) if elected as director of the Corporation, intends to serve the entire term until the next meeting at which such candidate would face re-election.

Section 2.11 **Procedure for Election of Directors; Required Vote**. Election of directors at all meetings of the stockholders at which directors are to be elected shall be by written ballot. Except as otherwise provided by these By-laws, and subject to the rights of the holders of any series of Preferred Stock to elect directors under specified circumstances, each director shall be elected by the affirmative vote of a majority of the votes cast with respect to that director's election at any meeting for the election of

directors at which a quorum is present, provided that if, as of the tenth (10th) day preceding the date the Corporation first mails its notice of meeting for such meeting to the stockholders of the Corporation, the number of nominees exceeds the number of directors to be elected (a "Contested Election"), the directors shall be elected by the vote of a plurality of the votes cast. For purposes of this Section 2.11 of these By-laws, a majority of votes cast shall mean that the number of votes cast "for" a director's election exceeds the number of votes cast "against" that director's election (with "abstentions" and "broker non-votes" not counted as a vote cast either "for" or "against" that director's election).

In order for any incumbent director to become a nominee of the Board of Directors for further service on the Board of Directors, such person must submit an irrevocable resignation, contingent upon:

(A) that person not receiving a majority of the votes cast in an election that is not a Contested Election; and

(B) acceptance of that proffered resignation by the Board of Directors in accordance with the policies and procedures adopted by the Board of Directors for such purpose.

In the event an incumbent director fails to receive a majority of the votes cast in an election that is not a Contested Election, the Governance Committee of the Board, or such other committee designated by the Board of Directors pursuant to these By-laws, shall make a recommendation to the Board of Directors as to whether to accept or reject the resignation of such incumbent director, or whether other action should be taken. The Board of Directors shall act on the proffered resignation, taking into account the applicable committee's recommendation, and publicly disclose (by a press release and the filing of an appropriate disclosure with the Securities and Exchange Commission) its decision regarding the resignation and, if such resignation is rejected, the rationale behind the decision within ninety (90) days following certification of the election results. The committee in making its recommendation and the Board of Directors in making its decision each may consider any factors and other information that they consider appropriate and relevant. Any director whose resignation is under consideration shall not participate in the recommendation of the committee or the decision of the Board with respect to his or her resignation. If the Board of Directors accepts a director's resignation pursuant to this Section 2.11, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board of Directors may fill the resulting vacancy pursuant to Article III, Section 3.12 of these By-laws.

Directors shall hold office until the next annual meeting and until their successors shall be duly elected and qualified. If, for any cause, the Board of Directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the stockholders called for that purpose.

Except as otherwise provided by law, the Certificate of Incorporation, or these By-laws, in all matters other than the election of directors, the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on the matter shall be the act of the stockholders.

Section 2.12 **Inspectors of Elections; Opening and Closing the Polls**. The Board of Directors by resolution shall appoint one or more inspectors, which inspector or inspectors may, but does not need to, include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives, to act at the meetings of stockholders or its adjournment and make a written report thereof. One or more persons may be designated by the Board of Directors as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act or is able to act at a meeting of stockholders, the Chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. Any report or certificate made by the inspectors is prima facie evidence of the facts stated therein. The inspectors shall:

(A) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting and the validity of any proxies and ballots;

(B) count all votes or ballots;

(C) count and tabulate all votes;

(D) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspector(s);

(E) certify its or their determination of the number of shares represented at the meeting and its or their count of all votes and ballots; and

(F) have the duties prescribed by law.

The Chairman of the meeting shall be appointed by the inspector or inspectors to fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting.

Section 2.13 **Record Date for Annual Meeting or Special Meeting of Stockholders**. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than sixty (60)

days nor less than ten (10) days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be the close of business on the next day preceding the day on which notice is first given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting; and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

Section 2.14 **Record Date for Action by Written Consent**. In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting as set forth in Article VIII of the Certificate of Incorporation, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall request the Board of Directors to fix a record date, which request shall be in proper form and delivered to the Secretary at the principal executive offices of the Corporation. To be in proper form, such request must be in writing, shall state the purpose or purposes of the action or actions proposed to be taken by written consent.

The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors within ten (10) days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by applicable law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business or to any officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by applicable law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the date on which the Board of Directors adopts the resolution taking such prior action.

Section 2.15 **Inspectors of Written Consent**. In the event of the delivery, in the manner provided by Section 2.12 of these By-laws, to the Corporation of the requisite written consent or consents to take corporate action and/or any related revocation or revocations, the Corporation shall engage nationally recognized independent inspectors of elections for the purpose of promptly performing a ministerial review of the validity of the consents and revocations. For the purpose of permitting the inspectors to perform such review, no action by written consent without a meeting shall be effective until such date as the independent inspectors certify to the Corporation that the consents delivered to the Corporation in accordance with Section 2.14 of these By-laws represent at least the minimum number of votes that would be necessary to take the corporate action. Nothing contained in this paragraph shall in any way be construed to suggest or imply that the Board of Directors or any stockholder shall not be entitled to contest the validity of any consent or revocation thereof, whether before or after such certification by the independent inspectors, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

Section 2.16 **Effectiveness of Written Consent**. Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated written consent received in accordance with Section 2.14 of these By-laws, a written consent or consents signed by a sufficient number of holders to take such action are delivered to the Corporation in the manner prescribed in Section 2.14 of these By-laws.

Section 2.17 **Delivery to the Corporation**. Whenever this Article II requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the Corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), such document or information shall be in writing exclusively (and not in an electronic transmission) and shall be delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested, and the Corporation shall not be required to accept delivery of any document not in such written form or so delivered. For the avoidance of doubt, the Corporation expressly opts out of Section 116 of the General Corporation Law of the State of Delaware with respect to the delivery of information and documents to the Corporation required by this Article II.

ARTICLE III.
BOARD OF DIRECTORS

Section 3.1 **General Powers**. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. In addition to the powers and authorities by these By-laws expressly conferred upon them, the Board of Directors

may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-laws required to be exercised or done by the stockholders.

Section 3.2 **Number, Tenure and Qualifications**. Subject to the rights of the holders of any series of Preferred Stock to elect directors under specified circumstances, the number of directors shall be fixed from time to time exclusively pursuant to a resolution adopted by a majority of the Whole Board. No decrease in the number of authorized directors constituting the Whole Board shall shorten the term of any incumbent director. Directors, other than those who may be elected by the holders of any series of Preferred Stock under specified circumstances, shall be divided, with respect to the time for which they severally hold office, into three classes, as nearly equal in number as is reasonably possible. At each annual meeting of stockholders, (i) directors elected to succeed those directors whose terms then expire shall be elected for a term of office of three years, with each director to hold office until his or her successor shall have been duly elected and qualified; and (ii) if authorized by a resolution of the Board of Directors, directors may be elected to fill any vacancy on the Board of Directors, regardless of how such vacancy shall have been created.

Section 3.3 **Regular Meetings**. A regular meeting of the Board of Directors shall be held without other notice than this By-law immediately after, and at the same place as, the annual meeting of stockholders. The Board of Directors may, by resolution, provide the time and place for the holding of additional regular meetings without other notice than such resolution.

Section 3.4 **Special Meetings**. Special meetings of the Board of Directors shall be called at the request of the Chairman of the Board, Lead Director, Chief Executive Officer or a majority of the Board of Directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the place and time of the meetings.

Section 3.5 **Notice**. Notice of any special meeting of directors shall be given to each director at such person's business or residence in writing by hand delivery, first-class or overnight mail or courier service, telegram, email or facsimile transmission, other means of electronic transmission or orally by telephone. If mailed by first-class mail, such notice shall be deemed adequately delivered when deposited in the United States mails so addressed, with postage thereon prepaid, at least five (5) days before such meeting. If by telegram, overnight mail or courier service, such notice shall be deemed adequately delivered when the telegram is delivered to the telegraph company, or the notice is delivered to the overnight mail or courier service company at least twenty-four (24) hours before such meeting. If by email, facsimile transmission, other means of electronic transmission, telephone or by hand, such notice shall be deemed adequately delivered when the notice is transmitted at least twelve (12) hours before such meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of such meeting, except for

amendments to these By-¬laws, as provided under Section 9.1 of these By-laws. A meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 7.5 of these By-laws.

Section 3.6 **Chairman of the Board**. The Chairman of the Board shall be chosen from among the directors and may be the Chief Executive Officer. Except as otherwise provided by law, the Certificate of Incorporation, or in Section 3.7 of these By-laws, the Chairman of the Board shall preside at all meetings of the Board of Directors and shall have such other powers and duties as may from time to time be assigned by the Board of Directors.

Section 3.7 **Lead Director**. If at any time the Chairman of the Board shall be an executive officer or former executive officer of the Corporation or for any reason shall not be an independent director, a Lead Director shall be selected by the independent directors from among the directors who are not executive officers or former executive officers of the Corporation and are otherwise independent. If the Chairman of the Board of Directors is not present, the Lead Director shall chair meetings of the Board of Directors. The Lead Director shall chair any meeting of the independent Directors and shall also perform such other duties as may be assigned to the Lead Director by these By-laws or the Board of Directors.

Section 3.8 **Organization**. At all meetings of the Board of Directors, the Chairman of the Board, or if none or in the Chairman of the Board's absence or inability to act, the Lead Director, or if none or in the Lead Director's absence or inability to act, the Chief Executive Officer, or in the Chief Executive Officer's absence or inability to act, the President, or if none or in the President's absence or inability to act, a Vice President who is a member of the Board of Directors, or if none, or in such Vice President's absence or inability to act a chairman chosen by the directors, shall preside. The Secretary of the Corporation shall act as secretary at all meetings of the Board of Directors when present, and, in the Secretary's absence, the presiding officer may appoint any person to act as secretary.

Section 3.9 **Action by Consent of Board of Directors**. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing (which may be provided by electronic transmission), and such writing or writings are filed with the minutes of proceedings of the Board of Directors or any such committee.

Section 3.10 **Conference Telephone Meetings**. Members of the Board of Directors, or any committee thereof, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 3.11 **Quorum**. Subject to Section 3.12 of these By-laws, a whole number of directors equal to at least a majority of the Whole Board shall constitute a quorum for the transaction of business, but if at any meeting of the Board of Directors there shall be less than a quorum present, a majority of the directors present may adjourn the meeting from time to time without further notice. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. The directors present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum.

Section 3.12 **Vacancies**. Subject to applicable law and the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, and unless the Board of Directors otherwise determines, vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, and newly created directorships resulting from any increase in the authorized number of directors, may be filled only by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, and directors so chosen shall hold office for a term expiring at the annual meeting of stockholders at which the term of office of the class to which they have been appointed expires and until such director's successor shall have been duly elected and qualified.

Section 3.13 **Committees**. The Board of Directors may, by resolution adopted by a majority of the Whole Board, designate one or more committees, which shall consist of two or more directors of the Corporation, as it determines is appropriate. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Any such committee may, to the extent permitted by law, exercise such powers and shall have such responsibilities as shall be specified in the designating resolution. In the absence or disqualification of any member of such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Each committee shall keep written minutes of its proceedings and shall report such proceedings to the Board of Directors when required.

A majority of any committee may determine its action and fix the time and place of its meetings, unless the Board of Directors shall otherwise provide. Notice of such meetings shall be given to each member of the committee in the manner provided for in Section 3.5 of these By-laws. The Board of Directors shall have power at any time to fill vacancies in, to change the membership of, or to dissolve, any such committee. Nothing herein shall be deemed to prevent the Board of Directors from appointing one or more committees consisting in whole or in part of persons who are not directors of the Corporation; provided, however, that no such committee shall have or may exercise any authority of the Board of Directors.

Section 3.14 **Removal**. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least 80 percent of the voting power of all of the then- outstanding shares of Voting Stock, voting together as a single class.

Section 3.15 **Records**. The Board of Directors shall cause to be kept a record containing the minutes of the proceedings of the meetings of the Board of Directors and of the stockholders, appropriate stock books and registers and such books of records and accounts as may be necessary for the proper conduct of the business of the Corporation.

ARTICLE IV.
OFFICERS

Section 4.1 **Elected Officers**. The elected officers of the Corporation shall be a Chief Executive Officer, a President, a Secretary, a Treasurer, and such other officers (including, without limitation, a Chief Financial Officer) as the Board of Directors from time to time may deem proper. Any number of offices may be held by the same person. All officers elected by the Board of Directors shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article IV. Such officers shall also have such powers and duties as from time to time may be conferred by the Board of Directors or by any committee thereof. The Board of Directors or any committee thereof may from time to time elect, or the Chairman of the Board, the Chief Executive Officer or President may appoint, such other officers (including one or more Vice Presidents, Assistant Secretaries, Assistant Treasurers, and Assistant Controllers) and such agents, as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers and agents shall have such duties and shall hold their offices for such terms as shall be provided in these By-laws or as may be prescribed by the Board or such committee or by the Chairman of the Board, the Chief Executive Officer or President, as the case may be.

Section 4.2 **Election and Term of Office**. The elected officers of the Corporation shall be elected by the Board of Directors. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified or until his or her death or until he or she shall resign.

Section 4.3 **Chief Executive Officer**. The Chief Executive Officer shall be responsible for the general management of the affairs of the Corporation and shall perform all duties incidental to his or her office which may be required by law and all such other duties as are properly required of him by the Board of Directors. He or she shall make reports to the Board of Directors and the stockholders, and shall see that all orders and resolutions of the Board of Directors and of any committee thereof are carried into effect. The Chief Executive Officer may also serve as Chairman of the Board and may also serve as President, if so elected by the Board of Directors.

Section 4.4 **President**. The President shall act in a general executive capacity and shall assist the Chief Executive Officer in the administration and operation of the Corporation's business and general supervision of its policies and affairs. The President shall, in the absence of or because of the inability to act of the Chief Executive Officer, perform all duties of the Chief Executive Officer.

Section 4.5 **Vice Presidents**. Each Vice President shall have such powers and shall perform such duties as shall be assigned to such person by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

Section 4.6 **Chief Financial Officer**. The Chief Financial Officer (if any) shall be a Vice President and act in an executive financial capacity. He or she shall assist the Chairman of the Board and the President in the general supervision of the Corporation's financial policies and affairs.

Section 4.7 **Treasurer**. The Treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. The Treasurer shall cause the funds of the Corporation to be deposited in such banks as may be authorized by the Board of Directors, or in such banks as may be designated as depositaries in the manner provided by resolution of the Board of Directors. He or she shall have such further powers and duties and shall be subject to such directions as may be granted or imposed upon him from time to time by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

Section 4.8 **Secretary**. The Secretary shall keep or cause to be kept in one or more books provided for that purpose, the minutes of all meetings of the Board of Directors, the committees of the Board of Directors and the stockholders; he or she shall see that all notices are duly given in accordance with the provisions of these By-laws and as required by law; he or she shall be custodian of the records and the seal of the Corporation and affix and attest the seal to all stock certificates of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and affix and attest the seal to all other documents to be executed on behalf of the Corporation under its seal; and he or she shall see that the books, reports, statements, certificates and other documents and records required by law to be kept and filed are properly kept and filed; and in general, he or she shall perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President.

Section 4.9 **Removal**. Any officer elected, or agent appointed, by the Board of Directors may be removed from office with or without cause by the affirmative vote of a majority of the Whole Board. Any officer or agent appointed by the Chairman of the Board, the Chief Executive Officer or the President may be removed by such person with or without cause. No elected officer shall have any contractual rights against the Corporation for compensation by virtue of such election beyond the date of the election

of his or her successor, his or her death, his or her resignation or removal, whichever event shall first occur, except as otherwise provided in an employment contract or under an employee deferred compensation plan.

Section 4.10 **Vacancies**. A newly created elected office and a vacancy in any elected office because of death, resignation, or removal may be filled by the Board of Directors. Any vacancy in an office appointed by the Chairman of the Board, the Chief Executive Officer or the President because of death, resignation, or removal may be filled by the Chairman of the Board, the Chief Executive Officer or the President.

ARTICLE V.
STOCK CERTIFICATES AND TRANSFERS

Section 5.1 **Certificated and Uncertificated Stock; Transfers**. The interest of each stockholder of the Corporation may be evidenced by certificates for shares of stock in such form as the appropriate officers of the Corporation may from time to time prescribe or be uncertificated.

The shares of the stock of the Corporation shall be transferred on the books of the Corporation, in the case of certificated shares of stock, by the holder thereof in person or by his or her attorney duly authorized in writing, upon surrender for cancellation of certificates for at least the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require; and, in the case of uncertificated shares of stock, upon receipt of proper transfer instructions from the registered holder of the shares or by such person's attorney duly authorized in writing, and upon compliance with appropriate procedures for transferring shares in uncertificated form. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

The certificates of stock shall be signed, countersigned and registered in such manner as the Board of Directors may by resolution prescribe, which resolution may permit all or any of the signatures on such certificates to be in facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

Notwithstanding anything to the contrary in these By-laws, at all times that the Corporation's stock is listed on a stock exchange, the shares of the stock of the Corporation shall comply with all direct registration system eligibility requirements established by such exchange, including any requirement that shares of the Corporation's stock be eligible for issue in book- entry form. All issuances and transfers of shares of the Corporation's stock shall be entered on the books of the Corporation with all information necessary to comply with such direct registration system eligibility requirements, including the name and address of the person to

whom the shares of stock are issued, the number of shares of stock issued and the date of issue. The Board of Directors shall have the power and authority to make such rules and regulations as it may deem necessary or proper concerning the issue, transfer and registration of shares of stock of the Corporation in both the certificated and uncertificated form.

Section 5.2 **Lost, Stolen or Destroyed Certificates**. No certificate for shares of stock in the Corporation shall be issued in place of any certificate alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft and on delivery to the Corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board of Directors or any financial officer may in its or his or her discretion require.

Section 5.3 **Record Owners**. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by law.

Section 5.4 **Transfer and Registry Agents**. The Corporation may from time to time maintain one or more transfer offices or agencies and registry offices or agencies at such place or places as may be determined from time to time by the Board of Directors

ARTICLE VI.
INDEMNIFICATION

Section 6.1 **Indemnification.**

(A) Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "Proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative is or was, at any time during which this By-law is in effect (whether or not such person continues to serve in such capacity at the time any indemnification or advancement of expenses pursuant hereto is sought or at the time any Proceeding relating thereto exists or is brought), a director or officer of the Corporation or is or was at any such time serving at the request of the Corporation as a director, officer, trustee, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Corporation (hereinafter, a "Covered Person"), whether the basis of such Proceeding is alleged action in an official capacity as a director, officer, trustee, employee or agent or in any other capacity while serving as a director, officer, trustee, employee or agent, shall be (and shall be deemed to have a contractual right to be) indemnified and held harmless by the Corporation (and any successor of the Corporation by merger or otherwise) to the fullest extent authorized

by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater indemnification rights than said law permitted the Corporation to provide prior to such amendment or modification), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, trustee, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that except as provided in paragraph (A) of Section 6.3 of these By-laws, the Corporation shall indemnify any such person seeking indemnification in connection with a Proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Directors.

(B) To obtain indemnification under this By-law, a claimant shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by a claimant for indemnification, a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (1) if requested by the claimant, by Independent Counsel (as hereinafter defined), or (2) if no request is made by the claimant for a determination by Independent Counsel, (i) by the Board of Directors by a majority vote of a quorum consisting of Disinterested Directors (as hereinafter defined), or (ii) if a quorum of the Board of Directors consisting of Disinterested Directors is not obtainable or, even if obtainable, such quorum of Disinterested Directors so directs, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the claimant, or (iii) if a quorum of Disinterested Directors so directs, by a majority vote of the stockholders of the Corporation. In the event the determination of entitlement to indemnification is to be made by Independent Counsel, the Independent Counsel shall be selected by the Board of Directors unless there shall have occurred within two years prior to the date of the commencement of the Proceeding for which indemnification is claimed a "Change of Control" as defined in the SunCoke Energy, Inc. Long-Term Performance Enhancement Plan (as the same may be amended from time to time), in which case the Independent Counsel shall be selected by the claimant unless the claimant shall request that such selection be made by the Board of Directors. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within ten (10) days after such determination.

Section 6.2 **Mandatory Advancement of Expenses**. To the fullest extent authorized by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater rights to advancement of expenses than said

law permitted the Corporation to provide prior to such amendment or modification), each Covered Person shall have (and shall be deemed to have a contractual right to have) the right, without the need for any action by the Board of Directors, to be paid by the Corporation (and any successor of the Corporation by merger or otherwise) the expenses incurred in connection with any Proceeding in advance of its final disposition, such advances to be paid by the Corporation within twenty (20) days after the receipt by the Corporation of a statement or statements from the claimant requesting such advance or advances from time to time; provided, however, that if the General Corporation Law of the State of Delaware requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter, the "Undertaking") by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal that such director or officer is not entitled to be indemnified for such expenses under this By-law or otherwise.

Section 6.3 Claims.

(A) If a claim for indemnification under this Article VI is not paid in full by the Corporation within thirty (30) days after a written claim pursuant to Section 6.1(B) of these By-laws has been received by the Corporation, or (2) if a request for advancement of expenses under this Article VI is not paid in full by the Corporation within twenty (20) days after a statement pursuant to Section 6.2 of these By-laws and the required Undertaking, if any, have been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim for indemnification or request for advancement of expenses and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action that, under the General Corporation Law of the State of Delaware, the claimant has not met the standard of conduct which makes it permissible for the Corporation to indemnify the claimant for the amount claimed or that the claimant is not entitled to the requested advancement of expenses, but (except where the required Undertaking, if any, has not been tendered to the Corporation) the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, Independent Counsel or stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the General Corporation Law of the State of Delaware, nor an actual determination by the Corporation (including its Board of Directors, Independent Counsel or stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(B) If a determination shall have been made pursuant to Section 6.1(B) of these By-laws that the claimant is entitled to indemnification, the Corporation shall be bound by such determination in any judicial proceeding commenced pursuant to paragraph (A) of this Section 6.3.

(C) The Corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to paragraph (A) of this Section 6.3 that the procedures and presumptions of this By-law are not valid, binding and enforceable and shall stipulate in such proceeding that the Corporation is bound by all the provisions of this By-law.

Section 6.4 Contract Rights: Amendment and Repeal: Non-exclusivity of Rights.

(A) All of the rights conferred in this Article VI, as to indemnification, advancement of expenses and otherwise, shall be contract rights between the Corporation and each Covered Person to whom such rights are extended that vest at the commencement of such Covered Person's service to or at the request of the Corporation and (x) any amendment or modification of this Article VI that in any way diminishes or adversely affects any such rights shall be prospective only and shall not in any way diminish or adversely affect any such rights with respect to any actual or alleged state of facts, occurrence, action or omission occurring prior to the time of such amendment or modification, or Proceeding previously or thereafter brought or threatened based in whole or in part upon any such actual or alleged state of facts, occurrence, action or omission, and (y) all of such rights shall continue as to any such Covered Person who has ceased to be a director or officer of the Corporation or ceased to serve at the Corporation's request as a director, officer, trustee, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, as described herein, and shall inure to the benefit of such Covered Person's heirs, executors and administrators.

(B) All of the rights conferred in this Article VI, as to indemnification, advancement of expenses and otherwise, (i) shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, By-laws, agreement, vote of stockholders or Disinterested Directors or otherwise and (ii) cannot be terminated by the Corporation, the Board of Directors or the stockholders of the Corporation with respect to a person's service prior to the date of such termination.

Section 6.5 Insurance, Other Indemnification and Advancement of Expenses.

(A) The Corporation may maintain insurance, at its expense, to protect itself and any current or former director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the General

Corporation Law of the State of Delaware. To the extent that the Corporation maintains any policy or policies providing such insurance, each such current or former director or officer, and each such agent or employee to which rights to indemnification have been granted as provided in paragraph (B) of this Section 6.5, shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage thereunder for any such current or former director, officer, employee or agent.

(B) The Corporation may, to the extent authorized from time to time by the Board of Directors or the Chief Executive Officer, grant rights to indemnification and rights to advancement of expenses incurred in connection with any Proceeding in advance of its final disposition, to any current or former employee or agent of the Corporation to the fullest extent of the provisions of this By-law with respect to the indemnification and advancement of expenses of current or former directors and officers of the Corporation.

Section 6.6 Definitions. For purposes of this By-law:

(A) "Disinterested Director" means a director of the Corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant.

(B) "Independent Counsel" means a law firm, a member of a law firm, or an independent practitioner that is experienced in matters of corporation law and shall include any person who, under the applicable standards of professional conduct then prevailing, would not have a conflict of interest in representing either the Corporation or the claimant in an action to determine the claimant's rights under this By-law.

Any notice, request or other communication required or permitted to be given to the Corporation under this By-law shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Corporation and shall be effective only upon receipt by the Secretary.

Section 6.7 Severability. If any provision or provisions of this By-law shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this By-law (including, without limitation, each portion of any paragraph of this By-law containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this By-law (including, without limitation, each such portion of any paragraph of this By-law containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

ARTICLE VII.
MISCELLANEOUS PROVISIONS

Section 7.1 **Fiscal Year**. The fiscal year of the Corporation shall begin on the first day of January and end on the thirty-first day of December of each year. The Board of Directors may change the fiscal year of the Corporation by a resolution of the Board of Directors.

Section 7.2 **Dividends**. The Board of Directors may from time to time declare, and the Corporation may pay, dividends on its outstanding shares in the manner and upon the terms and conditions provided by law and the Certificate of Incorporation. In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment or any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of capital stock, or for the purposes of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 7.3 **Seal**. The corporate seal shall have inscribed thereon the words "Corporate Seal", the year of incorporation and around the margin thereof the words "SunCoke Energy, Inc. – Delaware."

Section 7.4 **Delivery of Notice; Notice by Electronic Transmission**. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provisions of the General Corporation Law of the State of Delaware, the Certificate of Incorporation, or these By-laws may be given in writing directed to the stockholder's mailing address (or by electronic transmission directed to the stockholder's electronic mail address, as applicable) as it appears on the records of the Corporation and shall be given (1) if mailed, when the notice is deposited in the U.S. mail, postage prepaid, (2) if delivered by courier service, the earlier of when the notice is received or left at such stockholder's address or (3) if given by electronic mail, when directed to such stockholder's electronic mail address unless the stockholder has notified the Corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail. A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the Corporation.

Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the General Corporation Law of the State of Delaware, the Certificate of Incorporation or these By-laws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder

by written notice or electronic transmission to the Corporation. Notwithstanding the provisions of this paragraph, the Corporation may give a notice by electronic mail in accordance with the first paragraph of this section without obtaining the consent required by this paragraph.

Any notice given pursuant to the preceding paragraph shall be deemed given:

(i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

(ii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and

(iii) if by any other form of electronic transmission, when directed to the stockholder.

Notwithstanding the foregoing, a notice may not be given by an electronic transmission from and after the time that (1) the Corporation is unable to deliver by such electronic transmission two (2) consecutive notices given by the Corporation and (2) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice, provided, however, the inadvertent failure to discover such inability shall not invalidate any meeting or other action.

An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 7.5 **Waiver of Notice**. Whenever any notice is required to be given to any stockholder or director of the Corporation under the provisions of the General Corporation Law of the State of Delaware or these By-laws, a waiver thereof in writing, by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or the Board of Directors or committee thereof need be specified in any waiver of notice of such meeting.

Section 7.6 **Audits**. The accounts, books and records of the Corporation shall be audited upon the conclusion of each fiscal year by an independent certified public accountant selected by the Board of Directors, and it shall be the duty of the Board of Directors to cause such audit to be done annually.

Section 7.7 Resignations. Any director or any officer, whether elected or appointed, may resign at any time by giving written notice of such resignation to the Chairman of the Board, the Chief Executive Officer, the President, or the Secretary, and such resignation shall be deemed to be effective as of the close of business on the date said notice is received by the Chairman of the

Board, the Chief Executive Officer, the President, or the Secretary, or at such later time as is specified therein. No formal action shall be required of the Board of Directors or the stockholders to make any such resignation effective.

Section 7.8 Exclusive Forum for Adjudication of Disputes.

(A) Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, then any other state court located within the State of Delaware or, if no state court located within the State of Delaware has jurisdiction, then the federal district court for the District of Delaware) shall be the sole and exclusive forum for:

(1) any derivative action or proceeding brought on behalf of the Corporation;

(2) any action asserting a claim of breach of a fiduciary duty owed by any director or officer or other employee of the Corporation to the Corporation or the Corporation's stockholders;

(3) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the General Corporation Law of the State of Delaware or the Corporation's Certificate of Incorporation or By-laws (as either may be amended from time to time); or

(4) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation governed by the internal affairs doctrine.

(B) Subject to the preceding provisions of this Section 7.7, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause or causes of action arising under the Securities Act of 1933, as amended, including all causes of action asserted against any defendant to such complaint.

If any action the subject matter of which is within the scope of paragraph (A) of this Section 7.7 is filed in a court other than the courts in the State of Delaware (a "Foreign Action") in the name of any stockholder, such stockholder shall be deemed to have consented to (x) the personal jurisdiction of the state and federal courts in the State of Delaware in connection with any action brought in any such court to enforce the provisions of paragraph (A) of this Section 7.7 and (y) having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

Any person or entity purchasing or otherwise acquiring any interest in any security of the Corporation shall be deemed to have notice of and consented to this Section 7.7. Notwithstanding the foregoing, the provisions of this Section 7.7 shall not apply to suits brought to enforce any liability or duty created by the Exchange Act, or any other claim for which the federal courts of the United States have exclusive jurisdiction.

If any provision or provisions of this Section 7.7 shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever, (a) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Section 7.7 (including, without limitation, each portion of any paragraph of this Section 7.7 containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (b) the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

Section 7.9 **Construction; Definitions**. Unless the context requires otherwise, the general provisions, rules of construction and definitions in the General Corporation Law of the State of Delaware shall govern the construction of these By-laws. Without limiting the generality of this provision, the singular number includes the plural and the plural number includes the singular.

ARTICLE VIII.
CONTRACTS, PROXIES, ETC.

Section 8.1 **Contracts**. Except as otherwise required by law, the Certificate of Incorporation or these By-laws, any contracts or other instruments may be executed and delivered in the name and on behalf of the Corporation by such officer or officers of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board may determine. The Chairman of the Board, the President or any Vice President may execute bonds, contracts, deeds, leases and other instruments to be made or executed for or on behalf of the Corporation. Subject to any restrictions imposed by the Board of Directors or the Chairman of the Board, the President or any Vice President of the Corporation may delegate contractual powers to others under his or her jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 8.2 **Proxies**. Unless otherwise provided by resolution adopted by the Board of Directors, the Chairman of the Board, the President or any Vice President may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation, and may instruct the person or persons so appointed as to the manner of casting such

votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he or she may deem necessary or proper in the premises.

ARTICLE IX.
AMENDMENTS

Section 9.1 **Amendments**. These By-laws may be altered, amended, or repealed at any meeting of the Board of Directors or of the stockholders, provided notice of the proposed change was given in the notice of the meeting and, in the case of a meeting of the Board of Directors, in a notice given not less than two days prior to the meeting; provided, however, that, in the case of amendments by stockholders, notwithstanding any other provisions of these By-laws or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class or series of the capital stock of the Corporation required by law, the Certificate of Incorporation or these By-laws, the affirmative vote of the holders of at least 80 percent of the voting power of all the then outstanding shares of the Voting Stock, voting together as a single class, shall be required to alter, amend, repeal, or adopt any provision inconsistent with Section 2.2, Section 2.8, Section 2.9, Section 2.11, Section 2.13, Section 3.2, Section 3.12, Section 3.14, Article VI or this Article IX of these By-laws.

THIRD AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT

THIS THIRD AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, dated as of February 16, 2023 (this "Amendment"), is entered into among SunCoke Energy, Inc., a Delaware corporation (the "Parent"), the Subsidiary Guarantors party hereto, the Lenders party hereto and Bank of America, N.A., as administrative agent (in such capacity, the "Administrative Agent"). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Credit Agreement (as defined below).

RECITALS

A. The Borrowers from time to time party thereto, the Lenders from time to time party thereto and the Administrative Agent are party to that certain Second Amended and Restated Credit Agreement, dated as of August 5, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement").

B. The Borrowers have requested the Lenders amend the Credit Agreement as set forth below.

C. In consideration of the agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

AGREEMENT

1. Amendments to Credit Agreement. Upon the Third Amendment Effective Date:

(a) The Credit Agreement (but not the Schedules and Exhibits thereto) is hereby amended and restated in its entirety to read as set forth on Annex A attached hereto, with deleted text indicated with stricken text and added text indicated with double-underlined text.

(b) Exhibit I to the Credit Agreement is hereby amended and restated in its entirety to read as Exhibit I attached hereto.

(c) It is understood and agreed that, with respect to any Loan bearing interest at the Daily Floating Rate (as defined immediately prior to the effectiveness of this Amendment) outstanding immediately prior to the effectiveness of this Amendment, (i) such Loan shall automatically be deemed to bear interest at the Daily Floating Rate (as defined after effectiveness of this Amendment) and (ii) each Lender hereby waives any notice requirements under Sections 2.2, 2.10 and/or 2.11 of the Credit Agreement (as in effect immediately prior to the effectiveness of this Amendment), in each case, as a result of the conversion described in clause (i) of this 1(c).

2. Effectiveness; Conditions Precedent. This Amendment shall be effective on the first date on which each of the conditions set forth in this Section 2 has been satisfied or waived (such date, the "Third Amendment Effective Date"):

(a) Receipt by the Administrative Agent of copies of this Amendment duly executed by each Loan Party and each Lender.

(b) Payment by the Loan Parties of all reasonable and documented out-of-pocket fees, charges and disbursements of counsel to the Administrative Agent in connection with this Amendment (directly to such counsel if requested by the Administrative Agent) provided for in Section 10.5 of the Credit Agreement, to the extent invoiced at least one (1) Business Day prior to the Third Amendment Effective Date.

3. Authority/Enforceability. Each Loan Party represents and warrants as follows:

(a) It has taken all necessary corporate or organizational action to authorize the execution, delivery and performance of this Amendment.

(b) This Amendment has been duly executed and delivered by such Loan Party and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights or remedies generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

(c) No consent or authorization of, filing with, notice to or other act by, or in respect of, any Governmental Authority or any other Person is required in connection with the execution, delivery or performance by such Loan Party of this Amendment.

(d) The execution and delivery of this Amendment does not (i) contravene the terms of its organization documents or (ii) violate any Requirement of Law applicable to such Loan Party.

4. Miscellaneous.

(a) The Credit Agreement (as amended hereby) and the obligations of the Loan Parties thereunder and under the other Loan Documents are hereby ratified and confirmed and shall remain in full force and effect according to their terms. This Amendment shall not be deemed or construed to be a satisfaction, reinstatement, novation or release of any Loan Document or a waiver by the Administrative Agent or any Lender of any rights and remedies under the Loan Documents, at law or in equity.

(b) The Loan Parties represent and warrant to the Administrative Agent and the Lenders that (i) after giving effect to this Amendment, the representation and warranties of any Loan Party in or pursuant to the Loan Documents are true and correct in all material respects on and as of the date hereof (except to the extent (A) any such representations and warranties relate, by their terms, to a specific date, in which case such representations and warranties are true and correct in all material respects on and as of such specific date and (B) any such representations and warranties are qualified by materiality, in which case such representations and warranties are true and correct in all respects), and (ii) after giving effect to this Amendment, no Default or Event of Default has occurred and is continuing.

(c) This Amendment shall constitute a Loan Document.

5. Counterparts/Telecopy. This Amendment may be in the form of an electronic record (in ".pdf" form or otherwise) and may be executed using electronic signatures, which shall be considered as originals and shall have the same legal effect, validity and enforceability as a paper record. This Amendment may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts shall be one and the same Amendment. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Administrative Agent of a manually signed Amendment which has been converted into electronic form (such as scanned into ".pdf" format), or an electronically signed Amendment converted into another format, for transmission, delivery and/or retention.

6. GOVERNING LAW. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

[remainder of page intentionally left blank]

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

PARENT AND BORROWER: SUNCOKE ENERGY, INC.,
a Delaware corporation

By: /s/ Mark. W. Marinko
Name: Mark W. Marinko
Title: Senior Vice President, and
Chief Financial Officer

ADMINISTRATIVE AGENT: BANK OF AMERICA, N.A.,
as Administrative Agent

By: /s/ Lisa Berishaj
Name: Lisa Berishaj
Title: Assistant Vice President

LENDERS: BANK OF AMERICA, N.A.,
as a Lender

By: /s/ Jonathan M. Phillips
Name: Jonathan M. Phillips
Title: Senior Vice President

BMO HARRIS BANK N.A.,
as a Lender

By: /s/ Jamie Hosler
Name: Jamie Hosler
Title: Managing Director

CITIBANK, N.A.,
as a Lender

By: /s/ Sumeet Singal
Name: Sumeet Singal
Title: Vice President

GOLDMAN SACHS BANK USA,
as a Lender

By: /s/ Keshia Leday
Name: Keshia Leday
Title: Authorized Signatory

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as a Lender

By: /s/ Vipul Dhadda
Name: Vipul Dhadda
Title: Authorized Signatory

By: /s/ Wesley Cronin
Name: Wesley Cronin
Title: Authorized Signatory

MORGAN STANLEY BANK, N.A.,
as Lender

By: /s/ Atu Koffie-Lart
Name: Atu Koffie-Lart
Title: Authorized Signatory

Each of the undersigned (a) affirms all of its obligations under that certain Second Amended and Restated Guarantee and Collateral Agreement, dated as of August 5, 2019, among each of the undersigned and the Administrative Agent in connection with the Credit Agreement as amended by this Amendment and (b) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge the Guarantors' obligations under the Second Amended and Restated Guarantee and Collateral Agreement.

GUARANTORS:

CEREDO LIQUID TERMINAL, LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

CMT LIQUIDS TERMINAL, LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

ELK RIVER MINERALS CORPORATION,
a Delaware corporation

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

FF FARM HOLDINGS LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

GATEWAY ENERGY & COKE COMPANY, LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

HAVERHILL COKE COMPANY LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

INDIANA HARBOR COKE COMPANY,
a Delaware corporation

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

INDIANA HARBOR COKE CORPORATION,
an Indiana corporation

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

JEWELL COAL AND COKE COMPANY, INC.,
a Virginia corporation

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

JEWELL COKE ACQUISITION COMPANY,
a Virginia corporation

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

JEWELL COKE COMPANY, L.P.,
a Delaware limited partnership

By: Jewell Coke Acquisition Company, its general partner

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

JEWELL RESOURCES CORPORATION,
a Virginia corporation

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

KANAWHA RIVER TERMINALS, LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

MARIGOLD DOCK, INC.,
a Delaware corporation

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

MIDDLETOWN COKE COMPANY, LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

RAVEN ENERGY LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

SUN COAL & COKE LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President
:

SUNCOKE ENERGY SOUTH SHORE LLC,
a Delaware limited liability company

By: Sun Coal & Coke LLC, its manager

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

SUNCOKE LAKE TERMINAL LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

SUNCOKE LOGISTICS LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

SUNCOKE TECHNOLOGY AND DEVELOPMENT LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President

DISMAL RIVER TERMINAL, LLC,
a Delaware limited liability company

By: /s/ Bonnie M. Edus
Name: Bonnie M. Edus
Title: Vice President
:

Annex A

Amended Credit Agreement

See attached.

EXHIBIT I

FORM OF
LOAN NOTICE

Date: _____, _____

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Second Amended and Restated Credit Agreement, dated as of August 5, 2019 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement;" the terms defined therein being used herein as therein defined), among SunCoke Energy, Inc. (the "Parent"), each direct or indirect subsidiary of the Parent listed as a Borrower thereunder (together with the Parent, collectively, the "Borrowers"), the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

The undersigned hereby requests (select one):

[☐ A Borrowing of [Revolving Loans][Term Loans].]

[☐ A [conversion][continuation] of [Revolving Loans][Term Loans].]

1. On _____ (a Business Day).

2. In the principal amount of $_____.

3. Comprised of [ABR Loans][Daily Floating Rate Loans][Term SOFR Loans with an Interest Period ending on ____, 20[__]].

4. For Term SOFR Loans: with an initial Interest Period of ___ months.

The Parent hereby represents and warrants that (i) such request complies with the requirements of the Credit Agreement and (ii) each of the applicable conditions set forth in the Credit Agreement has been satisfied on and as of the date of such request.

SUNCOKE ENERGY, INC.

By:__
Name:
Title:

Annex A

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

among

SUNCOKE ENERGY, INC.
and
CERTAIN OTHER SUBSIDIARIES OF SUNCOKE ENERGY, INC.,
as joint and several Borrowers,

The Several Lenders from Time to Time Parties Hereto,

BMO HARRIS BANK N.A.,
as Syndication Agent,

and

BANK OF AMERICA, N.A.,
as Administrative Agent

Dated as of August 5, 2019

BOFA SECURITIES, INC.
and
BMO HARRIS BANK N.A.,
as Joint Lead Arrangers and Joint Bookrunners

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B Form of Closing Certificate
C Form of Secured Party Designation Notice
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F Form of Increased Facility Activation Notice
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SECOND AMENDED AND RESTATED CREDIT AGREEMENT

This SECOND AMENDED AND RESTATED CREDIT AGREEMENT (this "Agreement"), dated as of August 5, 2019, among, SUNCOKE ENERGY, INC., a Delaware corporation (the "Parent"), each direct or indirect subsidiary of the Parent which may from time to time become a party hereto as a "Borrower" (together with the Parent, each a "Borrower" and collectively, the "Borrowers"), the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders"), BOFA SECURITIES, INC. and BMO HARRIS BANK N.A., as joint lead arrangers and joint bookrunners, and BANK OF AMERICA, N.A., as administrative agent.

WHEREAS, SXCP, certain Subsidiaries of SXCP, the lenders from time to time party thereto and Bank of America, N.A., as the administrative agent, are parties to that certain Amended and Restated Credit Agreement, dated as of May 24, 2017 (as amended prior to the date hereof, the "Existing Credit Agreement").

WHEREAS, the parties hereto wish to amend and restate the Existing Credit Agreement to, among other things, (a) add the Parent as a Borrower, (b) remove certain Subsidiaries of SXCP as Borrowers and provide that such Subsidiaries shall be Subsidiary Guarantors, (c) release certain real estate collateral, (d) increase the aggregate amount of the credit facilities provided therein and (e) extend the maturity date thereof, all as more fully set forth herein.

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

1.

DEFINITIONS

1.1 **Defined Terms**. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"2021 Senior Note Indenture": the Indenture to be entered into by the Parent on or around June 2021 or July 2021, certain Subsidiaries of the Parent and the 2021 Senior Note Trustee, as amended, restated, supplemented or otherwise modified from time to time.

"2021 Senior Note Trustee": the trustee and collateral agent in respect of the 2021 Senior Notes, together with its successors and assigns in such capacity.

"2021 Senior Notes": any senior secured notes of the Parent issued pursuant to the 2021 Senior Note Indenture and any exchange notes with respect thereto.

"ABR": for any day a fluctuating rate of interest per annum equal to the highest of (a) the Federal Effective Funds Rate plus 0.50%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its "prime rate" and (c) ~~the Eurodollar Base Rate~~Term SOFR plus 1.0%; provided that if the ABR shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. The "prime rate" is a rate set by Bank of America based upon various factors including Bank of America's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such "prime rate" announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the ABR is being used as an alternate rate of interest pursuant to Section 2.16 hereof, then the ABR shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

"ABR Loans": Loans the rate of interest applicable to which is based upon the ABR.

"Accounting Changes": as defined in the definition of GAAP.

"Acquired Debt": Indebtedness of a Person existing at the time the Person is acquired by, or merges with or into the Parent or any Restricted Subsidiary or becomes a Restricted Subsidiary, whether

or not such Indebtedness is incurred in connection with, or in contemplation of, the Person being acquired by or merging with or into or becoming a Restricted Subsidiary.

"Additional Assets": all or substantially all of the assets of a Permitted Business, or Capital Stock of another Person engaged in a Permitted Business that will, on the date of acquisition, be a Restricted Subsidiary, or other non-current assets (other than cash and Cash Equivalents or securities (including Capital Stock)) that are to be used in a Permitted Business.

"Adjustment Date": as defined in the definition of Applicable Pricing Grid.

"Administrative Agent": Bank of America, as the administrative agent for the Lenders under this Agreement and the other Loan Documents, together with any of its successors.

"Administrative Questionnaire": an Administrative Questionnaire in the form from time to time supplied by the Administrative Agent.

"Affected Financial Institution": (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Affiliate": as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether through the exercise of voting power, by contract or otherwise. "Control", "controlled" and "controlling" have meanings correlative thereto.

"Agent Indemnitee": as defined in Section 9.7.

"Agents": the collective reference to the Syndication Agent and the Administrative Agent.

"Aggregate Exposure": with respect to any Lender at any time, an amount equal to (i) the aggregate then unpaid principal amount of such Lender's Term Loans and (ii) the amount of such Lender's Revolving Commitment then in effect or, if the Revolving Commitments have been terminated, the amount of such Lender's Revolving Extensions of Credit then outstanding.

"Aggregate Exposure Percentage": with respect to any Lender at any time, the ratio (expressed as a percentage carried out to the ninth decimal place) of such Lender's Aggregate Exposure at such time to the Aggregate Exposure of all Lenders at such time.

"Agreement": as defined in the preamble hereto.

"Applicable Margin": (a) for each Type of Loan other than Incremental Term Loans, the rate per annum set forth under the relevant column heading below:

	ABR Loans	~~Eurodollar~~Term SOFR Loans and Daily Floating Rate Loans
Revolving Loans and Swingline Loans	1.00%	2.00%

, provided, that on and after the Adjustment Date occurring with respect to the Fiscal Quarter ending September 30, 2019 and each Fiscal Quarter thereafter, the Applicable Margin with respect to Revolving Loans and Swingline Loans will be determined pursuant to the Applicable Pricing Grid; and

(b) for Incremental Term Loans, such per annum rates as shall be agreed to by the Parent and the applicable Incremental Term Lenders as shown in the applicable Increased Facility Activation Notice.

"Applicable Pricing Grid": the table set forth below:

Consolidated Net Leverage Ratio	Applicable Margin for ~~Eurodollar~~Term SOFR Loans; Daily Floating Rate Loans	Applicable Margin for ABR Loans	Commitment Fee Rate
≥ 4.00:1	2.50%	1.50%	0.350%
< 4.00:1 but ≥ 3.25:1	2.25%	1.25%	0.300%
< 3.25:1 but ≥ 2.50:1	2.00%	1.00%	0.250%
< 2.50:1.00 but ≥ 2.00:1	1.75%	0.75%	0.200%
< 2.00:1	1.50%	0.50%	0.175%

For the purposes of the Applicable Pricing Grid, changes in the Applicable Margin resulting from changes in the Consolidated Net Leverage Ratio shall become effective on the date (the "Adjustment Date") that is three Business Days after the date on which financial statements (and related Compliance Certificate) are delivered to the Lenders pursuant to Section 6.1 and shall remain in effect until the next change to be effected pursuant to this paragraph. If any financial statements (and related Compliance Certificate) referred to above are not delivered within the time periods specified in Section 6.1, then, until the date that is three Business Days after the date on which such financial statements (and related Compliance Certificate) are delivered, the highest rate set forth in each column of the Applicable Pricing Grid shall apply. In addition, at all times while an Event of Default shall have occurred and be continuing, upon request of the Required Lenders, the highest rate set forth in each column of the Applicable Pricing Grid shall apply. Each determination of the Consolidated Net Leverage Ratio pursuant to the Applicable Pricing Grid shall be made in a manner consistent with the determination thereof pursuant to Section 7.1.

"Application": an application, in such form as the Issuing Lender may specify from time to time, requesting the Issuing Lender to open a Letter of Credit.

"Approved Fund": as defined in Section 10.6(b).

"Asset Sale": any Disposition of property or series of related Dispositions of property that are either (a) not permitted under this Agreement or (b) made pursuant to Section 7.5(p) that yields gross proceeds to any Group Member (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of $1,000,000.

"Assignee": as defined in Section 10.6(b).

"Assignment and Assumption": an Assignment and Assumption, substantially in the form of Exhibit D or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

"Available Revolving Commitment": as to any Revolving Lender at any time, an amount equal to the excess, if any, of (a) such Lender's Revolving Commitment then in effect over (b) such Lender's Revolving Extensions of Credit then outstanding; provided, that in calculating any Lender's Revolving Extensions of Credit for the purpose of determining such Lender's Available Revolving Commitment pursuant to Section 2.8(a), the aggregate principal amount of Swingline Loans then outstanding shall be deemed to be zero.

~~"Available Tenor": as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an Interest Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.~~

"Bail-In Action": the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation": (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank of America": Bank of America, N.A. and its successors.

"Bankruptcy Event": with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"BAS": BofA Securities, Inc., in its capacity as a joint lead arranger and joint bookrunner.

~~"Benchmark": initially, LIBOR; provided that if a replacement of the Benchmark has occurred pursuant to Section 2.16(b) then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to "Benchmark" shall include, as applicable, the published component used in the calculation thereof.~~

~~"Benchmark Replacement":~~

~~(a) For purposes of Section 2.16(b)(i), the first alternative set forth below that can be determined by the Administrative Agent:~~

~~(i) the sum of: (A) Term SOFR and (B) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration, and 0.71513% (71.513 basis points) for an Available Tenor of twelve-months' duration , or~~

~~(ii) the sum of: (A) Daily Simple SOFR and (B) 0.26161% (26.161 basis points);~~

~~provided that, if initially LIBOR is replaced with the rate contained in clause (ii) above (Daily Simple SOFR plus the applicable spread adjustment) and subsequent to such replacement, the Administrative Agent determines that Term SOFR has become available and is administratively feasible for the Administrative Agent in its sole discretion, and the Administrative Agent notifies the Parent and each Lender of such availability, then from and after the beginning of the Interest Period, relevant interest payment date or payment period for interest calculated, in each case, commencing no less than thirty (30) days after the date of such notice, the Benchmark Replacement shall be as set forth in clause (a)(i) above; and~~

~~(b) For purposes of Section 2.16(b)(ii), the sum of (i) the alternate benchmark rate and (ii) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Administrative Agent and the Parent as the replacement Benchmark giving due consideration to any evolving or then-prevailing market convention, including any applicable~~

recommendations made by a Relevant Governmental Body, for Dollar-denominated syndicated credit facilities at such time;

provided that, if the Benchmark Replacement as determined pursuant to clause (a) or (b) above would be less than 0%, the Benchmark Replacement will be deemed to be 0% for the purposes of this Agreement and the other Loan Documents.

Any Benchmark Replacement shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Benchmark Replacement shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

"Benchmark Replacement Conforming Changes": with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "ABR," the definition of "Business Day," the definition of "Interest Period," the timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"Benchmark Transition Event": with respect to any then-current Benchmark other than LIBOR, the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark or a Governmental Authority with jurisdiction over such administrator announcing or stating that all Available Tenors are or will no longer be representative, or made available, or used for determining the interest rate of loans, or shall or will otherwise cease, provided that, at the time of such statement or publication, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide any representative tenors of such Benchmark after such specific date.

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

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

"Benefit Plan": any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"Benefitted Lender": as defined in Section 10.7(a).

"BHC Act Affiliate" of a party: an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower" and "Borrowers": as defined in the preamble hereto.

"Borrower Materials": as defined in Section 6.2.

"Borrowing Date": any Business Day specified by a Borrower as a date on which such Borrower requests the relevant Lenders to make Loans hereunder.

"Business": as defined in Section 4.17(b).

"Business Day": any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, the state where the Funding Office is located ~~and, if such day relates to any Eurodollar Loan or Daily Floating Rate Loan, means any such day that is also a day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market~~.

"Capital Lease Obligations": as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP, including the final sentence of the definition of GAAP set forth in this Section 1.1.

"Capital Stock": any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"Cash Equivalents": (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States or any state thereof (i) having combined capital and surplus of not less than $500,000,000 or (ii) which is a program lender under the Federally Insured Cash Account program managed by StoneCastle Cash Management, LLC (or an affiliate thereof) or any similarly structured program; (c) commercial paper of an issuer rated at least A-1 by Standard & Poor's Ratings Services ("S&P") or P-1 by Moody's Investors Service, Inc. ("Moody's"), or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days, with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; (g) money market mutual or similar funds that invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition; or (h) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least $5,000,000,000.

~~"Claymont": The Claymont Investment Company LLC, a Delaware limited liability company.~~

~~"Closing Date": August 5, 2019.~~

"Change of Control": (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) shall become the "beneficial owner" (as such term is used in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the outstanding common stock of the Parent; (ii) the board of directors of the Parent shall cease to consist of a majority of Continuing Directors; (iii) the occurrence of a Specified Change of Control; or (iv) the Parent shall cease to own, directly or indirectly, 100% of the Capital Stock of each other Borrower; provided, however, that the conversion or exchange of the existing Class B shares of Raven Energy, LLC for or into comparable non-

voting Capital Stock of SXCP or any direct or indirect parent entity of SXCP shall not constitute a Change of Control hereunder.

"Claymont": The Claymont Investment Company LLC, a Delaware limited liability company.

"Closing Date": August 5, 2019.

"CME": CME Group Benchmark Administration Limited.

"Code": the Internal Revenue Code of 1986, as amended from time to time, and the regulations thereunder.

"Collateral": all property of the Loan Parties, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

"Commitment": as to any Lender, the Revolving Commitment of such Lender.

"Commitment Fee Rate": 0.25% per annum, provided, that on and after the Adjustment Date occurring with respect to the Fiscal Quarter ending September 30, 2019 and each Fiscal Quarter thereafter, the Commitment Fee Rate will be determined pursuant to the Applicable Pricing Grid.

"Commodity Exchange Act": the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

"Communication": as defined in Section 10.20.

"Compliance Certificate": a certificate duly executed by a Responsible Officer substantially in the form of Exhibit A.

"Conforming Changes": with respect to the use, administration of or any conventions associated with SOFR or any proposed Successor Rate or Term SOFR, as applicable, any conforming changes to the definitions of "ABR," "Daily Floating Rate", "SOFR," "Term SOFR", and "Interest Period", the timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definitions of "Business Day" and "U.S. Government Securities Business Day", timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the discretion of the Administrative Agent in consultation with the Parent, to reflect the adoption and implementation of such applicable rate(s) and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such rate exists, in such other manner of administration as the Administrative Agent determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

"Consolidated Current Liabilities": as of any date of determination, the aggregate amount of liabilities of the Parent and its consolidated Restricted Subsidiaries which may properly be classified as current liabilities (including taxes accrued as estimated), after eliminating (a) all intercompany items between the Parent and any Restricted Subsidiary or between Restricted Subsidiaries and (b) all current maturities of long-term Indebtedness.

"Consolidated EBITDA": for any period, the result obtained by subtracting the amount determined pursuant to clause (B) below for such period from the amount determined pursuant to clause (A) below for such period:

(A) Consolidated Net Income for such period plus the sum of (a) provision for Taxes, based on income or profits of the Parent and the Restricted Subsidiaries for such period, to the extent that such amounts were deducted in computing Consolidated Net Income, plus (b) Fixed Charges of the Parent and the Restricted Subsidiaries for such period, to the extent that any such

Fixed Charges were deducted in computing such Consolidated Net Income, plus (c) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash charges or expenses (excluding any such non-cash charge or 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 charge or expense that was paid in a prior period) of the Parent and the Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income, plus (d) the "run-rate" Consolidated Net Income plus amounts added to Consolidated Net Income in accordance with clauses (a) through (c) of this definition to calculate Consolidated EBITDA (the "Operational EBITDA") of any asset acquired, constructed, designed, installed or improved that has not been fully constructed, complete and operational in the business of the Parent and its Restricted Subsidiaries for at least four full Fiscal Quarters; provided that (A) the Operational EBITDA of such asset shall be determined based upon the annualized Operational EBITDA of such asset projected in good faith by a responsible financial or accounting officer of the Parent to be realized no later than 12 months after such asset is fully constructed, complete and operational in the business of the Parent and its Restricted Subsidiaries and (B) the aggregate amount by which Consolidated EBITDA is increased pursuant to this clause (d) shall not exceed 10% of Consolidated Net Income for any period of four consecutive Fiscal Quarters, plus (e) any net loss realized by the Parent or any of its Restricted Subsidiaries in connection with any Asset Sale, to the extent such losses were deducted in computing Consolidated Net Income, minus or plus, as the case may be, (f) all extraordinary, unusual or non-recurring items of gain (loss) or expense to the extent added or deducted in computing Consolidated Net Income, minus or plus, as the case may be, (g) non-cash items increasing or decreasing such Consolidated Net Income for such period, other than the accrual of revenue or expense in the ordinary course of business, plus (h) sales discounts provided by the Parent or any Restricted Subsidiary to customers due to sharing of nonconventional fuels tax credits, in each case, on a consolidated basis and determined in accordance with GAAP, minus or plus, as the case may be (i) adjustments to deferred revenue to include in Consolidated EBITDA any billings with respect to shortfalls in contractually committed customer volume owed to Raven Energy, LLC in any given quarter irrespective of when such deferred revenue is required to be recognized as revenue pursuant to GAAP; provided that any subsequent recognition of such revenue shall be disregarded for purposes of calculating Consolidated EBITDA minus

(B) the pro rata portion of the amount determined pursuant to the foregoing clause (A) that is attributable to minority interests in each Restricted Subsidiary of the Parent that are owned by a Person other than the Parent or a wholly-owned Restricted Subsidiary.

Notwithstanding the foregoing, the provision for taxes based on the income or profits of, the Fixed Charges of and the depreciation and amortization and other non-cash expenses of, a Restricted Subsidiary will be added to Consolidated Net Income to compute Consolidated EBITDA only to the extent that a corresponding amount would be permitted at the date of determination to be dividended or distributed to the Parent by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter or any agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

"Consolidated Interest Coverage Ratio": for any period of four consecutive Fiscal Quarters, the ratio of (a) Consolidated EBITDA for such period to (b) Consolidated Interest Expense for such period calculated on a Pro Forma Basis**.**

"Consolidated Interest Expense": for any period, total cash interest expense (including that attributable to Capital Lease Obligations) of the Parent and its Restricted Subsidiaries for such period with respect to all outstanding Indebtedness of the Parent and its Restricted Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net costs under Swap Agreements in respect of interest rates to the extent such net costs are allocable to such period in accordance with GAAP) net of cash interest income.

"Consolidated Net Income": for any period, the aggregate of the net income (loss) of the Parent and the Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with

GAAP; provided that (a) the net income of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or distributions paid in cash to the Parent or a Restricted Subsidiary (subject, in the case of dividends or distributions paid to a Restricted Subsidiary, to the limitations contained in clause (b) hereof); (b) the net income (but not the net loss) of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that net income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Person or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived; (c) the net income (loss) of any Person acquired during the specified period for any period prior to the date of the acquisition will be excluded (except to the extent, for any calculation done on a Pro Forma Basis, such net income (loss) is intended to be included by the definition of Pro Forma Basis); (d) any gain or loss, together with any related provision for taxes on such gain or loss, realized in connection with: (i) any sale of assets outside the ordinary course of business of the Parent or any Restricted Subsidiary; or (ii) the disposition of any securities by the Parent or any Restricted Subsidiary or the extinguishment of any Indebtedness of the Parent or any Restricted Subsidiary, will be excluded; (e) any extraordinary, non-recurring or unusual gain or loss, together with any related provision for taxes on such extraordinary, non-recurring or unusual gain or loss will be excluded; (f) any unrealized gain or loss included in net income due to marking Hedging Agreements to market shall be excluded; (g) any non-cash compensation expense realized for grants of performance shares, stock options or other rights of officers, directors and employees of the Parent and any Restricted Subsidiary will be excluded; provided that such shares, options or other rights can be redeemed at the option of the holder only for Qualified Capital Stock of the Parent or any Restricted Subsidiary; (h) the cumulative effect of a change in accounting principles will be excluded; (i) to the extent deducted in the calculation of net income, any non-recurring charges associated with any premium or penalty paid, write-offs of deferred financing costs or other financial recapitalization charges in connection with redeeming or retiring any Indebtedness prior to its Stated Maturity will be added back to arrive at Consolidated Net Income; and (j) notwithstanding clause (a) above (but without duplication), the cash distributions and cash repayments of intercompany loans (including cash interest payments with respect thereto) actually received by the Parent or a Restricted Subsidiary from (i) an Unrestricted Subsidiary that is controlled directly or indirectly by the Parent or (ii) any joint venture in respect of the Parent's or a Restricted Subsidiary's Capital Stock ownership in such joint venture will be included.

"Consolidated Net Leverage Ratio": as at the last day of any period of four consecutive Fiscal Quarters, the ratio of (a) (i) Consolidated Total Debt on such day minus (ii) the aggregate amount of Unrestricted Cash and Cash Equivalents held by the Loan Parties on such date in an aggregate amount not to exceed $75,000,000 to (b) Consolidated EBITDA for such period calculated on a Pro Forma Basis; provided, however, solely for purposes of calculating the Consolidated Net Leverage Ratio, Consolidated Total Debt shall be reduced by the principal amount of any Indebtedness incurred by the Parent or any Restricted Subsidiary in anticipation of (and to finance the consummation of) a Permitted Acquisition or the acquisition of other fixed or capital assets (the "Anticipated Acquisition") during the period that the proceeds of such Indebtedness are escrowed for the purpose of repaying such Indebtedness in the event the Anticipated Acquisition is not consummated and (x) upon the consummation of such Anticipated Acquisition such proceeds are applied to consummate such Anticipated Acquisition or (y) if such Anticipated Acquisition does not occur, such proceeds are thereafter promptly applied to repay such Indebtedness.

"Consolidated Net Tangible Assets": as of any date of determination, (a) the sum of all amounts that would, in accordance with GAAP, be set forth opposite the caption "total assets" (or any like caption) on a consolidated balance sheet of the Parent and its Restricted Subsidiaries minus (b) the sum of all amounts that would, in accordance with GAAP, be set forth opposite the captions "goodwill" or other intangible categories (or any like caption) (other than mineral rights) on a consolidated balance sheet of the Parent and its Restricted Subsidiaries minus (c) Consolidated Current Liabilities, all determined as of such date and after giving pro forma effect to any transactions occurring on such date.

~~"Consolidated Senior Secured Debt": all Consolidated Total Debt secured by a Lien on any assets of the Parent or Restricted Subsidiary.~~

"~~Consolidated Senior Secured Debt Ratio": as of the last day of any period of four consecutive Fiscal Quarters, the ratio of (a) Consolidated Senior Secured Debt on such day to (b) Consolidated EBITDA for such period.~~

"Consolidated Total Debt": at any date, the aggregate principal amount of all Funded Debt of the Parent and its Restricted Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP.

"Continuing Directors": the directors of the Parent on the Closing Date and each other director, if, in each case, (a) such other director was nominated, appointed or approved for election by the board of directors of the Parent or (b) such other director was appointed to the board of directors of the Parent by a majority of the then Continuing Directors.

"Contractual Obligation": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"control", "controlled" and "controlling": as defined in the definition of Affiliate.

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

"Covered Party": as defined in Section 10.22.

"Credit Party": the Administrative Agent, the Issuing Lender, the Swingline Lender or any other Lender.

"Daily Floating Rate": ~~as of any date of determination, the rate per annum equal to LIBOR for Dollars for delivery on the date in question for a one-month Interest Period beginning on that date as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the date in question, as adjusted from time to time in the Administrative Agent's sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs~~for any day, a fluctuating rate of interest, which can change on each Business Day, equal to the Term SOFR Screen Rate two U.S. Government Securities Business Days prior to such day, with a term equivalent to one month beginning on that date; provided, that, if the rate is not published prior to 11:00 a.m. on such determination date then the Daily Floating Rate means such Term SOFR Screen Rate on the first U.S. Government Securities Business Day immediately prior thereto, in each case, plus the SOFR Adjustment; provided, further, that, if the Daily Floating Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. ~~The Daily Floating Rate is a fluctuating rate of interest which can change on each Business Day.~~

"Daily Floating Rate Loan": a Loan that bears interest based on the Daily Floating Rate.

"Daily Simple SOFR": with respect to any applicable determination date, the ~~secured overnight financing rate~~SOFR published on such date ~~by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator)~~ on the Federal Reserve Bank of New York's website (or any successor source).

"Default": any of the events specified in Section 8.1, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

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

"Defaulting Lender": any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swingline Loans or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default or breach of a representation, if any) has not been satisfied, (b) has notified the Parent or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is prepared to meet such obligations) to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has (i) become the subject of a Bankruptcy Event, (ii) appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-in Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

~~"Delaware LLC": any limited liability company organized or formed under the laws of the State of Delaware.~~
"Delaware Divided LLC": any Delaware LLC which has been formed upon consummation of a Delaware LLC Division.

"Delaware LLC": any limited liability company organized or formed under the laws of the State of Delaware.

"Delaware LLC Division": the statutory division of any Delaware LLC into two or more Delaware LLCs pursuant to Section 18-217 of the Delaware Limited Liability Company Act.

"Designated Jurisdiction": any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"Disposition": with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof and including any disposition of property to a Delaware Divided LLC pursuant to a Delaware LLC Division. The terms "Dispose" and "Disposed of" shall have correlative meanings.

"Disqualified Capital Stock": any Capital Stock which, by its terms (or by the terms of any security or other Capital Stock into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Capital Stock or solely at the direction of the issuer), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Capital Stock and cash in lieu of fractional shares), in whole or in part, (c) provides for mandatory scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for

Indebtedness or any other Capital Stock that would constitute Disqualified Capital Stock, in each case, prior to the date that is ninety-one days after the Revolving Termination Date; provided that if such Capital Stock is issued pursuant to a plan for the benefit of employees of the Parent or any of its Restricted Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by the Parent or any of its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability.

"Disqualified Institution": those Persons that are (a) competitors of the Parent or its Subsidiaries, identified in writing by the Parent to the Administrative Agent and the Lenders from time to time (by posting such notice to the Platform) not less than five (5) Business Days prior to the effective date of such designation (it being understood that, notwithstanding anything herein to the contrary, in no event shall any such designation apply retroactively to disqualify any Person that has previously acquired an assignment or participation interest hereunder that is otherwise a permitted Assignee, but upon the effectiveness of such designation, any such Person may not acquire any additional Commitments, Loans or participations), (b) such other Persons identified in writing by the Parent to the Administrative Agent prior to the Closing Date (by posting such notice to the Platform) and (c) Affiliates of the Persons identified pursuant to clause (a) or (b) that are clearly identifiable solely on the basis of legal name; provided that "Disqualified Institutions" shall exclude any Person that the Parent has designated as no longer being a "Disqualified Institution" by written notice delivered to the Administrative Agent and the Lenders from time to time.

~~"DQ List": as defined in Section 10.6(g)(iv).~~

"Dollars" and "$": dollars in lawful currency of the United States.

~~"Early Opt-in Effective Date": with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.~~

"DQ List": as defined in Section 10.6(g)(iv).

~~"Early Opt-in Election": the occurrence of:~~

~~(a) a determination by the Administrative Agent, or a notification by the Parent to the Administrative Agent that the Parent has made a determination, that Dollar-denominated syndicated credit facilities currently being executed, or that include language similar to that contained in Section 2.16(b), are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR, and~~

~~(b) the joint election by the Administrative Agent and the Parent to replace LIBOR with a Benchmark Replacement and the provision by the Administrative Agent of written notice of such election to the Lenders.~~

"EEA Financial Institution": (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country": any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority": any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Electronic Record" and "Electronic Signature": as defined respectively, by 15 USC §7006, as it may be amended from time to time.

"Environmental Laws": any and all applicable foreign, Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of human health or the environment, as now or may at any time hereafter be in effect.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rulings and regulations thereunder.

"ERISA Affiliate": any trade or business (whether or not incorporated) that, together with any Group Member, is treated as a single employer under Section 414 of the Code.

"ERISA Event": (a) the occurrence of any Reportable Event; (b) with respect to a Plan, the failure to satisfy the minimum funding standard of Sections 412 and 430 of the Code and Sections 302 and 303 of ERISA, whether or not waived; (c) the failure to make by its due date the minimum required contribution under Section 430 of the Code with respect to any Plan or the failure to make any required contribution to a Multiemployer Plan; (d) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (e) a determination that any Pension Plan is, or is expected to be, in "at risk" status within the meaning of Section 430 of the Code or Section 303 of ERISA; (f) the incurrence by any Group Member or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan or Multiemployer Plan; (g) the receipt by any Group Member or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to the intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, or the occurrence of any event or condition which could reasonably be expected to constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (h) the incurrence by any Group Member or any ERISA Affiliate of any liability under Title IV of ERISA with respect to a complete or partial withdrawal from any Plan or Multiemployer Plan; (i) the receipt by any Group Member or any ERISA Affiliate of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA, or in "endangered" or "critical" status within the meaning of Section 432 of the Code or Section 305 of ERISA or terminated within the meaning of Section 4041A of ERISA; (j) an amendment to any Plan which could result in the imposition of a Lien or the posting of a bond or other security; (k) the occurrence of a nonexempt Prohibited Transaction which could reasonably be expected to result in a liability to any Group Member or any ERISA Affiliate; and (l) an increase in the liability of any Group Member or ERISA Affiliate for the provision of post-employment health or life insurance benefits to any Person.

"EU Bail-In Legislation Schedule": the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

~~"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.~~

~~"Eurodollar Base Rate":~~

(a) for any Interest Period with respect to a Eurodollar Loan, the rate per annum equal to the London Interbank Offered Rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars for a period equal in length to such Interest Period) ("LIBOR") as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period;

(b) for any interest rate calculation with respect to an ABR Loan on any date, the rate per annum equal to LIBOR, at or about 11:00 a.m., London time determined two Business Days prior to such date for Dollar deposits with a term of one month commencing that day; and

(c) if the Eurodollar Base Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

"Eurodollar Loans": Loans the rate of interest applicable to which is based upon clause (a) of the definition of "Eurodollar Rate".

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula:

$$\frac{\text{Eurodollar Base Rate (determined pursuant to clause (a) of the definition thereof)}}{\text{1.00 - Eurocurrency Reserve Requirements}}$$

"Eurodollar Tranche": the collective reference to Eurodollar Loans under a particular Facility the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

"Event of Default": any of the events specified in Section 8.1, provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

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

"Excluded Collateral": as defined in the Guarantee and Collateral Agreement.

"Excluded Subsidiary": any Foreign Subsidiary and any Immaterial Subsidiary.

"Excluded Swap Obligation": with respect to any Loan Party, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Loan Party of, or the grant under a Loan Document by such Loan Party of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act (or the application or official interpretation thereof) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act (determined after giving effect to Section 2.07 of the Guarantee and Collateral Agreement and any and all guarantees of such Loan Party's Swap Obligations by other Loan Parties) at the time the guarantee of such Loan Party, or grant by such Loan Party of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one Swap Agreement, such exclusion shall apply to only the portion of such Swap Obligation that is attributable to Swap Agreements for which such guarantee or security interest is or becomes illegal.

"Excluded Taxes": any of the following Taxes imposed on or with respect to a Credit Party or required to be withheld or deducted from a payment to a Credit Party: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case (i) imposed as a result of such Credit Party being organized under the laws of, or having its principal office

or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a commitment (including a L/C Commitment, Revolving Commitment and Swingline Commitment) pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or commitment (including a L/C Commitment, Revolving Commitment and Swingline Commitment) (other than pursuant to an assignment request by the Parent under Section 2.22) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.19(a), amounts with respect to such Taxes were payable either to the Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Credit Party's failure to comply with Section 2.19(f) and (d) any U.S. withholding Taxes imposed under FATCA.

"Existing Credit Agreement": as defined in the preamble hereto.

"Existing Letters of Credit": those letters of credit set forth on Schedule 1.1C.

"Existing Parent Credit Agreement": that certain amended and restated credit agreement dated as of May 24, 2017 among the Parent, as borrower, the lenders from time to time party thereto and the Administrative Agent.

~~"Existing Letters of Credit": those letters of credit set forth on Schedule 1.1C.~~

"Facility": each of (a) the Revolving Commitments and the extensions of credit made thereunder (the "Revolving Facility") and (b) the Incremental Term Loans (the "Incremental Term Facility").

"Fair Market Value": with respect to any property, the price that would be paid by a willing buyer to a willing seller in a transaction where neither the buyer nor the seller is under undue pressure or compulsion to complete the transaction. Fair Market Value shall be determined, except as otherwise provided, (a) if such property has a Fair Market Value equal to or less than $75,000,000, by any officer of the Parent; or (b) if such property has a Fair Market Value in excess of $75,000,000, by at least a majority of the disinterested members of the board of directors of the Parent.

"FATCA": 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 and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code.

"Federal Funds Effective Rate": for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent. If the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

"Fee Letter": the fee letter dated as of June 26, 2019 among the Parent and BAS.

"Fee Payment Date": (a) the third Business Day following the last day of each March, June, September and December and (b) the last day of the Revolving Commitment Period.

"Fiscal Quarter": a fiscal quarter of the Parent.

"Fiscal Year": a fiscal year of the Parent.

"Fixed Charges": for any period, the sum of: (a) Interest Expense less interest income for such period; and (b) cash and non-cash dividends, whether paid or accrued, on any series of Disqualified Capital Stock of the Parent or a Restricted Subsidiary, except for dividends payable solely in the Parent's Qualified Capital Stock or paid to the Parent or to a Restricted Subsidiary.

"Foreign Benefit Arrangement": any employee benefit arrangement mandated by non-U.S. law that is maintained or contributed to by any Group Member or any Affiliate thereof.

"Foreign Plan": each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is maintained or contributed to by any Group Member for workers located outside of the United States.

"Foreign Plan Event": with respect to any Foreign Benefit Arrangement or Foreign Plan, (a) a failure to make or, if applicable, accrue in accordance with the applicable jurisdiction's accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Benefit Arrangement or Foreign Plan; (b) a failure to register or a loss of good standing with applicable regulatory authorities of any such Foreign Benefit Arrangement or Foreign Plan required to be registered; or (c) the failure of any Foreign Benefit Arrangement or Foreign Plan to comply with any provisions of applicable law and regulations or with the terms of such Foreign Benefit Arrangement or Foreign Plan.

"Foreign Subsidiary": (a) any Subsidiary of the Parent that is not organized under the laws of any jurisdiction within the United States, (b) each Subsidiary of the Parent organized under the laws of any jurisdiction within the United States substantially all of the assets of which consist, directly or indirectly, of Capital Stock of Subsidiaries described in clause (a) (or Indebtedness of such Subsidiaries), (c) any Subsidiary of any Foreign Subsidiary and (d) any Subsidiary of the Parent organized under the laws of any jurisdiction within the United States that is a partnership or disregarded as an entity separate from its owner for U.S. federal tax purposes and has a partner, member or owner that is described in clause (a).

"Funded Debt": as to the Parent and its Restricted Subsidiaries, without duplication, all consolidated Indebtedness of the type set forth in clauses (a), (b), (c) (but only with respect to reimbursement obligations related thereto), (e) and (f) of the definition of Indebtedness and all Guarantee Obligations in respect thereof; provided that Funded Debt shall exclude any Guarantee Obligations of Indebtedness of Claymont existing on the Closing Date.

"Funding Office": the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.2 or such other address or account as the Administrative Agent may from time to time notify to the Parent and the Lenders.

"GAAP": generally accepted accounting principles in the United States as in effect from time to time, except that for purposes of Section 7.1, GAAP shall be determined on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 4.1(b). In the event that any "Accounting Change" (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Parent and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to reflect equitably such Accounting Changes with the desired result that the criteria for evaluating the Parent's financial condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrowers, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. "Accounting Changes" refers to changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the SEC. Notwithstanding the foregoing or any provision herein to the contrary, any lease that is characterized as an operating lease in accordance with GAAP after the Parent's adoption of ASC 842 (regardless of the date on which such lease has been

entered into) shall not be a capital or finance lease, and any such lease shall be, for all purposes of this Agreement, treated as though it were reflected on the Parent's consolidated financial statements in the same manner as an operating lease would have been reflected prior to the Parent's adoption of ASC 842.

"Governmental Authority": any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Group Members": the collective reference to the Parent and its Restricted Subsidiaries.

"Guarantee and Collateral Agreement": the Second Amended and Restated Guarantee and Collateral Agreement, dated as of the Closing Date, among the Borrowers, each Subsidiary Guarantor and the Administrative Agent.

"Guarantee Obligation": as to any Person (the "guaranteeing person"), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing Person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any letter of credit) that guarantees or in effect guarantees, any Indebtedness, leases, dividends or other obligations (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Parent in good faith.

"guaranteeing person": as defined in the definition of Guarantee Obligation.

"Guarantors": the collective reference to the Subsidiary Guarantors.

"Hedging Agreement": (i) any interest rate swap agreement, interest rate cap agreement, interest rate future agreement, interest rate option agreement, interest rate hedge agreement or other agreement or arrangement designed to protect against or mitigate interest rate risk, (ii) any foreign exchange forward contract, currency swap agreement, currency option agreements or other agreement or arrangement designed to protect against or mitigate foreign exchange risk or (iii) any commodity or raw material futures contract, commodity hedge agreement, any actual or synthetic forward sale contract or other similar device or instrument or any other agreement designed to protect against or mitigate raw material price risk.

"Immaterial Subsidiary": as of any date determination, any Restricted Subsidiary of the Parent that individually or in the aggregate together with other Restricted Subsidiaries of the Parent does not have (i) assets with a value in excess of 5.0% of the total assets or (ii) revenues (for the most recently completed period of four consecutive Fiscal Quarters) representing in excess of 5.0% of total revenues, of the Parent and its Restricted Subsidiaries on a consolidated basis as of such date.

"Increased Facility Activation Date": any Business Day on which any Lender shall execute and deliver to the Administrative Agent an Increased Facility Activation Notice pursuant to Section 2.24(a).

"Increased Facility Activation Notice": a notice substantially in the form of Exhibit F.

"Increased Facility Closing Date": any Business Day designated as such in an Increased Facility Activation Notice.

"Incremental Amount" ~~means~~; at any date of determination, an aggregate principal amount equal to (a) an unlimited amount if, after giving Pro Forma Effect to the incurrence of such amount, the application of the proceeds thereof and all pro forma adjustments related thereto, recomputed as of the last day of the most recent Fiscal Quarter for which financial statements have been delivered under Section 6.1(a) or (b) and for the period of four consecutive Fiscal Quarters ending on such date, the Consolidated Net Leverage Ratio is less than or equal to 3.50 to 1.00, *plus* (b) (i) $250,000,000 *minus* (ii) the aggregate principal amount of all increases of Revolving Commitments and Incremental Term Loans pursuant to Section 2.24 and all Incremental Equivalent Indebtedness, in each case incurred in reliance on this clause (b); provided that any increase of Revolving Commitments or Incremental Term Loans or incurrence of Incremental Equivalent Indebtedness may be incurred utilizing any of (or any combination of) clause (a) and/or clause (b) in the Parent's discretion and, in the case of any single transaction that provides for the incurrence and/or increase of loans and/or commitments and/or Incremental Equivalent Indebtedness under clause (a) and/or clause (b), compliance with the foregoing leverage incurrence tests shall be determined for purposes of clause (a) by giving the single transaction Pro Forma Effect but excluding in such determination the aggregate amount of Indebtedness (and deemed Indebtedness) from any such incurrence and/or increase utilizing clause (b); provided further that in all instances in which the Borrowers incur Indebtedness utilizing clause (a) on the same date they incur Indebtedness utilizing clause (b), then, unless the Parent elects otherwise, the Parent shall have been deemed to incur first from clause (a) to the maximum extent permitted.

"Incremental Equivalent Indebtedness" means any Indebtedness incurred by the Parent in the form of one or more series of secured or unsecured term loans, bonds, debentures, notes or similar instruments; provided that: (a) (i) such Indebtedness (if secured) shall be (A) secured by the Collateral on a pari passu basis (but without regard to control of remedies) or a junior basis with the Obligations and shall not be secured by any property or assets of the Parent or any Subsidiary other than the Collateral, (B) if secured, subject to security documentation substantially the same as the Security Documents (with such differences as are reasonably satisfactory to the Administrative Agent), and (C) if secured, subject to an intercreditor agreement, in form and substance reasonably satisfactory to the Administrative Agent, entered into among the holders of such Indebtedness (or a trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be), the Loan Parties and the Administrative Agent (it being understood and agreed that, in respect of any Indebtedness secured on a pari passu basis with the Obligations, the Intercreditor Agreement is reasonably satisfactory in form and substance) and (ii) such Indebtedness (if subordinated in right of payment to the Loans) shall be subject to a subordination agreement, in form and substance reasonably satisfactory to the Administrative Agent, entered into among the holders of such Indebtedness (or a trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be), the Loan Parties and the Administrative Agent; (b) such Indebtedness shall not mature earlier than the then-latest maturity date in effect for any Loans at the time of incurrence thereof; (c) the weighted average life to maturity of such Indebtedness shall not be less than the then-remaining weighted average life to maturity of any then-existing tranche of Term Loans; (d) such Indebtedness contains covenants, events of default and other terms that are customary for similar Indebtedness in light of then-prevailing market conditions and, when taken as a whole (other than interest rates, rate floors, fees, discounts, premiums and optional prepayment or redemption terms), are: (i) substantially identical to, or are not materially more restrictive to the Parent and its Restricted Subsidiaries than, those set forth in the Loan Documents (other than covenants or other provisions applicable only to periods after the then-latest maturity date in effect for any Loans at the time of incurrence thereof); provided that, the certificate of a Responsible Officer of the Parent delivered to the Administrative Agent pursuant to clause (g) below stating that the Parent has determined in good faith that such terms and conditions comply with this clause (d)(i) shall satisfy the requirements in this clause

(d)(i); or (ii) otherwise reasonably acceptable to the Administrative Agent; (e) such Indebtedness does not provide for any mandatory prepayment, redemption, repurchase or sinking fund payments (other than upon a change of control, customary excess cash flow, asset sale or event of loss and customary acceleration rights after an event of default) prior to the then-latest maturity date in effect for any Loans at the time of incurrence thereof, unless the prepayment, redemption, repurchase or sinking fund payment in respect of such Indebtedness is accompanied by the prepayment of a pro rata portion of the outstanding principal amount of the Loans hereunder; (f) such Indebtedness is not guaranteed by any Person other than the Subsidiary Guarantors; and (g) a Responsible Officer of the Parent shall have delivered a certificate to the Administrative Agent, on or prior to the date of incurrence of such Indebtedness, certifying that the Parent has determined that such Indebtedness complies with the requirements set forth in clauses (a) through (f) above; provided that clauses (b) and (c) above shall not apply to customary bridge financing so long as (i) at the initial maturity of such bridge financing, such bridge financing shall automatically convert to (or would be required to be exchanged for) permanent financing that complies with clauses (b) and (c) above, and (ii) the only prepayments required to be made on such bridge financing shall be such prepayments as are customary for similar bridge financings in light of then-prevailing market conditions (as determined by the Parent in good faith).

"Incremental Term Facility": as defined in the definition of Facility.

"Incremental Term Lenders": (a) on any Increased Facility Activation Date relating to Incremental Term Loans, the Lenders signatory to the relevant Increased Facility Activation Notice and (b) thereafter, each Lender that is a holder of an Incremental Term Loan.

"Incremental Term Loans": as defined in Section 2.24(a).

"Incremental Term Maturity Date": with respect to the Incremental Term Loans to be made pursuant to any Increased Facility Activation Notice, the maturity date specified in such Increased Facility Activation Notice, which date shall not be earlier than the Revolving Termination Date (or if later, the Incremental Term ~~Loan~~ Maturity Date of any then-outstanding Term Loans).

"Indebtedness": with respect to any Person, without duplication, (a) all indebtedness of such Person for borrowed money (it being understood that outstanding letters of credit shall not constitute obligations for borrowed money unless such letters of credit have been drawn on by the beneficiary thereof and the resulting reimbursement obligations have not been paid); (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (other than any obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees and similar obligations or with respect to workers' compensation benefits); (c) all obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (solely to the extent such letters of credit, bankers' acceptances or other similar instruments have been drawn); (d) all obligations of such Person to pay the deferred and unpaid purchase price of property or services provided by third-party service providers which are recorded as liabilities under GAAP, excluding (i) trade payables, accrued expenses or royalties, (ii) inter-company payables, (iii) working capital-based and other customary post-closing adjustments in acquisition transactions and (iv) salary and other employee compensation obligations; (e) Capital Lease Obligations; (f) Disqualified Capital Stock issued by the Parent; (g) all Guarantee Obligations with respect to Indebtedness; (h) all Indebtedness of other Persons secured by a Lien on any asset of such Person (other than Liens on Capital Stock of Unrestricted Subsidiaries and Foreign Subsidiaries), whether or not such Indebtedness is assumed by such Person; and (i) all obligations of such Person under Hedging Agreements; provided that in no event shall Indebtedness include (x) obligations (other than obligations with respect to Indebtedness for borrowed money or other Funded Debt) related to surface rights under an agreement for the acquisition of surface rights for the production of coal reserves in the ordinary course of business in a manner consistent with historical practice of the Parent and its Restricted Subsidiaries, (y) obligations under the Tax Sharing Agreement or (z) minimum payment, supply or take-or-pay obligations contained in supply or other arrangements of the Parent and its Restricted Subsidiaries.

The amount of Indebtedness of any Person will be deemed to be: (a) with respect to Indebtedness secured by a Lien on an asset of such Person but not otherwise the obligation, contingent or otherwise, of such Person, the lesser of (x) the Fair Market Value of such asset on the date the Lien attached and (y) the

amount of such Indebtedness; (b) with respect to any Indebtedness issued with original issue discount, the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness; (c) with respect to any Hedging Agreement, the amount payable (determined after giving effect to all contractually permitted netting) if such Hedging Agreement terminated at that time; and (d) otherwise, the outstanding principal amount thereof.

Notwithstanding the foregoing, in no event shall the term "Indebtedness" include the obligations of the Parent under the Omnibus Agreement.

"Indemnified Liabilities": as defined in Section 10.5.

"Indemnified Taxes": Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by any Loan Party under any Loan Document.

"Indemnitee": as defined in Section 10.5.

"Indiana Harbor Partnership": Indiana Harbor Coke Company L.P., a Delaware limited partnership.

"Intellectual Property": the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Intercreditor Agreement": that certain First Lien Intercreditor Agreement, dated as of the Second Amendment Effective Date, among the Administrative Agent, the 2021 Senior Notes Trustee, the Loan Parties and the other parties thereto from time to time, as the same may be amended, restated, supplemented or otherwise modified in accordance with its terms.

"Interest Expense": for any period, the consolidated interest expense of the Parent and its Restricted Subsidiaries, plus, to the extent not included in such consolidated interest expense, and to the extent incurred, accrued or payable by the Parent or its Restricted Subsidiaries, without duplication, (i) interest expense attributable to Capital Lease Obligations, (ii) original issue discount, (iii) capitalized interest, (iv) non-cash interest expense (other than non-cash interest expense attributable to movement in mark to market valuation of obligations under Hedging Agreements or other derivatives under GAAP), and (v) net of the effect of all payments made or received pursuant to Swap Agreements but excluding (a) amortization of deferred financing fees, debt issuance costs and commissions, fees and expenses and the expensing of any bridge, commitment or other financing fees, commissions, discounts, yield and other fees and charges (including any interest expense) and (b) non-cash interest expense attributable to post-retirement obligations and movement in mark to market valuation of obligations under Hedging Agreements or other derivatives under GAAP.

"Interest Payment Date": (a) as to any ABR Loan or any Daily Floating Rate Loan (other than any Swingline Loan), the last day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any ~~Eurodollar~~Term SOFR Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any ~~Eurodollar~~Term SOFR Loan having an Interest Period longer than three months, each day that is three months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period, (d) as to any ~~Eurodollar~~Term SOFR Loan, the date of any repayment or prepayment made in respect thereof and (e) as to any Swingline Loan, the day that such Loan is required to be repaid.

"Interest Period": as to each ~~Eurodollar~~Term SOFR Loan, the period commencing on the date such ~~Eurodollar~~Term SOFR Loan is disbursed or converted to or continued as a ~~Eurodollar~~Term SOFR Loan and ending on the date one~~, two~~, three or six months thereafter, as selected by the applicable Borrower in its Loan Notice; provided that:

A. any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such next Business

Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

B. any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

C. no Interest Period shall extend beyond the Revolving Termination Date (or if later the latest Incremental Term Maturity Date).

"Investment": as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Capital Stock or debt or other securities of another Person (but excluding for purposes of this subclause (a) any purchase, redemption, retirement, acquisition, cancellation or termination of any Capital Stock of the Parent or any of its Subsidiaries, which shall be treated as a Restricted Payment hereunder), (b) a loan, advance or capital contribution to, guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested (whether in cash or other assets (calculated at the fair market value with respect to any assets)), without adjustment for subsequent increases or decreases in the value of such Investment, less any amount paid, repaid, returned, distributed or otherwise received in cash in respect of such Investment.

"IRS": the United States Internal Revenue Service.

"Issuing Lender": (i) with respect to the Existing Letters of Credit, the Lenders referenced in Schedule 1.1C and (ii) with respect to any Letter of Credit issued after the Closing Date, Bank of America and any other Revolving Lender approved by the Administrative Agent and the Parent that has agreed in its sole discretion to act as an "Issuing Lender" hereunder, or any of their respective affiliates, in each case in its capacity as issuer of any Letter of Credit. Each reference herein to "the Issuing Lender" shall be deemed to be a reference to the relevant Issuing Lender.

"Jewell Additional Property": means the real property referred to in clause (ii) of the definition of Jewell Coke Facility.

"Jewell Coke Facility": (i) real property which is owned in fee and/or real property in which the surface rights only are owned in fee (subject to the prior severance of mineral rights) or real property which is leased, which real property consists of the coke ovens and certain related office and warehouse property, in each case located in Buchanan County, VA and (ii) additional real property that is not included in clause (i) which is owned in fee, and/or real property in which the surface rights only are owned in fee (subject to the prior severance of mineral rights).

"Joint Lead Arrangers": BAS and BMO Harris Bank N.A.

"L/C Commitment": with respect to each Issuing Lender, the commitment of such Issuing Lender to issue Letters of Credit pursuant to Section 3.1. The amount of each Issuing Lender's L/C Commitment as of the Closing Date is set forth on Schedule 3.1. The L/C Commitments are part of, and not in addition to, the Revolving Commitment. On the Closing Date, the aggregate L/C Commitments of all of the Issuing Lenders is $80,000,000.

"L/C Exposure": at any time, the total L/C Obligations. The L/C Exposure of any Revolving Lender at any time shall be its Revolving Percentage of the total L/C Exposure at such time.

"L/C Obligations": at any time, an amount equal to the sum of (a) the aggregate then undrawn and unexpired amount of the then outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit that have not then been reimbursed pursuant to Section 3.5.

"L/C Participants": the collective reference to all the Revolving Lenders other than the Issuing Lender.

"LCA Test Date": as defined in Section 1.4.

"Lender Parent": with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

"Lenders": as defined in the preamble hereto.

"Letters of Credit": as defined in Section 3.1(a). Notwithstanding anything to the contrary contained herein, a letter of credit issued by an Issuing Lender other than Bank of America after the Closing Date shall not be a "Letter of Credit" for purposes of the Loan Documents until such time as the Administrative Agent has been notified of the issuance thereof by the applicable Issuing Lender and has confirmed availability under the Total Revolving Commitments and the L/C Commitment with the applicable Issuing Lender.

~~"LIBOR": as defined in the definition of "Eurodollar Base Rate".~~

"Lien": any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

"Limited Condition Acquisition": a Permitted Acquisition that is not conditioned on the availability of, or on obtaining, third party financing.

"Liquidity" means as of any date of determination, the sum of (a) Unrestricted Cash and Cash Equivalents on such date plus (b) the unutilized portion of the Total Revolving Commitments on such date.

"Loan" or "Loans": any loan made by any Lender pursuant to this Agreement and, as the context requires, any ABR Loan, ~~Eurodollar~~Term SOFR Loan or Daily Floating Rate Loan comprising any Loan.

"Loan Documents": this Agreement, the Security Documents, the Notes, the Fee Letter, any joinder or similar agreement entered into pursuant to Section 2.25 and any amendment, waiver, supplement or other modification to any of the foregoing.

"Loan Notice": a notice of (a) a borrowing of a Loan (other than a Swingline Loan), (b) a conversion of Loans (other than Swingline Loans) from one Type to the other, or (c) a continuation of ~~Eurodollar~~Term SOFR Loans, in each case pursuant to Section 2.2 or 2.12, which shall be substantially in the form of Exhibit I or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent) appropriately completed and signed by a Responsible Officer of the applicable Borrower.

"Loan Party": each Group Member that is a party to a Loan Document.

"Majority Facility Lenders": with respect to any Facility at any time, the holders of more than 50% of the sum of (i) the aggregate unpaid principal amount of the Loans, and in the case of the Revolving Facility, L/C Obligations, then outstanding under such Facility (with the aggregate amount of each Lender's risk participation and funded participation in L/C Obligations and Swingline Loans being

deemed "held" by such Lender for purposes of this definition) and (ii) the aggregate unused Commitments under such Facility then in effect. The Loans, Commitments and participation interests of any Defaulting Lender shall be disregarded in determining Majority Facility Lenders at any time; provided that the amount of any participation in any Swingline Loan and unreimbursed drawings under Letters of Credit that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swingline Lender or Issuing Issuer, as the case may be, in making such determination.

"Marketable Securities": any equity securities that are (i) listed on a national securities exchange, (ii) issued by a Person having a total equity market capitalization of not less than $250,000,000, and (iii) in an aggregate amount not greater than 5% of the total equity market capitalization of such Person.

"Material Adverse Effect": a material adverse effect on (a) the business, property, operations, or condition (financial or otherwise) of the Parent and its Restricted Subsidiaries taken as a whole or (b) the validity or enforceability of this Agreement or any of the other Loan Documents or the rights or remedies of the Administrative Agent or the Lenders hereunder or thereunder.

"Material Indebtedness": means any Indebtedness of the Parent or its Restricted Subsidiaries in an aggregate principal amount in excess of the Threshold Amount.

"Materials of Environmental Concern": any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, or pollutants, defined or regulated as such in or under any Environmental Law, including asbestos, polychlorinated biphenyls, urea formaldehyde insulation, coal combustion byproducts or waste, boiler slag, scrubber residue, or flue desulphurization residue.

"Mine": any excavation or opening into the earth now and hereafter made from which coal is or can be extracted from any real property.

"Mining Laws": any and all applicable federal, state, local and foreign statutes, laws, regulations, legally-binding guidance, ordinances, rules, judgments, orders, decrees or common law causes of action relating to mining operations and activities under the Mineral Leasing Act of 1920, the Federal Coal Leasing Amendments Act or the Surface Mining Control and Reclamation Act, each as amended or its replacement, and their state and local counterparts or equivalents.

"Mining Lease": a lease, license or other use agreement which provides the Parent or any Subsidiary the real property and water rights, other interests in land, including coal, mining and surface rights, easements, rights of way and options, and rights to timber and natural gas (including coalbed methane and gob gas) necessary or desirable in order to recover coal from any Mine. Leases which provide the Parent or any other Subsidiary the right to construct and operate a conveyor, crusher plant, silo, load out facility, rail spur, shops, offices and related facilities on the surface of any real property containing such reserves shall also be deemed a Mining Lease.

"Moody's": as defined in the definition of Cash Equivalents.

"Mortgaged Properties": the real properties listed on Schedule 1.1B, as to which the Administrative Agent for the benefit of the Lenders shall be granted a Lien pursuant to the Mortgages. For the avoidance of doubt it is agreed that (i) real properties owned as of the Closing Date by Ceredo Liquid Terminal, LLC, Kanawha River Terminals LLC, and Suncoke Lake Terminal LLC and (ii) the real properties owned as of the Closing Date in Granite City, IL and Buchanan County, VA shall not be Mortgaged Properties.

"Mortgages": each mortgage or deed of trust made by any Loan Party in favor of, or for the benefit of, the Administrative Agent for the benefit of the Lenders.

"Multiemployer Plan": a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Cash Proceeds": (a) in connection with any Asset Sale or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received) actually received by the Parent or any of its Restricted Subsidiaries, net of (i) attorneys' fees, accountants' fees, insurance adjusters', environmental consultants', engineers', architects' and other professionals' and consultants' fees, environmental impact assessment, environmental inspection and other property-related report, inspection and testing fees and charges, investment banking fees, survey, engineering and inspection costs, title insurance premiums, title opinions and related search and recording charges, zoning report fees and charges, transfer taxes, deed or mortgage recording taxes and brokerage, appraisal, consultant and other customary fees and expenses actually incurred in connection therewith, (ii) amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset that is the subject of such Asset Sale or Recovery Event (other than any Lien pursuant to a Security Document) and other customary fees and expenses actually incurred in connection therewith and net of taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), (iii) in the case of any Asset Sale or Recovery Event by a non-wholly owned Restricted Subsidiary, the pro rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (iii)) attributable to minority interests and not available for distribution to or for the account of the Parent or a wholly-owned Restricted Subsidiary as a result thereof (it being understood that such pro rata portion, subject to compliance with Section 7.6, shall be available for distribution to the holder(s) of such minority interest), (iv) taxes paid or reasonably estimated to be payable as a result thereof, (v) any funded escrow established pursuant to the documents evidencing any such sale or disposition to secure any indemnification obligations or adjustments to the purchase price associated with any such sale or disposition (provided that to the extent that any amounts are released from such escrow to the Parent or a Restricted Subsidiary, such amounts net of any related expenses shall constitute Net Cash Proceeds) and (vi) without duplication of clause (v) above, the amount of any reasonable reserve established in accordance with GAAP against any adjustment to the sale price or any liabilities (other than any taxes deducted pursuant to clause (i) above) (x) related to any of the applicable assets and (y) retained by the Parent or any of the Restricted Subsidiaries including, without limitation, pension plan and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (however, the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such Asset Sale or Recovery Event occurring on the date of such reduction); provided, that, if no Event of Default under Section 8.1(a) or (f) exists and the Parent intends in good faith to use any portion of such proceeds to acquire, maintain, develop, construct, improve, upgrade or repair Additional Assets or other assets useful in the business of the Parent or its Restricted Subsidiaries or to make Permitted Acquisitions, in each case within 15 months of such receipt (the "Reinvestment Period"), such portion of such proceeds shall not constitute Net Cash Proceeds except to the extent, within the Reinvestment Period, not so used or made subject to a binding commitment to be so used (it being understood that if any portion of such proceeds are not so used but are so committed to being used during the Reinvestment Period, then upon the termination of such commitment or if such Net Cash Proceeds are not so used within a subsequent 9-month period, such remaining portion shall constitute Net Cash Proceeds as of the date of such termination or expiry without giving effect to this proviso; it being understood that such proceeds shall constitute Net Cash Proceeds if an Event of Default under Section 8.1(a) or (f) has occurred and is continuing at the time of a proposed reinvestment unless such proposed reinvestment is made pursuant to a binding commitment entered into at a time when no Event of Default under Section 8.1(a) or (f) had occurred and was continuing); and (b) in connection with any incurrence of Indebtedness, the cash proceeds received from such issuance or incurrence, net of attorneys' fees, investment banking fees, accountants' fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith and net of taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions that reduce the amount of taxes and any tax sharing arrangements).

"New Lender": as defined in Section 2.24(b).

"New Lender Supplement": as defined in Section 2.24(b).

"New York UCC": as defined in the Guarantee and Collateral Agreement.

"Non-Consenting Lender": as defined in Section 2.22.

"Non-Recourse Debt": Indebtedness as to which (i) neither the Parent nor any Restricted Subsidiary provides any guarantee other than a pledge of Capital Stock of any Person that is a primary obligor in respect of such Indebtedness and is not a Restricted Subsidiary and (ii) no default thereunder would, as such, constitute a default under any Indebtedness of the Parent or any Restricted Subsidiary.

"Notes": the collective reference to any promissory note evidencing Loans, in each case substantially in the form of Exhibit H.

"Obligations": the unpaid principal of and interest on (including interest accruing after the maturity of the Loans and Reimbursement Obligations and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of any Borrower or any other Loan Party to the Administrative Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, the Letters of Credit or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, termination payments, expenses (including all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by any Borrower or any other Loan Party pursuant hereto) or otherwise. "Obligations" shall also include (i) all obligations and liabilities of the Loan Parties or any Restricted Subsidiary under any Specified Swap Agreements and Specified Cash Management Agreements; provided, however, that the "Obligations" of a Loan Party shall exclude any Excluded Swap Obligations with respect to such Loan Party, and (ii) all obligations and liabilities of the Loan Parties or any Restricted Subsidiary under Specified Bilateral Letters of Credit.

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"Omnibus Agreement": Omnibus Agreement dated as of January 24, 2013 among the Parent, SXCP and SXCP's general partner, as amended by Amendment No. 1, dated as of March 17, 2014 and Amendment No. 2, dated as of January 13, 2015.

"Operational EBITDA": as defined in the definition of Consolidated EBITDA.

"Other Connection Taxes": with respect to any Credit Party, Taxes imposed as a result of a present or former connection between such Credit Party and the jurisdiction imposing such Taxes (other than a connection arising from such Credit Party having executed, delivered, enforced, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to, or enforced, any Loan Document).

~~"Other Rate Early Opt-in": the Administrative Agent and the Parent have elected to replace LIBOR with a Benchmark Replacement other than a SOFR-based rate pursuant to (a) an Early Opt-in Election and (b) Section 2.16(b)(ii) and paragraph (b) of the definition of "Benchmark Replacement".~~

"Other Taxes": any present or future stamp, court, documentary, intangible, recording, filing or similar excise or property Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the registration, receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment under Section 2.22).

"Parent": SunCoke Energy, Inc., a Delaware corporation.

"Participant": as defined in Section 10.6(c).

"Participant Register": as defined in Section 10.6(c).

"Patriot Act": as defined in Section 10.17.

"PBGC": the Pension Benefit Guaranty Corporation established pursuant to ERISA or any successor entity performing similar functions.

"Pension Plan": any Plan subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA.

"Permitted Acquisition": any direct or indirect acquisition by the Parent or a Restricted Subsidiary, in a transaction or series of related transactions permitted by Section 7.8 (including, without limitation, Section 7.8(c)), of (a) more than 50% of any class of Voting Stock of any Person, (b) all or substantially all of the coal or other mineral reserves of any Person or (c) all or substantially all of the property and assets or business of another Person or any assets or business of any other Person constituting a business unit, line of business or division of any Person.

"Permitted Business": any of the businesses in which the Parent and its Restricted Subsidiaries are engaged on the Closing Date and any other activities that are similar, ancillary or reasonably related to, or a reasonable extension, expansion or development of, such businesses or ancillary thereto.

"Permitted Liens":

D. Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 6.10;

E. carriers', warehousemen's, landlord's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue (subject to extension by mutual agreement by the obligee and obligor) by more than 30 days;

F. (A) pledges or deposits (I) in compliance with workers' compensation, unemployment insurance and other social security laws or regulations or similar legislation or (II) to secure liabilities to insurance carriers under insurance arrangements in respect of such obligations, (B) good faith deposits, prepayments or cash payments in connection with bids, tenders, contracts or leases, or to secure public or statutory obligations, surety and appeal bonds, customs duties and the like, or for the payment of rent, in each case incurred in the ordinary course of business or incurred to secure payment of reclamation liabilities, or (C) Liens on the property and assets of the Parent or any Restricted Subsidiary incurred in the ordinary course of business to secure performance of obligations with respect to statutory or regulatory requirements, performance or return-of-money bonds, contractual arrangements with suppliers, reclamation bonds, surety and appeal bonds or other obligations of a like nature and incurred in a manner consistent with industry practice, in each case which are not incurred in connection with the borrowing of money or the obtaining of advances or credit;

G. customary Liens in favor of trustees and escrow agents, and netting and setoff rights, banker's liens and the like in favor of financial institutions and counterparties to financial obligations and instruments, including Hedging Agreements, landlord's liens, and statutory and governmental liens (including environmental liens);

H. Liens on assets pursuant to merger agreements, stock or asset purchase agreements and similar agreements in respect of the disposition of such assets;

I. options, put and call arrangements, rights of first refusal and similar rights relating to Investments in joint ventures, partnerships and the like and Liens on joint venture interests in favor of joint venture partners to secure obligations arising under the applicable joint venture agreements;

J. Liens incurred in the ordinary course of business securing obligations not constituting Indebtedness for borrowed money and not in the aggregate materially detracting from the value of the properties of the Parent and its Restricted Subsidiaries or their use in the operation of the business of the Parent and its Restricted Subsidiaries;

K. existing or future grants of coal bed methane leases or oil and gas or other hydrocarbon leases granted by any Governmental Authority or other third party and associated pipelines, collection facilities, accessways and easements pertaining to the same;

L. surface use agreements, mining agreements, easements, covenants, conditions, restrictions, declarations, zoning restrictions, rights of way, minor defects in title, encroachments, pipelines, leases (other than Capital Lease Obligations), licenses, special assessments, railroad trackage, siding and spur rights and agreements, transmission and transportation lines, related to real property, and together with all of the foregoing Liens in this subsection (ix), collectively, "Real Property Liens", (A) which are in existence on the date hereof or with respect to after-acquired property, which are in existence on the date of such acquisition (as the same may be amended or modified from time to time), or (B) imposed by law or arising in the ordinary course of business, in each case that do not secure any monetary obligation, and in each case do not materially detract from the value of the affected real property for the purpose for which it is being used at the time of evaluation (subject to and taking into account any implied, express or historical consent, permission or other acquiescence by the holder of any Real Property Lien) and do not materially interfere with the ordinary conduct of business of the Parent or any Subsidiary as actually conducted at the time of evaluation;

M. pledges, deposits or non-exclusive licenses to use intellectual property rights of the Parent or its Restricted Subsidiaries to secure the performance of bids, tenders, trade contracts, leases, public or statutory obligations, surety and appeal bonds, reclamation bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

N. judgment liens in respect of judgments that do not constitute an Event of Default under Section 8.1(h);

O. any precautionary uniform commercial code financing statement filing in respect of leases (and not any Indebtedness) entered into the ordinary course of business;

P. rights of owners of interests in overlying, underlying or intervening strata and/or mineral interests not owned by the Parent or one of its Subsidiaries, with respect to real property where the Parent or applicable Subsidiary's ownership is only surface or severed mineral or is otherwise subject to mineral severances in favor of one or more third parties;

Q. layback arrangements, joint operation arrangements and similar arrangements with adjoining coal operators;

R. Liens on joint venture interests in favor of joint venture partners to secure obligations arising under the respective joint venture agreements;

S. with respect to water rights, Liens imposed by the doctrine of prior appropriation (including seniority of water rights), the necessity to put the water to a beneficial use, restrictions imposed by the applicable Governmental Authority and the actual availability of water (including restrictions on the use of ground water);

T. farm, grazing, hunting, recreational and residential leases with respect to which the Parent or any Subsidiary is a lessor encumbering portions of any property to the extent such leases would be granted or permitted by a prudent operator of mining properties similar in use and configuration to real properties;

U. encumbrances typically found upon real property used for mining purposes in the applicable jurisdiction in which the applicable real property is located to the extent such encumbrances would be permitted or granted by a prudent operator of mining property similar in use and configuration to such real property (e.g., surface rights agreements, wheelage agreements and reconveyance agreements);

V. rights and easements of owners (A) of undivided interests in any of the real property where the Parent or its Subsidiaries own less than 100% of the fee interest, (B) of interests in the surface of any real property where the Parent or its Subsidiaries do not own or lease such surface interest, (C) and lessees, if any, of coal or other minerals (including oil, gas and coalbed methane) where the Parent or its Subsidiaries do not own such coal or other minerals, and (D) and lessees of other coal seams and other minerals (including oil, gas and coalbed methane) not owned or leased by the Parent or its Subsidiaries;

W. with respect to any real property in which the Parent or any Subsidiary holds a leasehold interest, terms, agreements, provisions, conditions, and limitations (other than royalty and other payment obligations which are otherwise permitted hereunder) contained in the leases granting such leasehold interest and the rights of lessors thereunder (and their heirs, executors, administrators, successors, and assigns);

X. rights of others to subjacent or lateral support and absence of subsidence rights or to the maintenance of barrier pillars or restrictions on mining within certain areas as provided by any Mining Lease, unless in each case waived by such other person;

Y. Liens securing obligations in respect of trade-related letters of credit permitted under Section 7.2(o) covering only the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;

Z. Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is tax-exempt under the Code;

AA. Liens on specific items of inventory, equipment or other goods and proceeds of any Person securing such Person's obligations in respect thereof or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

AB. Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of the Parent or any Restricted Subsidiary on deposit with or in possession of such bank;

AC. Liens incurred in the ordinary course of business to secure liability to insurance carriers;

AD. non-exclusive licenses of intellectual property in the ordinary course of business;

AE. Liens to secure a defeasance trust;

AF. Liens arising under retention of title, hire, purchase or conditional sale arrangements arising under provisions in a supplier's standard conditions of supply in respect of goods or services supplied to the Parent or any Restricted Subsidiary in the ordinary course of business on arm's length terms; and

AG. with respect to all real property in which the Parent or any Restricted Subsidiary owns less than a fee interest, all Real Property Liens and all other liens, encumbrances, charges, mortgages, security interests and any and all other Liens of whatsoever nature which are suffered or incurred by the fee owner, any superior lessor, sublessor or licensor, or any inferior lessee, sublessee or licensee.

"Permitted Refinancing": with respect to any Person, any modification, refinancing, refunding, renewal, extension or replacement of any Indebtedness ("Refinancing Indebtedness") of such Person; provided that:

I. the principal amount (or accreted value, if applicable) of such Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed, extended or replaced (such Indebtedness, "Original Indebtedness") except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees (including original issue discount) and expenses reasonably incurred, in connection with such modification, refinancing, refunding, renewal, extension or replacement and by an amount equal to any existing commitments unutilized thereunder;

II. such Refinancing Indebtedness has a final maturity date equal to or later than the later of (A) the Revolving Termination Date and (B) the final maturity date of Indebtedness being modified, refinanced, refunded, renewed, extended or replaced and having a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Original Indebtedness (excluding the effect of any prepayments of scheduled amortization); and

III. (i) to the extent such Original Indebtedness is subordinated in right of payment to the Obligations, such Refinancing Indebtedness is subordinated in right of payment to the Obligations, (ii) such Refinancing Indebtedness is incurred by the Person who is the obligor of the Original Indebtedness or any other Person who would have been permitted to incur such Original Indebtedness hereunder, (iii) if the Original Indebtedness is unsecured, such Refinancing Indebtedness shall be unsecured, (iv) if the Original Indebtedness is secured, (A) such Refinancing Indebtedness shall not be secured by any Lien on any asset other than the assets that secured such Original Indebtedness, (B) to the extent that the Liens securing the Original Indebtedness are subordinated to the Liens securing the Obligations, any Lien securing such Refinancing Indebtedness is subordinated to the Liens securing the Obligations on terms at least as favorable on the whole to the Lenders as those contained in the applicable subordination language (if any) for the Original Indebtedness and (C) if Original Indebtedness is subject to an intercreditor agreement with the Administrative Agent, a debt representative validly acting on behalf of the holders of such Refinancing Indebtedness shall become a party to an intercreditor agreement that is at least as favorable to the holders of the Obligations as such existing intercreditor agreement.

"Person": an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Plan": (A) any "employee benefit plan," as defined in Section 3(3) of ERISA (except a Multiemployer Plan) in respect of which any Group Member or (B) with respect to any "employee benefit plan" subject to Title IV of ERISA or Section 412 of the Code any ERISA Affiliate, (i) is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA or (ii) has any liability.

"Plan of Reorganization": as defined in Section 10.6(g)(iii).

"Platform": as defined in Section 6.2.

"Pledged Stock": as defined in the Guarantee and Collateral Agreement.

"Preferred Stock": with respect to any Person, any and all Capital Stock which is preferred as to the payment of dividends or distributions, upon liquidation or otherwise, over another class of Capital Stock of such Person.

"Pro Forma Basis" and "Pro Forma Effect": for purposes of calculating any financial ratio,

A. pro forma effect will be given to any Indebtedness, Disqualified Capital Stock or Preferred Stock (other than ordinary working capital borrowings) incurred during or after the applicable period to the extent the Indebtedness is outstanding or is to be incurred on the

date as if the Indebtedness, Disqualified Capital Stock or Preferred Stock had been incurred on the first day of the applicable period;

B. pro forma calculations of interest on Indebtedness bearing a floating interest rate will be made as if the rate in effect on the date on which such ratio is calculated (taking into account any Hedging Agreement applicable to the Indebtedness if the Hedging Agreement has a remaining term of at least 12 months) had been the applicable rate for the entire applicable period;

C. Fixed Charges related to any Indebtedness, Disqualified Capital Stock or Preferred Stock (other than ordinary working capital borrowings) no longer outstanding or to be repaid or redeemed on the date on which such ratio is calculated, will be excluded;

D. asset acquisitions and dispositions (including, without limitation, the acquisition or disposition of companies, divisions, lines of business or non-ordinary course assets), mergers, consolidations and discontinued operations (as determined in accordance with GAAP), and any related financing transactions, that the Parent or any of its Restricted Subsidiaries has both determined to make and made after the Closing Date and during the applicable period or subsequent to such applicable period and on or prior to or simultaneously with the date on which such ratio is calculated shall be calculated on a pro forma basis assuming that all such acquisitions and dispositions (including, without limitation, the acquisition or disposition of companies, divisions, lines of business or non-ordinary course assets), mergers, consolidations and discontinued operations (and the change of any associated Fixed Charges~~, Consolidated Senior Secured Debt~~ or Consolidated Total Debt and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the applicable period, including any pro forma expense and cost reductions and other operating improvements that have occurred or are reasonably expected to occur, in the reasonable judgment of the chief financial officer of the Parent (regardless of whether these cost savings or operating improvements could then be reflected in pro forma financial statements in accordance with Regulation S-X promulgated under the Securities Act of 1933, as amended, or any other regulation or policy of the SEC related thereto); provided that the benefits resulting therefrom are anticipated by the Parent to be realized in the good faith judgment of the chief financial officer of the Parent within 18 months;

E. any Person that is a Restricted Subsidiary on the date on which such ratio is calculated will be deemed to have been a Restricted Subsidiary at all times during such applicable period, and if, since the beginning of the applicable period, any Person that subsequently became a Restricted Subsidiary or was merged with or into the Parent or any of its other Restricted Subsidiaries since the beginning of such period shall have made any acquisition, Investment, disposition, merger, consolidated or discontinued operation, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the applicable financial ratio shall be adjusted giving pro forma effect thereto for such period as if such asset acquisition or disposition (including, without limitation, the acquisition or disposition of companies, divisions, lines of business or non-ordinary course assets), merger, consolidation or discontinued operation had occurred at the beginning of the applicable period; and

F. any Person that is not a Restricted Subsidiary on the date on which such ratio is calculated will be deemed not to have been a Restricted Subsidiary at all times during such applicable period.

Whenever Pro Forma Effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Parent.

"Prohibited Transaction": as defined in Section 406 of ERISA and Section 4975(c) of the Code.

"Projections": as defined in Section 6.2(c).

"Properties": as defined in Section 4.17(a).

"PTE": a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Public Lender": as defined in Section 6.2.

"Purchasing Borrower Party": the Parent or any Restricted Subsidiary of the Parent that becomes an eligible Assignee pursuant to Section 10.6.

"Purchasing Borrower Party Assignment and Assumption": as defined in Section 10.6(f).

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

"QFC Credit Support": as defined in Section 10.22.

"Qualified Capital Stock": Capital Stock that is not Disqualified Capital Stock.

"Real Property Liens": as defined in the definition of Permitted Liens.

"Recovery Event": any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of any Group Member.

"Refunded Swingline Loans": as defined in Section 2.7(b).

"Register": as defined in Section 10.6(b).

"Regulation U": Regulation U of the Board as in effect from time to time.

"Reimbursement Obligation": the obligation of the Borrowers to reimburse the Issuing Lender pursuant to Section 3.5 for amounts drawn under Letters of Credit.

"Reinvestment Period": as defined in the definition of Net Cash Proceeds.

"Related Indemnitee": with respect to any Indemnitee, (a) any controlled or controlling Affiliate of such Indemnitee, (b) the respective directors, officers or employees of such Indemnitee or any of its controlled or controlling Affiliates, (c) the respective agents and advisors or other representatives of such Indemnitee or any of its controlled or controlling Affiliates, in the case of this clause (c), acting on behalf of or at the instructions of such Indemnitee or controlled or controlling Affiliate; provided, that each reference to a controlled or controlling Affiliate in this definition pertains to a controlled or controlling Affiliate involved in the negotiation, syndication, administration or enforcement of this Agreement.

"Related Parties": with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

~~"Relevant Governmental Body": the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.~~

"Replaced Revolving Commitments": as defined in Section 10.1.

"Replaced Revolving Loans": as defined in Section 10.1.

"Replaced Term Loans": as defined in Section 10.1.

"Replacement Revolving Commitments": as defined in Section 10.1.

"Replacement Revolving Loans": as defined in Section 10.1.

"Replacement Term Loans" as defined in Section 10.1.

"Reportable Event": any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan, other than those events as to which notice is waived pursuant to DOL Reg. Section 4043.

"Required Lenders": at any time, the holders of more than 50% of the sum of (i) the aggregate unpaid principal amount of the Loans and L/C Obligations then outstanding (with the aggregate amount of each Lender's risk participation and funded participation in L/C Obligations and Swingline Loans being deemed "held" by such Lender for purposes of this definition) and (ii) the aggregate unused Commitments then in effect. The Loans, Commitments and participation interests of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided that the amount of any participation in any Swingline Loan and unreimbursed drawings under Letters of Credit that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swingline Lender or Issuing ~~Issuer~~Lender, as the case may be, in making such determination.

"Requirement of Law": as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Rescindable Amount": as defined in Section 2.17(f).

"Resolution Authority": an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Responsible Officer": the chief executive officer, president, chief financial officer, treasurer, chief accounting officer or other authorized officer of the Parent, but in any event, with respect to financial matters, the chief financial officer, the treasurer, any assistant treasurer or any other financial officer of the Parent, and, solely for purposes of the delivery of incumbency certificates, the secretary or any assistant secretary of the Parent and, solely for purposes of notices given pursuant to Section 2 and Section 3, any other officer or employee of the Parent so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee of the Parent designated in or pursuant to an agreement between the Parent and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of the Parent shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of the Parent and such Responsible Officer shall be conclusively presumed to have acted on behalf of the Parent. To the extent requested by the Administrative Agent, each Responsible Officer will provide an incumbency certificate and appropriate authorization documentation, in form and substance reasonably satisfactory to the Administrative Agent.

"Restricted Payment": any (i) dividend or other distribution (whether in cash, securities or other property) with respect to any Capital Stock in the Parent or any of its Restricted Subsidiaries, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Capital Stock of the Parent or any of its Restricted Subsidiaries held by Persons other than the Parent or any of its Restricted Subsidiaries or (ii) prepayment, purchase, repurchase redemption of, or other principal payment in respect of, Subordinated Debt prior to any scheduled payment or maturity thereof, other than (x) payments of interest when due and principal when due in accordance with the scheduled maturity thereof or the purchase, repurchase or other acquisition of any Subordinated Debt purchased in anticipation of satisfying a scheduled maturity, sinking fund or amortization or other installment obligation, in each case due within one year of the date of acquisition, (y) a payment of intercompany Subordinated Debt or (z) payments in the nature of an earnout representing deferred purchase price in connection with an Investment. For purposes of the foregoing, the term "Restricted

Payment" shall not include any dividend or distribution paid in the form of the Parent's Qualified Capital Stock.

"Restricted Subsidiary": any Subsidiary of the Parent other than an Unrestricted Subsidiary.

"Revolving Commitment": as to any Lender, the obligation of such Lender, if any, to make Revolving Loans and participate in Swingline Loans and Letters of Credit in an aggregate principal and/or face amount not to exceed the amount set forth under the heading "Revolving Commitment" opposite such Lender's name on Schedule 1.1A or in the Assignment and Assumption (or other documentation) pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof.

"Revolving Commitment Period": the period from and including the Closing Date to the Revolving Termination Date.

"Revolving Extensions of Credit": as to any Revolving Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding, (b) such Lender's Revolving Percentage of the L/C Obligations then outstanding and (c) such Lender's Revolving Percentage of the aggregate principal amount of Swingline Loans then outstanding.

"Revolving Facility": as defined in the definition of Facility.

"Revolving Lender": each Lender that has a Revolving Commitment or that holds Revolving Loans.

"Revolving Loans": as defined in Section 2.1(a).

"Revolving Percentage": as to any Revolving Lender at any time, the percentage (carried out to the ninth decimal place) which such Lender's Revolving Commitment then constitutes of the Total Revolving Commitments; provided that if the commitment of each Revolving Lender to make Revolving Loans and the obligation of the Issuing Lender to issue Letters of Credit have been terminated pursuant to Section 8.2 or if the Total Revolving Commitments have expired, then the Revolving Percentage of each Revolving Lender shall be determined based on the Revolving Percentage of such Revolving Lender most recently in effect, giving effect to any subsequent assignments and to any Revolving Lender's status as a Defaulting Lender at the time of determination.

"Revolving Termination Date": June 22, 2026.

"S&P": as defined in the definition of Cash Equivalents.

"Sale and Leaseback Transaction": with respect to any Person, an arrangement whereby such Person enters into a lease of property previously transferred by such Person to the lessor.

"Sanction(s)": any applicable economic, financial or trade sanction administered or enforced by the United States Government, including OFAC, and, if applicable to any Group Member, the United Nations Security Council, the European Union, Her Majesty's Treasury ("HMT") or other relevant sanctions authority.

"Scheduled Unavailability Date": as defined in Section 2.16(b).

"SEC": the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"Second Amendment": that certain Second Amendment to Second Amended and Restated Credit Agreement, dated as of June 22, 2021, among the Parent, the other Loan Parties party thereto, the Lenders party thereto and the Administrative Agent.

"Second Amendment Effective Date": as defined in the Second Amendment.

"Secured Parties": as defined in the Guarantee and Collateral Agreement.

"Secured Party Designation Notice" means a notice from any Lender or an Affiliate of a Lender substantially in the form of Exhibit C.

"Security Documents": the collective reference to the Guarantee and Collateral Agreement, the Mortgages and all other security documents hereafter delivered to the Administrative Agent granting a Lien on any property of any Person to secure the obligations and liabilities of any Loan Party under any Loan Document.

~~"SOFR Early Opt-in": the Administrative Agent and the Parent have elected to replace LIBOR pursuant to (a) an Early Opt-in Election and (b) Section 2.16(b)(i) and paragraph (a) of the definition of "Benchmark Replacement".~~

"SOFR": the Secured Overnight Financing Rate as administered by the Federal Reserve Bank of New York (or a successor administrator).

"SOFR Adjustment": 0.10% (10 basis points).

"Solvent": when used with respect to any Person or group of Persons, means that, as of any date of determination, (a) the amount of the "present fair saleable value" of the assets of such Person or group will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise", as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person or group will, as of such date, be greater than the amount that will be required to pay the liability of such Person or group on its debts as such debts become absolute and matured, (c) such Person or group will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person or group will be able to pay its debts as they mature. For the purposes of this definition, (i) "debt" means liability on a "claim", and (ii) "claim" means any (A) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured.

"Specified Bilateral Letters of Credit": letters of credit (excluding Letters of Credit issued hereunder) issued by a Lender (or an Affiliate of a Lender) for the account of the Parent or any of its Restricted Subsidiaries subject to the limitations set forth in Section 7.2(m) and for which the Administrative Agent has received a Secured Party Designation Notice with respect thereto prior to the issuance thereof.

"Specified Cash Management Agreement": any agreement providing for treasury, depositary, purchasing card or cash management services, including in connection with any automated clearing house transfers of funds or any similar transactions or any agreement providing for supply-chain financing between the Parent or any Restricted Subsidiary and any Lender or Affiliate thereof, which, except in the case of any such agreement to which the Administrative Agent or any of its Affiliates is a party, has been designated by such Lender and the Parent, by notice to the Administrative Agent not later than 90 days after the later of (i) the Closing Date and (ii) the execution and delivery by the Parent or such Restricted Subsidiary, as a "Specified Cash Management Agreement." Any such agreement shall cease to be a Specified Cash Management Agreement on the sixtieth (60^{th}) day after the date that the Lender or Administrative Agent that is a party thereto (or whose Affiliate is a party thereto) ceases to be a Lender or the Administrative Agent under this Agreement.

"Specified Change of Control": a "Change of Control" (or any other defined term having a similar purpose) as defined in the documentation for any Material Indebtedness.

"Specified Swap Agreement": any Swap Agreement entered into by the Parent or any Restricted Subsidiary that either (i) is in effect on the Closing Date if such counterparty is the Administrative Agent, a Lender or an Affiliate of the Administrative Agent or a Lender as of the Closing Date or (ii) is entered into after the Closing Date if such counterparty is the Administrative Agent, a Lender or an affiliate of the Administrative Agent or a Lender at the time such Swap Agreement is entered into.

"Stated Maturity": (a) with respect to any Indebtedness, the date specified as the fixed date on which the final installment of principal of such Indebtedness is due and payable or (b) with respect to any scheduled installment of principal of or interest on any Indebtedness, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Indebtedness, not including any contingent obligation to repay, redeem or repurchase prior to the regularly scheduled date for payment.

"Subordinated Debt": any unsecured Indebtedness of the Loan Parties which is subordinated in right of payment to the Obligations, pursuant to a written agreement to that effect, which Indebtedness shall have a Stated Maturity that is at least one year later than the Revolving Termination Date and no amortization payouts or other mandatory prepayments (other than customary change of control and asset sale prepayment provisions) prior to such date.

"Subsidiary": as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Parent.

"Subsidiary Guarantor": at any time, each Subsidiary that guarantees the Obligations under the Guarantee and Collateral Agreement, provided that no Foreign Subsidiary shall be a Subsidiary Guarantor.

"Successor Rate": as defined in Section 2.16(b).

"Supported QFC": as defined in Section 10.22.

"Swap Agreement": any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Parent or any of its Subsidiaries shall be a "Swap Agreement."

"Swap Obligation": with respect to any Loan Party any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"Swingline Commitment": the obligation of the Swingline Lender to make Swingline Loans pursuant to Section 2.6 in an aggregate principal amount at any one time outstanding not to exceed the amount set forth on Schedule 3.1. On the Closing Date, the Swingline Commitment is $50,000,000.

"Swingline Exposure": at any time, the sum of the aggregate undrawn amount of all outstanding Swingline Loans at such time. The Swingline Exposure of any Revolving Lender at any time shall be its Revolving Percentage of the total Swingline Exposure at such time.

"Swingline Lender": Bank of America, in its capacity as the lender of Swingline Loans.

"Swingline Loan Notice": a notice of a borrowing of a Swingline Loan pursuant to Section 2.7, which shall be substantially in the form of Exhibit J or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent) appropriately completed and signed by a Responsible Officer of the applicable Borrower.

"Swingline Loans": as defined in Section 2.6.

"Swingline Participation Amount": as defined in Section 2.7(c).

"SXCP": Suncoke Energy Partners, L.P., a Delaware limited partnership.

"Syndication Agent": BMO Harris Bank N.A.

"Tax Sharing Agreement": the tax sharing agreement, dated July 18, 2011, by and between Sunoco, Inc. and the Parent.

"Taxes": any present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Lenders": the collective reference to the Incremental Term Lenders.

"Term Loans": the collective reference to the Incremental Term Loans.

"Term Percentage": as to any Term Lender with respect to any class of Term Loans at any time, the percentage which the aggregate principal amount of such Lender's Term Loans of such class then outstanding constitutes of the aggregate principal amount of the Term Loans of such class then outstanding.

"Term SOFR": ~~for the applicable corresponding tenor (or if any Available Tenor of a Benchmark does not correspond to an Available Tenor for the applicable Benchmark Replacement, the closest corresponding Available Tenor and if such Available Tenor corresponds equally to two Available Tenors of the applicable Benchmark Replacement, the corresponding tenor of the shorter duration shall be applied),~~

(a) for any Interest Period with respect to a Term SOFR Loan, the rate per annum equal to the Term SOFR Screen Rate two U.S. Government Securities Business Days prior to the commencement of such Interest Period with a term equivalent to such Interest Period; provided that if the rate is not published prior to 11:00 a.m. on such determination date then Term SOFR means the Term SOFR Screen Rate on the first U.S. Government Securities Business Day immediately prior thereto, in each case, plus the SOFR Adjustment for such Interest Period; and

(b) for any interest calculation with respect to an ABR Loan on any date, the rate per annum equal to the Term SOFR Screen Rate with a term of one month commencing that day;

provided that if the Term SOFR determined in accordance with either of the foregoing provisions (a) or (b) of this definition would otherwise be less than zero, the Term SOFR shall be deemed zero for purposes of this Agreement.

"Term SOFR Loan": a Loan that bears interest at a rate based on clause (a) of the definition of Term SOFR.

"Term SOFR Replacement Date"" as defined in Section 2.16(b).

"Term SOFR Screen Rate": the forward-looking SOFR term rate ~~based on SOFR that has been selected or recommended by the Relevant Governmental Body~~ administered by CME (or any successor

administrator satisfactory to the Administrative Agent) and published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time).

"Term SOFR Tranche": the collective reference to Term SOFR Loans under a particular Facility the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

"Test Period": at any time, the most recently ended four consecutive Fiscal Quarter period for which financial statements have been delivered or are required to have been delivered pursuant to Section 6.1(a) or 6.1(b).

"Threshold Amount": $35,000,000.

"Total Revolving Commitments": at any time, the aggregate amount of the Revolving Commitments then in effect. The amount of the Total Revolving Commitments as of the Second Amendment Effective Date is $350,000,000.

"Total Revolving Extensions of Credit": at any time, the aggregate amount of the Revolving Extensions of Credit of the Revolving Lenders outstanding at such time.

"Trade Date": as defined in Section 10.6(g)(i).

"Transaction Documentation": collectively, the Tax Sharing Agreement, this Agreement and the Omnibus Agreement, in each case as in effect on the Closing Date.

"Transaction Liens": the Liens on Collateral granted by the Loan Parties under the Security Documents.

"Transactions": collectively, the transactions to occur on or about the Closing Date pursuant to the Transaction Documentation or other agreements existing on or prior to the Closing Date, including without limitation (i) the execution, delivery and performance of this Agreement and the Loan Documents, and (ii) the borrowing of the Loans hereunder and the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

"Transferee": any Assignee or Participant.

"Type": as to any Loan, its nature as an ABR Loan, a ~~Eurodollar~~Term SOFR Loan or a Daily Floating Rate Loan.

"UK Financial Institution": any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"UK Resolution Authority": the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"United States": the United States of America.

"Unrestricted Cash and Cash Equivalents" means cash and Cash Equivalents of the Loan Parties on hand on the applicable date of determination, other than cash or Cash Equivalents which are (a) listed or should be listed as "restricted" on the consolidated balance sheet of the Parent as of such date, (b) subject to a Lien in favor of any Person (other than the Administrative Agent for the benefit of the Lenders) or (c) not otherwise generally available for use by the Loan Parties.

"Unrestricted Subsidiary": (a) Claymont, (b) Indiana Harbor Partnership, (c) Jewell Smokeless Coal Corporation, (d) Oakwood Red Ash Coal Corporation, (e) SXC Holding B.V., (f) SunCoke India Private Limited, (g) India Sub Holding B.V. and (h) any other Subsidiary of the Parent designated by the board of directors of the Parent as an Unrestricted Subsidiary pursuant to Section 6.11 subsequent to the Closing Date.

"U.S. Government Securities Business Day": any Business Day, except any Business Day on which any of the Securities Industry and Financial Markets Association, the New York Stock Exchange or the Federal Reserve Bank of New York is not open for business because such day is a legal holiday under the federal laws of the United States or the laws of the State of New York, as applicable.

"U.S. Person": a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"U.S. Special Resolution Regimes": as defined in Section 10.22.

"U.S. Tax Certificate": as defined in Section 2.19(f)(ii)(B)(iii).

"Voting Stock": with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

"Weighted Average Life to Maturity": when applied to any Indebtedness at any date, the number of years obtained by dividing:

I. the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

II. the then outstanding principal amount of such Indebtedness.

"Withdrawal Liability": any liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

"Withholding Agent": the relevant Loan Party and the Administrative Agent.

"Write-Down and Conversion Powers": (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.2 **Other Definitional Provisions**. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(a) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any Group Member not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP (provided that, notwithstanding anything to the contrary herein, all accounting or financial terms used herein shall be construed, and all financial computations pursuant hereto shall be made, without

giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar effect) to value any Indebtedness or other liabilities of any Group Member at "fair value", as defined therein), (ii) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation," (iii) the word "incur" shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words "incurred" and "incurrence" shall have correlative meanings), (iv) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, and (v) references to agreements or other Contractual Obligations or laws, rules or regulations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations or laws, rules or regulations as amended, supplemented, restated or otherwise modified from time to time.

(b) The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(c) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(d) Notwithstanding anything contained herein to the contrary, with respect to determining the permissibility of the incurrence of any Indebtedness, the proceeds thereof shall not be counted as Unrestricted Cash and Cash Equivalents for the purposes of calculating the Consolidated Net Leverage Ratio.

(e) For all purposes under the Loan Documents, in connection with any division or plan of division under applicable law (or any comparable event): (i) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (ii) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Capital Stock at such time.

1.3 **Joint and Several Obligations**.

(a) All obligations of the Borrowers hereunder shall be joint and several. Any notice, request, waiver, consent or other action made, given or taken by any Borrower shall bind all of the Borrowers.

(b) Each of the Loan Parties hereby authorizes the Parent to act as agent for all of the Loan Parties, and to execute and deliver on behalf of any Loan Party such notices (including Loan Notices and Swingline Loan Notices), requests, waivers, consents, certificates, and other documents, and to take any and all actions, required or permitted to be delivered or taken by the Loan Parties hereunder. Each Loan Party hereby agrees that any such notices, requests, waivers, consents, certificates and other documents executed, delivered or sent by the Parent or any Responsible Officer of the Parent and any such actions taken by the Parent or any Responsible Officer of the Parent shall bind each Loan Party.

1.4 **Limited Condition Acquisitions**. Notwithstanding anything to the contrary herein, to the extent that the terms of this Agreement require (a) compliance with any basket, financial ratio or test (including any Consolidated Net Leverage Ratio test or any Consolidated Interest Coverage Ratio test), (b) the absence of a Default or an Event of Default, or (c) a determination as to whether the representations and warranties contained in this Agreement or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect), in each case in connection with the consummation of a Limited Condition Acquisition, the determination of whether the relevant condition is satisfied may be

made, at the election of the Parent, (A) on the date of the execution of the definitive agreement with respect to such Limited Condition Acquisition (such date, the "LCA Test Date"), or (B) on the date on which such Limited Condition Acquisition is consummated, in either case, after giving effect to the relevant Limited Condition Acquisition and any related incurrence of Indebtedness, on a Pro Forma Basis; provided, that, notwithstanding the foregoing, in connection with any Limited Condition Acquisition: (1) any condition to such Limited Condition Acquisition requiring the absence of any Event of Default set forth in Section 7.8 shall be satisfied if (x) no Event of Default shall have occurred and be continuing as of the applicable LCA Test Date, and (y) no Event of Default pursuant to Section 8.1(a) or 8.1(f) shall have occurred and be continuing at the time of consummation of such Limited Condition Acquisition; (2) if the proceeds of an Incremental Term Loan are being used to finance such Limited Condition Acquisition, then solely with respect to such Incremental Term Loan (x) the conditions set forth in clause (4) of the proviso in Section 2.24(a) and Section 5.2(a) shall be required to be satisfied at the time of closing of the Limited Condition Acquisition and funding of such Incremental Term Loan but, if the lenders providing such Incremental Term Loan so agree, the representations and warranties which must be accurate at the time of closing of the Limited Condition Acquisition and funding of such Incremental Term Loan may be limited to customary "specified representations" and such other representations and warranties as may be required by the lenders providing such Incremental Term Loan, and (y) the conditions set forth in clause (1) of the proviso in Section 2.24(a) and Section 5.2(b) shall, if and to the extent the lenders providing such Incremental Term Facility so agree, be satisfied if (I) no Default or Event of Default shall have occurred and be continuing as of the applicable LCA Test Date, and (II) no Event of Default pursuant to Section 8.1(a) or 8.1(f) shall have occurred and be continuing at the time of the funding of such Incremental Term Facility in connection with the consummation of such Limited Condition Acquisition; and (3) in connection with any calculation of any ratio, test or basket availability with respect to any subsequent transaction following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, for purposes of determining whether such subsequent transaction is permitted under this Agreement, any such ratio, test or basket shall be required to be satisfied on a Pro Forma Basis (i) assuming that such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated and (ii) assuming that such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have not been consummated. For the avoidance of doubt, if any of such ratios or amounts for which compliance was determined or tested as of the LCA Test Date are thereafter exceeded or otherwise failed to have been complied with as a result of fluctuations in such ratio or amount (including due to fluctuations in Consolidated EBITDA), at or prior to the consummation of the relevant Limited Condition Acquisition, such ratios or amounts will not be deemed to have been exceeded or failed to be complied with as a result of such fluctuations solely for purposes of determining whether the relevant Limited Condition Acquisition is permitted to be consummated or taken. Except as set forth in clause (2) in the proviso to the first sentence in this Section 1.4 in connection with the use of the proceeds of an Incremental Term Loan to finance a Limited Condition Acquisition (and, in the case of such clause (2), only if and to the extent the lenders providing such Incremental Term Loan so agree as provided in such clause (2)), it is understood and agreed that this Section 1.4 shall not limit the conditions set forth in Section 5.2 with respect to any proposed extension of credit hereunder, in connection with a Limited Condition Acquisition or otherwise.

2.

AMOUNT AND TERMS OF COMMITMENTS

1.1 **Revolving Commitments**. (a) Subject to the terms and conditions hereof, each Revolving Lender severally agrees to make revolving credit loans ("Revolving Loans") to the Borrowers from time to time during the Revolving Commitment Period in an aggregate principal amount at any one time outstanding which, when added to such Lender's Revolving Percentage of the sum of (i) the L/C Obligations then outstanding and (ii) the aggregate principal amount of the Swingline Loans then outstanding, does not exceed the amount of such Lender's Revolving Commitment. During the Revolving Commitment Period, the Borrowers may use the Revolving Commitments by borrowing, prepaying the Revolving Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Revolving Loans may from time to time be ~~Eurodollar~~Term SOFR Loans, Daily Floating Rate

Loans or ABR Loans, as determined by the applicable Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 2.12.

(a) The Borrowers shall repay all outstanding Revolving Loans on the Revolving Termination Date.

1.2 **Procedure for Revolving Loan Borrowing**. The Borrowers may borrow under the Revolving Commitments during the Revolving Commitment Period on any Business Day, provided that the applicable Borrower shall give the Administrative Agent irrevocable notice prior to 12:00 P.M., New York City time, (a) ~~three~~two Business Days prior to the requested Borrowing Date, in the case of ~~Eurodollar~~Term SOFR Loans, or (b) one Business Day prior to the requested Borrowing Date, in the case of ABR Loans or Daily Floating Rate Loans (provided that (i) such notice may be given by (A) telephone, or (B) a Loan Notice (provided any telephonic notice must be confirmed promptly by delivery to the Administrative Agent of a Loan Notice) and (ii) any such notice of a borrowing of ABR Loans or Daily Floating Rate Loans under the Revolving Facility to finance payments required by Section 3.5 may be given not later than 12:00 P.M., New York City time, on the date of the proposed borrowing), specifying (i) the amount and Type of Revolving Loans to be borrowed, (ii) the requested Borrowing Date and (iii) in the case of ~~Eurodollar~~Term SOFR Loans, the respective amounts of each such Type of Loan and the respective lengths of the initial Interest Period therefor. Each borrowing under the Revolving Commitments shall be in an amount equal to (x) in the case of ABR Loans or Daily Floating Rate Loans, $1,000,000 or a whole multiple thereof (or, if the then aggregate Available Revolving Commitments are less than $1,000,000, such lesser amount) and (y) in the case of ~~Eurodollar~~Term SOFR Loans, $5,000,000 or a whole multiple of $1,000,000 in excess thereof; provided, that the Swingline Lender may request, on behalf of any Borrower, borrowings under the Revolving Commitments that are ABR Loans or Daily Floating Rate Loans in other amounts pursuant to Section 2.7. Upon receipt of any such Loan Notice from a Borrower, the Administrative Agent shall promptly notify each Revolving Lender thereof. Each Revolving Lender will make the amount of its pro rata share of each borrowing available to the Administrative Agent for the account of the applicable Borrower at the Funding Office prior to 1:00 P.M., New York City time, on the Borrowing Date requested by such Borrower in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the applicable Borrower by the Administrative Agent crediting the account of the applicable Borrower on the books of such office with the aggregate of the amounts made available to the Administrative Agent by the Revolving Lenders and in like funds as received by the Administrative Agent.

1.3 **[Reserved].**

1.4 **[Reserved].**

1.5 **Repayment of Term Loans.** The Incremental Term Loans of each Incremental Term Lender shall be repaid in consecutive installments (which shall be no more frequent than quarterly) as specified in the Increased Facility Activation Notice pursuant to which such Incremental Term Loans were made. Furthermore, the Parent shall repay the remaining outstanding principal amount (if any) of each Incremental Term Loan on the Incremental Term Maturity Date for such Incremental Term Loan.

1.6 **Swingline Commitment**. (a) Subject to the terms and conditions hereof, the Swingline Lender, in reliance upon the agreements of the other Revolving Lenders set forth herein, agrees to make a portion of the credit otherwise available to the Borrowers under the Revolving Commitments from time to time during the Revolving Commitment Period by making swingline loans ("Swingline Loans") to the Borrowers; provided that (i) the aggregate principal amount of Swingline Loans outstanding at any time shall not exceed the Swingline Commitment then in effect (notwithstanding that the Swingline Loans outstanding at any time, when aggregated with the Swingline Lender's other outstanding Revolving Loans, may exceed the Swingline Commitment then in effect) and (ii) no Borrower shall request, and the Swingline Lender shall not make, any Swingline Loan if, after giving effect to the making of such Swingline Loan, the aggregate amount of the Available Revolving Commitments would be less than zero. During the Revolving Commitment Period, the Borrowers may use the Swingline Commitment by borrowing, repaying and reborrowing, all in accordance with the terms and conditions hereof. Swingline Loans shall be ABR Loans or Daily Floating Rate Loans only.

(a) The Borrowers shall repay to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of (i) the Revolving Termination Date and (i) the date occurring ten days after such Swingline Loan is made (which payment may be made if the Borrowers so elect by the borrowing of Revolving Loans and the simultaneous application of all or a portion of the proceeds thereof); provided that on each date that a Revolving Loan is borrowed, the Borrowers shall repay all Swingline Loans then outstanding.

1.7 **Procedure for Swingline Borrowing; Refunding of Swingline Loans**. (a) Whenever a Borrower desires that the Swingline Lender make Swingline Loans it shall give the Swingline Lender and the Administrative Agent irrevocable notice which may be given by (A) telephone or (B) by a Swingline Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Swingline Lender and the Administrative Agent of a Swingline Loan Notice. Each such Swingline Loan Notice must be received by the Swingline Lender not later than 2:00 P.M., New York City time, on the proposed Borrowing Date, specifying (i) the amount to be borrowed and (ii) the requested Borrowing Date (which shall be a Business Day during the Revolving Commitment Period). Each borrowing under the Swingline Commitment shall be in an amount equal to $250,000 or a whole multiple of $100,000 in excess thereof. Not later than 3:00 P.M., New York City time, on the Borrowing Date specified in a notice in respect of Swingline Loans, the Swingline Lender shall make the proceeds of such Swingline Loan available to the applicable Borrower in immediately available funds.

(a) The Swingline Lender, at any time and from time to time in its sole and absolute discretion may, on behalf of the Borrowers (which hereby irrevocably direct the Swingline Lender to act on its behalf), on one Business Days' notice given by the Swingline Lender no later than 12:00 Noon, New York City time, request each Revolving Lender to make, and each Revolving Lender hereby agrees to make, a Revolving Loan, in an amount equal to such Revolving Lender's Revolving Percentage of the aggregate amount of the Swingline Loans (the "Refunded Swingline Loans") outstanding on the date of such notice, to repay the Swingline Lender. Each Revolving Lender shall make the amount of such Revolving Loan available to the Administrative Agent at the Funding Office in immediately available funds, not later than 10:00 A.M., New York City time, one Business Day after the date of such notice. The proceeds of such Revolving Loans shall be immediately made available by the Administrative Agent to the Swingline Lender for application by the Swingline Lender to the repayment of the Refunded Swingline Loans. The Borrowers irrevocably authorize the Swingline Lender to charge the Borrowers' accounts with the Administrative Agent (up to the amount available in each such account) in order to immediately pay the amount of such Refunded Swingline Loans to the extent amounts received from the Revolving Lenders are not sufficient to repay in full such Refunded Swingline Loans.

(b) If prior to the time a Revolving Loan would have otherwise been made pursuant to Section 2.7(b), one of the events described in Section 8.1(f) shall have occurred and be continuing with respect to any Borrower or if for any other reason, as determined by the Swingline Lender in its sole discretion, Revolving Loans may not be made as contemplated by Section 2.7(b), each Revolving Lender shall, on the date such Revolving Loan was to have been made pursuant to the notice referred to in Section 2.7(b), purchase for cash an undivided participating interest in the then outstanding Swingline Loans by paying to the Swingline Lender an amount (the "Swingline Participation Amount") equal to (i) such Revolving Lender's Revolving Percentage times (ii) the sum of the aggregate principal amount of Swingline Loans then outstanding that were to have been repaid with such Revolving Loans.

(c) Whenever, at any time after the Swingline Lender has received from any Revolving Lender such Lender's Swingline Participation Amount, the Swingline Lender receives any payment on account of the Swingline Loans, the Swingline Lender will distribute to such Lender its Swingline Participation Amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's participating interest was outstanding and funded and, in the case of principal and interest payments, to reflect such Lender's pro rata portion of such payment if such payment is not sufficient to pay the principal of and interest on all Swingline Loans then due); provided, however, that in the event that such payment received by the Swingline Lender is required to be returned, such Revolving Lender will

return to the Swingline Lender any portion thereof previously distributed to it by the Swingline Lender.

(d) Each Revolving Lender's obligation to make the Loans referred to in Section 2.7(b) and to purchase participating interests pursuant to Section 2.7(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such Revolving Lender or any Borrower may have against the Swingline Lender, any Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5, (iii) any adverse change in the condition (financial or otherwise) of any Borrower, (iv) any breach of this Agreement or any other Loan Document by any Borrower, any other Loan Party or any other Revolving Lender or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

1.8 **Commitment Fees, etc**. (a) The Borrowers agree to pay to the Administrative Agent for the account of each Revolving Lender a commitment fee for the period from and including the date hereof to the last day of the Revolving Commitment Period, computed at the Commitment Fee Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period for which payment is made, payable quarterly in arrears on each Fee Payment Date, commencing on the first such date to occur after the date hereof.

(a) The Parent agrees to pay to the Administrative Agent the fees in the amounts and on the dates as set forth in the Fee Letter.

1.9 **Termination or Reduction of Revolving Commitments**. (a) The Parent shall have the right, upon not less than three Business Days' notice to the Administrative Agent, to terminate the Revolving Commitments or, from time to time, to reduce the amount of the Revolving Commitments; provided that no such termination or reduction of Revolving Commitments shall be permitted if, after giving effect thereto and to any prepayments of the Revolving Loans and Swingline Loans made on the effective date thereof, the Total Revolving Extensions of Credit would exceed the Total Revolving Commitments. Any such reduction shall be in an amount equal to $1,000,000, or a whole multiple thereof, and shall reduce permanently the Revolving Commitments then in effect.

(a) [Reserved].

1.10 **Optional Prepayments**. Any Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice (provided that, if a notice is conditioned upon the effectiveness of other credit facilities or any incurrence or issuance of debt or equity or the occurrence of any other transaction or event, such notice may be revoked by such Borrower (by notice to the Administrative Agent) if such credit facilities do not become effective or such other issuance, transaction or event does not close or materialize, subject to the obligations of the Borrowers under Section 2.20) delivered to the Administrative Agent (which notice shall be in a form reasonably acceptable to the Administrative Agent) no later than 12:00 Noon, New York City time, ~~three~~two Business Days prior thereto, in the case of ~~Eurodollar~~Term SOFR Loans, and no later than 12:00 Noon, New York City time, one Business Day prior thereto, in the case of ABR Loans or Daily Floating Rate Loans, which notice shall specify the Facility being prepaid, the date and amount of prepayment and whether the prepayment is of ~~Eurodollar~~Term SOFR Loans, Daily Floating Rate Loans or ABR Loans; provided, that if a ~~Eurodollar~~Term SOFR Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, such Borrower shall also pay any amounts owing pursuant to Section 2.20. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with (except in the case of Revolving Loans that are ABR Loans, Daily Floating Rate Loans and Swingline Loans) accrued interest to such date on the amount prepaid. Partial prepayments of Revolving Loans shall be in an aggregate principal amount of $1,000,000 or a whole multiple thereof. Partial prepayments of Term Loans shall be in an aggregate principal amount of $1,000,000 or a whole multiple thereof and shall be applied ratably to the remaining principal amortization payments (excluding the final payment due on the maturity date of such Term Loan for purposes of

calculating such ratable application). Partial prepayments of Swingline Loans shall be in an aggregate principal amount of $100,000 or a whole multiple thereof.

1.11 **Mandatory Prepayments**. (a) If any Indebtedness shall be issued or incurred by any Group Member after the Closing Date (excluding any Indebtedness incurred in accordance with Section 7.2), an amount equal to 100% of the Net Cash Proceeds thereof shall be applied on the date of such issuance or incurrence toward the prepayment of the Loans as set forth in Section 2.11(c).

(a) If on any date any Group Member shall receive Net Cash Proceeds from any Asset Sale or Recovery Event occurring after the Closing Date then 100% of such Net Cash Proceeds shall be applied within three Business Days of such date (or, if later, the date otherwise provided for in the definition of Net Cash Proceeds) toward the prepayment of the Loans as set forth in Section 2.11(c).

(b) The application of any prepayment pursuant to this Section 2.11 shall be made as follows: first, ratably to the outstanding Term Loans (in each case ratably to the remaining principal amortization payments excluding the final payment due on the maturity date of such Term Loan for purposes of calculating such ratable application), second, ratably to outstanding Swingline Loans and drawings under Letters of Credit that have not then been reimbursed pursuant to Section 3.5, and third, to the outstanding Revolving Loans. Within the foregoing parameters, prepayments shall be applied first, to ABR Loans, second, to Daily Floating Rate Loans and~~,~~ third, to ~~Eurodollar~~Term SOFR Loans (in direct order of Interest Period maturities). Each prepayment of the Loans under this Section 2.11 shall be accompanied by accrued interest to the date of such prepayment on the amount prepaid.

1.12 **Conversion and Continuation Options**. (a) Any Borrower may elect from time to time to convert ~~Eurodollar~~Term SOFR Loans to ABR Loans or Daily Floating Rate Loans by giving the Administrative Agent prior irrevocable notice of such election, which may be given by (1) telephone, or (2) a Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Administrative Agent of a Loan Notice. Each Loan Notice must be received by the Administrative Agent no later than 12:00 P.M., New York City time, on the Business Day preceding the proposed conversion date, provided that any such conversion of ~~Eurodollar~~Term SOFR Loans may only be made on the last day of an Interest Period with respect thereto. Any Borrower may elect from time to time to convert ABR Loans or Daily Floating Rate Loans to ~~Eurodollar~~Term SOFR Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 12:00 P.M., New York City time, on the ~~third~~second Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor), provided that no ABR Loan or Daily Floating Rate Loan under a particular Facility may be converted into a ~~Eurodollar~~Term SOFR Loan when any Event of Default has occurred and is continuing and the Administrative Agent or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such conversions. Upon receipt of any such Loan Notice the Administrative Agent shall promptly notify each relevant Lender thereof.

(a) Any ~~Eurodollar~~Term SOFR Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the applicable Borrower giving irrevocable notice to the Administrative Agent (which may be given by (1) telephone, or (2) a Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Administrative Agent of a Loan Notice), in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans, provided that no ~~Eurodollar~~Term SOFR Loan under a particular Facility may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such continuations, and provided, further, that if any Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to Daily Floating Rate Loans on the last day of such then expiring Interest Period. Upon receipt of any such Loan Notice the Administrative Agent shall promptly notify each relevant Lender thereof.

1.13 **Limitations on ~~Eurodollar~~Term SOFR Tranches**. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of ~~Eurodollar~~Term SOFR Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the ~~Eurodollar~~Term SOFR Loans comprising each ~~Eurodollar~~Term SOFR Tranche shall be equal to $5,000,000 or a whole multiple of $1,000,000 in excess thereof and (b) no more than ten ~~Eurodollar~~Term SOFR Tranches shall be outstanding at any one time.

1.14 **Interest Rates and Payment Dates**. (a) Each ~~Eurodollar~~Term SOFR Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to ~~the Eurodollar Rate~~Term SOFR determined for such day plus the Applicable Margin.

(a) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(b) Each Daily Floating Rate Loan shall bear interest at a rate per annum equal to the Daily Floating Rate plus the Applicable Margin.

(c) (i) If all or a portion of the principal amount of any Loan or Reimbursement Obligation shall not be paid when due (whether at the Stated Maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to (x) in the case of the Loans, the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section 2.14 plus 2% or (y) in the case of Reimbursement Obligations, the rate applicable to ABR Loans under the Revolving Facility plus 2%, and (ii) if all or a portion of any interest payable on any Loan or Reimbursement Obligation or any commitment fee or other amount payable hereunder shall not be paid when due (whether at the Stated Maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate then applicable to ABR Loans under the relevant Facility plus 2% (or, in the case of any such other amounts that do not relate to a particular Facility, the rate then applicable to ABR Loans under the Revolving Facility plus 2%), in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is paid in full (as well after as before judgment).

(d) Interest shall be payable in arrears on each Interest Payment Date, provided that interest accruing pursuant to paragraph (d) of this Section 2.14 shall be payable from time to time on demand.

(e) The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to ~~the rates in the definition of "Eurodollar Base Rate" or "Daily Floating Rate"~~any reference rate referred to herein or with respect to any rate (including, for the avoidance of doubt, the selection of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any ~~Benchmark Replacement~~Successor Rate) (or any component of any of the foregoing) or the effect of any of the foregoing, or of any ~~Benchmark Replacement~~ Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions or other activities that affect any reference rate referred to herein, or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or any related spread or other adjustments thereto, in each case, in a manner adverse to the Borrowers. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any reference rate referred to herein or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing), in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrowers, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or other action or omission related to or affecting the selection, determination, or

calculation of any rate (or component thereof) provided by any such information source or service.

1.15 **Computation of Interest and Fees**. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. Any change in the interest rate on a Loan resulting from a change in the ABR ~~or the Eurocurrency Reserve Requirements~~ shall become effective as of the opening of business on the day on which such change becomes effective.

(a) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrowers and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Parent, deliver to the Parent a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.14(a).

(b) Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrowers. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable law, (i) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

(c) With respect to SOFR or Term SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time in consultation with the Parent and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document; provided, that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Borrowers and the Lenders reasonably promptly after such amendment becomes effective.

1.16 **Inability to Determine ~~Interest Rate~~Rates; Illegality**.

(a) If in connection with any request for a ~~Eurodollar~~Term SOFR Loan or ~~a~~ Daily Floating Rate Loan or a conversion to or continuation thereof~~:~~

~~(i)~~, as applicable, (i) the Administrative Agent ~~shall have determined~~determines (which determination shall be conclusive ~~and binding upon the Borrowers) that (A) by reason of circumstances affecting the relevant market,~~absent manifest error) that (A) no Successor Rate has been determined in accordance with Section 2.16(b), and the circumstances under clause (i) of Section 2.16(b) or the Scheduled Unavailability Date has occurred or (B) adequate and reasonable means do not otherwise exist for ~~ascertaining (x) the Eurodollar Rate for the applicable~~determining Term SOFR for any requested Interest Period ~~or (y) the~~with respect to a proposed Term SOFR Loan or in connection with an existing or proposed ABR Loan or Daily Floating Rate ~~and (B) the circumstances described in Section 2.16(b)(i) do not apply,~~Loan or

(ii) the Administrative Agent ~~shall have received notice from the Majority Facility Lenders in respect of the relevant Facility that (A) the Eurodollar Rate determined or to be determined for such Interest Period will~~or the Required Lenders determine that for any reason that Term SOFR for any requested Interest Period with respect to a proposed Term SOFR Loan or

with respect to a Daily Floating Rate Loan does not adequately and fairly reflect the cost to such Lenders ~~(as conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period or (B) the Daily Floating Rate will not adequately and fairly reflect the cost to such Lenders (as conclusively certified by such Lenders) of making or maintaining their affected Loans;~~of funding such Loan, the Administrative Agent ~~shall give notice thereof to the Parent and the relevant Lenders as soon as practicable thereafter. If such notice is given (1) any Eurodollar Loans under the relevant Facility requested to be made on the first day of such Interest Period shall be made as ABR Loans, (2) any Daily Floating Rate Loans under the relevant Facility requested to be made on such date shall be made as ABR Loans, (3) any Loans under the relevant Facility that were to have been converted on the first day of such Interest Period to Eurodollar Loans shall be continued as ABR Loans, (4) any Loans under the relevant Facility that were to have been converted on such date to Daily Floating Rate Loans shall be continued as ABR Loans~~will promptly so notify the Borrowers and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Term SOFR Loans or to convert Loans to Term SOFR Loans shall be suspended (to the extent of the affected Term SOFR Loans or Interest Periods), (y) the obligation of the Lenders to make or maintain Daily Floating Rate Loans or to covert Loans to Daily Floating Rate Loans shall be suspended (to the extent of the affected Daily Floating Rate Loans) and (z) in the event of a determination described in the preceding sentence with respect to the Term SOFR component of ABR, the utilization of the Term SOFR component in determining ABR shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of this Section 2.16(a), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (i) the applicable Borrower may revoke any pending request for a borrowing of, conversion to or continuation of Term SOFR Loans (to the extent of the affected Term SOFR Loans or Interest Periods) or a borrowing of or conversion to Daily Floating Rate Loans (to the extent of the affected Daily Floating Rate Loans) or, failing that, will be deemed to have converted such request into a request for a borrowing of ABR Loans in the amount specified therein, (~~5~~ii) any outstanding ~~Eurodollar~~Term SOFR Loans ~~under the relevant Facility~~ shall be deemed to have been converted~~, on the last day of the then-current Interest Period,~~ to ABR Loans ~~and (6) any~~immediately at the end of their respective applicable Interest Period and (iii) any outstanding Daily Floating Rate Loans ~~under the relevant Facility~~ shall be deemed to have been converted~~, on such date,~~ to ABR Loans ~~(in each case in clauses (1), (2), (3), (4), (5) and (6), whose rate shall be determined without the utilization of the Eurodollar Base Rate component in determining the ABR). Until such notice has been withdrawn by the Administrative Agent, no further Eurodollar Loans or Daily Floating Rate Loans, as applicable, under the relevant Facility shall be made or continued as such, nor shall any Borrower have the right to convert Loans under the relevant Facility to Eurodollar Loans or Daily Floating Rate Loans, as applicable.~~immediately.

~~Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (i) of this Section 2.16(a) and the Borrowers shall so request, the Administrative Agent, the affected Lenders and the Borrowers shall negotiate in good faith to amend the definition of "Eurodollar Base Rate" and/or "Daily Floating Rate" and other applicable provisions to preserve the original intent thereof in light of such change; provided that, until so amended, such affected Loans will be handled as otherwise provided pursuant to the terms of this Section.~~

(b) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents~~:~~, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Parent or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Parent) that the Parent or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining one month, three month and six month interest periods of Term SOFR (or, in the case of the Daily Floating Rate, the one month Interest Period of Term SOFR), including, without limitation, because the Term SOFR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) CME or any successor administrator of the Term SOFR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator with respect to its publication of Term SOFR, in each case acting in such capacity, has made a public statement identifying a specific date after which one month, three month and six month interest periods of Term SOFR (or, in the case of the Daily Floating Rate, the one month Interest Period of Term SOFR) or the Term SOFR Screen Rate shall or will no longer be made available, or permitted to be used for determining the interest rate of Dollar denominated syndicated loans, or shall or will otherwise cease, provided that, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide such interest periods of Term SOFR (or, in the case of the Daily Floating Rate, the one month Interest Period of Term SOFR) after such specific date (the latest date on which one month, three month and six month interest periods of Term SOFR (or, in the case of the Daily Floating Rate, the one month Interest Period of Term SOFR) or the Term SOFR Screen Rate are no longer available permanently or indefinitely, the "Scheduled Unavailability Date");

~~on March 5, 2021 the Financial Conduct Authority ("FCA"), the regulatory supervisor of LIBOR's administrator ("IBA"), announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-week, 1-month, 2-month, 3-month, 6-month and 12- month Dollar LIBOR tenor settings. On the earliest of (A) the date that all Available Tenors of Dollar LIBOR have permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative, (B) June 30, 2023 and (C) the Early Opt-in Effective Date in respect of a SOFR Early Opt-in, if the then-current Benchmark is LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes~~ then, on a date and time determined by the Administrative Agent (any such date, the "Term SOFR Replacement Date"), which date shall be at the end of an Interest Period or on the relevant interest payment date, as applicable, for interest calculated and, solely with respect to clause (ii) above, no later than the Scheduled Unavailability Date, Term SOFR and the Daily Floating Rate will be replaced hereunder and under any Loan Document ~~in respect of any setting of such Benchmark on such day and all subsequent settings~~ with Daily Simple SOFR *plus* the SOFR Adjustment for any payment period for interest calculated that can be determined by the Administrative Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document~~.~~ (the "Successor Rate").

~~(i)~~ If the ~~Benchmark Replacement~~Successor Rate is Daily Simple SOFR plus the SOFR Adjustment, all interest payments will be payable on a quarterly basis.

~~(ii) (x) Upon (A) the occurrence of a Benchmark Transition Event or (B) a determination by the Administrative Agent that neither of the alternatives under clause (a) of the definition of Benchmark Replacement are available, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders (and any such objection shall be conclusive and binding absent manifest error); provided that solely in the event that the then-current Benchmark at the time of such Benchmark Transition Event is not a SOFR-based rate, the Benchmark Replacement therefor shall be determined in accordance with clause (a) of the definition of Benchmark Replacement unless the Administrative Agent determines that neither of such alternative rates is available.~~

~~(y) On the Early Opt-in Effective Date in respect of an Other Rate Early Opt-in, the Benchmark Replacement will replace LIBOR for all purposes~~

~~hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document.~~

~~(iii) At any time that the administrator of the then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored, the Borrowers may revoke any request for a borrowing of, conversion to or continuation of Loans to be made, converted or continued that would bear interest by reference to such Benchmark until the Parent's receipt of notice from the Administrative Agent that a Benchmark Replacement has replaced such Benchmark, and, failing that, the Borrowers will be deemed to have converted any such request into a request for a borrowing of or conversion to ABR Loans. During the period referenced in the foregoing sentence, the component of the ABR based upon the Benchmark will not be used in any determination of the ABR.~~

Notwithstanding anything to the contrary herein, (i) if the Administrative Agent determines that Daily Simple SOFR is not available on or prior to the Term SOFR Replacement Date, or (ii) if the events or circumstances of the type described in Section 2.16(b)(i) or (ii) have occurred with respect to the Successor Rate then in effect, then in each case, the Administrative Agent and the Borrower may amend this Agreement solely for the purpose of replacing Term SOFR and the Daily Floating Rate or any then current Successor Rate in accordance with this Section 2.16 at the end of any Interest Period, relevant interest payment date or payment period for interest calculated, as applicable, with an alternate benchmark rate giving due consideration to any evolving or then existing convention for similar Dollar denominated credit facilities syndicated and agented in the United States for such alternative benchmarks and, in each case, including any mathematical or other adjustments to such benchmark (which may be zero) giving due consideration to any evolving or then existing convention for similar Dollar denominated credit facilities syndicated and agented in the United States for such benchmark. For the avoidance of doubt, any such proposed rate and adjustments shall constitute a "Successor Rate". Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Parent unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to such amendment.

The Administrative Agent will promptly (in one or more notices) notify the Parent and each Lender of the implementation of any Successor Rate.

Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be less than zero, the Successor Rate will be deemed to be zero for the purposes of this Agreement and the other Loan Documents.

~~(iv)~~ In connection with the implementation ~~and administration of a Benchmark Replacement~~of a Successor Rate, the Administrative Agent will have the right to make ~~Benchmark Replacement~~ Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such ~~Benchmark Replacement~~ Conforming Changes will become effective without any further action or consent of any other party to this Agreement~~.~~; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Parent and the Lenders reasonably promptly after such amendment becomes effective.

~~(v) The Administrative Agent will promptly notify the Parent and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by the Administrative Agent pursuant to this Section 2.16(b), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 2.16(b).~~

~~(vi) At any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including Term SOFR or LIBOR), then the Administrative Agent may remove any tenor of such Benchmark that is unavailable or non-representative for Benchmark (including Benchmark Replacement) settings and (B) the Administrative Agent may reinstate any such previously removed tenor for Benchmark (including Benchmark Replacement) settings.~~

For purposes of this Section 2.16, those Lenders that either have not made, or do not have an obligation under this Agreement to make, the relevant Loans shall be excluded from any determination of Required Lenders.

(c) If any Lender determines that any Requirement of Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its lending office to make, maintain or fund Loans whose interest is determined by reference to SOFR, Term SOFR or the Daily Floating Rate, then, on notice thereof by such Lender to the Parent through the Administrative Agent, (i) any obligation of such Lender to make or continue Term SOFR Loans or to convert ABR Loans or Daily Floating Rate Loans to Term SOFR Loans shall be suspended, (ii) any obligation of such Lender to make Daily Floating Rate Loans or to convert ABR Loans or Term SOFR Loans to Daily Floating Rate Loans shall be suspended and (iii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Term SOFR component of ABR, the interest rate on which ABR Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of ABR, in each case until such Lender notifies the Administrative Agent and the Parent that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Parent shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Term SOFR Loans or Daily Floating Rate Loans of such Lender to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of ABR), either (1) in the case of Term SOFR Loans, on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Term SOFR Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Term SOFR Loans or (2) immediately, in the case of Daily Floating Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon Term SOFR or the Daily Floating Rate, the Administrative Agent shall during the period of such suspension compute ABR applicable to such Lender without reference to the Term SOFR component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Term SOFR or the Daily Floating Rate. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.20.

1.17 **Pro Rata Treatment and Payments**. (a) Each borrowing by a Borrower from the Lenders hereunder, each payment by a Borrower on account of any commitment fee and any reduction of the Commitments of the Lenders shall be made pro rata according to the respective Term Percentages or Revolving Percentages, as the case may be, of the relevant Lenders.

(a) Each payment (including each prepayment) by the Borrowers on account of principal of and interest on the Term Loans shall be made pro rata according to the respective

outstanding principal amounts of such Term Loans then held by the relevant Term Lenders. Amounts prepaid on account of the Term Loans may not be reborrowed.

(b) Each payment (including each prepayment) by a Borrower on account of principal of and interest on the Revolving Loans shall be made pro rata according to the respective outstanding principal amounts of the Revolving Loans then held by the Revolving Lenders.

(c) All payments (including prepayments) to be made by the Borrowers hereunder, whether on account of principal, interest, fees or otherwise, shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff and shall be made prior to 2:00 p.m., New York City time, on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Funding Office, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to each relevant Lender promptly upon receipt in like funds as received, net of any amounts owing by such Lender pursuant to Section 9.7. If any payment hereunder (other than payments on the ~~Eurodollar~~Term SOFR Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a ~~Eurodollar~~Term SOFR Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(d) Unless the Administrative Agent shall have been notified in writing by any Lender prior to a borrowing that such Lender will not make the amount that would constitute its share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender is making such amount available to the Administrative Agent, and the Administrative Agent may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the Borrowing Date therefor, such Lender shall pay to the Administrative Agent, on demand, such amount with interest thereon, at a rate equal to the greater of (i) the Federal Funds Effective Rate and (ii) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, for the period until such Lender makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this paragraph shall be conclusive in the absence of manifest error. If such Lender's share of such borrowing is not made available to the Administrative Agent by such Lender within three Business Days after such Borrowing Date, the Administrative Agent shall also be entitled to recover such amount with interest thereon at the rate per annum applicable to ABR Loans under the relevant Facility, on demand, from the applicable Borrower.

(e) Unless the Administrative Agent shall have been notified in writing by the Parent prior to the date of any payment due to be made by a Borrower hereunder that such Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that such Borrower is making such payment, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrowers within three Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. With respect to any payment that the Administrative Agent makes for the account of the Lenders or the Issuing Lenders hereunder as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "Rescindable Amount"): (1) the Borrowers have not in fact made such payment; (2) the Administrative Agent has made a payment in excess of the amount so paid by the Borrowers (whether or not then

owed); or (3) the Administrative Agent has for any reason otherwise erroneously made such payment; then each of the Lenders or the Issuing Lenders, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Lender or such Issuing Lender, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrowers.

(f) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.7(b), 2.7(c), 2.17(e), 2.17(f), 3.4(a) or 9.7, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent, the Swingline Lender or the Issuing Lender to satisfy such Lender's obligations to it under such Section until all such unsatisfied obligations are fully paid, and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

(g) The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 9.7 are several and not joint. The failure of any Lender to make any Loan or to make any payment under Section 9.7 on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or to make its payment under Section 9.7.

1.18 **Requirements of Law**. (a) If the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(i) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit (or participations therein) by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of ~~the Eurodollar Rate~~Term SOFR or Daily Floating Rate;

(ii) subject any Credit Party to any Taxes (other than (A) Indemnified Taxes and (B) Excluded Taxes) on its Loans, Commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) shall impose on such Lender any other condition (other than Taxes);

and the result of any of the foregoing is to increase the cost to such Lender or such other Credit Party, by an amount that such Lender or other Credit Party deems to be material, of making, converting into, continuing or maintaining Loans or issuing or participating in Letters of Credit, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, the Borrowers shall promptly pay such Lender or such other Credit Party, upon its demand, any additional amounts necessary to compensate such Lender or such other Credit Party for such increased cost or reduced amount receivable. If any Lender or such other Credit Party becomes entitled to claim any additional amounts pursuant to this paragraph, it shall promptly notify the Parent (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled.

(a) If any Lender shall have determined that the adoption of or any change in any Requirement of Law regarding capital adequacy or liquidity requirements or in the interpretation or application thereof or compliance by such Lender or any holding company controlling such Lender with any request or directive regarding capital adequacy or liquidity requirements

(whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof shall have the effect of reducing the rate of return on such Lender's or such holding company's capital as a consequence of its obligations hereunder or under or in respect of any Letter of Credit to a level below that which such Lender or such holding company could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such holding company's policies with respect to capital adequacy or liquidity requirements) by an amount deemed by such Lender to be material, then from time to time, after submission by such Lender to the Parent (with a copy to the Administrative Agent) of a written request therefor, the Borrowers shall pay to such Lender such additional amount or amounts as will compensate such Lender or such holding company for such reduction.

(b) Notwithstanding anything herein to the contrary, (i) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or by United States or foreign regulatory authorities, in each case pursuant to Basel III, and (ii) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof, shall in each case be deemed to be a change in Requirements of Law, regardless of the date enacted, adopted, issued or implemented.

(c) A certificate as to any additional amounts payable pursuant to this Section 2.18 submitted by any Lender to the Parent (with a copy to the Administrative Agent) shall be conclusive in the absence of manifest error. Notwithstanding anything to the contrary in this Section 2.18, no Borrower shall be required to compensate a Lender pursuant to this Section 2.18 for any amounts incurred more than nine months prior to the date that such Lender notifies the Parent of such Lender's intention to claim compensation therefor; provided that, if the circumstances giving rise to such claim have a retroactive effect, then such nine-month period shall be extended to include the period of such retroactive effect. The obligations of the Borrowers pursuant to this Section 2.18 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

1.19 **Taxes**.

(a) (i) Each payment by any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, unless such deduction or withholding is required by any applicable law. If any applicable law, including the Code (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then such Withholding Agent may so deduct or withhold and shall timely pay the full amount of deducted or withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Party shall be increased as necessary so that, net of such deduction or withholding (including such deduction or withholding applicable to additional amounts payable under this Section 2.19), the applicable Credit Party receives the amount it would have received had no such deduction or withholding of Indemnified Taxes been made.

(i) Subject to Section 2.19(a)(i), if any Loan Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section) the applicable recipient receives an amount equal to the sum it would have received had no such withholding or deduction of Indemnified Taxes been made.

(ii) If any Loan Party or the Administrative Agent shall be required by any applicable laws other than the Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent, as required by such laws, shall withhold or make such deductions as are determined by it to be required, (B) such Loan Party or the Administrative Agent, to the extent required by such laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section) the applicable recipient receives an amount equal to the sum it would have received had no such withholding or deduction of Indemnified Taxes been made

(b) The Borrowers shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) As soon as practicable after any payment of Indemnified Taxes by any Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) The Loan Parties shall jointly and severally indemnify each Credit Party for any Indemnified Taxes that are paid or payable by or required to be withheld or deducted from a payment to such Credit Party in connection with any Loan Document (including Indemnified Taxes paid or payable under this Section 2.19(d)) and any reasonable expenses arising therefrom or with respect thereto; provided, however, that the Loan Parties shall not be required to indemnify any Credit Party for any Indemnified Taxes the demand for which is made to the applicable Loan Party more than nine months after the earlier of (i) the date on which the relevant Governmental Authority makes written demand upon such Credit Party for payment of such Indemnified Taxes, and (ii) the date on which such Credit Party has made payment of such Indemnified Taxes (except that if the Indemnified Taxes imposed or asserted giving rise to such claims are retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof). The indemnity under this Section 2.19(d) shall be paid within 10 days after the Credit Party delivers to the Parent a certificate stating the amount of any Indemnified Taxes so paid or payable by such Credit Party and describing the basis for the indemnification claim. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Such Credit Party shall deliver a copy of such certificate to the Administrative Agent. Each of the Loan Parties shall, and does hereby, jointly and severally indemnify the Administrative Agent, and shall make payment in respect thereof within 10 days after written demand therefor, for any amount which a Lender for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 2.19(e) below; provided that, such Lender shall indemnify the applicable Loan Party and shall make payment in respect thereof, within 10 days after written demand therefor, to the extent of any payment by such Loan Party to the Administrative Agent pursuant to this sentence with respect to Taxes described in clauses (ii) and (iii) of Section 2.19(e).

(e) Each Lender shall severally indemnify (i) the Administrative Agent for any Indemnified Taxes (but only to the extent that the Loan Parties have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so) attributable to such Lender, (ii) the Administrative Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.6(c) relating to the maintenance of a Participant Register and (iii) the Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender, in each case, that are paid or payable by the Administrative Agent or a Loan Party in connection with any Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this Section 2.19(e) shall

be paid within 10 days after the Administrative Agent or a Loan Party, as applicable, delivers to the applicable Lender a certificate stating the amount of Taxes so paid or payable by the Administrative Agent or such Loan Party. Such certificate shall be conclusive of the amount so paid or payable absent manifest error.

(f) (i) Any Lender or the Administrative Agent that is entitled to an exemption from, or reduction of, any applicable withholding Tax with respect to any payments under any Loan Document shall deliver to the Parent and the Administrative Agent, at the time or times reasonably requested by the Parent or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Parent or the Administrative Agent as will permit such payments to be made without, or at a reduced rate of, withholding. In addition, any Lender, if requested by the Parent or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Parent or the Administrative Agent as will enable the Parent or the Administrative Agent to determine whether or not such Lender is subject to any withholding (including backup withholding) or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 2.19(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense (or, in the case of a change in any Requirements of Law, any incremental material unreimbursed cost or expense) or would materially prejudice the legal or commercial position of such Lender. Upon the reasonable request of the Parent or the Administrative Agent, any Lender shall update any form or certification previously delivered pursuant to this Section 2.19(f). If any form or certification previously delivered pursuant to this Section 2.19(f) expires or becomes obsolete or inaccurate in any respect with respect to a Lender, such Lender shall promptly (and in any event within 10 days after such expiration, obsolescence or inaccuracy) notify the Parent and the Administrative Agent in writing of such expiration, obsolescence or inaccuracy and update the form or certification if it is legally eligible to do so.

(i) Without limiting the generality of the foregoing, if any Borrower is a U.S. Person, any Lender (or, if the Lender is disregarded as an entity separate from its owner for U.S. Tax purposes, its sole owner) with respect to such Borrower shall, if it is legally eligible to do so, deliver to the Parent and the Administrative Agent (in such number of copies reasonably requested by the Parent and the Administrative Agent) on or prior to the date on which such Lender becomes a party hereto, duly completed and executed copies of whichever of the following is applicable:

(A) any Lender that is a U.S. Person shall deliver executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. Federal backup withholding Tax;

(B) any Lender that is not a U.S. Person shall deliver whichever of the following is applicable:

(1) (1) in the case of a Lender claiming the benefits of an income tax treaty to which the United States is a party, with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under any Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;

(3) in the case of a Lender claiming the portfolio interest exemption under Section 881(c) of the Code, both (1) executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable, and (2) a certificate substantially in the form of Exhibit E-1 (a "U.S. Tax Certificate") to the effect that such Lender is not (a) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (b) a "10 percent shareholder" of such Borrower within the meaning of Section 881(c)(3)(B) of the Code or (c) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code; or

(4) to the extent such Lender is not the beneficial owner, (1) executed copies of IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in clauses (A), (B)(i), (B)(ii), (B)(iii) and (C) of this Section 2.19(f)(ii) from each beneficial owner; provided, however, that if the Lender is a partnership and one or more of its direct or indirect partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate substantially in the form of Exhibit E-2 on behalf of such direct or indirect partner;

(C) any Lender that is not a U.S. Person shall deliver executed copies of any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax together with such supplementary documentation necessary to enable the Parent or the Administrative Agent to determine the amount of Tax (if any) required by law to be withheld; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Parent and the Administrative Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Parent and the Administrative Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Parent and the Administrative Agent as may be necessary for the Parent and the Administrative Agent to comply with its obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 2.19(f)(ii)(D), "FATCA" shall include any amendments made to FATCA after the Closing Date.

(g) Unless required by applicable laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If any party determines, in its sole discretion exercised in good faith, that it has received a refund or credit of any Taxes as to which it has been indemnified pursuant to this Section 2.19 (including additional amounts paid pursuant to this Section 2.19), 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 2.19 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any 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 to such indemnified party pursuant to the previous sentence (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such indemnified party is required to repay such refund to such Governmental Authority. This Section 2.19(g) shall not be construed to require any indemnified party to make available its Tax

returns (or any other information relating to its Taxes which it deems confidential) to the indemnifying party or any other Person.

(h) Each party's obligations under this Section 2.19 shall survive any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the replacement or resignation of the Administrative Agent and the repayment, satisfaction or discharge of all other obligations under the Loan Documents.

(i) For purposes of determining withholding Taxes imposed under FATCA, from and after the Closing Date, the Borrowers and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative Agent to treat) this Agreement as not qualifying as a "grandfathered obligation" within the meaning of Treasury Regulation Section 1471-2(b)(2)(i).

(j) For purposes of Sections 2.19(e) and (f), the term "Lender" includes the Issuing Lender and the Swingline Lender. For purposes of this Section 2.19, the term "applicable law" includes FATCA.

1.20 **Indemnity**. The Borrowers agree to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by any Borrower in making a borrowing of, conversion into or continuation of ~~Eurodollar~~Term SOFR Loans after such Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by any Borrower in making any prepayment of or conversion from ~~Eurodollar~~Term SOFR Loans after such Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of ~~Eurodollar~~Term SOFR Loans on a day that is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of such Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the applicable interbank ~~eurodollar~~ market. A certificate as to any amounts payable pursuant to this Section 2.20 submitted to the Parent by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

1.21 **Change of Lending Office**. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.18 or 2.19(a) or (d) with respect to such Lender, it will, if requested by the Parent, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event with the object of avoiding the consequences of such event; provided, that such designation is made on terms that, in the sole judgment of such Lender, cause such Lender and its lending offices to suffer no economic, legal or regulatory disadvantage, and provided, further, that nothing in this Section 2.21 shall affect or postpone any of the obligations of the Borrowers or the rights of any Lender pursuant to Section 2.18 or 2.19(a) or (d).

1.22 **Replacement of Lenders**. The Parent shall be permitted to replace any Lender that (a) is entitled to additional amounts pursuant to Section 2.18 or 2.19(a) or (d), (b) becomes a Defaulting Lender, or (c) does not consent to any proposed amendment, supplement, modification, consent or waiver of any provision of this Agreement or any other Loan Document that requires the consent of each of the Lenders or each of the Lenders affected thereby (so long as the consent of the Required Lenders, or the Majority Facility Lenders, as the case may be, has been obtained) (any such Lender, a "Non-Consenting Lender"), with a replacement financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default shall have occurred and be continuing after giving effect to such replacement, (iii) prior to any such replacement, such Lender shall have taken no action under Section 2.21 so as to eliminate the continued need for payment of amounts owing pursuant to Section 2.18 or 2.19(a) or (d), (iv) the replacement financial institution shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (v) the Borrowers shall be liable to

such replaced Lender under Section 2.20 if any ~~Eurodollar~~Term SOFR Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (vi) the replacement financial institution shall be reasonably satisfactory to the Administrative Agent, (vii) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 10.6 (provided that the Borrowers shall be obligated to pay the registration and processing fee referred to therein), (viii) until such time as such replacement shall be consummated, the Borrowers shall pay all additional amounts (if any) required pursuant to Section 2.18 or 2.19(a) or (d), as the case may be, (ix) in the case of any such assignment resulting from a claim for compensation under Section 2.18 or payments required to be made pursuant to Section 2.19, such assignment will result in a reduction in such compensation or payments thereafter; (x) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent; and (xi) any such replacement shall not be deemed to be a waiver of any rights that any Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

1.23 **Defaulting Lenders**. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of the Revolving Commitment of such Defaulting Lender pursuant to Section 2.8(a);

(b) such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definitions of "Required Lenders" and "Majority Facility Lenders" and Section 10.1;

(c) any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 8 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.7 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Lender or Swingline Lender hereunder; *third*, to cash collateralize any Issuing Lender's L/C Exposure with respect to such Defaulting Lender in accordance with Section 2.23(d); *fourth*, as the Parent may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Parent, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) cash collateralize any Issuing Lender's L/C Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement in accordance with Section 2.23(d); *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Lenders or Swingline Lenders as a result of any final and non-appealable judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lenders or Swingline Lenders against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrowers as a result of any final and non-appealable judgment of a court of competent jurisdiction obtained by the Borrowers against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or drafts paid under Letters of Credit in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 5.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and drafts paid under Letters of Credit owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or drafts paid under Letters of Credit owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swingline Loans are held by the Lenders pro

rata in accordance with the Revolving Commitments under the Revolving Facility without giving effect to Section 2.23(d). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section 2.23(c) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(d) if any Swingline Exposure or L/C Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the Swingline Exposure and L/C Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Revolving Percentages but only to the extent the sum of all non-Defaulting Lenders' Revolving Extensions of Credit plus such Defaulting Lender's Swingline Exposure and L/C Exposure does not exceed the total of all non-Defaulting Lenders' Revolving Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall within one Business Day following notice by the Administrative Agent (x) first, prepay such Swingline Exposure and (y) second, cash collateralize for the benefit of the Issuing Lender only the Borrowers' obligations corresponding to such Defaulting Lender's L/C Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 8 for so long as such L/C Exposure is outstanding;

(iii) if the Borrowers cash collateralize any portion of such Defaulting Lender's L/C Exposure pursuant to clause (ii) above, the Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 3.3(a) with respect to such Defaulting Lender's L/C Exposure during the period such Defaulting Lender's L/C Exposure is cash collateralized;

(iv) if the L/C Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.8(a) and Section 3.3(a) shall be adjusted in accordance with such non-Defaulting Lenders' Revolving Percentages; and

(v) if all or any portion of such Defaulting Lender's L/C Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Lender or any other Lender hereunder, all fees payable under Section 3.3(a) with respect to such Defaulting Lender's L/C Exposure shall be payable to the Issuing Lender until and to the extent that such L/C Exposure is reallocated and/or cash collateralized; and

(e) so long as such Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Loan and the Issuing Lender shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding L/C Exposure will be 100% covered by the Revolving Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrowers in accordance with Section 2.23(c), and participating interests in any newly made Swingline Loan or any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.23(d)(i) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event with respect to a Lender Parent of any Lender shall occur following the date hereof and for so long as such event shall continue or (ii) the Swingline Lender or the Issuing Lender has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Swingline Lender shall not be required to fund any Swingline Loan and the Issuing Lender shall not be required to issue, amend or increase any Letter of Credit, unless the Swingline Lender or the Issuing Lender, as the case may be, shall have entered

into arrangements with the Borrowers or such Lender, satisfactory to the Swingline Lender or the Issuing Lender, as the case may be, to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Parent, the Swingline Lender and the Issuing Lender each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposure and L/C Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders (other than Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Revolving Percentage.

1.24 **Incremental Facilities**.

(a) The Parent and any one or more Lenders (including New Lenders) may from time to time agree that such Lenders shall make, obtain or increase the amount of their Term Loans (any such Terms Loans, "Incremental Term Loans") or Revolving Commitments, as applicable, by executing and delivering to the Administrative Agent an Increased Facility Activation Notice specifying (i) the amount of such increase and the Facility or Facilities involved, (ii) the applicable Increased Facility Closing Date and (iii) in the case of Incremental Term Loans, (A) the applicable Incremental Term Maturity Date, (B) the amortization schedule for such Incremental Term Loans, and (C) the Applicable Margin for such Incremental Term Loans; provided, that (1) upon the effectiveness of each Incremental Term Loan or increase in Revolving Commitments no Default or Event of Default has occurred and is continuing or shall result therefrom; (2) on a Pro Forma Basis after giving effect to the incurrence of any Incremental Term Loans or increased Revolving Commitments, (assuming in the case of an increase in the Revolving Commitments the full drawing of such increased Revolving Commitments and, without duplication, after giving effect to (x) the borrowing of any Revolving Loans on such day under such increased Revolving Commitments, (y) other permitted pro forma adjustment events and (z) any permanent repayment of Indebtedness after the beginning of the relevant determination period but prior to or simultaneous with borrowing), the Parent is in compliance with the financial covenants in Section 7.1; (3) in the case of an incurrence of an Incremental Term Loan, the Weighted Average Life to Maturity of such Incremental Term Loans shall not be shorter than the Weighted Average Life to Maturity of any then-outstanding Term Loans, (4) upon the effectiveness of each incurrence of any Incremental Term Loans or increase in Revolving Commitments, each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct in all material respects (except to the extent (i) any such representations and warranties relate, by their terms, to a specific date, in which case such representations and warranties shall be true and correct in all material respects on and as of such specific date and (ii) any such representations and warranties are qualified by materiality, in which case such representations and warranties shall be true and correct in all respects) and (5) the Administrative Agent shall have received all flood hazard determination certifications, acknowledgements and evidence of flood insurance and other flood-related documentation with respect to real property Collateral as required by applicable law and as reasonably required by the Administrative Agent to comply with applicable law or the requirements of its regulators. Notwithstanding the foregoing, (i) the aggregate amount of borrowings of Incremental Term Loans and incremental Revolving Commitments obtained after the Closing Date pursuant to this paragraph (together with the aggregate amount of all Incremental Equivalent Indebtedness incurred after the Closing Date) shall not exceed the Incremental Amount and (ii) without the consent of the Administrative Agent, each increase effected pursuant to this paragraph shall be in a minimum amount of at least $20,000,000 or if less the balance of the remaining aggregate principal amount available. No Lender shall have any obligation to participate in any increase described in this paragraph unless it agrees to do so in its sole discretion.

(b) Any additional bank, financial institution or other entity which, with the consent (which consent shall not be unreasonably withheld) of the Parent, the Administrative Agent, the Issuing Lenders (in the case of a Revolving Facility only) and the Swingline Lender (in the case of a Revolving Facility only), elects to become a "Lender" under this Agreement in connection with any transaction described in Section 2.24(a) shall execute a New Lender Supplement (each,

a "New Lender Supplement"), substantially in the form of Exhibit G, whereupon such bank, financial institution or other entity (a "New Lender") shall become a Lender for all purposes and to the same extent as if originally a party hereto and shall be bound by and entitled to the benefits of this Agreement.

(c) Unless otherwise agreed by the Administrative Agent, on each Increased Facility Closing Date with respect to the Revolving Facility, the Borrowers shall borrow Revolving Loans under the relevant increased Revolving Commitments from each Lender participating in the relevant increase in an amount determined by reference to the amount of each Type of Loan (and, in the case of ~~Eurodollar~~Term SOFR Loans, of each ~~Eurodollar~~Term SOFR Tranche) which would then have been outstanding from such Lender if (i) each such Type or ~~Eurodollar~~Term SOFR Tranche had been borrowed or effected on such Increased Facility Closing Date and (ii) the aggregate amount of each such Type or ~~Eurodollar~~Term SOFR Tranche requested to be so borrowed or effected had been proportionately increased. ~~The Eurodollar Base Rate~~Term SOFR applicable to any ~~Eurodollar~~Term SOFR Loan borrowed pursuant to the preceding sentence shall equal ~~the Eurodollar Base Rate~~Term SOFR then applicable to the ~~Eurodollar~~Term SOFR Loans of the other Lenders in the same ~~Eurodollar~~Term SOFR Tranche (or, until the expiration of the then-current Interest Period, such other rate as shall be agreed upon between the Parent and the relevant Lender).

(d) Incremental Term Loans shall: (i) rank pari passu in right of payment priority with the existing Term Loans and the Revolving Facility, (ii) share ratably in rights in the Collateral and the Guarantee and Collateral Agreement and (iii) otherwise be on terms reasonably satisfactory to the Administrative Agent, provided that, such terms and documentation relating to such Incremental Term Loans shall be on terms not materially more onerous, taken as a whole, to the Borrowers than any existing Term Loans (except to the extent permitted above with respect to the maturity date, amortization, interest rate and other than terms which are applicable only after the Revolving Termination Date).

(e) Notwithstanding anything to the contrary in this Agreement, each of the parties hereto hereby agrees that, on each Increased Facility Activation Date, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Loans evidenced thereby. Any such amendment may be effected in writing by the Administrative Agent with the Parent's consent (not to be unreasonably withheld) and furnished to the other parties hereto.

2.25 Additional Borrowers.

(a) The Parent may at any time, upon not less than 15 Business Days' written notice to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), request the designation of any wholly-owned domestic Restricted Subsidiary as a "Borrower" to receive extensions of credit hereunder. The Administrative Agent shall promptly notify the Lenders. Thereafter, the Administrative Agent shall send a joinder agreement or other similar agreement in form and substance satisfactory to the Administrative Agent specifying the effective date upon which such wholly-owned domestic Restricted Subsidiary shall constitute a Borrower for purposes hereof. Upon the execution of such agreement by the Parent, such Restricted Subsidiary and the Administrative Agent, such Restricted Subsidiary shall be a Borrower and permitted to receive extensions of credit hereunder, on the terms and conditions set forth herein and therein, and such Restricted Subsidiary otherwise shall be a Borrower for all purposes of this Agreement; provided that no Loan Notice or Application may be submitted by or on behalf of such newly-designated Borrower until the date 5 Business Days after such effective date. The parties hereto acknowledge and agree that, prior to any wholly-owned domestic Restricted Subsidiary becoming entitled to utilize the credit facilities provided for in this Agreement, the Administrative Agent and the Lenders shall have received such supporting resolutions, incumbency certificates, opinions of counsel, "know-your-customer" information and other documents or information, in form, content and scope reasonably satisfactory to the Administrative Agent, as may be required by the Administrative Agent in its reasonable discretion.

(b) The Parent may from time to time, upon not less than 10 Business Days' written notice to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), terminate a Restricted Subsidiary's status as a "Borrower", provided that there are no outstanding credit extensions payable by such Borrower, or other amounts payable by such Borrower on account of any credit extensions made to it, as of the effective date of such termination. The Administrative Agent will promptly notify the Lenders of any such termination of a Borrower's status.

3.

LETTERS OF CREDIT

1.1 **L/C Commitment**. (a) Subject to the terms and conditions hereof, the Issuing Lender, in reliance on the agreements of the other Revolving Lenders set forth in Section 3.4(a), agrees to issue letters of credit (which may be commercial or standby) providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit ("Letters of Credit") for the account of the Borrowers or any of their Restricted Subsidiaries on any Business Day during the Revolving Commitment Period in such form as may be approved from time to time by the Issuing Lender; provided that the Issuing Lender shall not issue any Letter of Credit if, after giving effect to such issuance, (i) the Issuing Lender's L/C Commitment would exceed such Issuing Lender's L/C Commitment set forth on Schedule 3.1, (ii) the L/C Obligations would exceed the aggregate L/C Commitments or (iii) the aggregate amount of the Available Revolving Commitments would be less than zero. Each Letter of Credit shall (A) be denominated in Dollars and (B) expire no later than the earlier of (1) the first anniversary of its date of issuance and (2) the date that is five Business Days prior to the Revolving Termination Date, provided that any Letter of Credit with a one-year term may provide for the renewal thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (2) above).

(a) The Issuing Lender shall not at any time be obligated to issue any Letter of Credit if: (i) such issuance would conflict with, or cause the Issuing Lender or any L/C Participant to exceed any limits imposed by, any applicable Requirement of Law, (ii) the issuance of such Letter of Credit would violate one or more policies of the Issuing Lender applicable to letters of credit generally, (iii) Section 2.23(e) applies or (iv) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Issuing Lender from issuing such Letter of Credit, or any law applicable to the Issuing Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Issuing Lender shall prohibit, or request that the Issuing Lender refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the Issuing Lender with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the Issuing Lender is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the Issuing Lender any unreimbursed loss, cost or expense (for which the Issuing Lender is not otherwise compensated hereunder) which was not applicable on the Closing Date and which the Issuing Lender in good faith deems material to it.

1.2 **Procedure for Issuance of Letter of Credit**. The Borrowers may from time to time request that the Issuing Lender issue a Letter of Credit by delivering to the Issuing Lender at its address for notices specified herein an Application therefor, completed to the satisfaction of the Issuing Lender and signed by a Responsible Officer and including agreed-upon draft language for such Letter of Credit reasonably acceptable to the applicable Issuing Lender, and such other certificates, documents and other papers and information as the Issuing Lender may request. Upon receipt of any Application, the Issuing Lender will process such Application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures and shall promptly issue the Letter of Credit requested thereby (but in no event shall the Issuing Lender be required to issue any Letter of Credit earlier than three Business Days after its receipt of the Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by the Issuing Lender and the applicable Borrower. The Issuing Lender shall furnish a copy of such Letter of Credit to the applicable Borrower promptly following the issuance thereof. The Issuing Lender shall promptly furnish

to the Administrative Agent, which shall in turn promptly furnish to the Lenders, notice of the issuance of each Letter of Credit (including the amount thereof). The Issuing Lender may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

1.3 **Fees and Other Charges**. (a) The Borrowers will pay a fee on all outstanding Letters of Credit at a per annum rate equal to the Applicable Margin then in effect with respect to ~~Eurodollar~~Term SOFR Loans under the Revolving Facility, shared ratably among the Revolving Lenders and payable quarterly in arrears on each Fee Payment Date after the issuance date. In addition, the Borrowers shall pay to the Issuing Lender for its own account a fronting fee of 0.125% per annum on the undrawn and unexpired amount of each Letter of Credit, payable quarterly in arrears on each Fee Payment Date after the issuance date.

(a) In addition to the foregoing fees, the Borrowers shall pay or reimburse the Issuing Lender for such normal and customary costs and expenses as are incurred or charged by the Issuing Lender in issuing, negotiating, effecting payment under, amending or otherwise administering any Letter of Credit.

1.4 **L/C Participations**. (a) The Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Participant, and, to induce the Issuing Lender to issue Letters of Credit, each L/C Participant irrevocably agrees to accept and purchase and hereby accepts and purchases from the Issuing Lender, on the terms and conditions set forth below, for such L/C Participant's own account and risk an undivided interest equal to such L/C Participant's Revolving Percentage in the Issuing Lender's obligations and rights under and in respect of each Letter of Credit and the amount of each draft paid by the Issuing Lender thereunder. Each L/C Participant agrees with the Issuing Lender that, if a draft is paid under any Letter of Credit for which the Issuing Lender is not reimbursed in full by the Borrowers in accordance with the terms of this Agreement (or in the event that any reimbursement received by the Issuing Lender shall be required to be returned by it at any time), such L/C Participant shall pay to the Issuing Lender upon demand at the Issuing Lender's address for notices specified herein an amount equal to such L/C Participant's Revolving Percentage of the amount that is not so reimbursed (or is so returned). Each L/C Participant's obligation to pay such amount shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such L/C Participant may have against the Issuing Lender, any Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5, (iii) any adverse change in the condition (financial or otherwise) of any Borrower, (iv) any breach of this Agreement or any other Loan Document by any Borrower, any other Loan Party or any other L/C Participant or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(a) If any amount required to be paid by any L/C Participant to the Issuing Lender pursuant to Section 3.4(a) in respect of any unreimbursed portion of any payment made by the Issuing Lender under any Letter of Credit is paid to the Issuing Lender within three Business Days after the date such payment is due, such L/C Participant shall pay to the Issuing Lender on demand an amount equal to the product of (i) such amount, times (ii) the daily average Federal Funds Effective Rate during the period from and including the date such payment is required to the date on which such payment is immediately available to the Issuing Lender, times (iii) a fraction the numerator of which is the number of days that elapse during such period and the denominator of which is 360. If any such amount required to be paid by any L/C Participant pursuant to Section 3.4(a) is not made available to the Issuing Lender by such L/C Participant within three Business Days after the date such payment is due, the Issuing Lender shall be entitled to recover from such L/C Participant, on demand, such amount with interest thereon calculated from such due date at the rate per annum applicable to ABR Loans under the Revolving Facility. A certificate of the Issuing Lender submitted to any L/C Participant with respect to any amounts owing under this Section 3.4 shall be conclusive in the absence of manifest error.

(b) Whenever, at any time after the Issuing Lender has made payment under any Letter of Credit and has received from any L/C Participant its pro rata share of such payment in accordance with Section 3.4(a), the Issuing Lender receives any payment related to such Letter of Credit (whether directly from any Borrower or otherwise, including proceeds of collateral applied thereto by the Issuing Lender), or any payment of interest on account thereof, the Issuing Lender will distribute to such L/C Participant its pro rata share thereof; provided, however, that in the event that any such payment received by the Issuing Lender shall be required to be returned by the Issuing Lender, such L/C Participant shall return to the Issuing Lender the portion thereof previously distributed by the Issuing Lender to it.

1.5 **Reimbursement Obligation of the Borrowers**. If any draft is paid under any Letter of Credit, the Borrowers shall reimburse the Issuing Lender for the amount of (a) the draft so paid and (b) any Other Taxes, fees, charges or other costs or expenses incurred by the Issuing Lender in connection with such payment, not later than 12:00 Noon, New York City time, on (i) the Business Day that the Parent receives notice of such draft, if such notice is received on such day prior to 10:00 A.M., New York City time, or (ii) if clause (i) above does not apply, the Business Day immediately following the day that the Parent receives such notice. Each such payment shall be made to the Issuing Lender at its address for notices referred to herein in Dollars and in immediately available funds. Interest shall be payable on any such amounts from the date on which the relevant draft is paid until payment in full at the rate set forth in (x) until the Business Day next succeeding the date of the relevant notice, Section 2.14(b) and (y) thereafter, Section 2.14(d).

1.6 **Obligations Absolute**. The Borrowers' obligations under this Section 3 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that any Borrower may have or have had against the Issuing Lender, any beneficiary of a Letter of Credit or any other Person. The Borrowers also agree with the Issuing Lender that the Issuing Lender shall not be responsible for, and the Borrowers' Reimbursement Obligations under Section 3.5 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among any Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of any Borrower against any beneficiary of such Letter of Credit or any such transferee. The Issuing Lender shall not be liable for 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, except for errors or omissions found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Issuing Lender. The Borrowers agree that any action taken or omitted by the Issuing Lender under or in connection with any Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or willful misconduct, shall be binding on the Borrowers and shall not result in any liability of the Issuing Lender to any Borrower.

1.7 **Letter of Credit Payments**. If any draft shall be presented for payment under any Letter of Credit, the Issuing Lender shall promptly notify the Parent of the date and amount thereof. The responsibility of the Issuing Lender to the Borrowers in connection with any draft presented for payment under any Letter of Credit shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment are substantially in conformity with such Letter of Credit.

1.8 **Applications**. To the extent that any provision of any Application related to any Letter of Credit (i) is inconsistent with the provisions of this Section 3 or (ii) purports to add defaults or events of default or provide for the grant of security not contemplated by this Agreement, the terms of this Agreement shall govern.

1.9 **Additional Issuing Lenders; Monthly Reports**.

The Parent may appoint other Revolving Lenders as Issuing Lenders; provided, that any such appointment shall be subject to (i) the prior approval of the Administrative Agent, not to be unreasonably withheld and (ii) the acceptance of such appointment by the applicable Revolving

Lender. Upon any such appointment, such Person shall become an Issuing Lender, be entitled to all the benefits and subject to the obligations of an Issuing Lender hereunder with respect to Letters of Credit issued by it. The Parent may select which Issuing Lender it requests to issue a Letter of Credit if there are multiple Issuing Lenders. The Administrative Agent, the Parent and any Issuing Lender appointed as such after the Closing Date may amend this Agreement as the Administrative Agent reasonably determines is necessary or appropriate to reflect such appointment. Each Issuing Lender shall provide to the Administrative Agent a list of outstanding Letters of Credit issued by it (together with type and amounts) on a monthly basis.

1.10 **Letters of Credit Issued for Restricted Subsidiaries**. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Restricted Subsidiary, the Borrowers shall be obligated to reimburse the Issuing Lender hereunder for any and all drawings under such Letter of Credit. The Borrowers hereby acknowledge that the issuance of Letters of Credit for the account of Restricted Subsidiaries inures to the benefit of the Borrowers, and that the Borrowers' businesses derives substantial benefits from the businesses of such Restricted Subsidiaries.

4.

REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into this Agreement and to make the Loans and to issue or participate in the Letters of Credit, except to the extent any such representations and warranties relate, by their terms, to a specific date, as of the date hereof (and as required under Section 5.2) the Borrowers hereby represent and warrant to the Administrative Agent and each Lender that:

1.1 **Financial Condition**. (a) [reserved].

(a) The audited consolidated balance sheet of the Parent as of December 31, 2018 and the related consolidated statements of income and of cash flows for the Fiscal Year ended on such date, reported on by and accompanied by an unqualified report from KPMG, present fairly in all material respects the consolidated financial condition of the Parent and its consolidated Subsidiaries as of such date, and the consolidated results of its operations and its consolidated cash flows for the Fiscal Year then ended. The unaudited consolidated balance sheet of the Parent and its Subsidiaries as of June 30, 2019, and the related unaudited consolidated statements of income and cash flows for the six-month period ended on such date, present fairly in all material respects the consolidated financial condition of the Parent and its consolidated Subsidiaries as of such date, and the consolidated results of its operations and its consolidated cash flows for the three-month period then ended (subject to normal year-end audit adjustments and the absence of footnotes). All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as disclosed therein).

1.2 **No Change**. Since December 31, 2018, there has been no development or event that has had or is reasonably expected to have a Material Adverse Effect.

1.3 **Existence; Compliance with Law**. Each Group Member (a) is duly incorporated or organized, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation, except to the extent, with respect to a Subsidiary, where any failure to maintain existence or good standing would not have a Material Adverse Effect, (b) has the corporate or other organizational power and authority to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, except to the extent that the lack of any such power or authority would not reasonably be expected to cause a Material Adverse Effect, (c) is duly qualified as a foreign corporation or other organization and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, except to the extent that the failure to so qualify would not reasonably be expected to have a Material Adverse Effect, and (d) is in compliance with all applicable Requirements of Law (excluding Environmental Laws and ERISA, but including the Patriot Act) except to the extent that the failure to comply therewith would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

1.4 **Power; Authorization; Enforceable Obligations**. Each Loan Party has the corporate or organizational power and authority to make, deliver and perform the Loan Documents to which it is a party and, in the case of each Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary corporate or organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of each Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. No consent or authorization of, filing with, notice to or other act by, or in respect of, any Governmental Authority or any other Person is required in connection with the extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents to which a Loan Party is a party, except (a) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Administrative Agent, (b) the authorizations, approvals, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect, (c) those filings and actions agreed by the parties to be taken after the Closing Date pursuant to and in accordance with the terms of the Security Documents and (d) any consent, authorization, filing or notice, where the failure to obtain any such consent or authorization or to make any such filing or give any such notice would not reasonably be expected to have a Material Adverse Effect. This Agreement has been, and each Loan Document will be, duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights or remedies generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

1.5 **No Legal Bar**. The execution, delivery and performance of this Agreement and the other Loan Documents to which a Loan Party is a party, the issuance of Letters of Credit, the borrowings hereunder and the use of the proceeds thereof will not (a) violate any Requirement of Law applicable to any Loan Party or any Contractual Obligation of any Group Member, except where any such violation would not reasonably be expected to result in a Material Adverse Effect, or (b) result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such Contractual Obligation (other than the Liens created by the Security Documents), except where any such creation or imposition of any such Lien would not reasonably be expected to have a Material Adverse Effect.

1.6 **Litigation**. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Parent, threatened by or against any Group Member or against any of their respective properties or revenues which is reasonably expected to have a Material Adverse Effect.

1.7 **No Default**. No Group Member is in default under or with respect to any of its Contractual Obligations in any respect which would reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

1.8 **Ownership of Property**. Each Group Member has (i) with respect to its real property that is Mortgaged Property, good record title in fee simple or fee simple with respect to surface rights only or, valid lease-hold interests with respect to property that is leased, (ii) with respect to its other real property, valid lease-hold interests in, easements or other limited property interests in all such, and (iii) with respect to its other property, good title to, or a valid leasehold interest in all such other property except, in each case, (i) where the failure to have such interests does not have a material adverse effect on the current operations of the Business of the owner of such other real property or other property and (ii) for all Liens permitted by Section 7.3.

1.9 **Intellectual Property**. Each Group Member owns, or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted, except for any failures to own or license such Intellectual Property which would not reasonably be expected to have a Material Adverse Effect. No material claim has been asserted against any Group Member and is pending by any Person challenging the use of any such Intellectual Property or the validity or effectiveness of any such Intellectual Property, nor does the Parent know of any valid basis for any such claim, except, in each case, for claims that would not reasonably be expected to have a Material Adverse Effect. To the knowledge of

the Parent, the use of Intellectual Property by each Group Member does not infringe on the rights of any Person, except for such infringements that, in the aggregate, are not reasonably expected to have a Material Adverse Effect.

1.10 **Taxes**. Each Group Member has filed or caused to be filed all Federal, state and other material Tax returns, which, to the knowledge of the Parent, are required to be filed by such Group Member and has paid or made provision for the payment of all Taxes shown to be due and payable on said returns or on any assessments made against it or any of its property in respect thereof received by such Group Member, and all other Taxes, fees or other charges imposed on it or any of its property by any Governmental Authority (other than, in each case, (a) any Taxes the amount or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Group Member and (b) other Taxes where any such failure to file or any such failure to pay would not reasonably be expected to have a Material Adverse Effect); no Tax Lien has been filed in respect of any material amount of unpaid Taxes in respect of which, to the knowledge of the Parent, any claim is being asserted, except where such claim is not reasonably expected to result in a Material Adverse Effect with respect to any such Tax.

1.11 **Federal Regulations**. No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used (a) for "buying" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect for any purpose that violates the provisions of the Regulations of the Board or (b) for any purpose that violates the provisions of the Regulations of the Board. If requested by any Lender or the Administrative Agent, the Parent will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with said Regulation U and any applicable forms required from time to time thereunder. No Loan Party is or will be principally engaged or substantially involved in the business of extending credit for the purpose of "buying" or "carrying" any "margin stock."

1.12 **Labor Matters**. Except as, in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes, lockouts or slowdowns against any Group Member pending or, to the knowledge of the Parent, threatened; (b) hours worked by and payment made to employees of each Group Member have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from any Group Member in respect of employee health and welfare insurance have been paid or accrued as a liability on the most recent audited financial statements of the relevant Group Member.

1.13 **ERISA**. ~~(a)~~ (a) Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (i) each Group Member and each ERISA Affiliate are in compliance with the applicable provisions of ERISA and the provisions of the Code relating to Plans; (ii) no ERISA Event or Foreign Plan Event has occurred or is reasonably expected to occur; (iii) all liabilities required to be accrued by Accounting Standards Codification No. 715: Compensation Retirement Benefits with respect to, or by the terms of, any retiree welfare benefit arrangement maintained by any Group Member or any ERISA Affiliate or to which any Group Member or any ERISA Affiliate has an obligation to contribute have been accrued in accordance with Accounting Standards Codification No. 715: Compensation Retirement Benefits; and (iv) the present value of all accumulated benefit obligations under each Pension Plan (based on the assumptions used for purposes of Accounting Standards Codification No. 715: Compensation Retirement Benefits) did not, as of the date of the most recent audited financial statement reflecting such amounts, exceed the Fair Market Value of the assets of such Pension Plan allocable to such accrued benefits.

(a) No Borrower is or will be using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans to make payments on the Loans, the Letters of Credit or the Commitments.

1.14 **Investment Company Act; Other Regulations**. No Loan Party is an "investment company", or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to regulation under any Federal or state statue or regulation (other than Regulation X of the Board) that limits its ability to incur Indebtedness under the Loan Documents.

1.15 **Subsidiaries**. Schedule 4.15 lists the correct legal name and jurisdiction of incorporation or formation of all of the Subsidiaries of the Parent as of the Closing Date.

1.16 **Use of Proceeds**. The proceeds of the Loans shall be used to finance capital expenditures, acquisitions, working capital needs, the making of distributions, payment of dividends, repayment of Indebtedness and for other general corporate purposes of the Parent and its Subsidiaries.

1.17 **Environmental Matters**. Except to the extent that the following would not reasonably be expected to have a Material Adverse Effect:

(a) the facilities and properties owned, leased or operated by any Group Member (the "Properties") do not contain, and during its period of ownership, lease or operation of the Properties, have not previously contained, any Materials of Environmental Concern in amounts or concentrations that constitute a violation of, or would reasonably be expected to give rise to liability on the part of such Group Member under, any applicable Environmental Law;

(b) no Group Member has received any written notice of violation, alleged violation, non-compliance, liability or potential liability regarding any applicable Environmental Laws with regard to any of the Properties or the business operated by any Group Member (the "Business"), nor does any Responsible Officer of the Parent have knowledge that any such notice has been threatened in writing;

(c) Materials of Environmental Concern have not been transported or disposed of from the Properties in violation of, or in a manner that would reasonably be expected to give rise to liability on the part of any Group Member under, any applicable Environmental Law, nor have any Materials of Environmental Concern been generated, treated, stored or disposed of at, on or under any Property in violation of, or in a manner that would reasonably be expected to give rise to liability on the part of any Group Member under, any applicable Environmental Law;

(d) no judicial proceeding or governmental or administrative action is pending or, to the knowledge of any Responsible Officer of the Parent, threatened in writing, under any Environmental Law to which any Group Member is or will be named as a party with respect to the Properties or the Business, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Properties or the Business;

(e) there has been no release or threat of release of Materials of Environmental Concern at or from the Properties, or arising from or related to the operations of any Group Member in connection with the Properties or otherwise in connection with the Business, in violation of any applicable Environmental Laws;

(f) the Properties and all operations at the Properties are in compliance, and have in the five-year period prior to the date on which this representation is made or deemed made on the date of any extension of credit been in compliance, with all applicable Environmental Laws; and

(g) no Group Member has assumed any liability of any other Person under Environmental Laws.

1.18 **Accuracy of Information, etc**. No statement or information (other than information of a general economic or industry-specific nature), contained in this Agreement, any other Loan Document or any other document, written certificate or written statement furnished by or on behalf of any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the this Agreement or the other Loan Documents, taken as a whole with all other certificates, documents and written statements furnished prior to or substantially contemporaneously therewith, contained, as of the date such statement, information, written document or written certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact known to the Parent and necessary to make the statements contained herein or therein, in light of the circumstances under which they were or will be made not materially misleading; provided that, with respect to projections and pro forma financial information contained in the

materials referenced above the Borrowers represent only that such information was prepared in good faith based upon estimates and assumptions believed by management of the Parent to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount. As of the Closing Date, the Borrowers have disclosed to the Lenders all facts known to them that would reasonably be expected to have a Material Adverse Effect. As of the Closing Date, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects.

1.19 **Security Documents**. (a) The Guarantee and Collateral Agreement, upon execution and delivery thereof by the parties thereto, will, to the extent required therein, be effective to create in favor of the Administrative Agent, for the benefit of the Lenders, a legal, valid and enforceable security interest under the New York UCC in the Collateral described therein. In the case of the Pledged Stock described in the Guarantee and Collateral Agreement constituting certificated securities (as defined in the New York UCC), when such certificated securities are delivered to the Administrative Agent (together with a properly completed and signed stock power or endorsement executed in blank), the security interest created under the Guarantee and Collateral Agreement will constitute a fully perfected security interest in all right, title and interest of the pledgors thereunder in such Pledged Stock, prior and superior in right to any other Person, to the extent that such security interest can be perfected under the New York UCC. In the case of the other Collateral described in the Guarantee and Collateral Agreement, when uniform commercial code financing statements in appropriate form are filed in the applicable offices, the security interest created under the Guarantee and Collateral Agreement shall constitute a fully perfected security interest in all right, title and interest of the Loan Parties in such Collateral to the extent perfection can be obtained by filing uniform commercial code financing statements, prior and superior to the rights of any other Person (except for rights secured by Liens permitted by Section 7.3).

(a) Each of the Mortgages, upon execution and delivery thereof by the parties thereto, will be effective to create or continue, as applicable, in favor of the Administrative Agent, for the benefit of the Lenders, a legal, valid and enforceable security interest in all the applicable mortgagor's right, title and interest in and to the Mortgaged Properties subject thereto and the proceeds thereof, and when the Mortgages are filed in the jurisdictions specified therein, each such Mortgage shall constitute a fully perfected security interest in all right, title and interest of the mortgagors in the Mortgaged Properties and the proceeds thereof, in each case prior and superior to the rights of any other Person (except for rights secured by Liens permitted by Section 7.3). Schedule 1.1B lists, as of the Closing Date, each parcel of owned real property located in the United States and held by the Parent or any of its Restricted Subsidiaries (other than Excluded Subsidiaries) that has a value, in the reasonable opinion of the Parent, in excess of $10,000,000 (other than (i) real properties owned as of the Closing Date by Ceredo Liquid Terminal, LLC, Kanawha River Terminals LLC, and Suncoke Lake Terminal LLC and (ii) the real properties owned as of the Closing Date in Granite City, IL and Buchanan County, VA which properties are not required to be made subject to a Mortgage).

1.20 **Solvency**. Immediately after the consummation of the Transactions to occur on the Closing Date, including the making of each Loan to be made on the Closing Date and as of the date of each other extension of credit hereunder after, in each case, the application of the proceeds of such Loans, and after giving effect to the rights of subrogation and contribution under the Guarantee and Collateral Agreement and otherwise, the Parent and its Restricted Subsidiaries, taken as a whole and on a consolidated basis, will be Solvent.

1.21 **OFAC**. None of the Parent, nor any of its Subsidiaries, nor, to the knowledge of the Loan Parties and their Subsidiaries, any director, officer, or employee thereof, is an individual or entity that is, or is owned or controlled by any individual or entities that are (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, or, to the extent applicable, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction.

1.22 **Anti-Corruption Laws**. The Parent and its Subsidiaries have conducted their businesses in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, and, to the extent applicable, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws, to the extent applicable.

1.23 **Affected Financial Institution**. No Loan Party is an Affected Financial Institution.

1.24 **Flood Insurance**. Each Loan Party maintains, if available, flood hazard insurance (for which all premiums then due have been paid) on all real property that is located in a special flood hazard area and that constitutes Collateral, on such terms and in such amounts as required by The National Flood Insurance Reform Act of 1994 or as otherwise required by the Administrative Agent to comply with applicable law or the requirements of its regulators.

5.

CONDITIONS PRECEDENT

1.1 **Conditions to Initial Extension of Credit**. The agreement of each Lender to make the initial extension of credit requested to be made by it is subject to the satisfaction, prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(a) Credit Agreement; Guarantee and Collateral Agreement. The Administrative Agent shall have received (i) this Agreement, executed and delivered by the Administrative Agent, the Borrowers and each Person listed on Schedule 1.1A, and (ii) the Guarantee and Collateral Agreement, executed and delivered by the Parent and each Restricted Subsidiary that is not an Excluded Subsidiary.

(b) Approvals. All governmental and third party approvals necessary in connection with the Transactions, the continuing operations of the Group Members and the transactions contemplated hereby shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose adverse conditions on the Transactions or the financing contemplated hereby.

(c) Fees. The Lenders and the Administrative Agent shall have received all fees required to be paid, and all expenses for which invoices have been presented (including the reasonable fees and expenses of legal counsel), at least two Business Days before the Closing Date.

(d) Closing Certificate; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit B, with appropriate insertions and attachments, including the certificate of incorporation or organization of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party (to the extent such jurisdiction provides such certifications), and (ii) a long form good standing certificate for each Loan Party from its jurisdiction of organization (to the extent such jurisdiction issues such certificates).

(e) Legal Opinions. The Administrative Agent shall have received the following executed legal opinions, in each case in form and substance reasonably satisfactory to the Administrative Agent:

(i) the legal opinion of Perkins Coie LLP, counsel to the Parent and its Subsidiaries; and

(ii) the legal opinion of local counsel in Ohio and Louisiana and of such other special and local counsel as may be reasonably requested by the Administrative Agent.

Each such legal opinion shall cover such other matters incident to the transactions contemplated by this Agreement as the Administrative Agent may reasonably require.

(f) Pledged Stock; Stock Powers; Pledged Notes. The Administrative Agent shall have received (i) the certificates representing the shares of Capital Stock (to the extent such shares are certificated) pledged pursuant to the Guarantee and Collateral Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) pledged to the Administrative Agent pursuant to the Guarantee and Collateral Agreement endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(g) Filings, Registrations and Recordings. Each document required by the Security Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Lenders, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 7.3), shall be in proper form for filing, registration or recordation.

(h) Mortgages, etc.

(i) [reserved].

(ii) With respect to each Mortgaged Property, the Administrative Agent shall have received a Mortgage applicable to such property, executed and delivered by a duly authorized officer of each party thereto. In any jurisdiction which requires the payment of mortgage recording tax, the maximum amount secured by any Mortgage shall be subject to the reasonable approval of the Administrative Agent, not to exceed the value of the property (together with improvements).

(iii) With respect to each Mortgaged Property, ALTA mortgagee title insurance policies issued by a title insurance company acceptable to the Administrative Agent with respect to such Mortgaged Property (or such amendments and endorsements to existing title policies with respect to such Mortgaged Property), assuring the Administrative Agent that the Mortgage covering such real property creates a valid and enforceable first priority mortgage lien on such real property, free and clear of all defects and encumbrances except Permitted Liens, which title insurance policies shall otherwise be in form and substance satisfactory to the Administrative Agent and shall include such endorsements as are requested by the Administrative Agent (including ALTA 10.1 (date down), ALTA 11.2 (mortgage modification), ALTA 12 (aggregation/tie-in) and ALTA 14 (future advance) or state law equivalents, together with additional coverage added to the ALTA 11.2 as necessary). The Administrative Agent shall have received evidence satisfactory to it that all premiums in respect of each such policy, all charges for mortgage recording tax, and all related expenses, if any, have been paid. Notwithstanding the foregoing, with respect to any endorsements which Administrative Agent may reasonably request and which are charged as a percentage of the base title premium, the Administrative Agent will reasonably consider Borrowers' reasonable requests for alternative and less expensive forms of assurance or protection or for the elimination of such request entirely.

(iv) If requested by the Administrative Agent, the Administrative Agent shall have received (A) a policy of flood insurance that (1) covers any parcel of improved real property that is encumbered by any Mortgage (except that flood insurance shall be required only with respect to such portions of such real property which are improved with buildings and improvements of a substantial nature which are material to the conduct of

the business presently being conducted thereon, or as to which the Administrative Agent is required by law to require such flood insurance), (2) is written in an amount not less than the outstanding principal amount of the indebtedness secured by such Mortgage that is reasonably allocable to such real property or the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less, and (3) has a term ending not later than the maturity of the Indebtedness secured by such Mortgage and (B) confirmation that the Parent has received the notice required pursuant to Section 208(e)(3) of Regulation H of the Board.

(i) Insurance. The Administrative Agent shall have received insurance certificates satisfying the requirements of Section 4.03(i) of the Guarantee and Collateral Agreement.

(j) Existing Parent Credit Agreement. The Existing Parent Credit Agreement shall be repaid in full and all commitments thereunder and security interests related thereto shall be terminated.

(k) Patriot Act. To the extent requested by a Lender at least 5 days prior to the Closing Date, the Loan Parties shall have provided to such Lender all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the Patriot Act.

(l) Beneficial Ownership. At least 5 days prior to the Closing Date, if a Loan Party qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, it shall deliver a Beneficial Ownership Certification in relation to such Loan Party.

For the purpose of determining compliance with the conditions specified in this Section 5.1, each Lender that has signed this Agreement shall be deemed to have accepted, and to be satisfied with, each document or other matter required under this Section 5.1 unless the Administrative Agent shall have received written notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

1.2 **Conditions to Each Extension of Credit**. The agreement of each Lender to make any extension of credit requested to be made by it on any date (including its initial extension of credit) is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct in all material respects on and as of such date as if made on and as of such date (except to the extent (i) any such representations and warranties relate, by their terms, to a specific date, in which case such representations and warranties shall be true and correct in all material respects on and as of such specific date and (ii) any such representations and warranties are qualified by materiality, in which case such representations and warranties shall be true and correct in all respects).

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

(c) Notice. In the case of the borrowing of a Loan, the Administrative Agent shall have received a Loan Notice as required by Section 2.2 or, in the case of the issuance of a Letter of Credit, the Issuing Lender shall have received a notice requesting the issuance of such Letter of Credit as required by Section 3.2.

Each borrowing by, and issuance of a Letter of Credit on behalf of, a Borrower hereunder shall constitute a representation and warranty by the Borrowers as of the date of such extension of credit that the conditions contained in this Section 5.2 have been satisfied.

6.

AFFIRMATIVE COVENANTS

The Borrowers hereby agree that, so long as the Revolving Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, the Borrowers shall and shall cause each of their respective Restricted Subsidiaries to:

1.1 **Financial Statements**. Furnish to the Administrative Agent and each Lender:

(a) within 90 days after the end of each Fiscal Year, a copy of the audited consolidated balance sheet of the Parent and its consolidated Subsidiaries as at the end of such year and the related audited consolidated statements of income and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a "going concern" or like qualification or exception, or qualification arising out of the scope of the audit (other than a "going concern" statement, explanatory note or like qualification or exception resulting solely from an upcoming maturity date under this Agreement occurring within one year from the time such opinion is delivered), by KPMG or other independent certified public accountants of nationally recognized standing (it being understood that the report referred to in this sentence is the report with respect to the Parent's audited financial statements and not any report with respect to the effectiveness of the Parent's internal controls over financial reporting); and

(b) not later than 45 days after the end of each of the first three Fiscal Quarters of each Fiscal Year, the unaudited consolidated balance sheet of the Parent and its consolidated Subsidiaries as of the end of such Fiscal Quarter and the related unaudited consolidated statements of income and of cash flows for such Fiscal Quarter and the portion of the Fiscal Year through the end of such quarter, setting forth in each case in comparative form the figures for the corresponding previous Fiscal Quarter and corresponding portion of the Parent's previous Fiscal Year, certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year-end audit adjustments and the absence of footnotes).

All such financial statements shall be fairly stated in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by such accountants or officer, as the case may be, and disclosed therein) consistently throughout the periods reflected therein. Any documents required to be delivered pursuant to subsection (a) or (b) above or Section 6.2(d) or 6.2(e) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Parent posts such documents, or provides a link thereto, on the Parent's website at www.suncoke.com or (ii) on which such documents are posted on the Parent's behalf on Syndtrak, IntraLinks/IntraAgency, on www.sec.gov or on another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial or third-party or whether sponsored by the Administrative Agent; provided that, in the case of documents that are not available on www.sec.gov, the Parent shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents to the extent any Lender or the Administrative Agent reasonably demonstrates that it cannot access or obtain such documents).

1.2 **Certificates; Other Information**. Furnish to the Administrative Agent and each Lender:

(a) to the extent consistent with the internal policies of the independent public accountants reporting on the financial statements referred to in Section 6.1(a), concurrently with the delivery of such financial statements, a certificate of such independent certified public accountants (which certificate may be limited to accounting matters and disclaim responsibility for legal interpretation) stating that in making the examination necessary for such report no knowledge was obtained of any Default or Event of Default pursuant to Section 7.1, except as specified in such certificate;

(b) concurrently with the delivery of any financial statements pursuant to Section 6.1, (i) a certificate of a Responsible Officer stating that, to the best of each such Responsible Officer's knowledge, each Loan Party during such period has observed or performed all of its covenants and other agreements, and satisfied every condition contained in this Agreement and the other Loan Documents to which it is a party to be observed, performed or satisfied by it, and that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate, (ii) in the case of quarterly or annual financial statements, a Compliance Certificate containing all information and calculations necessary for determining compliance by each Group Member with the financial covenants contained herein as of the last day of the Fiscal Quarter or Fiscal Year, as the case may be, and (iii) in the case of annual financial statements, to the extent not previously disclosed to the Administrative Agent, (1) a description of any change in the jurisdiction of organization of any Loan Party and (2) a description of any Person that has become a Group Member, in each case since the date of the most recent report delivered pursuant to this clause (b) (or, in the case of the first such report so delivered, since the Closing Date);

(c) as soon as available, and in any event no later than 60 days after the end of each Fiscal Year, a detailed consolidated budget for the following Fiscal Year (including a projected consolidated balance sheet of the Parent and its Subsidiaries as of the end of the following Fiscal Year, the related consolidated statements of projected cash flow and projected income and a reasonable description of the underlying assumptions applicable thereto), and, promptly when available, significant revisions, if any, of such budget with respect to such Fiscal Year (collectively, the "Projections");

(d) within 45 days after the end of each Fiscal Quarter (or 90 days, in the case of the fourth Fiscal Quarter of each Fiscal Year), a narrative discussion and analysis of the financial condition and results of operations of the Parent and its Subsidiaries for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, together with a summary comparison of the portion of the Projections covering such periods and of the comparable periods of the previous year;

(e) within 10 Business Days (or such longer period as the Administrative Agent, in its sole discretion, shall agree to) after the same are sent, copies of all financial statements and material reports that the Parent sends to the holders of any class of its debt securities or public equity securities and, within 10 Business Days (or such longer period as the Administrative Agent, in its sole discretion, shall agree to) after the same are filed, copies of all financial statements and reports that the Parent may make to, or file with, the SEC;

(f) promptly following receipt thereof, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Group Member or any ERISA Affiliate requests with respect to any Multiemployer Plan; provided, that if the relevant Group Members or ERISA Affiliates have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plans, then, upon reasonable request of the Administrative Agent, such Group Member or the ERISA Affiliate shall, to the extent and at the times permitted by Sections 101(k) and 101(l) of ERISA, promptly make a request for such documents or notices from such administrator or sponsor and the Parent shall provide copies of such documents and notices to the Administrative Agent promptly after receipt thereof;

(g) promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under the PATRIOT Act, the Beneficial Ownership Regulation or other applicable anti-money laundering laws; and

(h) promptly, such additional available information regarding the business or financial condition of the Group Members (not otherwise required to be delivered to the Administrative Agent or any Lender under any Loan Document) as the Administrative Agent, or any Lender acting through the Administrative Agent, may from time to time reasonably request.

Each Borrower hereby acknowledges that (a) the Administrative Agent may, but shall not be obligated to, make available to the Lenders materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Parent or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. Each Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrowers shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to any Borrower or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute non-public information, they shall be treated as set forth in Section 10.15); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated as "Public Side Information." Notwithstanding the foregoing, the Borrowers shall be under no obligation to mark any Borrower Materials "PUBLIC."

1.3 **[Reserved]**.

1.4 **Maintenance of Existence; Compliance**. (a)(i) Preserve, renew and keep in full force and effect its organizational existence in its jurisdiction of organization and (ii) take all reasonable action required to maintain all rights, privileges and franchises required in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.4 and Section 7.5 and except, in the case of clause (ii) above, to the extent that any other failure to do so would not reasonably be expected to have a Material Adverse Effect; and (b) comply with all Contractual Obligations and Requirements of Law except to the extent that failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

1.5 **Maintenance of Property; Insurance**. (a) Keep all property in its business in good working order and condition (ordinary wear and tear and planned maintenance shutdowns excepted) except for any failures to maintain such property that would not reasonably be expected to have a Material Adverse Effect, (b) maintain with financially sound and reputable insurance companies insurance on all its property in at least such amounts and against at least such risks as are usually insured against in the same general area by companies engaged in the same or a similar business and (c) without limiting the forgoing, (i) maintain, if available, flood hazard insurance (for which all premiums then due have been paid) on all real property that is located in a special flood hazard area and that constitutes Collateral, on such terms and in such amounts as required by The National Flood Insurance Reform Act of 1994 or as otherwise required by the Administrative Agent to comply with applicable law or the requirements of its regulators, (ii) furnish to the Administrative Agent evidence of the renewal (and payment of renewal premiums therefor) of all such policies prior to the expiration or lapse thereof, and (iii) upon any Responsible Officer obtaining knowledge thereof, furnish to the Administrative Agent prompt written notice of any redesignation of any such improved real property into or out of a special flood hazard area.

1.6 **Inspection of Property; Books and Records**. (a) Keep proper books of records and account in which entries which are full, true and correct in all material respects and in conformity with GAAP and all applicable material Requirements of Law shall be made of all dealings and transactions in relation to its business and activities, and (b) permit representatives of the Administrative Agent or any Lender to visit and inspect any of its material properties and examine and make abstracts from any of its books and records at any reasonable time, upon reasonable prior written notice delivered to the Parent and as often as may reasonably be desired and to discuss the business, operations, properties and financial condition of the Group Members with officers and employees of the Group Members and with their independent certified public accountant; provided, however, that all such inspections shall be coordinated by the Lenders and the Administrative Agent, and by the Administrative Agent with the Parent in order to

minimize disruption of the Group Members' business, and so long as no Event of Default has occurred and is continuing, such inspections shall be limited to two per Fiscal Year.

1.7 **Notices**. Promptly give notice to the Administrative Agent (for delivery to each Lender) of the following upon any Responsible Officer obtaining knowledge thereof:

(a) the occurrence of any Default or Event of Default;

(b) any (i) default or event of default under any Contractual Obligation of any Group Member which would reasonably be expected to have a Material Adverse Effect, (ii) litigation, investigation or proceeding of or before any arbitrator or Governmental Authority by or against any Group Member in which there is a reasonable expectation of a determination adverse to such Group Member that would reasonably be expected to have a Material Adverse Effect or (iii) any early termination of, or force majeure event under, any coke sales agreements and energy sales agreements with AK Steel, ArcelorMittal or U.S. Steel (solely in the case of any force majeure event, to the extent such force majeure event would reasonably be expected to continue for a period of two weeks or more);

(c) the occurrence of any ERISA Event or Foreign Plan Event that, alone or together with any other ERISA Events and/or Foreign Plan Events that have occurred, could reasonably be expected to result in liability of any Group Member or any ERISA Affiliate in an aggregate amount exceeding the Threshold Amount, as soon as possible and in any event within 10 days after the Parent knows or has reason to know thereof; and

(d) any other development or event that has had or would reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.7 shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the relevant Group Member proposes to take with respect thereto.

1.8 **Environmental Laws**.

(a) Comply in all material respects with all applicable Environmental Laws, and obtain and comply with, in all material respects and maintain any and all licenses, approvals, notifications, registrations or permits materially required to be obtained and maintained by any Group Member by applicable Environmental Laws.

(b) Except as otherwise could not reasonably be expected to have a Material Adverse Effect, conduct and complete all investigations and all remedial, removal and other actions in respect of any Materials of Environmental Concern required to be conducted or completed by any Group Member under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities applicable to any Group Member regarding Environmental Laws, except to the extent that the same are being contested in good faith by appropriate proceedings.

1.9 **Additional Collateral, etc**. (a) With respect to any property acquired after the Closing Date by any Loan Party (other than (i) deposit accounts opened with any Lender, (ii) real property, (iii) Excluded Collateral, (iv) any property described in paragraph (b), (c) or (d) below, (v) any property subject to a Lien expressly permitted by Section 7.3(e) and (vi) as otherwise set forth in the Security Documents) as to which the Administrative Agent, for the benefit of the Lenders, does not have a perfected Lien, within thirty (30) days after the acquisition thereof (or such longer period as the Administrative Agent, in its sole discretion, shall agree to) (A) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement or such other documents as the Administrative Agent reasonably requests to grant to the Administrative Agent, for the benefit of the Lenders, a security interest in such property and (B) take all actions reasonably requested by the Administrative Agent to grant to the Administrative Agent, for the benefit of the Lenders, a perfected security interest (to the extent and with the priority required by the Guarantee and Collateral Agreement in such property), including the filing of

Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be reasonably requested by the Administrative Agent.

(a) With respect to any fee interest in any real property having a value (together with improvements thereof and any related mineral rights owned by any Loan Party intended to be accessed through such real property) of at least $50,000,000 (as determined at the time of acquisition) that is acquired after the Closing Date by any Loan Party (other than (i) Excluded Collateral, (ii) any such real property subject to a Lien expressly permitted by Section 7.3(e) and (iii) as otherwise set forth in the Security Documents), deliver, or cause to be delivered, within sixty (60) days after the acquisition of such real property (or such longer period as the Administrative Agent, in its sole discretion, shall agree to), to the extent the same would be required under Section 5.1(h) if such real property were owned by a Loan Party on the Closing Date, (A) a fully executed Mortgage, in favor of the Administrative Agent, for the benefit of the Lenders, covering such real property (with a maximum value not to exceed the cost of acquisition (excluding the value of any such mineral rights) in any jurisdiction in which a mortgage recording tax is payable), subject to Liens as permitted pursuant to Section 7.3, (B) provide the Administrative Agent with title and extended coverage insurance covering such real property in an amount not in excess of the existing Revolving Commitments and outstanding Term Loans at the time of acquisition, subject to the same general provisions as contained in Section 5.1(h)(iii), as well as a current survey thereof together with a surveyor's certificate (if applicable) in form and substance reasonably satisfactory to the Administrative Agent, subject to the same general provisions of Section 5.1(h)(ii); provided, however, that the survey requirements of this Section 6.9(b) may be satisfied by a customary "no change" affidavit with respect to any pre-existing or newly commissioned survey obtained in connection with such acquisition (if acceptable for survey coverage), and (C) if requested by the Administrative Agent, legal opinions relating only to the validity and enforceability (but not the priority) of the Lien of such Mortgage, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent. For the avoidance of doubt, if the fee interest in such real property shall be acquired without a title policy and/or survey which would otherwise meet the foregoing requirements of this Section 6.9(b), then the title policy and/or survey requirements of this Section 6.9(b) shall be limited to that portion of such fee interest which comprises the most valuable real property as used in or material to the business currently conducted thereon at the time of the delivery in question, as reasonably determined by the Administrative Agent; provided however that with respect to the remainder of the fee interest in such property, the title company shall certify only that the mortgagor is the owner of record based on recorded deeds with respect to such real property, subject to all matters of record, all title defects, and all standard exclusions and exceptions.

(b) With respect to any new Restricted Subsidiary created or acquired after the Closing Date by any Loan Party (which, for the purposes of this paragraph (c), shall include any existing Restricted Subsidiary that ceases to be an Excluded Subsidiary), within thirty (30) days of such creation or acquisition (or such longer period as the Administrative Agent, in its sole discretion, shall agree to) (i) unless such Restricted Subsidiary is a Foreign Subsidiary, execute and deliver to the Administrative Agent such amendments or supplements to the Guarantee and Collateral Agreement as the Administrative Agent reasonably requests to grant to the Administrative Agent, for the benefit of the Lenders, a perfected security interest (to the extent and with the priority required by the Guarantee and Collateral Agreement) in the Capital Stock of such new Restricted Subsidiary that is owned by any Loan Party, (ii) unless such Restricted Subsidiary is a Foreign Subsidiary, deliver to the Administrative Agent the certificates (if any) representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Group Member, (iii) unless such Restricted Subsidiary is an Excluded Subsidiary, cause such new Restricted Subsidiary (A) to become a party to (1) at the option of the Parent, this Agreement as a "Borrower" and (2) the Guarantee and Collateral Agreement, (B) to take such actions necessary or advisable to grant to the Administrative Agent for the benefit of the Lenders a perfected security interest (to the extent and with the priority required by the Guarantee and Collateral Agreement) in the Collateral described in the Guarantee and Collateral Agreement with respect to such new Restricted Subsidiary, including the filing of Uniform Commercial Code financing statements in such jurisdictions as

may be required by the Guarantee and Collateral Agreement or as may be reasonably requested by the Administrative Agent and (C) to deliver to the Administrative Agent a certificate of such Restricted Subsidiary, substantially in the form of Exhibit B, with appropriate insertions and attachments, and (iv) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(c) With respect to any new Restricted Subsidiary that is a Foreign Subsidiary created or acquired after the Closing Date by any Group Member (other than by any Group Member that is an Excluded Subsidiary), within thirty (30) days of such creation or acquisition (or such longer period as the Administrative Agent, in its sole discretion, shall agree to) (i) execute and deliver to the Administrative Agent such amendments or supplements to the Guarantee and Collateral Agreement as the Administrative Agent reasonably requests to grant to the Administrative Agent, for the benefit of the Lenders, a perfected security interest (to the extent and with the priority required by the Guarantee and Collateral Agreement) in the Capital Stock of such new Subsidiary that is directly owned by any Loan Party, provided that in no event shall more than 65% of the total outstanding voting Capital Stock of any such new Subsidiary be required to be so pledged, (ii) deliver to the Administrative Agent the certificates (if any) representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Loan Party and (iii) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(d) Notwithstanding anything contained in any Loan Document to the contrary, (i) no Group Member shall be required to take any action in any jurisdiction to create any security interest in assets located or titled outside of the United States (or any political subdivision thereof) or to perfect any security interests in such assets, (ii) no Group Member shall be required to enter into any security agreement governed by the laws of any jurisdiction other than the United States (or any political subdivision thereof) and (iii) except as provided in Section 6.13, no Group Member shall be required to enter into any account control agreements with respect to deposit or securities accounts or take any other steps to perfect any security interest in such accounts or cash or cash equivalents.

1.10 **Payment of Taxes**. The Borrowers will pay and discharge, and will cause each of the Restricted Subsidiaries to pay and discharge, all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, in each case on a timely basis, which, if unpaid, may reasonably be expected to become a lien or charge upon any properties of the Borrowers or any of the Restricted Subsidiaries not otherwise permitted under this Agreement; provided that none of the Borrowers or any of the Restricted Subsidiaries shall be required to pay any such tax, assessment, charge or levy which is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or which would not reasonably be expected to constitute a Material Adverse Effect.

1.11 **Designation of Subsidiaries**.

(a) Subject to Section 6.11(b) below, the board of directors of the Parent may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary. The designation of any Restricted Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Parent therein at the date of designation in an amount equal to the Fair Market Value of the Parent's investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time.

(b) The Parent may not (x) designate any Restricted Subsidiary as an Unrestricted Subsidiary, or (y) designate an Unrestricted Subsidiary as a Restricted Subsidiary, in each case unless:

(i) the Parent shall be in compliance on a Pro Forma Basis with the covenants set forth in Section 7.1, calculated as of the last day of the most recently ended fiscal quarter of the Parent for which financial statements have been delivered pursuant to Section 6.1;

(ii) no Default or Event of Default exists or would result therefrom; and

(iii) in the case of clause (x) only, (A) the Subsidiary to be so designated does not (directly, or indirectly through its Subsidiaries) own any Capital Stock or own or hold any Lien on any property of the Parent or any Restricted Subsidiary, and (B) to the extent any Indebtedness of the Subsidiary is not Non-Recourse Debt, any guarantee thereof by the Parent or any Restricted Subsidiary is permitted under Sections 7.2 and 7.8.

(c) Notwithstanding anything to the contrary contained in this Agreement, for purposes of determining whether the designation of a Restricted Subsidiary as an Unrestricted Subsidiary complies with Section 7.8, such compliance shall be determined without utilization of the investment capacity provided by Section 7.8(u) and Section 7.8(v).

1.12 **Anti-Corruption Laws**.

Conduct, and cause each of its Subsidiaries to conduct, its businesses in compliance with the United States Foreign Corrupt Practices Act of 1977, and if applicable to any Group Member, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions and maintain policies and procedures designed to promote and achieve compliance with such laws.

1.13 **Deposit Accounts**.

Maintain the domestic deposit accounts of the Loan Parties (other than any such domestic deposit accounts constituting Excluded Collateral and any such domestic deposit account having amounts on deposit of less than $250,000) with (a) Lenders or (b) other financial institutions that have entered into an agreement with the Administrative Agent granting control over such deposit account to the Administrative Agent; provided, that, after the Second Amendment Effective Date, the Loan Parties shall have ninety (90) days (or such longer period as agreed to by the Administrative Agent in its sole discretion) after the Second Amendment Effective Date (or, in the event that after the Second Amendment Effective Date any Lender with whom any Loan Party maintains any domestic deposit account (other than any such domestic deposit accounts constituting Excluded Collateral and any such domestic deposit account having amounts on deposit of less than $250,000) ceases to be a Lender, ninety (90) days (or such longer period as agreed to by the Administrative Agent in its sole discretion) from the date on which such former Lender ceases to be a Lender) to comply with the requirements of this Section 6.13 which respect to any such applicable domestic deposit accounts.

7.

NEGATIVE COVENANTS

The Borrowers hereby agree that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, no Borrower shall, and no Borrower shall permit any of its Restricted Subsidiaries to, directly or indirectly:

1.1 **Financial Condition Covenants**.

(a) Consolidated Net Leverage Ratio. Permit the Consolidated Net Leverage Ratio as at the last day of any period of four consecutive Fiscal Quarters to exceed 4.50 to 1.00.

(b) Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio determined as of the last day of any period of four consecutive Fiscal Quarters to be less than 2.50 to 1.00.

1.2 **Indebtedness**. Create, issue, incur, assume, become liable in respect of or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party pursuant to any Loan Document;

(b) Indebtedness of the Parent or any Restricted Subsidiary to the Parent or any Restricted Subsidiary; provided that (i) Indebtedness owed by any Restricted Subsidiary that is not a Loan Party to the Parent, any Borrower or any Guarantor shall be subject to Section 7.8 and (ii) Indebtedness owed by a Loan Party to any Restricted Subsidiary that is not a Loan Party shall be subordinated in right of payment to the Obligations;

(c) Guarantee Obligations by (i) the Parent or any Restricted Subsidiary of Indebtedness of the Parent or any Restricted Subsidiary; provided that guarantees by the Parent or any Guarantor of Indebtedness of any Restricted Subsidiary that is not a Loan Party shall be subject to Section 7.8; (ii) the Parent or any Restricted Subsidiary of Indebtedness or other obligations of Claymont to Indiana Harbor Partnership, as in effect on the Closing Date; and (iii) the Parent or any Restricted Subsidiary pursuant to the Transaction Documentation;

(d) Indebtedness outstanding on the Second Amendment Effective Date and listed on Schedule 7.2(d) and any Permitted Refinancing thereof;

(e) Indebtedness of the Parent or any Restricted Subsidiary incurred in connection with any Sale and Leaseback Transaction; provided that the amount of the Capital Lease Obligations outstanding at any time in connection with such Sale and Leaseback Transactions (other than Sale and Leaseback Transactions listed on Schedule 7.11) shall not exceed the greater of (i) $30,000,000 and (ii) 2.0% of Consolidated Net Tangible Assets (determined at the time of incurrence) and in each case any Permitted Refinancing thereof;

(f) (i) Indebtedness of the Parent in respect of the 2021 Senior Notes incurred on the Second Amendment Effective Date in an aggregate amount not to exceed $500,000,000, (ii) any Permitted Refinancing in respect of such Indebtedness and (iii) Guarantee Obligations of any other Loan Party in respect of such Indebtedness;

(g) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(h) Indebtedness of the Parent or any Restricted Subsidiary consisting of the financing of insurance premiums;

(i) Indebtedness arising from agreements of the Parent or any Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or any Subsidiary;

(j) (i) Indebtedness of any Person in existence on the date such Person becomes a Restricted Subsidiary as a result of an acquisition by the Parent or any Restricted Subsidiary or (ii) Indebtedness of the Parent or any Restricted Subsidiary incurred to finance the acquisition, construction, development, design or improvement of any assets (real or personal), including Capital Lease Obligations, mortgage financings, industrial revenue bonds, purchase money obligations, Disqualified Capital Stock, synthetic lease obligations and any Indebtedness assumed in connection with the acquisition of any such assets (real or personal) or secured by a Lien on any such assets before the acquisition thereof; and any Permitted Refinancing thereof; provided that the aggregate principal amount of Indebtedness outstanding at any time and permitted by this clause (j) shall not exceed the greater of $175,000,000 and 12% of Consolidated Net Tangible Assets (determined at the time of incurrence), and in each case, any Permitted Refinancing thereof;

(k) (i) Acquired Debt or (ii) Indebtedness incurred to finance an acquisition of Persons that are acquired by the Parent or any of its Restricted Subsidiaries or merged into the Parent or a Restricted Subsidiary in accordance with the terms hereof, provided that, (A) in the case of Indebtedness incurred under clause (i) of this Section 7.2(k), such Indebtedness shall not be secured unless the Consolidated Net Leverage Ratio, calculated on a Pro Forma Basis, would be no greater than 3.50 to 1.00 for the most recently ended Test Period (or, if the Consolidated Net Leverage Ratio, calculated on a Pro Forma Basis, exceeds 3.50 to 1.00 for the most recently ended Test Period, such Indebtedness shall not be secured if the aggregate amount of all such secured Indebtedness outstanding pursuant to this clause (i) would exceed $75,000,000), (B) in the case of Indebtedness incurred under clause (ii) of this Section 7.2(k), after giving effect to such acquisition and the incurrence thereof, the Consolidated Net Leverage Ratio, calculated on a Pro Forma Basis, shall be equal to or less than the applicable Consolidated Net Leverage Ratio for the most recently ended Test Period set forth in Section 7.1(a) *minus* 0.25 (e.g., 4.50 shall be reduced to 4.25), and (C) in the case of Indebtedness incurred under clause (i) or (ii) of this Section 7.2(k), (1) the Parent is in compliance with Section 7.1 on a Pro Forma Basis and (2) no Event of Default shall have occurred and be continuing or would result therefrom, and in each case, any Permitted Refinancing thereof;

(l) Subordinated Debt in an aggregate principal amount not to exceed at any one time outstanding $30,000,000;

(m) Specified Bilateral Letters of Credit in an aggregate amount not to exceed $30,000,000 at any one time outstanding;

(n) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not to exceed the greater of (i) $100,000,000 and (ii) 7.5% of Consolidated Net Tangible Assets (determined at the time of incurrence) at any time outstanding and any Permitted Refinancing thereof;

(o) Indebtedness of the Parent or any Restricted Subsidiary in connection with one or more standby or trade-related letters of credit, performance bonds, bid bonds, appeal bonds, bankers acceptances, insurance obligations, workers' compensation claims, health or other types of social security benefits, surety bonds, completion guarantees or other similar bonds and obligations, including self-bonding arrangements, issued by the Parent or a Restricted Subsidiary in the ordinary course of business or pursuant to self-insurance obligations and in each case not in connection with the borrowing of money or the obtaining of advances;

(p) Hedging Agreements of the Parent or any Restricted Subsidiary not entered into for speculation;

(q) the incurrence by the Parent or Restricted Subsidiaries of liability in respect of Indebtedness of any Unrestricted Subsidiary of the Parent or any a partnership or joint venture that is not a Restricted Subsidiary, but only to the extent that such liability is the result of the Parent's or any such Restricted Subsidiary's being a general partner or member of, or owner of an equity interest in, such Unrestricted Subsidiary or partnership or joint venture and not as guarantor of such Indebtedness, not to exceed at any one time outstanding $10,000,000;

(r) additional Indebtedness of the Parent or any of its Restricted Subsidiaries in an aggregate principal amount (for the Parent and all Restricted Subsidiaries) not to exceed the greater of (i) $75,000,000 and (ii) 5.0% of Consolidated Net Tangible Assets (determined at the time of incurrence) at any time outstanding and any Permitted Refinancing thereof;

(s) other Indebtedness of the Parent and its Restricted Subsidiaries so long as: (i) at the time of the incurrence or issuance of such Indebtedness, no Event of Default shall have occurred and be continuing or would result therefrom, (ii) the Parent is in compliance with Section 7.1 on a Pro Forma Basis after giving effect to such incurrence; provided that the Consolidated Net Leverage Ratio, calculated on a Pro Forma Basis, shall be equal to or less than the applicable Consolidated Net Leverage Ratio for the most recently ended Test Period set forth

in Section 7.1(a) minus 0.25 (e.g., 4.50 shall be reduced to 4.25), (iii) such Indebtedness shall not mature nor have any scheduled amortization prior to the date that is one year after the Revolving Termination Date and (iv) the terms of the documentation for such Indebtedness do not require the Parent or any of its Restricted Subsidiaries to repurchase, repay or redeem such Indebtedness (or make an offer to do any of the foregoing) upon the happening of any event (other than as a result of an event of default thereunder or pursuant to customary "change of control" provisions or asset sale offers) prior to the Revolving Termination Date or subject to the payment in full of the Obligations; and

(t) Incremental Equivalent Indebtedness and any Guarantee Obligations of any other Loan Party in respect of such Incremental Equivalent Indebtedness; provided that (A) the aggregate principal amount of such Indebtedness outstanding at any time, plus the aggregate principal amount of borrowings of Incremental Term Loans and incremental Revolving Commitment increases pursuant to Section 2.24 shall not exceed, as of any date of determination, the Incremental Amount, (B) no Event of Default shall have occurred and be continuing, or would occur after giving effect to the incurrence of such Indebtedness (or, if such Incremental Equivalent Indebtedness is used to fund a Limited Condition Acquisition, (x) no Event of Default shall have occurred and be continuing as of the date the definitive agreement in respect of such Limited Condition Acquisition is entered into and (y) no Event of Default pursuant to Section 8.1(a) or 8.1(f) shall have occurred and be continuing at the time of the funding of such Incremental Equivalent Indebtedness), and (C) the Parent shall be in compliance, giving Pro Forma Effect to the incurrence of such Indebtedness (and assuming for such purposes that such Indebtedness is fully drawn), with the covenants contained in Section 7.1, in each case recomputed as at the last day of the most recently ended Fiscal Quarter for which financial statements have been delivered under Section 6.1(a) or (b) and for the period of four consecutive Fiscal Quarters ending on such date as if such incurrence had occurred on the first day of each relevant period for testing such compliance (provided that, for the avoidance of doubt, such compliance shall be determined in accordance with Section 1.4 in respect of any Incremental Equivalent Indebtedness used to fund a Limited Condition Acquisition).

1.3 **Liens**. Create, incur, assume or suffer to exist any Lien upon any of its property, whether now owned or hereafter acquired, except:

(a) Liens for Taxes not yet due or that are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Parent or its Restricted Subsidiaries, as the case may be, in conformity with GAAP;

(b) Transaction Liens;

(c) Permitted Liens;

(d) any Lien on any property of the Parent or any Restricted Subsidiary existing on the Second Amendment Effective Date and listed in Schedule 7.3 and any modifications, replacements, renewals or extensions thereof; provided that the Lien does not (i) extend to any additional property or (ii) secure any additional obligations, in each case, other than the initial property so subject to such Lien and the Indebtedness and other obligations originally so secured, and any modifications, replacements, renewals, extensions or refinancings thereof permitted hereunder;

(e) Liens on assets acquired, constructed, developed, designed or improved by the Parent or any Restricted Subsidiary; provided that (i) the Indebtedness secured by such Liens is permitted by Section 7.2(j), and (ii) such Liens will only apply to such assets (plus additions, accessions, replacements to or of such assets);

(f) Liens securing Indebtedness permitted by Section 7.2(e) or (j)(ii); provided that any such Lien is not extended to cover any other property or assets of the Parent or any Restricted Subsidiary (except additions, accessions, replacement and improvements to or of the property or

assets subject to such Lien), except to the extent such extended Lien is permitted to be incurred under any other clause of this Section 7.3;

(g) any Lien granted in favor of the Swingline Lender or any Issuing Lender pursuant to arrangements designed to eliminate such Swingline Lender's or Issuing Lender's risk with respect to any Defaulting Lender's or Defaulting Lenders' participation in Swingline Loans or Letters of Credit, respectively, as contemplated by Section 2.23;

(h) Liens securing Indebtedness or other obligations of the Parent or a Restricted Subsidiary to a Loan Party;

(i) Liens on Capital Stock of any Unrestricted Subsidiary or Foreign Subsidiary;

(j) Liens on assets of Foreign Subsidiaries securing Indebtedness of any Foreign Subsidiary permitted under Section 7.2;

(k) Liens securing obligations under Hedging Agreements of the Parent or any Restricted Subsidiary permitted under Section 7.2(p) and deposits and margin payments made in connection therewith, provided that the aggregate amount of such deposits and margin payments at any time shall not exceed $10,000,000;

(l) Liens incurred in connection with Sale and Leaseback Transactions permitted under Section 7.2(e);

(m) Liens on property of a Person at the time such Person becomes a Restricted Subsidiary of the Parent, provided such Liens were not created in contemplation thereof and do not extend to any other property of the Parent or any Restricted Subsidiary (except additions, accessions, replacements and improvements to or of the property or assets subject to such Lien), except to the extent such extended Lien is permitted to be incurred under any other clause of this Section 7.3;

(n) Liens not otherwise permitted by this Section 7.3 so long as the aggregate outstanding principal amount of the obligations secured thereby (for the Parent and all Restricted Subsidiaries) do not exceed the greater of (i) $75,000,000 and (ii) 5.0% of Consolidated Net Tangible Assets at any time outstanding (determined at the time of incurrence), which Liens, if secured by Collateral, may be equal and ratable with or junior to the Transaction Liens; provided that in the event that such Liens are secured by Collateral, such Liens are subject to an intercreditor agreement reasonably satisfactory to the Administrative Agent;

(o) Liens pursuant to the Transaction Documentation as in effect on the Closing Date, and as amended or modified thereafter on terms that are not materially less favorable to the Parent and its Restricted Subsidiaries, taken as a whole, considered in the aggregate taking into account all such substantially contemporaneous amendments and modifications of the Transaction Documentation;

(p) Liens on the Collateral securing obligations in respect of Indebtedness permitted under Section 7.2(f); provided that such Liens shall be subject to the Intercreditor Agreement at all times; and

(q) Liens securing Incremental Equivalent Indebtedness.

1.4 **Fundamental Changes**. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its property or business, or consummate any Delaware LLC Division, except that:

(a) any Restricted Subsidiary of the Parent may be merged or consolidated with or into the Parent (provided that the Parent shall be the continuing or surviving Person) or with or

into any other Restricted Subsidiary (provided that if either Restricted Subsidiary was a (i) Subsidiary Guarantor, the surviving or continuing Person shall be a Guarantor or (ii) Borrower, the surviving or continuing Person shall be a Borrower);

(b) any Restricted Subsidiary of the Parent may Dispose of any or all of its assets pursuant to a Disposition permitted by Section 7.5;

(c) any Investment expressly permitted by Section 7.8 may be structured as a merger, consolidation or amalgamation; and

(d) any Subsidiary (except a Borrower or a Guarantor) may liquidate or dissolve if (i) the Parent determines in good faith that such liquidation or dissolution is in the best interests of the Parent and is not materially disadvantageous to the Lenders and (ii) no Default or Event of Default shall then exist.

1.5 **Disposition of Property**. Dispose of any of its property, whether now owned or hereafter acquired, or, in the case of any Restricted Subsidiary, issue or sell any shares or other equity interest of such Restricted Subsidiary's Capital Stock to any Person, except:

(a) Dispositions of inventory, used, obsolete or surplus equipment or reserves, Dispositions related to the burn-off of mines, Dispositions of surface rights and termination of Mining Leases after the completion of mining and reclamation and termination or abandonment of water rights no longer needed for mining;

(b) Dispositions of cash, Cash Equivalents or Marketable Securities in any manner not otherwise prohibited by this Agreement;

(c) Dispositions to the Parent or a Restricted Subsidiary; provided that any such Dispositions to a Restricted Subsidiary that is not a Loan Party shall comply with Section 7.8;

(d) licensing and cross-licensing arrangements involving any technology or other intellectual property of the Parent or any Restricted Subsidiary in the ordinary course of business or consistent with past practice; provided, however, that any such license or cross-license of technology or other intellectual property shall be on a non-exclusive basis;

(e) exchanges of assets of the Parent and its Restricted Subsidiaries (other than cash and Cash Equivalents) for Additional Assets; provided that (i) no Event of Default has occurred and is continuing or would result therefrom, (ii) the aggregate Fair Market Value of assets exchanged (determined at the time of such exchange) does not exceed the greater of $35,000,000 and 2.50% of Consolidated Net Tangible Assets (determined at the time of exchange) over the life of this Agreement and (iii) in the event that in one transaction or series of transactions the Fair Market Value of the assets exceeds $25,000,000, the Parent or the applicable Restricted Subsidiary receives an opinion from a nationally recognized firm demonstrating that the assets so swapped are of reasonably equivalent value;

(f) the sale of assets by the Parent and its Restricted Subsidiaries consisting of leases and subleases of real property solely to the extent that such real property is not necessary for the normal conduct of operations of the Parent and its Restricted Subsidiaries;

(g) Dispositions permitted under Section 7.3 Section 7.3 (other than 7.4(b)), Section 7.6, Section 7.8 or Section 7.11;

(h) the unwinding of any Hedging Agreements;

(i) the surrender, modification, release or waiver of contract rights (including under leases, subleases and licenses of real property) or the settlement, release, modification, waiver or surrender of contract, tort or other claims of any kind;

(j) the issuance of Disqualified Capital Stock or preferred stock permitted under Section 7.2;

(k) the issuance of Capital Stock in any Restricted Subsidiary to the extent consisting of directors' qualifying shares or shares required by applicable law to be held by a Person other than the Parent or a Restricted Subsidiary;

(l) the sale or discounting of receivables in the ordinary course of business and not as part of a financing transaction;

(m) the disposition of any asset in connection with a Sale and Leaseback Transaction permitted under Section 7.2(e);

(n) the issuance or sale of Capital Stock by a Restricted Subsidiary to the Parent or to another Restricted Subsidiary;

(o) [reserved];

(p) Dispositions with an aggregate Fair Market Value not exceeding the greater of $120,000,000 and 8.5% of Consolidated Net Tangible Assets (determined at the time of Disposition) over the life of this Agreement; provided that (i) any Disposition or related series of Dispositions made pursuant to this clause shall be made for Fair Market Value and for consideration comprising at least 75% cash and Cash Equivalents, (ii) no Event of Default has occurred and is continuing at the time of such disposition or would result therefrom, (iii) the Parent is in compliance with Section 7.1 on a Pro Forma Basis after giving effect to such Disposition and (iv) the Net Cash Proceeds thereof are applied as required by Section 2.11(b);

(q) any Disposition in a transaction or series of related transactions of assets with a Fair Market Value of less than $10,000,000; and

(r) any Disposition pursuant to or contemplated by the Transaction Documentation as in effect on the Closing Date, and as amended or modified thereafter on terms that are not materially less favorable to the Parent and its Restricted Subsidiaries, taken as a whole, considered in the aggregate taking into account all such substantially contemporaneous amendments and modifications of the Transaction Documentation.

1.6 **Restricted Payments**. Declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment except:

(a) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or distribution or giving of the redemption notice, as the case may be, thereof if, at the date of declaration or notice, such payment would be permitted under this Section 7.6;

(b) the defeasance, redemption, repurchase or other acquisition, retirement or repayment of Subordinated Debt with the Net Cash Proceeds from a substantially concurrent (with any offering within 45 days deemed as substantially concurrent) (i) incurrence of Subordinated Debt or (ii) offering of Qualified Capital Stock or contribution of common equity of the Parent or any Restricted Subsidiary;

(c) the Parent may redeem, repurchase or otherwise acquire or retire its Capital Stock held by current officers, directors or employees or former officers, directors or employees (or their estates or beneficiaries under their estates or their immediate family members), of the Parent or any of its Restricted Subsidiaries upon death, disability, retirement, severance or termination of employment or pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement under which the Capital Stock were issued; provided that the aggregate cash consideration paid therefor in any

calendar year after the Closing Date does not exceed an aggregate amount of $5,000,000 (with unused amounts in any calendar year being permitted to be carried over for the two succeeding calendar years); and provided further that the amount in any calendar year may be increased by an amount not to exceed the sum of (i) cash proceeds received by the Parent or any of its Restricted Subsidiaries from the sale of Qualified Capital Stock of the Parent to officers, directors or employees of the Parent and its Restricted Subsidiaries after the Closing Date and (ii) the cash proceeds of key man life insurance policies received by the Parent and its Restricted Subsidiaries after the Closing Date;

(d) cash payments in lieu of fractional shares upon exercise of options or warrants or conversion or exchange of convertible or exchangeable securities, repurchases of Capital Stock deemed to occur upon the exercise of options, warrants or convertible securities to the extent such securities represent a portion of the exercise price thereof and repurchases of Capital Stock in connection with the withholding of a portion of the Capital Stock granted or awarded to a director or employee to pay for the taxes payable by such director or employee upon such grant or award;

(e) the declaration and payment of regularly scheduled or accrued dividends or distributions to the holders of any class or series of Disqualified Capital Stock or preferred stock of the Parent or any Restricted Subsidiary;

(f) dividends or distributions by a Restricted Subsidiary, on a pro rata basis or on a basis more favorable to the Parent or any other Restricted Subsidiary;

(g) mandatory redemptions of Disqualified Capital Stock issued as a Restricted Payment permitted under this Section 7.6 or as consideration for an Investment permitted under Section 7.8; and

(h) other Restricted Payments not otherwise permitted under this Section 7.6 so long as immediately before and after giving Pro Forma Effect to any such Restricted Payment, (i) no Default shall have occurred and be continuing and (ii) the Parent is in compliance with the covenants set forth in Section 7.1 (as evidenced by a certificate from the chief financial officer of the Parent demonstrating such calculation in reasonable detail); provided, however, the aggregate amount of all Restricted Payments made pursuant to this clause (h) during any Fiscal Year or partial Fiscal Year as the Consolidated Net Leverage Ratio as so calculated on a Pro Forma Basis for the most recent four Fiscal Quarters equals or exceeds (A) from the Closing Date through and including December 30, 2020, 3.50 to 1.00 or (B) on and after December 31, 2020, 3.25:1.00, shall not exceed $50,000,000 for such Fiscal Year or partial Fiscal Year until such time as the Consolidated Net Leverage Ratio as so calculated on a Pro Forma Basis no longer equals or exceeds such ratios.

1.7 **[Reserved]**.

1.8 **Investments**. Make any Investments, except:

(a) Cash Equivalents and Marketable Securities;

(b) Investments existing on the Second Amendment Effective Date and listed on Schedule 7.8;

(c) Investments in Loan Parties (including any Person that becomes a Loan Party immediately after giving effect to and as a result of such Investment) and Investments by any Restricted Subsidiary that is not a Loan Party in any other Restricted Subsidiary that is not a Loan Party;

(d) Investments received as non-cash consideration in a Disposition made pursuant to and in compliance with Section 7.5;

(e) any Investment acquired in exchange for Qualified Capital Stock of the Parent;

(f) (i) receivables owing to the Parent or any Restricted Subsidiary if created or acquired in the ordinary course of business, (ii) endorsements for collection or deposit in the ordinary course of business, (iii) securities, instruments or other obligations received in compromise or settlement of debts created in the ordinary course of business, or by reason of a composition or readjustment of debts or bankruptcy or reorganization of another Person, or in satisfaction claims and judgments and (iv) any Investment as a result of a foreclosure by the Parent or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(g) Investments made pursuant to surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds and similar obligations, in each case, to the extent such surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds and similar obligations permitted under this Agreement;

(h) payroll, travel and other loans or advances to, or Guarantee Obligations issued to support the obligations of, current or former officers, managers, directors, consultants and employees, in each case in the ordinary course of business or consistent with past practice;

(i) Investments in Permitted Businesses, Unrestricted Subsidiaries and joint ventures in an aggregate outstanding amount, taken together with all other Investments made in reliance on this clause (i), not to exceed the greater of (i) $200,000,000 and (ii) 14.0% of Consolidated Net Tangible Assets (determined at the time of such Investment); provided, however, that if any Investment pursuant to this clause (i) is made in a Person that is not a Loan Party at the date of the making of such Investment and such Person becomes a Loan Party after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (c) above and shall cease to have been made pursuant to this clause (i) for so long as such Person continues to be a Loan Party;

(j) extensions of credit to customers, suppliers and joint venture partners in the ordinary course of business;

(k) Investments consisting of purchases and acquisitions, in the ordinary course of business, of inventory, supplies, material or equipment or the licensing or contribution from any other Person of intellectual property;

(l) [reserved];

(m) Hedging Agreements of the Parent or any Restricted Subsidiary not entered into for speculation and deposits and margin payments made in connection therewith;

(n) Investments resulting from pledges and deposits permitted under the definition of "Permitted Liens";

(o) Investments consisting of indemnification obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers' compensation benefits, in each case entered into in the ordinary course of business, and pledges or deposits made in the ordinary course of business in support of obligations under existing coal sales contracts (and extensions or renewals thereof on similar terms);

(p) (i) Guarantee Obligations issued in accordance with Section 7.2 and (ii) guarantees of performance or other obligations (other than Indebtedness) arising in the ordinary course of business or consistent with past practice;

(q) Investments in Indiana Harbor Partnership in an aggregate outstanding amount, taken together with all other Investments made in reliance on this clause (q), not to exceed $60,000,000; provided, however, that if Indiana Harbor Partnership becomes a Loan Party after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (c) above and shall cease to have been made pursuant to this clause (q) for so long as Indiana Harbor Partnership continues to be a Loan Party;

(r) Investments pursuant to or contemplated by any contractual obligations in respect of (i) the Indiana Harbor Partnership as in effect on the Closing Date or (ii) the Transaction Documentation as in effect on the Closing Date;

(s) Investments in Claymont from time to time in an amount equal to Claymont's obligations due and payable within 15 days of such Investment in respect of interest on Indebtedness of Claymont existing on the Closing Date and owing to Indiana Harbor Partnership; provided that (i) Claymont uses the funds received under this clause (s) to pay such interest obligations owing to Indiana Harbor Partnership when due and payable and (ii) this subsection (s) is the only subsection of Section 7.8 that may be utilized for the purpose of making, either directly or indirectly, Investments in Claymont on and after the Closing Date;

(t) any Investment acquired as a capital contribution to the Parent or any Restricted Subsidiary, or made in exchange for, or out of the net cash proceeds of, a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of Qualified Capital Stock of the Parent;

(u) other Investments in an aggregate outstanding amount not to exceed at the time made the greater of (i) $120,000,000 and (ii) 8.5% of Consolidated Net Tangible Assets determined at such date so long as immediately before and after giving Pro Forma Effect to any such Investment (A) no Event of Default shall have occurred and be continuing and (B) the Loan Parties shall have Liquidity of at least $50,000,000;

(v) other Investments not otherwise permitted under this Section 7.8 so long as (i) immediately before and after giving Pro Forma Effect to any such Investment, (A) no Event of Default shall have occurred and be continuing and (ii) the Consolidated Net Leverage Ratio shall be less than (A) from the Closing Date through and including December 30, 2020, 3.50 to 1.00 or (B) on and after December 31, 2020, 3.25:1.00 (as evidenced by a certificate from the chief financial officer of the Parent demonstrating such calculation in reasonable detail); and

(w) any Investments owned by a Person at the time it is acquired by the Parent or a Restricted Subsidiary in a transaction permitted hereunder to the extent not made in contemplation of such acquisition.

1.9 **Modifications of Certain Debt Instruments**. Amend, modify, waive or otherwise change in any manner materially adverse to the Lenders any of the terms of any Subordinated Debt (other than intercompany indebtedness) or Indebtedness secured by Liens on the Collateral contractually subordinated to the Transaction Liens without the consent of the Administrative Agent (which consent shall not be unreasonably withheld, conditioned or delayed); provided that nothing in this Section 7.9 shall prohibit the Parent and its Restricted Subsidiaries from consummating a Permitted Refinancing.

1.10 **Transactions with Affiliates**. Enter into any transaction, including any purchase, sale, lease or exchange of property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate involving aggregate consideration in excess of $5,000,000, unless such transaction is (x) otherwise permitted under this Agreement, and (y) upon fair and reasonable terms no less favorable to the relevant Group Member than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate other than:

(a) transactions among the Parent and the Restricted Subsidiaries;

(b) any Restricted Payment permitted by Section 7.6 and any Investment permitted by Section 7.8;

(c) any issuance of Capital Stock (other than Disqualified Capital Stock) of the Parent;

(d) payments or transactions arising under or contemplated by any contract, agreement, instrument or arrangement in effect on the Closing Date, including, without limitation, the Transaction Documentation, and as amended or modified thereafter on terms that are not materially less favorable to the Parent and its Restricted Subsidiaries, taken as a whole, considered in the aggregate taking into account all such substantially contemporaneous amendments and modifications of the Transaction Documentation;

(e) arrangements with respect to the procurement of services of directors, officers, independent contractors, consultants or employees in the ordinary course of business and the payment of customary compensation (including bonuses) and other benefits (including retirement, health, stock option and other benefit plans) and reasonable reimbursement arrangements in connection therewith;

(f) loans or advances to officers, directors or employees of the Parent or its Restricted Subsidiaries in the ordinary course of business or consistent with past practice or guarantees in respect thereof or otherwise made on their behalf (including payment on such guarantees);

(g) the payment of fees, expenses and indemnities to directors, officers, consultants and employees of the Parent and the Restricted Subsidiaries in the ordinary course of business;

(h) [reserved];

(i) transactions with any Affiliate in its capacity as a holder of Indebtedness or Capital Stock of the Parent; provided that such Affiliate is treated the same as other such holders;

(j) transactions for which the Parent or any Restricted Subsidiary, as the case may be, obtains a favorable written opinion from a nationally recognized investment banking firm as to the fairness of the transaction to the Parent and its Restricted Subsidiaries from a financial point of view; and

(k) transactions with a Person that is an Affiliate of the Parent solely because the Parent owns, directly or through a Restricted Subsidiary, an Investment in, or controls, such Person.

1.11 **Sales and Leasebacks**. Enter into any arrangement with any Person providing for the leasing by any Group Member of real or personal property that has been or is to be sold or transferred by such Group Member to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Group Member except for (a) Sale and Leaseback Transactions listed on Schedule 7.11 and any Permitted Refinancing thereof, (b) Sale and Leaseback Transactions permitted by Section 7.2(e) or Section 7.3(l) and (c) Sale and Leaseback Transactions between or among Loan Parties or between or among Restricted Subsidiaries that are not Loan Parties.

1.12 **Changes in Fiscal Periods**. Permit the Fiscal Year to end on a day other than December 31 or change the Parent's method of determining Fiscal Quarters.

1.13 **Restrictive Agreements**. Directly or indirectly enter into or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition on (x) the ability of any Loan Party to create or permit to exist any Lien on any of its property or (y) the ability of any Restricted

Subsidiary to pay dividends or other distributions with respect to any of its Capital Stock or to make or repay loans or advances to the Parent or any Restricted Subsidiary; provided that:

(a) the foregoing shall not apply to restrictions and conditions imposed by law, rule, regulation, approval, license, permit, order or by any Loan Document, the Transaction Documentation (as in effect on the Closing Date, and as amended or modified thereafter on terms that are not materially less favorable to the Parent and its Restricted Subsidiaries, taken as a whole, considered in the aggregate taking into account all such substantially contemporaneous amendments and modifications of the Transaction Documentation);

(b) the foregoing shall not apply to restrictions and conditions contained in the 2021 Senior Note Indenture, the 2021 Senior Notes or any guarantee thereof or any Permitted Refinancing thereof;

(c) the foregoing shall not apply to restrictions and conditions existing on the date hereof, and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of any of the foregoing; provided that such restrictions or conditions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, no less favorable in any material respect to the Credit Parties than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced (but shall apply to any amendment or modification expanding the scope of), or any extension or renewal of, any such restriction or condition;

(d) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Restricted Subsidiary or an asset pending such sale, provided that such restrictions and conditions apply only to the Restricted Subsidiary or such asset that is to be sold and such sale is permitted hereunder;

(e) clause (x) of this Section 7.13 shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness (including Capital Lease Obligations) permitted by this Agreement on property securing such Indebtedness;

(f) the foregoing shall not apply to (i) customary provisions in leases or subleases restricting or prohibiting the assignment and subletting thereof or any restrictions imposed pursuant to Mining Leases and (ii) other customary anti-assignment provisions in contracts entered into;

(g) the foregoing shall not apply to restrictions and conditions existing under any agreements or other instruments of, or with respect to:

(i) any Person, or the property or assets of any Person, at the time the Person, or property or assets of any Person, is acquired by the Parent or any Restricted Subsidiary; or

(ii) any Unrestricted Subsidiary at the time it is designated or is deemed to become a Restricted Subsidiary, which encumbrances or restrictions (A) are not applicable to any other Person or the property or assets of any other Person and (B) were not put in place in anticipation of such event and any amendments, modifications, restatements, extensions, renewals replacements or refinancings of any of the foregoing, provided that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, no less favorable in any material respect to the Credit Parties than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;

(h) the foregoing shall not apply to restrictions on cash or other deposits or net worth imposed by customers, lessors, suppliers or required by insurance surety bonding companies, in each case in the ordinary course of business;

(i) the foregoing shall not apply to restrictions and conditions existing pursuant to any Indebtedness incurred by, or other agreement of, a Foreign Subsidiary or Restricted Subsidiary which is not a Loan Party, which restrictions are customary for a financing or agreement of such type;

(j) the foregoing shall not apply to customary provisions in joint venture, operating or similar agreements; and

(k) the foregoing shall not apply to any restriction or condition existing pursuant to any agreement or instrument related to any Indebtedness permitted to be incurred subsequent to the Closing Date under Section 7.2 if (i) the encumbrance and restrictions contained in any such agreement or instrument are, taken as a whole, no less favorable in any material respect to the Credit Parties than the encumbrances and restrictions contained in this Agreement as in effect as of the Closing Date (as determined in good faith by the Parent) or (ii) such encumbrance or restriction is, taken as a whole, no less favorable in any material respect to the Credit Parties than is customary in comparable financings (as determined in good faith by the Parent) and the Parent determines in good faith that such encumbrance or restriction will not materially affect the Parent's ability to make principal or interest payments on the notes as and when they become due.

1.14 **Lines of Business**. Enter into any business, either directly or through any Restricted Subsidiary, except for a Permitted Business.

1.15 **Amendments to Transaction Documents**. (a) Amend, supplement or otherwise modify the terms and conditions of the Transaction Documentation (other than this Agreement and the Omnibus Agreement) except for any such amendment, supplement or modification that (x) becomes effective after the Second Amendment Effective Date and (y) could not reasonably be expected to have a Material Adverse Effect or (b) amend, supplement or otherwise modify Section 8.6 of the Omnibus Agreement.

1.16 **Sanctions**.

Directly, or knowingly indirectly, use any Loan or Letter of Credit or the proceeds of any Loan or Letter of Credit, or lend, contribute or otherwise make available such Loan or Letter of Credit or the proceeds of any Loan or Letter of Credit to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as Lender, Joint Lead Arranger, Administrative Agent or otherwise) of Sanctions.

1.17 **Anti-Corruption Laws**.

Directly, or knowingly indirectly, use the proceeds of any Loan or Letter of Credit for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, or, if applicable to the Parent or any Subsidiary, the UK Bribery Act 2010 or other similar anti-corruption legislation in effect in other jurisdictions.

8.

EVENTS OF DEFAULT AND REMEDIES

1.1 **Events of Default**.

If any of the following events shall occur and be continuing:

(a) any Borrower shall fail to pay any principal of any Loan or Reimbursement Obligation when due in accordance with the terms hereof, or any Borrower shall fail to pay any interest on any Loan or Reimbursement Obligation, or any other amount payable hereunder or under any other Loan Document, within five days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other written statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect on or as of the date made or deemed made; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in clause (i) of Section 6.4(a) (with respect to the Borrowers only), Section 6.7(a) or Section 7 of this Agreement; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in Sections 8.1(a) through 8.1(c)), and such default shall continue unremedied for a period of 30 days after receipt of written notice to the Parent from the Administrative Agent or the Required Lenders thereof; or

(e) any Group Member shall (i) default in making any payment of any principal, interest or other payment of any Material Indebtedness (excluding the Loans) when and as the same shall become due and payable (giving effect to any period of grace), or (ii) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Material Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Material Indebtedness to become due prior to its Stated Maturity or (in the case of any such Indebtedness constituting a Guarantee Obligation) to become payable without such Material Indebtedness having been discharged, or any such default or other event or condition having been cured promptly; provided, that this clause (ii) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the assets securing such Indebtedness; or

(f) (i) any Group Member (other than an Immaterial Subsidiary) shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts generally, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or substantially all of its assets; (ii) there shall be commenced against any Group Member (other than an Immaterial Subsidiary) any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days; (iii) there shall be commenced against any Group Member (other than an Immaterial Subsidiary) any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; (iv) any Group Member (other than an Immaterial Subsidiary) shall take any written action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; (v) any Group Member shall generally not, or shall admit in writing its inability to, pay its debts as they become due; or (vi) or any Group Member shall make a general assignment for the benefit of its creditors; or

(g) (i) an ERISA Event and/or a Foreign Plan Event shall have occurred; (ii) a trustee shall be appointed by a United States district court to administer any Pension Plan; (iii) the PBGC shall institute proceedings to terminate any Pension Plan; or (iv) any Group Member or any ERISA Affiliate shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such Group Member or ERISA Affiliate does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner; and

in each case in clauses (i) through (iv) above, such event or condition, together with all other such events or conditions, if any, under this Section 8.1(g), would reasonably be expected to result in liability of any Group Member in an aggregate amount exceeding $50,000,000; or

(h) one or more final judgments or decrees of a court shall be entered against any Group Member (other than an Immaterial Subsidiary) for the payment of money in an aggregate amount (not paid or adequately covered by insurance as to which the relevant insurance company has acknowledged coverage) of the Threshold Amount or more, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 60 days from the entry thereof; or

(i) any Lien purported to be created under any of the Security Documents shall cease to be, for any reason, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any material Collateral, with the priority required by the applicable Security Document, except (i) as permitted under, or pursuant to the terms of, the Loan Documents or (ii) as a result of the Administrative Agent's failure to maintain possession of any stock certificate (or other certificated security referred to in the Guarantee and Collateral Agreement), promissory note or other instrument delivered to it under the Guarantee and Collateral Agreement; or

(j) the guarantee contained in Section 2 of the Guarantee and Collateral Agreement shall cease, for any reason, to be in full force and effect or any Loan Party shall so assert, except (i) as permitted under the Loan Documents or (ii) pursuant to the terms of the Loan Documents; or

(k) a Change of Control shall occur.

1.2 **Remedies Upon Event of Default**.

If any Event of Default occurs and is continuing, (A) if such event is an Event of Default specified in clause (i) or (ii) of Section 8.1(f) above with respect to any Borrower, automatically the Commitments shall immediately terminate and the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: (1) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Parent declare the Commitments to be terminated forthwith, whereupon the Commitments shall immediately terminate; and (2) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Parent, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) to be due and payable forthwith, whereupon the same shall immediately become due and payable. With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to this paragraph, the Borrowers shall at such time deposit in a cash collateral account opened by the Administrative Agent an amount equal to the aggregate then undrawn and unexpired amount of such Letters of Credit. Except as expressly provided above in this Section 8.2, presentment, demand, protest and all other notices of any kind are hereby expressly waived by each of the Borrowers.

1.3 **Application of Funds**.

After the exercise of remedies provided for in Section 8.2 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be cash collateralized as set forth in Section 8.2), any amounts received on account of the Obligations shall, subject to the provisions of Section 2.23, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Section 2.18 and Section 2.19) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit fees payable pursuant to Section 3.3(a)) payable to the Lenders and the Issuing Lender (including fees, charges and disbursements of counsel to the respective Lenders and the Issuing Lender and amounts payable under Section 2.18 and Section 2.19), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit fees payable pursuant to Section 3.3(a) and interest on the Loans and unreimbursed drawings under Letters of Credit, ratably among the Lenders and the Issuing Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to (a) payment of that portion of the Obligations constituting unpaid principal of the Loans and unreimbursed drawings under Letters of Credit, (b) payment of Obligations then owing under any Specified Swap Agreement, (c) payment of Obligations then owing under any Specified Cash Management Agreements, (d) payment of that portion of the Obligations constituting unreimbursed drawings under Specified Bilateral Letters of Credit, (e) cash collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit and (f) cash collateralize that portion of Obligations comprised of the aggregate undrawn amount of Specified Bilateral Letters of Credit (not to exceed $30,000,000 in the aggregate), ratably among the Lenders, the Issuing Lenders, the Lenders (or Affiliates) party to Specified Swap Agreements, the Lenders (or Affiliates) party to Specified Cash Management Agreements and the Lenders (or Affiliates) issuing such Specified Bilateral Letters of Credit in proportion to the respective amounts described in this clause Fourth payable to them;

Fifth, to payment of all remaining Obligations, ratably to the holders thereof; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrowers or as otherwise required by ~~Law~~law.

Amounts used to cash collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as ~~Cash Collateral~~cash collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

Excluded Swap Obligations with respect to any Loan Party shall not be paid with amounts received from such Loan Party or such Loan Party's assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section.

Notwithstanding the foregoing, Obligations arising under Specified Cash Management Agreements, Specified Swap Agreements, and Specified Bilateral Letters of Credit shall be excluded from the application described above if the Administrative Agent has not received a Secured Party Designation Notice, together with such supporting documentation as the Administrative Agent may request, from the applicable Lender (or Affiliate), as the case may be (unless such Lender (or Affiliate) is the Administrative Agent or an Affiliate thereof). Each such Affiliate of a Lender that is not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Section 9 for itself and its Affiliates as if a "Lender" party hereto.

9.

THE AGENTS

1.1 **Appointment**. Each Lender hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such

action on its behalf under the provisions of this Agreement and the other Loan Documents (including the execution of any intercreditor agreements contemplated hereunder) and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent.

The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.2 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Section 9 and Section 10, as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents as if set forth in full herein with respect thereto.

The Lenders and the other Secured Parties hereby irrevocably authorize and instruct the Administrative Agent to, without any further consent of any Lender or any other Secured Party, enter into (or acknowledge and consent to) or amend, renew, extend, supplement, restate, replace, waive or otherwise modify the Intercreditor Agreement or any other intercreditor agreement with the collateral agent or other representatives of the holders of Indebtedness that is to be secured by a Lien on the Collateral that is not prohibited (including with respect to priority) under this Agreement and to subject the Obligations and the Liens on the Collateral securing the Obligations to the provisions thereof (any of the foregoing, an "Applicable Intercreditor Agreement"). The Lenders and the other Secured Parties irrevocably agree that (x) the Administrative Agent may rely exclusively on a certificate of a Responsible Officer of the Parent as to whether any such other Liens are not prohibited and (y) any Applicable Intercreditor Agreement entered into by the Administrative Agent shall be binding on the Secured Parties, and each Lender and the other Secured Parties hereby agrees that it will take no actions contrary to the provisions of, if entered into and if applicable, any Applicable Intercreditor Agreement. The foregoing provisions are intended as an inducement to any provider of any Indebtedness not prohibited by Section 7.2 hereof to extend credit to the Loan Parties.

1.2 **Delegation of Duties**. The Administrative Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

1.3 **Exculpatory Provisions**. Neither any Agent nor any of their respective Related Parties shall be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder, for the creation, perfection or priority of any Lien purported to be created by the Security Documents or for the value or the sufficiency of any Collateral. The Agents shall not be under any obligation to any Lender 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 Loan Document, or to inspect the properties, books or records

of any Loan Party. The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions of this Agreement relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution.

1.4 **Reliance by Administrative Agent**. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy or email message, statement, order 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 Parent), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, the Majority Facility Lenders or all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, the Majority Facility Lenders or all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan.

1.5 **Notice of Default**. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received notice from a Lender or the Parent referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, the Majority Facility Lenders or all Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

1.6 **Non-Reliance on Agents and Other Lenders**. Each Lender expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, partners, agents, advisors, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender acknowledges to the Agents that it has, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent or any other Lender, 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 Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates.

1.7 **Indemnification**. The Lenders agree to indemnify each Agent and its Related Parties (each, an "Agent Indemnitee") (to the extent not reimbursed by the Borrowers and without limiting the obligation of the Borrowers to do so), ratably according to their respective Aggregate Exposure Percentages in effect on the date on which indemnification is sought under this Section 9.7 (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Aggregate Exposure Percentages immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent Indemnitee in any way relating to or arising out of, the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent Indemnitee under or in connection with any of the foregoing and the reasonable fees and expenses of legal counsel in connection with the claims, actions or proceedings by any Agent Indemnitee against any Loan Party under any Loan Document; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent Indemnitee's gross negligence, willful misconduct or breach in bad faith of such Agent Indemnitee, and provided, further, that the above provisions of this Section 9.7 shall not apply with respect to Taxes other than any Taxes that represent losses or damages arising from any non-Tax claim. The agreements in this Section 9.7 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

1.8 **Agent in Its Individual Capacity**. Each Agent and its affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it and with respect to any Letter of Credit issued or participated in by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

1.9 **Successor Administrative Agent**. The Administrative Agent may resign as Administrative Agent upon 10 days' notice to the Lenders and the Parent. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8.1(a) or Section 8.1(f) with respect to any Borrower shall have occurred and be continuing) be subject to approval by the Parent (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed). In no event shall any successor Administrative Agent be a Defaulting Lender or Disqualified Institution. If no successor agent has accepted appointment as Administrative Agent by the date that is 10 days following a retiring

Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. Notwithstanding anything to the contrary contained herein, after any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Section 9 and Section 10.5 shall continue to inure to its (and its Related Parties') benefit in respect of any actions taken or omitted to be taken (i) while the retiring Administrative Agent was acting as Administrative Agent and (ii) after such resignation for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (A) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Lenders and (B) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.

1.10 **No Other Duties, Etc.** Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers, syndication agents, documentation agents or co-agents shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Lender hereunder.

1.11 **Administrative Agent May File Proofs of Claim; Credit Bidding**.

In case of the pendency of any proceeding under any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights or remedies generally or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Lenders and the Administrative Agent under Sections 2.8, 3.3, and 10.5) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.8 and 10.5.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any Issuing Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any Issuing Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender or any Issuing Lender in any such proceeding.

The holders of the Obligations hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the

Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar laws in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the holders thereof shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Capital Stock or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles; provided, that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Capital Stock thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (i) through (v) of the first proviso of Section 10.1, and (iii) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Capital Stock and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Lender or any acquisition vehicle to take any further action.

1.12 **ERISA Matters**.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each Joint Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrowers or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) subclause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with subclause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each Joint Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrowers or any other Loan Party, that none of the Administrative Agent or any Joint Lead Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

1.13 **Specified Swap Agreements, Specified Cash Management Agreements and Specified Bilateral Letters of Credit**.

Except as otherwise expressly set forth herein, no Affiliate of any Lender that obtains the benefit of Section 8.3, the Guarantee and Collateral Agreement or any Collateral by virtue of the provisions hereof or any Security Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) (or to notice of or to consent to any amendment, waiver or modification of the provisions hereof or of the Guarantee and Collateral Agreement or any Security Document) other than in its capacity (if any) as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Section 9.13 to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Specified Cash Management Agreements, Specified Swap Agreements and Specified Bilateral Letters of Credit except to the extent expressly provided herein and unless the Administrative Agent has received a Secured Party Designation Notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Lender (or Affiliate), as the case may be. The Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Specified Cash Management Agreements, Specified Swap Agreements or Specified Bilateral Letters of Credit in the case of the repayment in full of all Obligations arising under the Loan Documents and the termination of all Commitments.

9.14 Recovery of Erroneous Payments.

Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Credit Party, whether or not in respect of an Obligation due and owing by the Borrowers at such time, where such payment is a Rescindable Amount, then in any such event, each Credit Party receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Credit Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Credit Party irrevocably waives any and all defenses, including any "discharge for value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Credit Party promptly upon determining that any payment made to such Credit Party comprised, in whole or in part, a Rescindable Amount.

10.

MISCELLANEOUS

1.1 **Amendments and Waivers**. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Administrative Agent and each Loan Party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall (i) forgive the principal amount or extend the final scheduled date of maturity of any Loan, extend the scheduled date of any amortization payment in respect of any Term Loan, reduce the stated rate of any interest or fee payable hereunder (except (A) in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Majority Facility Lenders of each adversely affected Facility) and (B) that any amendment or modification of defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Commitment, in each case without the written consent of each Lender directly affected thereby; (ii) eliminate or reduce the voting rights of any Lender under this Section 10.1 without the written consent of such Lender; (iii) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by any Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release all or substantially all of the Collateral or release all or substantially all of the Subsidiary Guarantors from their obligations under the Guarantee and Collateral Agreement, in each case without the written consent of all Lenders; (iv) amend, modify or waive any provision of subsection (a), (b) or (c) of Section 2.17 without the written consent of each Lender directly and adversely affected thereby; (v) reduce the amount of Net Cash Proceeds required to be applied to prepay Loans under this Agreement without the written consent of the Majority Facility Lenders with respect to each Facility adversely affected thereby; (vi) reduce the percentage specified in the definition of Majority Facility Lenders with respect to any Facility without the written consent of all Lenders under such Facility; (vii) amend, modify or waive any provision of Section 9 or any other provision of any Loan Document that affects the Administrative Agent without the written consent of the Administrative Agent; (viii) amend, modify or waive any provision of Section 2.6 or 2.7 without the written consent of the Swingline Lender; (ix) amend, modify or waive any provision of Section 3 or the rights or duties hereunder or under any other Loan Document of the Issuing Lenders without the written consent of the Issuing Lenders; (x) amend, modify or waive any provision of Section 8.3 without the written consent of each Lender adversely affected thereby; or (xi) prior to the termination of the Revolving Commitments, unless also signed by Revolving Lenders (other than Defaulting Lenders) holding at least a majority of the Revolving Facility, amend, change, waive, discharge or terminate Section 5.2 in a manner adverse to the Revolving Lenders. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Loans. In the case of any waiver, the Loan Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

Notwithstanding the foregoing:

(i) this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrowers (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share in the benefits of this Agreement and the other Loan Documents with the Term Loans and Revolving Extensions of Credit and the accrued interest and fees in respect thereof and (b) to include

appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and Majority Facility Lenders;

(ii) this Agreement may be amended with the written consent of the Administrative Agent, the Borrowers and the Lenders providing the relevant Replacement Term Loans (as defined below) and/or Replacement Revolving Loans and Replacement Revolving Commitments (as defined below) (and without the necessity of obtaining the consent of any other Lender) to permit the refinancing, replacement or modification of (a) all or any portion of the outstanding Term Loans ("Replaced Term Loans") with a replacement term loan tranche hereunder ("Replacement Term Loans") and/or (b) all outstanding Revolving Loans ("Replaced Revolving Loans") and Revolving Commitments ("Replaced Revolving Commitments") with replacement revolving loans hereunder ("Replacement Revolving Loans") and replacement revolving commitments hereunder ("Replacement Revolving Commitments"), provided that (x)(1) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Replaced Term Loans, (2) the Applicable Margin for such Replacement Term Loans shall not be higher than the Applicable Margin for such Replaced Term Loans and (3) the Weighted Average Life to Maturity of such Replacement Term Loans shall not be shorter than the Weighted Average Life to Maturity of such Replaced Term Loans and (y)(1) the aggregate principal amount of such Replacement Revolving Loans and Replacement Revolving Commitments shall not exceed the aggregate principal amount of such Replaced Revolving Loans and Replaced Revolving Commitments, (2) the Applicable Margin for such Replacement Revolving Loans shall not be higher than the Applicable Margin for such Replaced Revolving Loans, (3) the Commitment Fee Rate applicable to such Replacement Revolving Commitments shall not be higher than the Commitment Fee Rate for such Replaced Revolving Commitments, (4) the Weighted Average Life to Maturity of such Replacement Revolving Loans shall not be shorter than the Weighted Average Life to Maturity of such Replaced Revolving Loans at the time of such refinancing, (5) the Administrative Agent shall have received all flood hazard determination certifications, acknowledgements and evidence of flood insurance and other flood-related documentation with respect to real property Collateral as required by applicable law and as reasonably required by the Administrative Agent to comply with applicable law or the requirements of its regulators and (6) the Net Cash Proceeds of such Replacement Term Loans and/or Replacement Revolving Loans shall be applied, substantially concurrently with the incurrence thereof, to prepay the Term Loan and/or Revolving Loans being so refinanced (or such Term Loan and/or Revolving Loans shall be converted or continued on terms satisfactory to the Lenders under such Facility);

(iii) without the consent of any Agent or Lender or the Issuing Lender, the Loan Parties and the Administrative Agent may (in their respective sole discretion, or shall, to the extent required by any Loan Document) enter into any amendment, modification or waiver of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, or as required by local law to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable law;

(iv) technical and conforming modifications to the Loan Documents may be made with the consent of the Parent and the Administrative Agent to the extent necessary to integrate any Incremental Term Facility or Revolving Commitments obtained or increased pursuant to Section 2.24;

(v) this Agreement may be amended and restated without the consent of any Lender (but with the consent of the Borrowers and the Administrative Agent) if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated, such Lender shall have no other commitment or other obligation hereunder and shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement; ~~and~~

(vi) the Administrative Agent and the Parent may amend, modify or supplement this Agreement or any other Loan Document to cure or correct administrative errors or omissions, any ambiguity, omission, defect or inconsistency or to effect administrative changes, and such

amendment shall become effective without any further consent of any other party to such Loan Document so long as (a) such amendment, modification or supplement does not adversely affect the rights of any Lender or other holder of Obligations in any material respect and (b) the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment~~.~~; and

(vii) the Administrative Agent and the Parent may make amendments contemplated by Section 2.16(b).

In addition, notwithstanding the foregoing, the Parent may, by written notice to the Administrative Agent from time to time, make one or more offers (each, a "Loan Modification Offer") to all the Lenders of a particular Facility to make one or more amendments or modifications to (A) allow the maturity of the Commitments or Loans of the accepting Lenders in respect of such Facility to be extended, (B) modify the Applicable Margin and/or fees payable with respect to the relevant Loans and Commitments of the accepting Lenders, and (C) make any other amendment to a Loan Document required to give effect to the Permitted Amendments described in clauses (A) and (B) of this paragraph ("Permitted Amendments", and any amendment to this Agreement to implement Permitted Amendments, a "Loan Modification Agreement") pursuant to procedures reasonably specified by the Administrative Agent and reasonably acceptable to the Parent. Such notice shall set forth (i) the terms and conditions of the requested Permitted Amendments and (ii) the date on which such Permitted Amendments are requested to become effective. Permitted Amendments shall become effective only with respect to the Commitments and/or Loans of the Lenders that accept the applicable Loan Modification Offer (and without the necessity of obtaining the consent of any other Lender) (such Lenders, the "Accepting Lenders") and, in the case of any Accepting Lender, only with respect to such Lender's Commitments and/or Loans as to which such Lender's acceptance has been made. The Parent, each other Loan Party and each Accepting Lender shall execute and deliver to the Administrative Agent a Loan Modification Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the acceptance of the Permitted Amendments and the terms and conditions thereof, and the Loan Parties shall also deliver such resolutions, opinions and other documents as reasonably requested by the Administrative Agent. The Administrative Agent shall promptly notify each affected Lender as to the effectiveness of each Loan Modification Agreement. Each of the parties hereto hereby agrees that (1) upon the effectiveness of any Loan Modification Agreement, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Permitted Amendments evidenced thereby and only with respect to the Commitments and Loans of the Accepting Lenders as to which such Lenders' acceptance has been made, (2) any applicable Lender who is not an Accepting Lender may be (but shall not required to be) replaced by the Parent in accordance with Section 2.22, and (3) the Administrative Agent and the Parent shall be permitted to make any amendments or modifications to any Loan Documents necessary to allow any borrowings, prepayments, participations in Letters of Credit and Swingline Loans and commitment reductions to be ratable across each class of Commitments the mechanics for which may be implemented through the applicable Loan Modification Agreement and may include technical changes related to the borrowing and repayment procedures of the Lenders; provided that with the consent of the Accepting Lenders such prepayments and commitment reductions and reductions in participations in Letters of Credit and Swingline Loans may be applied on a non-ratable basis to the class of non-Accepting Lenders. The effectiveness of any Loan Modification Agreement shall be subject to the Administrative Agent's receipt (for delivery to each Accepting Lender) of all flood hazard determination certifications, acknowledgements and evidence of flood insurance and other flood-related documentation with respect to real property Collateral as required by applicable law and as reasonably required by the Administrative Agent to comply with applicable law or the requirements of its regulators in connection with the Permitted Amendments.

No Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of such Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects such Defaulting Lender

disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

1.2 **Notices**.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to any Loan Party, the Administrative Agent, an Issuing Lender or the Swingline Lender to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.2; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrowers).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the Issuing Lenders hereunder may be delivered or furnished by electronic communication (including e mail, FpML messaging, and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or Issuing Lender pursuant to Section 2 or Section 3 if such Lender or Issuing Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Section by electronic communication. The Administrative Agent, the Swingline Lender, any Issuing Lender or the Parent may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement) and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT INDEMNITEES DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS,

IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT INDEMNITEE IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall Agent Indemnitee have any liability to the Borrowers, any Lender, any Issuing Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Loan Party's or the Administrative Agent's transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet.

(d) Change of Address, Etc. Each of the Borrowers, the Administrative Agent, any Issuing Lender and the Swingline Lender, may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Parent, the Administrative Agent, the Issuing Lenders and the Swingline Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to any Borrower or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Administrative Agent, Issuing Lenders and Lenders. The Administrative Agent, the Issuing Lenders and the Lenders shall be entitled to rely and act upon any notices (including telephonic Loan Notices, Applications and Swingline Loan Notices) purportedly given by or on behalf of any Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrowers shall indemnify the Administrative Agent, each Issuing Lender, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

1.3 **No Waiver; Cumulative Remedies**. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 9 for the benefit of all the Lenders and the Issuing Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Issuing Lender or the Swingline Lender from exercising the rights and remedies that insure to its benefit (solely in its capacity as Issuing Lender or Swingline Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising

setoff rights in accordance with Section 10.7, or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any applicable bankruptcy laws or other debtor relief laws; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 9 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 10.7, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

1.4 **Survival of Representations and Warranties**. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

1.5 **Payment of Expenses and Taxes**. The Borrowers agree (a) to pay or reimburse the Administrative Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable and documented out-of-pocket fees and disbursements of a single counsel to the Administrative Agent and one local counsel to the Administrative Agent in each relevant jurisdiction and filing and recording fees and expenses, with statements with respect to the foregoing to be submitted to the Parent prior to the Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter on a quarterly basis or such other periodic basis as the Administrative Agent shall reasonably deem appropriate, (b) to pay or reimburse each Lender and the Administrative Agent for all of its reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the reasonable and documented fees and out-of-pocket disbursements of counsel to each Lender and of counsel to the Administrative Agent, (c) to pay, indemnify, and hold each Lender and the Administrative Agent harmless from, any and all recording and filing fees and any and all liabilities for Other Taxes, if any, that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (d) to pay, indemnify, and hold each Lender, each Joint Lead Arranger and each Agent and their respective Related Parties (each, an "Indemnitee") harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including any of the foregoing relating to the proposed use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of any Group Member or any of the Properties and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document (all the foregoing in this clause (d), collectively, the "Indemnified Liabilities"), in all cases, whether or not caused by or arising, in whole or in part, out of the negligence of such Indemnitee and regardless of whether such Indemnitee is a party thereto, and whether or not any such claim, litigation, investigation or proceeding is brought by a Borrower, its equity holders, its affiliates, its creditors or any other Person, provided, that no Borrower shall have any obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities (1) are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee (or any of its Related Indemnitees) or a material breach by such Indemnitee of its obligations hereunder or under the other Loan Documents or (2) arise solely from a dispute among the Indemnitees (except when and to the extent that one of the Indemnitees party to such dispute was acting in its capacity or in fulfilling its role as an Agent, Joint Lead Arranger, Issuing Lender, Swingline Lender or any similar role under this Agreement or any other Loan Document, excepting solely such party in such capacity) that does not involve any act or omission of the Borrowers or any of their Affiliates, provided, further, that the above provisions of this clause (d) shall not apply with respect to Taxes other than any Taxes that represent losses or damages arising from any non-Tax claim, and provided, further, that pursuant to this clause (d), the

Borrowers shall not be required to reimburse such fees, charges and disbursements of more than one counsel to the Administrative Agent, the Issuing Lender and all the Lenders, taken as a whole, and if necessary, one local counsel in any relevant jurisdiction, to the Administrative Agent, the Issuing Lender and the Lenders, taken as a whole, unless the representation of one or more Lenders by such counsel would be inappropriate due to the existence of an actual conflict of interest, in which case, upon prior written notice to the Parent, the Borrowers shall also be required to reimburse the reasonable out of pocket fees, charges and disbursements of one additional counsel to such affected Lenders in each relevant jurisdiction. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrowers agree not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee. All amounts due under this Section 10.5 shall be payable not later than 10 days after written demand therefor. Statements payable by the Borrowers pursuant to this Section 10.5 shall be submitted to Fay West (Telephone No. (630) 824-1954) (Telecopy No. (630) 824-1934), at the address of the Parent set forth in Schedule 10.2, or to such other Person or address as may be hereafter designated by the Parent in a written notice to the Administrative Agent. The agreements in this Section 10.5 shall survive the termination of this Agreement and the repayment of the Loans and all other amounts payable hereunder.

1.6 **Successors and Assigns; Participations and Assignments**. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any affiliate of the Issuing Lender that issues any Letter of Credit), except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 10.6.

(a) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (each, an "Assignee"), other than a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person) or, except as provided in paragraph (f) below, to the Parent or any of its Subsidiaries or Affiliates, all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of:

(A) the Parent (such consent not to be unreasonably withheld or delayed), provided that no consent of the Parent shall be required for an assignment to a Lender, an affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default has occurred and is continuing, any other Person; and provided, further, that the Parent shall be deemed to have consented to any such assignment unless the Parent shall object thereto by written notice to the Administrative Agent within five Business Days after having received notice thereof;

(B) in the case of any assignment of Revolving Loans and Revolving Commitments, each Issuing Lender and the Swingline Lender (such consents not to be unreasonably withheld or delayed); and

(C) the Administrative Agent (such consent not to be unreasonably withheld or delayed), provided that no consent of the Administrative Agent shall be required for an assignment to a Lender, an affiliate of a Lender or an Approved Fund.

(i) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of

the assigning Lender's Commitments or Loans under any Facility, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $5,000,000 (or, in the case of any Incremental Term Facility, $1,000,000) unless each of the Parent and the Administrative Agent otherwise consents, provided that (1) no such consent of the Parent shall be required if an Event of Default has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its affiliates or Approved Funds, if any;

(B) (1) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 and (2) the assigning Lender shall have paid in full any amounts owing by it to the Administrative Agent; and

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Parent and its Affiliates and their related parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws.

For the purposes of this Section 10.6, "Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (1) a Lender, (2) an affiliate of a Lender or (3) an entity or an affiliate of an entity that administers or manages a Lender.

(ii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) below, from and after the effective date specified in each Assignment and Assumption, the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.18, 2.19, 2.20 and 10.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section 10.6.

(iii) The Administrative Agent, acting for this purpose as an agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it (or the electronic equivalent thereof) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent, the Issuing Lender and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Parent and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(iv) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee's completed Administrative Questionnaire (unless the Assignee shall already be a Lender hereunder),

the processing and recordation fee referred to in paragraph (b) of this Section 10.6 and any written consent to such assignment required by paragraph (b) of this Section 10.6, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(b) Any Lender may, without the consent of the Parent or the Administrative Agent, sell participations to one or more banks or other entities (other than a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person) or the Parent or any of its Subsidiaries or Affiliates) (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrowers, the Administrative Agent, the Issuing Lender and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (A) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 10.1 and (B) directly affects such Participant. The Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.18, 2.19 and 2.20 (subject to the requirements and limitations therein, including the requirements under Section 2.19(f) (it being understood that the documentation required under Section 2.19(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 10.6; provided that such Participant (1) agrees to be subject to the provisions of Sections 2.18 and 2.19 as if it were an assignee under paragraph (b) of this Section 10.6 and (2) shall not be entitled to receive any greater payment under Sections 2.18 or 2.19, with respect to any participation, than its participating Lender would have been entitled to receive. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7(b) as though it were a Lender, provided such Participant shall be subject to Section 10.7(a) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Parent, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document), except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(c) Notwithstanding the foregoing, any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central banking authority; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(d) The Borrowers, upon receipt of written notice from the relevant Lender, agree to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in paragraph (d) above.

(e) Notwithstanding anything else to the contrary contained in this Agreement, any Lender may assign (or sell a participation in) all or a portion of its Term Loans to any Purchasing Borrower Party in accordance with this Section 10.6; provided that:

(A) no Default or Event of Default has occurred or is continuing or would result therefrom;

(B) the assigning Lender and Purchasing Borrower Party purchasing such Lender's Term Loans, as applicable, shall execute and deliver to the Administrative Agent an assignment agreement substantially in the form of Exhibit K hereto (a "Purchasing Borrower Party Assignment and Assumption") in lieu of an Assignment and Assumption;

(C) for the avoidance of doubt, Lenders shall not be permitted to assign Revolving Commitments or Revolving Loans to any Purchasing Borrower Party;

(D) any Term Loans assigned to any Purchasing Borrower Party shall be automatically and permanently cancelled upon the effectiveness of such assignment and will thereafter no longer be outstanding for any purpose under any Loan Document;

(E) (1) no Purchasing Borrower Party may use the proceeds from Revolving Loans or Swingline Loans to purchase any Term Loans and (2) Term Loans may only be purchased by a Purchasing Borrower Party if, both before and after giving effect to any such purchase, no Revolving Loans or Swingline Loans shall be outstanding;

(F) any offer by a Purchasing Borrower Party to purchase or take by assignment any Term Loans shall be made to all Lenders pro rata (with buyback mechanics to be agreed between such Purchasing Borrower Party and the Administrative Agent); and

(G) the Purchasing Borrower Party shall represent at the time of the purchase or assignment that it has no material non-public information that has not been disclosed to the other Lenders generally (other than those that elect not to receive non-public information).

(f) Disqualified Institutions. (i) No assignment or, to the extent the DQ List has been posted on the Platform for all Lenders, participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the applicable Lender entered into a binding agreement to sell and assign or participate all or a portion of its rights and obligations under this Agreement to such Person (unless the Parent has consented to such assignment as otherwise contemplated by this Section 10.6, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment). For the avoidance of doubt, with respect to any assignee or participant that becomes a Disqualified Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (x) such assignee shall not retroactively be disqualified from becoming a Lender or participant and (y) the execution by the Parent of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Institution. Any assignment in violation of this clause (g)(i) shall not be void, but the other provisions of this clause (g) shall apply.

(ii) If any assignment is made to any Disqualified Institution without the Parent's prior consent in violation of clause (i) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Parent may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A)

terminate any Revolving Commitment of such Disqualified Institution and repay all obligations of the Borrowers owing to such Disqualified Institution in connection with such Revolving Commitment, (B) in the case of outstanding Term Loans held by Disqualified Institutions, prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and under the other Loan Documents and/or (C) require such Disqualified Institution to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in this Section 10.6), all of its interest, rights and obligations under this Agreement and related Loan Documents to an eligible Assignee that shall assume such obligations at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and other the other Loan Documents; provided that (i) the Borrowers shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 10.6(b), (ii) such assignment does not conflict with applicable laws and (iii) in the case of clause (B), the Borrowers shall not use the proceeds from any Loans to prepay Term Loans held by Disqualified Institutions.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not (x) have the right to receive information, reports or other materials provided to Lenders by the Borrowers, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any debtor relief laws ("Plan of Reorganization"), each Disqualified Institution party hereto hereby agrees (1) not to vote on such Plan of Reorganization, (2) if such Disqualified Institution does vote on such Plan of Reorganization notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other debtor relief laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Plan of Reorganization in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other debtor relief laws) and (3) not to contest any request by any party for a determination by the United States Bankruptcy Court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(iv) The Administrative Agent shall have the right, and the Borrowers hereby expressly authorize the Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Parent and any updates thereto from time to time (collectively, the "DQ List") on the Platform, including that portion of the Platform that is designated for "public side" Lenders and (B) provide the DQ List to each Lender requesting the same.

1.7 **Adjustments; Set-off**. (a) Except to the extent that this Agreement or a court order expressly provides for payments to be allocated to a particular Lender or to the Lenders under a particular Facility, if any Lender (a "Benefitted Lender") shall receive any payment of all or part of the Obligations owing to it (other than in connection with an assignment made pursuant to Section 10.6), or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8.1(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such

other Lender, such Benefitted Lender shall purchase for cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, or make such other adjustments as shall be equitable, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(a) In addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without notice to any Borrower, any such notice being expressly waived by the Borrowers to the extent permitted by applicable law, upon any Obligations becoming due and payable by any Borrower (whether at the Stated Maturity, by acceleration or otherwise), to apply to the payment of such Obligations, by setoff or otherwise, any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, any affiliate thereof or any of their respective branches or agencies to or for the credit or the account of the Parent. Each Lender agrees promptly to notify the Parent and the Administrative Agent after any such application made by such Lender, provided that the failure to give such notice shall not affect the validity of such application.

1.8 **Counterparts**. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by fax transmission or e-mail transmission (e.g., "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Agreement or such other Loan Document or certificate. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered under the terms of any Loan Document, upon the request of any party, such fax transmission or e-mail transmission shall be promptly followed by such manually executed counterpart.

1.9 **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.

1.10 **Integration**. This Agreement and the other Loan Documents represent the entire agreement of the Borrowers, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

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

1.12 **Submission To Jurisdiction; Waivers**. Each Borrower hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction (or, in the case of matters relating to the Security Documents, non-exclusive jurisdiction) of the courts of the State of New York sitting in New York County, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

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

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

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Parent, as the case may be at its address set forth in Section 10.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right of the Administrative Agent or the Lenders to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 10.12 any special, exemplary, punitive or consequential damages.

1.13 **Acknowledgements**. Each Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to any Borrower arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent and Lenders, on one hand, and the Borrowers, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrowers and the Lenders.

1.14 **Releases of Guarantees and Liens**. (a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 10.1) to take any action requested by the Parent having the effect of releasing any Collateral or Guarantee Obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 10.1, (ii) under the circumstances described in paragraph (b) below or (iii) as contemplated by Section 7.15 of the Guarantee and Collateral Agreement.

(a) At such time as the Loans, the Reimbursement Obligations and the other Obligations under the Loan Documents (other than Obligations under or in respect of Specified Swap Agreements, Specified Cash Management Agreements or unasserted indemnification, tax gross-up, expense reimbursements or yield protection obligations, in each case for which no claim has been made) shall have been paid in full, the Commitments have been terminated and no Letters of Credit shall be outstanding (other than any outstanding Letters of Credit that have been cash collateralized or back-stopped by a letter of credit or otherwise in a manner reasonably satisfactory to the applicable Issuing Lender), the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those contingent obligations expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Security Documents shall terminate, all without delivery of any instrument or performance of any act by any Person.

(b) Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guarantee and Collateral Agreement, pursuant to this Section 10.14.

1.15 **Confidentiality**. Each of the Administrative Agent and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party, the Administrative Agent or any Lender pursuant to or in connection with this Agreement that is designated by the provider thereof as confidential; provided that nothing herein shall prevent the Administrative Agent or any Lender from disclosing any such information (a) to the Administrative Agent, any other Lender or any affiliate thereof, (b) subject to an agreement to comply with provisions at least as restrictive as those of this Section 10.15, to any actual or prospective Transferee (it being understood that the DQ List may be disclosed to any Transferee, or prospective Transferee) or any direct or indirect counterparty to any Swap Agreement or other transaction under which payments are to be made by reference to the Borrowers, the Borrowers' Obligations under this Agreement or payments made or required to be made under this Agreement (or any professional advisor to such counterparty), (c) to its employees, directors, officers, agents, attorneys, accountants, representatives and other professional advisors or those of any of its affiliates, (d) upon the request or demand of any Governmental Authority, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, (f) if requested or required to do so in connection with any litigation or similar proceeding, (g) that has been publicly disclosed, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, (i) in connection with the exercise of any remedy hereunder or under any other Loan Document, (j) on a confidential basis to (i) any rating agency in connection with rating any Loan Party or its Subsidiaries or the credit facilities provided hereunder, (ii) the provider of any platform or other electronic delivery service used by the Administrative Agent, any Issuing Lender and/or the Swingline Lender to deliver Borrower Materials or notices to the Lenders or (iii) the CUSIP Service Bureau or any similar agency in connection with the application, issuance, publishing and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (k) if agreed by the Parent in its sole discretion, to any other Person and (l) to the extent that such information (x) becomes publicly available other than as a result of a breach of this Section, or (y) becomes available to the Administrative Agent, any Lender or any of their respective affiliates on a nonconfidential basis from a source other than the Parent or any of its Affiliates. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of this Agreement, the other Loan Documents and the Commitments.

Each Lender acknowledges that information furnished to it pursuant to this Agreement or the other Loan Documents may include material non-public information concerning the Parent and its Affiliates and their related parties or their respective securities, and confirms that it has developed compliance procedures regarding the use of material non-public information and that it will handle such material non-public information in accordance with those procedures and applicable law, including Federal and state securities laws.

All information, including requests for waivers and amendments, furnished by the Parent or the Administrative Agent pursuant to, or in the course of administering, this Agreement or the other Loan Documents will be syndicate-level information, which may contain material non-public information about the Parent and its Affiliates and their related parties or their respective securities. Accordingly, each Lender acknowledges to the Parent and the Administrative Agent that it has identified in its Administrative Questionnaire a credit contact who may receive information that may contain material non-public information in accordance with its compliance procedures and applicable law, including Federal and state securities laws.

1.16 **WAIVERS OF JURY TRIAL**. THE BORROWERS, THE ADMINISTRATIVE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

1.17 **USA Patriot Act**. Each Lender hereby notifies the Borrowers that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of each Borrower and other information that will allow such

Lender to identify such Borrower in accordance with the Patriot Act. The Loan Parties shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

1.18 **Joint and Several Liability of the Borrowers**.

(a) Each of the Borrowers is accepting joint and several liability hereunder in consideration of the Loans and Letters of Credit to be provided by the Lenders and the Administrative Agent under this Agreement, for the mutual benefit, directly and indirectly, of each of the Borrowers and in consideration of the undertakings of each of the Borrowers to accept joint and several liability for the obligations of each of them with respect to the Obligations.

(b) Each of the Borrowers jointly and severally hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers, with respect to the payment of all of the Obligations arising under this Agreement, it being the intention of the parties hereto that all the Obligations shall be the joint and several payment obligations of all the Borrowers without preferences or distinction among them.

(c) If and to the extent that any of the Borrowers shall fail to make any payment with respect to any of the Obligations hereunder as and when due, then in each such event the other Borrowers will make such payment with respect to such Obligation.

(d) The obligations of each Borrower under the provisions of this Section 10.18 constitute full recourse obligations of such Borrower enforceable against it to the full extent of its properties and assets, and, to the extent permitted by applicable Requirements of Law, irrespective of the validity, regularity or enforceability of this Agreement or any other circumstance whatsoever.

(e) The provisions of this Section 10.18 are made for the benefit of the Lenders and the Administrative Agent and their successors and permitted assigns, and may be enforced by them in accordance with the terms of this Agreement from time to time against any of the Borrowers as often as occasion therefor may arise and without requirement on the part of the Lenders or the Administrative Agent first to marshall any of their claims or to exercise any of their rights against any other Borrower or to exhaust any remedies available to them against any other Borrower or to resort to any other source or means of obtaining payment of any of the obligations hereunder or to elect any other remedy. The provisions of this Section 10.18 shall remain in effect until all the obligations hereunder shall have been paid in full or otherwise fully satisfied. If at any time, any payment, or any part thereof, made in respect of any of the obligations, is rescinded or must otherwise be restored or returned by the Lenders or the Administrative Agent upon the insolvency, bankruptcy or reorganization of the Borrowers, or otherwise, the provisions of this Section 10.18 will forthwith be reinstated in effect, as though such payment had not been made.

1.19 **No Advisory or Fiduciary Responsibility**. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) no fiduciary, advisory or agency relationship between the Parent and its Subsidiaries and any Joint Lead Arranger, any Agent, any Issuing Lender, the Swingline Lender or any Lender is intended to be or has been created in respect of the transactions contemplated hereby or by the other Loan Documents, irrespective of whether any Joint Lead Arranger, any Agent, any Issuing Lender, the Swingline Lender or any Lender has advised or is advising the Parent or any Subsidiary on other matters, (ii) the arranging and other services regarding this Agreement provided by the Joint Lead Arrangers, the Agents, the Issuing Lenders, the Swingline Lender and the Lenders are arm's-length commercial transactions between the Parent and its Affiliates, on the one hand, and the Joint Lead Arrangers, the Agents, the Issuing Lenders, the Swingline Lender and the Lenders, on the other hand,

(iii) the Borrowers have consulted their own legal, accounting, regulatory and tax advisors to the extent that they have deemed appropriate and (iv) the Borrowers are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; and (b) (i) the Joint Lead Arrangers, the Agents, the Issuing Lenders, the Swingline Lender and the Lenders each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Parent or any of its Affiliates, or any other Person; (ii) none of the Joint Lead Arrangers, the Agents, the Issuing Lenders, the Swingline Lender and the Lenders has any obligation to the Parent or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Joint Lead Arrangers, the Agents, the Issuing Lenders, the Swingline Lender and the Lenders and their respective Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of the Parent and its Affiliates, and none of the Joint Lead Arrangers, the Agents, the Issuing Lenders, the Swingline Lender and the Lenders has any obligation to disclose any of such interests to the Parent or its Affiliates. To the fullest extent permitted by law, each of the Borrowers hereby waives and releases any claims that it may have against the Joint Lead Arrangers, the Agents, the Issuing Lenders, the Swingline Lender and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

1.20 **Electronic Execution; Electronic Records; Counterparts**.

(a) ~~The words "delivery," "execute," "execution," "signed," "signature," and words of like import in any Loan Document or any other document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided, further, without limiting the foregoing, upon the request of the Administrative Agent or any Lender, any electronic signature shall be promptly followed by such manually executed counterpart~~This Agreement, any Loan Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties and each of the Administrative Agent and each Credit Party agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance ~~by the Administrative Agent and each of the Lenders~~ of a manually signed paper ~~document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a "~~Communication~~")~~ which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent and each of the Credit Parties may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein

to the contrary, neither the Administrative Agent, Issuing Lender nor Swingline Lender is under any obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent, Issuing Lender and/or Swingline Lender has agreed to accept such Electronic Signature, the Administrative Agent and each of the Credit Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party and/or any Credit Party without further verification and (b) upon the request of the Administrative Agent or any Credit Party, any Electronic Signature shall be promptly followed by such manually executed counterpart.

~~(b) Each Borrower hereby acknowledges the receipt of a copy of this Agreement and all other Loan Documents. The Administrative Agent and each Lender may, on behalf of the Borrowers, create a microfilm or optical disk or other electronic image of this Agreement and any or all of the other Loan Documents. The Administrative Agent and each Lender may store the electronic image of this Agreement and the other Loan Documents in its electronic form and then destroy the paper original as part of the Administrative Agent's and each Lender's normal business practices, with the electronic image deemed to be an original and of the same legal effect, validity and enforceability as the paper originals.~~

(b) Neither the Administrative Agent, Issuing Lender nor Swingline Lender shall be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent's, Issuing Lender's or Swingline Lender's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Administrative Agent, Issuing Lender and Swingline Lender shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any Communication (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution or signed using an Electronic Signature) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

(c) Each of the Loan Parties and each Credit Party hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement or any other Loan Document based solely on the lack of paper original copies of this Agreement or such other Loan Document, and (ii) waives any claim against the Administrative Agent and each Credit Party for any liabilities arising solely from the Administrative Agent's and/or any Credit Party's reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Loan Parties to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

1.21 **Acknowledgement and Consent to Bail-In of Affected Financial Institutions**.

Solely to the extent any Lender or Issuing Lender that is an Affected Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender or Issuing Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender or Issuing Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

1.22 **Acknowledgement Regarding any Supported QFCs**

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Hedging Agreement or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States) that in the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

10.23 Amendment and Restatement

The parties hereto agree that, on the Closing Date, the following transactions shall be deemed to occur automatically, without further action by any party hereto: (a) the Existing Credit Agreement shall be deemed to be amended and restated in its entirety pursuant to this Agreement; (b) all obligations under the Existing Credit Agreement outstanding on the Closing Date shall in all respects be continuing and shall be deemed to Obligations outstanding hereunder; (c) the guarantees made to the Lenders, each Affiliate of a Lender that entered into a Specified Swap Agreement or a Specified Cash Management Agreement and the Administrative Agent pursuant to the Existing Credit Agreement, shall remain in full force and effect with respect to the Obligations and are hereby reaffirmed; (d) the Security Documents and the Liens created thereunder shall remain in full force and effect with respect to the Obligations and are hereby reaffirmed; and (e) all references in the other Loan Documents to the Existing Credit Agreement shall be deemed to refer, without further amendment, to this Agreement. On the Closing Date, the revolving credit extensions and Revolving Commitments made by the Lenders under the Existing Credit Agreement shall be re-allocated and restated among the Lenders so that, and revolving credit extensions and Revolving Commitments shall be made by the Lenders so that, as of the Closing Date, the respective Revolving Commitments of the Lenders shall be as set forth on Schedule 1.1A as in effect on the Closing Date. The parties hereto further acknowledge and agree that this Agreement

constitutes an amendment to the Existing Credit Agreement made under and in accordance with the terms of Section 10.1 of the Existing Credit Agreement.

10.24 Exiting Lenders

Each entity executing this Agreement under the heading "Exiting Lender" on the signature pages hereto, in its capacity as a lender under the Existing Credit Agreement (each an "Exiting Lender"), is signing this Agreement for the sole purposes of amending and restating the Existing Credit Agreement and assigning its Revolving Commitments and outstanding Revolving Loans (each as defined under the Existing Credit Agreement) to the Lenders under this Agreement as described in the following sentence. Upon giving effect to this Agreement, (A) the outstanding Revolving Loans of each Exiting Lender under the Existing Credit Agreement shall be fully assigned at par to Lenders under this Agreement and the outstanding Revolving Commitments of each Exiting Lender under the Existing Credit Agreement shall be fully-assigned to Lenders under this Agreement so that, after giving effect to such assignments, the Lenders shall hold each class of the Revolving Loans and Revolving Commitments, in each case as set forth on Schedule 1.1A as in effect on the Closing Date, and (B) such Exiting Lender shall no longer be a party this Agreement. For the avoidance of doubt, after giving effect to this Agreement and all transactions contemplated hereunder, no Exiting Lender shall be a Lender under this Agreement or have any Commitment hereunder.

10.25 New Lenders

Each entity executing this Agreement under the heading "New Lender" on the signature pages hereto (each a "New Lender") hereby agrees to provide a Revolving Commitment in the amount set forth beside its name on Schedule 1.1A as in effect on the Closing Date. Each New Lender (i) represents and warrants that (A) it has full power and authority, and has taken all action necessary, to execute and deliver this Agreement and to consummate the transactions contemplated hereby and to become a Lender hereunder, (B) it has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 6.1 of the Existing Credit Agreement and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Agreement and to become a party hereto, and (C) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and to become a party hereto; and (ii) agrees that (A) it will, independently and without reliance on the Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (B) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender. The Borrowers agree that, as of the Closing Date, each New Lender shall (i) be a party to this Agreement, (ii) be a "Lender" with respect to its Loans and Commitments for all purposes of this Agreement and the other Loan Documents, and (iii) have the rights and obligations of such a Lender hereunder and the other Loan Documents.

10.26 Assignments; Prepayments; Reallocations; Reconciliation

The parties hereto agree that the Borrowers, the Lenders and the Administrative Agent shall effect such assignments, prepayments, borrowings and reallocations as are necessary to effectuate the modifications to the Revolving Commitments and Revolving Loans on the Closing Date such that, after giving effect thereto, the Lenders shall hold each class of the Revolving Commitments and Revolving Loans as set forth on Schedule 1.1A. Each party hereto waives any "breakage" costs that it would otherwise be entitled to pursuant to Section 2.20 solely as a result of the foregoing.

Concurrently with the closing and effectiveness of this Agreement: (a) the Borrowers shall pay to the Administrative Agent, for the account of the Lenders (other than the New Lenders) and the Exiting Lenders (in each case, including in the capacity of Issuing Lender, if applicable), (i) all interest that has accrued on the outstanding Revolving Loans to but excluding the Closing Date and (ii) all commitment fees under Section 2.5 of the Existing Credit Agreement and all Letter of Credit fees under Section 3.3 of the Existing Credit Agreement that have accrued to but excluding the Closing Date with respect to the

Revolving Commitments of the Lenders (other than the New Lenders) and Exiting Lenders as in effect immediately prior to giving effect to this Agreement, and (b) the Administrative Agent shall distribute such interest and fees to the Lenders (other than the New Lenders) and Exiting Lenders in accordance with their applicable pro rata shares as in effect immediately prior to giving effect to this Agreement.

10.27 No Novation

The execution, delivery and effectiveness of this Agreement shall not extinguish the obligations outstanding under the Existing Credit Agreement, the Security Documents or the other Loan Documents or discharge or release the lien or priority of the Security Documents. Nothing herein contained shall be construed as a substitution or novation of the obligations outstanding under the Existing Credit Agreement, the Security Documents or the other Loan Documents, which shall remain in full force and effect, except to any extent modified hereby or by instruments executed concurrently herewith.

[*signature ~~page follows~~pages redacted*]

Summary report: Litera® Change-Pro for Word 10.8.2.10 Document comparison done on 2/16/2023 8:05:23 AM	
Style name: MVASet	
Intelligent Table Comparison: Active	
Original DMS: dm://CHAR1/1969725/1	
Modified DMS: dm://CHAR1/1969725/3	
Changes:	
Add	197
~~Delete~~	219
~~Move From~~	71
Move To	71
Table Insert	0
~~Table Delete~~	1
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	559

[Form of 2023 Stock-Settled RSU Agreement]

RESTRICTED SHARE UNIT AGREEMENT
under the
SUNCOKE ENERGY, INC. OMNIBUS LONG-TERM INCENTIVE PLAN

This Restricted Share Unit Agreement (the "***Agreement***"), is entered into as of _____ (the "*Agreement Date*"), by and between SunCoke Energy, Inc. ("***SunCoke***") and _____, an employee of SunCoke or one of its Affiliates (the "***Participant***").

W I T N E S S E T H:

WHEREAS, the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan (the "***Plan***") is administered by the Compensation Committee or its duly appointed sub-committee (the Compensation Committee or such sub-committee, the "***Committee***"), and the Committee has determined to grant to the Participant, pursuant to the terms and conditions of the Plan, an award (the "***Award***") of Restricted Share Units ("***RSUs***"), representing rights to receive shares of Common Stock, which Award is subject to a risk of forfeiture by the Participant, with the payout of such RSUs being conditioned upon the Participant's continued employment with SunCoke or one of its Affiliates through the end of the applicable Vesting Period (defined below); and

WHEREAS, the Participant has determined to accept such Award.

NOW, THEREFORE, in consideration of these premises and the mutual promises of each of SunCoke and the Participant herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SunCoke and the Participant, each intending to be legally bound hereby, agree as follows:

ARTICLE I
AWARD OF RESTRICTED SHARE UNITS

1.1 **Identifying Provisions**. For purposes of this Agreement, the following terms shall have the following respective meanings:

(a) **Participant Name:** _____

(b) ***Grant Date:*** _____

(c) ***Number of RSUs:*** _____

(d) ***Vesting Periods:*** Subject to continued employment through the applicable vesting date, the RSUs shall vest as follows:

- 33% on _____ [Date];
- 33% on _____ [Date]; and
- Remainder on: _____ [Date].

(e) ***Form of Payment:*** Upon vesting, RSUs will be settled in a like number of shares of the Company's Common Stock. Accrued Dividend Equivalents will be paid in the form of cash.

Initially capitalized terms and phrases used in this Agreement, but not otherwise defined herein, shall have the respective meanings ascribed to them in the Plan.

1.2 Award of RSUs. Subject to the terms and conditions of the Plan and this Agreement, the Participant is hereby granted the number of RSUs set forth in Section 1.1.

1.3 Dividend Equivalents. The Participant shall be entitled to receive payment from SunCoke in an amount equal to each cash dividend ("***Dividend Equivalent***") payable subsequent to the Grant Date, just as though such Participant, on the record date for payment of such dividend, had been the holder of record of shares of Common Stock equal to the actual number of RSUs. SunCoke shall establish a bookkeeping methodology to account for the Dividend Equivalents to be credited to the Participant. The Dividend Equivalents will not bear interest. Vesting and payment of Dividend Equivalents will correspond to the vesting and settlement of the RSUs with respect to which the Dividend Equivalents relate.

1.4 Payment of RSUs and Related Dividend Equivalents.

(a) Except as set forth in Section 1.5(b) below, payout of this Award is conditioned upon the Participant's continued employment with SunCoke or one of its Affiliates through the end of the applicable Vesting Period as set forth in 1.1(d) above.

(b) Actual payment in respect of the vested RSUs and the vested Dividend Equivalent Account shall be made to the Participant within two (2) months after the end of the applicable Vesting Period.

(i) *Payment in respect of vested RSUs*. Payment for vested RSUs earned shall be made in shares of Common Stock. The number of shares of Common Stock paid to the Participant shall be equal to the number of RSUs that vest at the end of the applicable vesting period.

(ii) *Payment of Related Dividend Equivalents*. The Participant will be entitled to receive from SunCoke, within two (2) months after the end of the applicable Vesting Period, a cash payment in respect of the related Dividend Equivalents that vested for such Vesting Period.

Applicable federal, state and local taxes shall be withheld in accordance with Section 2.2 below.

1.5 Termination of Employment.

(a) *Termination of Employment - In General*. Upon termination of the Participant's employment with SunCoke and its Affiliates for any reason other than a Qualifying Termination or due to death, permanent disability, or retirement the Participant shall forfeit 100% of such Participant's RSUs that have not vested, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or any payment of any Dividend Equivalents with respect to the forfeited RSUs.

(b) *Qualifying Termination of Employment or Termination of Employment Due to Death or Permanent Disability*. In the event of the Participant's Qualifying Termination or termination of employment due to death or permanent disability, the Participant's outstanding RSUs immediately shall vest and shall settle within two (2) months following such termination of employment, and the Dividend Equivalents that correspond to the RSUs that vest pursuant to this sentence shall be paid within two (2) months following such termination of employment. For purposes of this Section 1.5(b), a Participant shall have a "***permanent disability***" if he is found to be disabled under the terms of SunCoke's long-term disability policy in effect at the time of the Participant's

termination due to such condition or if the Committee in the exercise of its sole discretion makes such determination.

(c) *Termination Due to Retirement*. Upon termination of the Participant's employment with SunCoke and its Affiliates due to retirement,

(i) If retirement occurs during the calendar quarter in which the Agreement Date occurs, the Participant shall forfeit 100% of the RSUs granted pursuant to this Agreement, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or payment of any Dividend Equivalents with respect to the forfeited RSUs;

(ii) If retirement occurs during the first calendar quarter immediately following the calendar quarter in which the Agreement Date occurs, the Participant shall forfeit 75% of the RSUs granted pursuant to this Agreement, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or payment of any Dividend Equivalents with respect to such forfeited RSUs. The remaining 25% (unforfeited) RSUs will continue to vest in accordance with the vesting schedule set forth in Section 1 of this Agreement;

(iii) If retirement occurs during the second calendar quarter following the calendar quarter in which the Agreement Date occurs, the Participant shall forfeit 50% of the RSUs granted pursuant to this Agreement, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or payment of any Dividend Equivalents with respect to such forfeited RSUs. The remaining 50% (unforfeited) RSUs will continue to vest in accordance with the vesting schedule set forth in Section 1 of this Agreement;

(iv) If retirement occurs during the third calendar quarter following the calendar quarter in which the Agreement Date occurs, the Participant shall forfeit 25% of the RSUs granted pursuant to this Agreement, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or payment of any Dividend Equivalents with respect to such forfeited RSUs. The remaining 75% (unforfeited) RSUs will continue to vest in accordance with the vesting schedule set forth in Section 1 of this Agreement; and

(v) If retirement occurs at any time following the end of the calendar year in which the Agreement Date occurs, then Participant's outstanding RSUs granted pursuant to this Agreement will not be forfeited and will continue to vest in accordance with the vesting schedule set forth in Section 1 of this Agreement.

For purposes of this Section 1.5(c), a Participant's termination of employment shall not be deemed to be a "retirement" unless: (x) such termination is other than for Just Cause; (y) the Participant has attained at least 55 years of age; and (z) the Participant's age, when added to such Participant's years of credited service with the Company and its Affiliates, equals at least 65 years.

ARTICLE II
GENERAL PROVISIONS

2.1 Effect of Plan; Construction. The entire text of the Plan is expressly incorporated herein by this reference and so forms a part of this Agreement. In the event of any inconsistency or discrepancy between the provisions of the RSU Award covered by this Agreement and the terms and conditions of the Plan under which such RSUs are granted, the provisions in the Plan shall govern and prevail. The RSUs, the related Dividend Equivalents and this Agreement are each subject in all respects to, and SunCoke and the Participant each hereby agree to be bound by, all of the terms and conditions of the Plan, as the same may have been amended from time to time in accordance with its terms.

2.2 Tax Withholding. All distributions under this Agreement are subject to withholding of all applicable taxes.

(a) *Payment in Cash*. Cash payments in respect of any vested Dividend Equivalents, shall be made net of any applicable federal, state, or local withholding taxes.

(b) *Payment in Stock*. Immediately prior to the payment of any shares of Common Stock to Participant in respect of vested RSUs, the Participant shall remit an amount sufficient to satisfy any Federal, state and/or local withholding tax due on the receipt of such Common Stock. At the election of the Participant, and subject to such rules as may be established by the Committee, such withholding obligations may be satisfied through the surrender of shares of Common Stock (otherwise payable to Participant in respect of such vested RSUs) having a value, as of the date that such vested RSUs first became payable, sufficient to satisfy the applicable tax obligation.

2.3 Administration. Pursuant to the Plan, the Committee is vested with conclusive authority to interpret and construe the Plan, to adopt rules and regulations for carrying out the Plan, and to make determinations with respect to all matters relating to this Agreement, the Plan and Awards made pursuant thereto. The authority to manage and control the operation and administration of this Agreement shall be likewise vested in the Committee, and the Committee shall have all powers with respect to this Agreement as it has with respect to the Plan. Any interpretation of this Agreement by the Committee, and any decision made by the Committee with respect to this Agreement, shall be final and binding.

2.4 Amendment. This Agreement may be amended in accordance with the terms of the Plan.

2.5 Captions. The captions at the beginning of each of the numbered Sections and Articles herein are for reference purposes only and will have no legal force or effect. Such captions will not be considered a part of this Agreement for purposes of interpreting, construing or applying this Agreement and will not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms and conditions.

2.6 Governing Law. The validity, construction, interpretation and effect of this instrument shall be governed exclusively by and determined in accordance with the law of the State of Delaware (without giving effect to the conflicts of law principles thereof), except to the extent preempted by federal law, which shall govern.

2.7 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing, by facsimile, by overnight courier or by registered or certified mail, postage prepaid and return receipt requested. Notices to SunCoke shall be deemed to have been duly given or made upon actual receipt by SunCoke. Such communications shall be addressed and directed to the parties listed below (except where this Agreement expressly provides that it be directed to another) as follows, or to such other address or recipient for a party as may be hereafter notified by such party hereunder:

(a) **If to SunCoke:**

SunCoke Energy, Inc.
Compensation Committee of the Board of Directors
1011 Warrenville Road – 6th Floor
Lisle, IL 60532
Attention: Corporate Secretary

(b) **If to the Participant:** To the address for Participant as it appears on SunCoke's records.

2.8 **Severability**. If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable, it shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability shall not invalidate the balance of such provision to the extent it is not prohibited or unenforceable, nor invalidate the other provisions hereof.

2.9 **Entire Agreement**. This Agreement constitutes the entire understanding and supersedes any and all other agreements, oral or written, between the parties hereto, in respect of the subject matter of this Agreement and embodies the entire understanding of the parties with respect to the subject matter hereof.

2.10 **Forfeiture**. The shares of Common Stock or cash payments received in connection with the Award granted pursuant to this Agreement constitute incentive compensation. The Participant agrees that any shares of Common Stock or cash payments received with respect to the Award will be subject to any clawback/forfeiture provisions applicable to SunCoke that are required by any law in the future, including, without limitation, the Dodd-Frank Wall Street Reform and Consumer Protection Act and/or any applicable regulations. The Award is conditioned upon the acceptance by the Participant of the terms and conditions of the Award as set forth in the Agreement.

* * *

This Award is conditioned upon the acceptance by the Participant of the terms and conditions of the Award as set forth in this Agreement. To accept this Agreement, a Participant must access the Fidelity Investments website.

[Form of 2023 Cash-Settled RSU Agreement]

RESTRICTED SHARE UNIT AGREEMENT
under the
SUNCOKE ENERGY, INC. OMNIBUS LONG-TERM INCENTIVE PLAN

This Restricted Share Unit Agreement (the "***Agreement***"), is entered into as of _____ (the "***Agreement Date***"), by and between SunCoke Energy, Inc. ("***SunCoke***") and _____, an employee of SunCoke or one of its Affiliates (the "***Participant***").

W I T N E S S E T H:

WHEREAS, the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan (the "***Plan***") is administered by the Compensation Committee or its duly appointed sub-committee (the Compensation Committee or such sub-committee, the "***Committee***"), and the Committee has determined to grant to the Participant, pursuant to the terms and conditions of the Plan, an award (the "***Award***") of Restricted Share Units ("***RSUs***"), representing rights to receive a cash payment based on the fair market value of shares of Common Stock subject to the Award, which Award is subject to a risk of forfeiture by the Participant, with the payment for such RSUs being conditioned upon the Participant's continued employment with SunCoke or one of its Affiliates through the end of each applicable Vesting Period (defined below); and

WHEREAS, the Participant has determined to accept such Award.

NOW, THEREFORE, in consideration of these premises and the mutual promises of each of SunCoke and the Participant herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SunCoke and the Participant, each intending to be legally bound hereby, agree as follows:

ARTICLE I
AWARD OF RESTRICTED SHARE UNITS

1.1 **Identifying Provisions**. For purposes of this Agreement, the following terms shall have the following respective meanings:

(a) **Participant Name:** _____

(b) ***Grant Date:*** _____

(c) ***Number of RSUs:*** _____

(d) ***Vesting Periods:*** Subject to continued employment through the applicable vesting date, the RSUs shall vest as follows:

- 33% on _____ [Date];
- 33% on _____ [Date]; and
- Remainder on: _____ [Date].

(e) ***Form of Payment:*** Cash.

Initially capitalized terms and phrases used in this Agreement, but not otherwise defined herein, shall have the respective meanings ascribed to them in the Plan.

1.2 Award of RSUs. Subject to the terms and conditions of the Plan and this Agreement, the Participant is hereby granted the number of RSUs set forth in Section 1.1(c).

1.3 Dividend Equivalents. The Participant shall be entitled to receive payment from SunCoke in an amount equal to each cash dividend ("***Dividend Equivalent***") payable subsequent to the Grant Date, just as though such Participant, on the record date for payment of such dividend, had been the holder of record of shares of Common Stock equal to the actual number of RSUs. SunCoke shall establish a bookkeeping methodology to account for the Dividend Equivalents to be credited to the Participant. The Dividend Equivalents will not bear interest. Vesting and payment of Dividend Equivalents will correspond to the vesting and payment of the RSUs with respect to which the Dividend Equivalents relate.

1.4 Payment of RSUs and Related Dividend Equivalents.

(a) Except as set forth in Section 1.5(b) below, payout of this Award is conditioned upon the Participant's continued employment with SunCoke or one of its Affiliates through the end of the applicable Vesting Period as set forth in 1.1(d) above.

(b) Actual payment in respect of the vested RSUs and the vested Dividend Equivalent Account shall be made to the Participant within two (2) months after the end of the applicable Vesting Period.

(i) *Payment in respect of vested RSUs*. Payment for vested RSUs earned shall be made in cash, equal to the closing price of the Common Stock on the trading day coincident with or immediately preceding the last day of the applicable Vesting Period, multiplied by the number of RSUs that vested.

(ii) *Payment of Related Dividend Equivalents*. Payment will be made within two (2) months after the end of the applicable Vesting Period.

1.5 Termination of Employment.

(a) *Termination of Employment - In General*. Upon termination of the Participant's employment with SunCoke and its Affiliates for any reason other than a Qualifying Termination or due to death, permanent disability or retirement, the Participant shall forfeit 100% of such Participant's RSUs that have not vested, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or any payment of any Dividend Equivalents with respect to the forfeited RSUs.

(b) *Qualifying Termination of Employment or Termination of Employment Due to Death or Permanent Disability*. In the event of the Participant's Qualifying Termination or termination of employment due to death or permanent disability, the Participant's outstanding RSUs immediately shall vest and be paid within two (2) months following such termination of employment, and the Dividend Equivalents that correspond to the RSUs that vest pursuant to this sentence shall be paid within two (2) months following such termination of employment. For purposes of this Section 1.5(b), a Participant shall have a "**permanent disability**" if he is found to be disabled under the terms of SunCoke's long-term disability policy in effect at the time of the Participant's termination due to such condition or if the Committee in the exercise of its sole discretion makes such determination.

(c) *Termination Due to Retirement*. Upon termination of the Participant's employment with SunCoke and its Affiliates due to retirement:

(i) If retirement occurs during the calendar quarter in which the Agreement Date occurs, the Participant shall forfeit 100% of the RSUs granted pursuant to this Agreement, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or payment of any Dividend Equivalents with respect to the forfeited RSUs.

(ii) If retirement occurs during the first calendar quarter immediately following the calendar quarter in which the Agreement Date occurs, the Participant shall forfeit 75% of the RSUs granted pursuant to this Agreement, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or payment of any Dividend Equivalents with respect to such forfeited RSUs. The remaining 25% (unforfeited) RSUs will continue to vest in accordance with the vesting schedule set forth in Section 1 of this Agreement.

(iii) If retirement occurs during the second calendar quarter following the calendar quarter in which the Agreement Date occurs, the Participant shall forfeit 50% of the RSUs granted pursuant to this Agreement, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or payment of any Dividend Equivalents with respect to such forfeited RSUs. The remaining 50% (unforfeited) RSUs will continue to vest in accordance with the vesting schedule set forth in Section 1 of this Agreement.

(iv) If retirement occurs during the third calendar quarter following the calendar quarter in which the Agreement Date occurs, the Participant shall forfeit 25% of the RSUs granted pursuant to this Agreement, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or payment of any Dividend Equivalents with respect to such forfeited RSUs. The remaining 75% (unforfeited) RSUs will continue to vest in accordance with the vesting schedule set forth in Section 1 of this Agreement.

(v) If retirement occurs at any time following the end of the calendar year in which the Agreement Date occurs, then Participant's outstanding RSUs granted pursuant to this Agreement will not be forfeited and will continue to vest in accordance with the vesting schedule set forth in Section 1 of this Agreement.

For purposes of this Section 1.5(c), a Participant's termination of employment shall not be deemed to be a "retirement" unless: (x) such termination is other than for Just Cause; (y) the Participant has attained at least 55 years of age; and (z) the Participant's age, when added to such Participant's years of credited service with the Company and its Affiliates, equals at least 65 years.

ARTICLE II
GENERAL PROVISIONS

2.1 Effect of Plan; Construction. The entire text of the Plan is expressly incorporated herein by this reference and so forms a part of this Agreement. In the event of any inconsistency or discrepancy between the provisions of the RSU Award covered by this Agreement and the terms and conditions of the Plan under which such RSUs are granted, the provisions in the Plan shall govern and prevail. The RSUs, the related Dividend Equivalents and this Agreement are each subject in all respects to, and SunCoke and the Participant each hereby agree to be bound by the terms and conditions of the Plan, as the same may have been amended from time to time in accordance with its terms.

2.2 Tax Withholding. The cash payments made under this Agreement shall be made net of any applicable federal, state, or local withholding taxes.

2.3 Administration. Pursuant to the Plan, the Committee is vested with conclusive authority to interpret and construe the Plan, to adopt rules and regulations for carrying out the Plan, and to make determinations with respect to all matters relating to this Agreement, the Plan and Awards made pursuant thereto. The authority to manage and control the operation and administration of this Agreement shall be likewise vested in the Committee, and the Committee shall have all powers with respect to this Agreement as it has with respect to the Plan. Any interpretation of this Agreement by the Committee, and any decision made by the Committee with respect to this Agreement, shall be final and binding.

2.4 Amendment. This Agreement may be amended in accordance with the terms of the Plan.

2.5 Captions. The captions at the beginning of each of the numbered Sections and Articles herein are for reference purposes only and will have no legal force or effect. Such captions will not be considered a part of this Agreement for purposes of interpreting, construing or applying this Agreement and will not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms and conditions.

2.6 Governing Law. The validity, construction, interpretation and effect of this instrument shall be governed exclusively by and determined in accordance with the law of the State of Delaware (without giving effect to the conflicts of law principles thereof), except to the extent preempted by federal law, which shall govern.

2.7 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing, by facsimile, by overnight courier or by registered or certified mail, postage prepaid and return receipt requested. Notices to SunCoke shall be deemed to have been duly given or made upon actual receipt by SunCoke. Such communications shall be addressed and directed to the parties listed below (except where this Agreement expressly provides that it be directed to another) as follows, or to such other address or recipient for a party as may be hereafter notified by such party hereunder:

(a) **If to SunCoke:**

SunCoke Energy, Inc.
Compensation Committee of the Board of Directors
1011 Warrenville Road – 6th Floor
Lisle, IL 60532
Attention: Corporate Secretary

(b) **If to the Participant:** To the address for Participant as it appears on SunCoke's records.

2.8 Severability. If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable, it shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability shall not invalidate the balance of such provision to the extent it is not prohibited or unenforceable, nor invalidate the other provisions hereof.

2.9 Entire Agreement. This Agreement constitutes the entire understanding and supersedes any and all other agreements, oral or written, between the parties hereto, in respect of the subject matter of this Agreement and embodies the entire understanding of the parties with respect to the subject matter hereof.

2.10 Forfeiture. The shares of Common Stock or cash payments received in connection with the Award granted pursuant to this Agreement constitute incentive compensation. The Participant agrees that any shares of Common Stock or cash payments

received with respect to the Award will be subject to any clawback/forfeiture provisions applicable to SunCoke that are required by any law in the future, including, without limitation, the Dodd-Frank Wall Street Reform and Consumer Protection Act and/or any applicable regulations. The Award is conditioned upon the acceptance by the Participant of the terms and conditions of the Award as set forth in the Agreement.

* * *

This Award is conditioned upon the acceptance by the Participant of the terms and conditions of the Award as set forth in this Agreement. To accept this Agreement, a Participant must access the Fidelity Investments website.

[Form of 2023 PSU Agreement]

PERFORMANCE SHARE UNIT AGREEMENT
under the
SUNCOKE ENERGY, INC. OMNIBUS LONG-TERM INCENTIVE PLAN

This Performance Share Unit Agreement (the "***Agreement***"), is entered into as of _____ (the "***Agreement Date***"), by and between SunCoke Energy, Inc. ("***SunCoke***") and _____, an employee of SunCoke or one of its Affiliates (the "***Participant***").

W I T N E S S E T H:

WHEREAS, the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan (the "***Plan***") is administered by the Compensation Committee (the "***Committee***"), and the Committee has determined to grant to the Participant, pursuant to the terms and conditions of the Plan, an award (the "***Award***") of Performance Share Units ("***PSUs***"), representing rights to receive shares of Common Stock, which Award is subject to a risk of forfeiture by the Participant, with the payout of such PSUs being conditioned upon the attainment of performance goals established by the Committee for the applicable performance period and the Participant's continued employment with SunCoke or one of its Affiliates through the Determination Date (as defined herein); and

WHEREAS, the Participant has determined to accept such Award.

NOW, THEREFORE, in consideration of these premises and the mutual promises of each of the Parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SunCoke and the Participant, each intending to be legally bound hereby, agree as follows:

ARTICLE I
AWARD OF PERFORMANCE SHARE UNITS

1.1 **Identifying Provisions**. For purposes of this Agreement, the following terms shall have the following respective meanings:

(a) **Participant Name:** _____

(b) ***Grant Date:*** _____

(c) ***Target Number of Total PSUs:*** _____, in the aggregate, the eventual payout of which is dependent upon the level of attainment of certain pre-established targets for the following metrics (each weighted 50%):

(1) three-year cumulative adjusted earnings before interest, taxes, depreciation and amortization ("***Adj. EBITDA***"); and

(2) three-year average pre-tax return on invested capital, including coke, logistics and unallocated corporate cost, but excluding discontinued operations and legacy costs [*e.g.*, Black Lung, pensions and other post-employment benefits] ("***ROIC***").

The eventual payout of this award will be further adjusted for the Company's three-year total shareholder return ("***TSR***"), relative to the NASDAQ U.S. Benchmark Iron & Steel Total Return Index, as more particularly described on "Exhibit A," attached hereto.

(d) ***Performance Period:*** Three-year period beginning on January 1, _____ and ending on December 31, _____.

Any initially capitalized terms and phrases used in this Agreement but not otherwise defined herein, shall have the respective meanings ascribed to them in the Plan.

1.2 Award of PSUs. Subject to the terms and conditions of the Plan and this Agreement, the Participant is hereby granted the target number of total PSUs set forth in Section 1.1.

1.3 Dividend Equivalents. The Participant shall be entitled to receive payment from SunCoke in an amount equal to each cash dividend ("***Dividend Equivalent***") payable subsequent to the Grant Date, just as though such Participant, on the record date for payment of such dividend, had been the holder of record of shares of Common Stock equal to the target number of PSUs. SunCoke shall establish a bookkeeping methodology to account for the Dividend Equivalents to be credited to the Participant. The Dividend Equivalents will not bear interest.

1.4 Adjustment, Vesting and Payment of PSUs and Dividend Equivalents.

(a) *Adjustment*.

(1) The target number of total PSUs subject to each PSU Award shall be adjusted by the Committee after the end of the Performance Period, based on the level of achievement of the performance goal(s) established with respect to the Performance Period as set forth in the attached Exhibit A. The date that the Committee determines the level of performance goal achievement applicable to the Award is the "***Determination Date***".

(2) Dividend Equivalents will be subject to the same adjustment, determined by multiplying the amount of Dividend Equivalents as of the Determination Date by the percentage adjustment made to the PSUs.

(b) *Vesting*. Except as set forth in Section 1.5(b), (c) and (d) below, a Participant shall become vested in this PSU Award and related Dividend Equivalents (as adjusted pursuant to Section 1.4(a), above) on the Determination Date, if the Participant remains in continuous employment with SunCoke or one of its Affiliates until the Determination Date. PSUs and Dividend Equivalents that do not vest shall be forfeited.

(c) *Payment*. Except as set forth in Section 1.5(b) and (c) below, actual payment for vested PSUs and vested Dividend Equivalents shall be made to the Participant within one month after the Determination Date.

(1) *Payment for vested PSUs*. Payment for vested PSUs shall be made in shares of Common Stock. The number of shares of Common Stock paid to the Participant shall be equal to the aggregate total number of PSUs that vest on the Determination Date.

(2) *Payment of Related Dividend Equivalents*. Payment for the vested Dividend Equivalents will be made in cash.

1.5 **Termination of Employment.**

(a) *Termination of Employment - In General*. Upon termination of the Participant's employment with SunCoke and its Affiliates prior to the Determination Date for any reason other than a Qualifying Termination or due to death or permanent disability, the Participant shall forfeit 100% of such Participant's PSUs, together with the related Dividend Equivalents, and the Participant shall not be entitled to receive any Common Stock or any payment of any Dividend Equivalents with respect to the forfeited PSUs.

(b) *Qualifying Termination of Employment*. In the event of the Participant's Qualifying Termination prior to the Determination Date, the Participant's outstanding PSUs (and related Dividend Equivalents) shall vest immediately at the higher of target level, or actual performance level attained, calculated as of the fiscal quarter ending on, or immediately prior to, the date of the Change in Control, and adjusted for TSR (calculated as of the date of the Change in Control), relative to the NASDAQ U.S. Benchmark Iron & Steel Total Return Index, as more particularly described on "Exhibit A," attached hereto. Each of such vested PSUs shall be paid in the form described in Section 1.4(c) above within one month following such Qualifying Termination.

(c) *Termination of Employment Due to Death or Permanent Disability*. In the event of the Participant's termination of employment due to death or permanent disability prior to the Determination Date, the Participant's outstanding PSUs and Dividend Equivalents shall vest immediately at the target level and be paid in the form described in Section 1.4(c) above within one month following such termination of employment.

(d) *Termination Due to Retirement*. [In the event of the Participant's termination of employment with SunCoke and its Affiliates prior to the Determination Date due to Retirement, the Participant's PSUs and Dividend Equivalents shall remain outstanding and shall be adjusted at the end of the performance period as described in Section 1 .4. The Participant shall vest in a pro rata portion of the adjusted PSUs determined by multiplying the number of PSUs by a fraction, the numerator of which is the number of full months that have elapsed from the beginning of the performance period to the employment termination date and the denominator of which is the number of full months in the performance period. The Participant also shall vest in the adjusted pro rata portion of the related Dividend Equivalents. The Participant's PSUs and Dividend Equivalents that vest shall be paid in the form described in Section 1.4(c) above within one month following the Determination Date.)]

[In the event of the Participant's termination of employment with SunCoke and its Affiliates prior to the Determination Date due to Retirement, the Participant's PSUs and Dividend Equivalents shall remain outstanding. In the event of a Service Retirement, the Participant's PSUs and Dividend Equivalents shall be adjusted at the end of the performance period as described in Section 1.4 and the Participant shall vest in a pro rata portion of the adjusted PSUs determined by multiplying the number of PSUs by a fraction, the numerator of which is the number of full months that have elapsed from the beginning of the performance period to the employment termination date and the denominator of which is the number of full months in the performance period. The Participant in the event of a Service Retirement also shall vest in the adjusted pro rata portion of the related Dividend Equivalents. In the event of an Age 65 Retirement, the Participant's PSUs and Dividend Equivalents shall be adjusted at the end of the performance period as described in Section 1.4 and the Participant shall vest in the adjusted PSUs and also shall vest in the adjusted related Dividend Equivalents. The Participant's PSUs and Dividend Equivalents

that vest upon Retirement shall be paid in the form described in Section 1.4(c) above within one month following the Determination Date.)

For purposes of this Section 1.5,

(i) [A Participant's termination of employment shall not be deemed to be a "***Retirement***" unless: (x) such termination is other than for Just Cause; (y) the Participant has attained at least 55 years of age; and (z) the Participant's age, when added to such Participant's years of credited service with the SunCoke and/or its Affiliates, equals at least 65 years;)

[There are two types of "Retirement" - "Age 65 Retirement" and "Service Retirement", "***Age 65 Retirement***" occurs upon a Participant's termination of employment after the Participant has attained at least 65 years of age and completed five years of credited service with SunCoke and its Affiliates; "***Service Retirement***" occurs upon a Participant's termination of employment before Age 65 Retirement but after (y) the Participant has attained at least 55 years of age; and (z) the Participant's age, when added to such Participant's years of credited service with SunCoke and its Affiliates, equals at least 65 years. Notwithstanding the foregoing, a Participant's termination of employment shall not be deemed to be a "Retirement' unless there is no Just Cause;] and

(ii) a Participant shall have a "***permanent disability***" if such Participant is found to be disabled, under the terms of SunCoke's long-term disability policy in effect at the time of the Participant's termination, due to such condition or if the Committee in its discretion makes such determination.

ARTICLE II
GENERAL PROVISIONS

2.1 Effect of Plan; Construction. The entire text of the Plan is expressly incorporated herein by this reference and so forms a part of this Agreement. In the event of any inconsistency or discrepancy between the provisions of the PSU Award covered by this Agreement and the terms and conditions of the Plan under which such PSUs are granted, the provisions in the Plan shall govern and prevail. The PSUs, the related Dividend Equivalents and this Agreement are each subject in all respects to, and SunCoke and the Participant each hereby agree to be bound by, the terms and conditions of the Plan, as the same may have been amended from time to time in accordance with its terms.

2.2 Tax Withholding. All distributions under this Agreement are subject to withholding of all applicable taxes.

(a) *Payment in Cash*. Cash payments in respect of any vested PSU or Dividend Equivalent shall be made net of any applicable federal, state, or local withholding taxes.

(b) *Payment in Stock*. Immediately prior to the payment of any shares of Common Stock to Participant in respect of vested PSUs, the Participant shall remit an amount sufficient to satisfy any Federal, state and/or local withholding tax due on the receipt of such Common Stock. At the election of the Participant, and subject to such rules as may be established by the Committee, such withholding obligations may be satisfied through the surrender of shares of Common Stock (otherwise payable to Participant in respect of such vested PSUs) having a value, as of the date that such vested PSUs first became payable, sufficient to satisfy the applicable tax obligation.

2.3 Administration. Pursuant to the Plan, the Committee is vested with conclusive authority to interpret and construe the Plan, to adopt rules and regulations for carrying out the Plan, and to make determinations with respect to all matters relating to this Agreement, the Plan

and Awards made pursuant thereto. The authority to manage and control the operation and administration of this Agreement shall be likewise vested in the Committee, and the Committee shall have all powers with respect to this Agreement as it has with respect to the Plan. Any interpretation of this Agreement by the Committee, and any decision made by the Committee with respect to this Agreement, shall be final and binding.

2.4 Amendment. This Agreement may be amended in accordance with the terms of the Plan.

2.5 Captions. The captions at the beginning of each of the numbered Sections and Articles herein are for reference purposes only and will have no legal force or effect. Such captions will not be considered a part of this Agreement for purposes of interpreting, construing or applying this Agreement and will not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms and conditions.

2.6 Governing Law. The validity, construction, interpretation and effect of this instrument shall be governed exclusively by and determined in accordance with the law of the State of Delaware (without giving effect to the conflicts of law principles thereof), except to the extent preempted by federal law, which shall govern.

2.7 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing, by facsimile, by overnight courier or by registered or certified mail, postage prepaid and return receipt requested. Notices to SunCoke shall be deemed to have been duly given or made upon actual receipt by SunCoke. Such communications shall be addressed and directed to the parties listed below (except where this Agreement expressly provides that it be directed to another) as follows, or to such other address or recipient for a party as may be hereafter notified by such party hereunder:

(a) If to SunCoke: SunCoke Energy, Inc.
Compensation Committee of the Board of Directors
1011 Warrenville Road – 6th Floor
Lisle, IL 60532
Attention: Corporate Secretary

(b) If to the Participant: To the address for Participant as it appears on SunCoke's records.

2.8 Severability. If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable, it shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability shall not invalidate the balance of such provision to the extent it is not prohibited or unenforceable, nor invalidate the other provisions hereof.

2.9 Entire Agreement. This Agreement constitutes the entire understanding and supersedes any and all other agreements, oral or written, between the parties hereto, in respect of the subject matter of this Agreement and embodies the entire understanding of the parties with respect to the subject matter hereof.

2.10 **Forfeiture.** The shares of Common Stock or cash payments received in connection with the Award granted pursuant to this Agreement constitute incentive compensation. The Participant agrees that any shares of Common Stock or cash payments received with respect to the Award will be subject to any clawback/forfeiture provisions applicable to SunCoke that are required by any law in the future, including, without limitation, the Dodd-Frank Wall Street Reform and Consumer Protection Act and/or any applicable regulations.

* * *

This Award is conditioned upon the acceptance by the Participant of the terms and conditions of the Award as set forth in this Agreement. To accept this Agreement, a Participant must access Fidelity Investments website.

SUNCOKE ENERGY, INC.
Long Term Performance Enhancement Plan

Performance Share Unit Agreement

Exhibit A

[Target metrics for Three-Year Cumulative Adjusted EBITDA and Return on Invested Capital]

[Form of LTI Cash Agreement]

LTI CASH AWARD AGREEMENT
under the
SUNCOKE ENERGY, INC. OMNIBUS LONG-TERM INCENTIVE PLAN

This LTI Cash Award Agreement (the *"**Agreement**"*), is entered into as of _____ (the "*Agreement Date*") by and between SunCoke Energy, Inc. (*"**SunCoke**"*) and _____, an employee of SunCoke or one of its Affiliates (the *"**Participant**"*).

W I T N E S S E T H:

WHEREAS, the SunCoke Energy, Inc. Omnibus Long-Term Incentive Plan (the *"**Omnibus Plan**"*) is administered by the Compensation Committee or its duly appointed sub-committee (the Compensation Committee or such sub-committee, the "***Committee***"), and the Committee has determined to grant to the Participant, pursuant to the terms and conditions of the Omnibus Plan, a long-term incentive cash ("***LTI Cash***") award representing the right to receive a cash payment following the end of a Performance Period (the "***Award"***), which Award is subject to a risk of forfeiture by the Participant, with the payout of such Award being conditioned upon the attainment of performance goals established by the Committee for the applicable performance period and the Participant's continued employment with SunCoke or one of its Affiliates through the Determination Date (as defined herein)

WHEREAS, the Participant has determined to accept such Award.

NOW, THEREFORE, in consideration of these premises and the mutual promises of each of the Parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SunCoke and the Participant, each intending to be legally bound hereby, agree as follows:

ARTICLE I
AWARD OF LTI CASH

1.1 **Identifying Provisions**. For purposes of this Agreement, the following terms shall have the following respective meanings:

(a) **Participant Name:** _____

(b) ***Grant Date:*** _____

(c) ***Target Value of LRI Cash Award:*** _____ Dollars and _____cents ($_____), in the aggregate, the eventual payout of which is dependent upon the level of attainment of certain pre-established targets for the following metrics (each weighted 50%):

(1) three-year cumulative adjusted earnings before interest, taxes, depreciation and amortization ("***Adj. EBITDA***"); and

(2) three-year average pre-tax return on invested capital, including coke, logistics and unallocated corporate cost, but excluding discontinued operations and legacy costs [*e.g.*, Black Lung, pensions and other post-employment benefits] ("***ROIC***").

(d) ***Performance Period:*** Three-year period beginning on January 1, _____ and ending on December 31, _____.

Any initially capitalized terms and phrases used in this Agreement but not otherwise defined herein, shall have the respective meanings ascribed to them in the Omnibus Plan.

1.2 Award of LTI Cash. Subject to the terms and conditions of the Omnibus Plan and this Agreement, the Participant is hereby granted the target value of LTI Cash set forth in Section 1.1.

1.3 Adjustment, Vesting and Payment of Award.

(a) *Adjustment*. The target value of the LTI Cash Award shall be adjusted by the Committee after the end of the Performance Period, based on the level of achievement of the respective performance goal(s) established for the Performance Period, as set forth in the attached Exhibit A. The date that the Committee determines the level of performance goal achievement applicable to the Award is the "***Determination Date***".

(b) *Vesting*. Except as set forth in Section 1.4(a), (b) and (c) below, a Participant shall become vested in this LTI Cash Award (as adjusted pursuant to Section 1.3(a), above) if the Participant remains in continuous employment with SunCoke or one of its Affiliates until the Determination Date. LTI Cash that does not vest shall be forfeited.

(c) *Payment*. Except as set forth in Section 1.4(a) and (c) below, actual payment for vested LTI Cash shall be made to the Participant within one month after the Determination Date.

1.4 Termination of Employment.

(a) *Termination of Employment - In General*. Upon termination of the Participant's employment with SunCoke and its Affiliates prior to the Determination Date for any reason other than a Qualifying Termination, or due to death, permanent disability, or retirement, the Participant shall forfeit 100% of such Participant's Award and the Participant shall not be entitled to receive any Award payment.

(b) *Qualifying Termination of Employment*. In the event of the Participant's Qualifying Termination prior to the Determination Date, the Participant's outstanding LTI Cash Award shall vest immediately at the higher of target level, or actual performance level attained (as more particularly described on "Exhibit A," attached hereto), calculated as of the fiscal quarter ending on, or immediately prior to, the date of the Change in Control. Such vested LTI Cash Award shall be paid in the form of cash within one month following such Qualifying Termination.

(c) *Termination of Employment Due to Death or Permanent Disability*. In the event of the Participant's termination of employment due to death or permanent disability prior to the Determination Date, the Participant's outstanding Award shall not be adjusted pursuant to Section 1.3(a) above, but shall vest immediately at the target level and be paid in cash within one month following such termination of employment.

(d) *Termination of Employment Due to Retirement*. [In the event of the Participant's termination of employment with SunCoke and its Affiliates prior to the Determination Date due to Retirement, the Participant's outstanding LTI Cash Award shall remain outstanding and shall be adjusted at the end of the performance period as described in Section 1.3. The Participant shall vest in a *pro rata* portion of the adjusted Award determined by multiplying the amount of the Adjusted Award by a fraction, the numerator of which is the number of full months that have elapsed from the beginning of the performance period to the employment termination date and the denominator of which is the number of full months in the performance period. The portion of the

Participant's LTI Cash Award that vests shall be paid in the form of cash within one month following the Determination Date.)]

[In the event of the Participant's termination of employment with SunCoke and its Affiliates prior to the Determination Date due to Retirement, the Participant's outstanding LTI Cash Award shall remain outstanding. In the event of a Service Retirement, the value of the Participant's LTI Cash Award shall be adjusted at the end of the performance period as described in Section 1.3 and the Participant shall vest in a *pro rata* portion of the adjusted Award, determined by multiplying the amount of the adjusted Award by a fraction, the numerator of which is the number of full months that have elapsed from the beginning of the performance period to the employment termination date and the denominator of which is the number of full months in the performance period. In the event of an Age 65 Retirement, the Participant's LTI Cash Award shall be adjusted at the end of the performance period as described in Section 1.3 and the Participant shall vest in the adjusted Award. The LTI Cash Award that vests upon Retirement shall be paid in the form of cash within one month following the Determination Date.

For purposes of this Section 1.4,

(i) [A Participant's termination of employment shall not be deemed to be a "***Retirement***" unless: (x) such termination is other than for Just Cause; (y) the Participant has attained at least 55 years of age; and (z) the Participant's age, when added to such Participant's years of credited service with the SunCoke and/or its Affiliates, equals at least 65 years;)

[There are two types of "Retirement" - "Age 65 Retirement" and "Service Retirement", "***Age 65 Retirement***" occurs upon a Participant's termination of employment after the Participant has attained at least 65 years of age and completed five years of credited service with SunCoke and its Affiliates; "***Service Retirement***" occurs upon a Participant's termination of employment before Age 65 Retirement but after (y) the Participant has attained at least 55 years of age; and (z) the Participant's age, when added to such Participant's years of credited service with SunCoke and its Affiliates, equals at least 65 years. Notwithstanding the foregoing, a Participant's termination of employment shall not be deemed to be a "Retirement' unless there is no Just Cause;] and

(ii) a Participant shall have a "***permanent disability***" if such Participant is found to be disabled, under the terms of SunCoke's long-term disability policy in effect at the time of the Participant's termination, due to such condition or if the Committee in its discretion makes such determination.

(e) *Termination of Employment for Just Cause*. In the event of the Participant's termination of employment prior to the Determination Date by SunCoke or an Affiliate for Just Cause, the Participant's Award shall be forfeited.

ARTICLE II
GENERAL PROVISIONS

2.1 Effect of Plan; Construction. The entire text of the Omnibus Plan is expressly incorporated herein by this reference and so forms a part of this Agreement. In the event of any inconsistency or discrepancy between the provisions of the Award covered by this Agreement and the terms and conditions of the Omnibus Plan under which such Award is granted, the provisions in the Omnibus Plan shall govern and prevail. The Award and this Agreement are each subject in all respects to, and SunCoke and the Participant each hereby agree to be bound by, the terms and conditions of the Omnibus Plan, as the same may have been amended from time to time in accordance with its terms.

2.2 **Tax Withholding**. The payment of an Award under this Agreement shall be net of any applicable federal, state, or local withholding taxes.

2.3 **Administration**. Pursuant to the Omnibus Plan, the Committee is vested with conclusive authority to interpret and construe the Omnibus Plan, to adopt rules and regulations for carrying out the Omnibus Plan, and to make determinations with respect to all matters relating to this Agreement, the Omnibus Plan and Awards made pursuant thereto. The authority to manage and control the operation and administration of this Agreement shall be likewise vested in the Committee, and the Committee shall have all powers with respect to this Agreement as it has with respect to the Omnibus Plan. Any interpretation of this Agreement by the Committee, and any decision made by the Committee with respect to this Agreement, shall be final and binding.

2.4 **Amendment**. This Agreement may be amended in accordance with the terms of the Omnibus Plan.

2.5 **Captions**. The captions at the beginning of each of the numbered Sections and Articles herein are for reference purposes only and will have no legal force or effect. Such captions will not be considered a part of this Agreement for purposes of interpreting, construing or applying this Agreement and will not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms and conditions.

2.6 **Governing Law**. The validity, construction, interpretation and effect of this instrument shall be governed exclusively by and determined in accordance with the law of the State of Delaware (without giving effect to the conflicts of law principles thereof), except to the extent preempted by federal law, which shall govern.

2.7 **Notices.** All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing, by facsimile, by overnight courier or by registered or certified mail, postage prepaid and return receipt requested. Notices to SunCoke shall be deemed to have been duly given or made upon actual receipt by SunCoke. Such communications shall be addressed and directed to the parties listed below (except where this Agreement expressly provides that it be directed to another) as follows, or to such other address or recipient for a party as may be hereafter notified by such party hereunder:

(a) If to SunCoke: SunCoke Energy, Inc.
Compensation Committee of the Board of Directors
1011 Warrenville Road – 6th Floor
Lisle, IL 60532
Attention: Corporate Secretary

(b) If to the Participant: To the address for Participant as it appears on

2.8 **Severability**. If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable, it shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability shall not invalidate the balance of such provision to the extent it is not prohibited or unenforceable, nor invalidate the other provisions hereof.

2.9 **Entire Agreement**. This Agreement constitutes the entire understanding and supersedes any and all other agreements, oral or written, between the parties hereto, in respect of the subject matter of this Agreement and embodies the entire understanding of the parties with respect to the subject matter hereof.

2.10 **Forfeiture**. The cash payment received in connection with the Award granted pursuant to this Agreement constitutes incentive compensation. The Participant agrees that any cash payment received with respect to the Award will be subject to any clawback/forfeiture provisions applicable to SunCoke that are required by any law in the future, including, without limitation, the Dodd-Frank Wall Street Reform and Consumer Protection Act and/or any applicable regulations.

* * *

[SIGNATURE PAGE FOLLOWS]
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement is delivered by the Company as of the _____ day of _____, _____.

AGREED AND ACCEPTED:

Participant

_____
Signature

_____
Print Name

_____
Date

SunCoke Energy, Inc.

By: _____

Its: Vice President, Human Resources

SUNCOKE ENERGY, INC.
Long Term Performance Enhancement Plan

Long Term Incentive Cash Agreement

Exhibit A

[Target metrics for Three-Year Cumulative Adjusted EBITDA and Return on Invested Capital]

Exhibit 21.1

Subsidiary Name	Ownership Percentage (if < 100%)	Jurisdiction of Organization
The Claymont Investment Company LLC		Delaware
SunCoke Technology and Development LLC		Delaware
• Sun Coke East Servicios de Coqueificação Ltda.	1.0	Brazil
Sun Coke International, Inc.		Delaware
• Sun Coke East Servicios de Coqueificação Ltda.	99.0	Brazil
• SXC Holding BV		Netherlands
Sun Coal & Coke LLC		Delaware
• Gateway Energy & Coke Company, LLC		Delaware
• Middletown Coke Company LLC		Delaware
• Haverhill Coke Company LLC		Delaware
◦ FF Farms Holdings LLC		Delaware
• SunCoke Logistics LLC		Delaware
◦ SunCoke Lake Terminal LLC		Delaware
◦ Kanawha River Terminals LLC		Delaware
▪ Marigold Dock, Inc		Delaware
▪ Ceredo Liquid Terminal LLC		Delaware
• Raven Energy LLC		Delaware
◦ CMT Liquids Terminal, LLC		Delaware
• SunCoke Energy South Shore, LLC		Delaware
• Elk River Minerals Corporation		Delaware
• Jewell Coke Acquisition Company		Virginia
◦ Jewell Coke Company, L.P.	2.0	Delaware
• Indiana Harbor Coke Corporation		Indiana
◦ Indiana Harbor Coke Company L.P.	84.2	Delaware
• Indiana Harbor Coke Company		Delaware
◦ Indiana Harbor Coke Company L.P.	1.0	Delaware

(Continued)

Jewell Resources Corporation		Virginia
• Jewell Coke Company, L.P.	98	Virginia
• Jewell Smokeless Coal Corporation		Virginia
• Jewell Coal & Coke Company, Inc.		Virginia
• Dismal River Terminal, LLC		Virginia
• Oakwood Red Ash Coal Corporation		Virginia

NOTE: First-tier subsidiaries of SunCoke Energy, Inc. [NYSE: SXC] appear in bolded type.

Exhibit 22.1

SunCoke Energy, Inc.
List of Issuers and Guarantor Subsidiaries

If a series of registered debt securities issued by SunCoke Energy, Inc. is guaranteed, such series will be guaranteed by one or more of the subsidiaries listed below.

Exact Name of Registrant as Specified in its Charter	State or Other Jurisdiction of Incorporation or Organization	Designation
SunCoke Energy, Inc.	Delaware	Issuer
Ceredo Liquid Terminal LLC	Delaware	Guarantor
CMT Liquids Terminal LLC	Delaware	Guarantor
Dismal River Terminal LLC	Delaware	Guarantor
Elk River Minerals Corporation	Delaware	Guarantor
FF Farm Holdings LLC	Delaware	Guarantor
Gateway Energy & Coke Company LLC	Delaware	Guarantor
Haverhill Coke Company LLC	Delaware	Guarantor
Indiana Harbor Coke Company	Delaware	Guarantor
Indiana Harbor Coke Corporation	Indiana	Guarantor
Jewell Coal & Coke Company, Inc.	Virginia	Guarantor
Jewell Coke Acquisition Company	Virginia	Guarantor
Jewell Coke Company, L.P.	Delaware	Guarantor
Jewell Resources Corporation	Virginia	Guarantor
Kanawha River Terminals, LLC	Delaware	Guarantor
Marigold Dock, Inc.	Delaware	Guarantor
Middletown Coke Company, LLC	Delaware	Guarantor
Raven Energy, LLC	Delaware	Guarantor
Sun Coal & Coke LLC	Delaware	Guarantor
SunCoke Energy South Shore LLC	Delaware	Guarantor
SunCoke Lake Terminal LLC	Delaware	Guarantor
SunCoke Logistics LLC	Delaware	Guarantor
SunCoke Technology and Development LLC	Delaware	Guarantor

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the registration statements (Nos. 333-265736, 333-183015, 333-176403, 333-179804 and 333-224733) on Form S-8 and (No. 333-234585) on Form S-3 of our report dated February 24, 2023, with respect to the consolidated financial statements of SunCoke Energy, Inc. and the effectiveness of internal control over financial reporting.

/s/ KPMG LLP

Chicago, Illinois
February 24, 2023

Exhibit 31.1

CERTIFICATION

I, Michael G. Rippey, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2022 of SunCoke Energy, Inc. (the "registrant");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's fourth fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Michael G. Rippey
Michael G. Rippey
Chief Executive Officer
February 24, 2023

Exhibit 31.2

CERTIFICATION

I, Mark W. Marinko, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2022 of SunCoke Energy, Inc. (the "registrant");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's fourth fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Mark W. Marinko
Mark W. Marinko
Senior Vice President and
Chief Financial Officer
February 24, 2023

Exhibit 32.1

CERTIFICATION OF
CHIEF EXECUTIVE OFFICER OF SUNCOKE ENERGY, INC.
PURSUANT TO 18 U.S.C. SECTION 1350

In connection with this Annual Report on Form 10-K of SunCoke Energy, Inc. for the fiscal year ended December 31, 2022, I, Michael G. Rippey, Chief Executive Officer of SunCoke Energy, Inc., hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. This Annual Report on Form 10-K for the fiscal year ended December 31, 2022 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in this Annual Report on Form 10-K for the fiscal year ended December 31, 2022 fairly presents, in all material respects, the financial condition and results of operations of SunCoke Energy, Inc. for the periods presented therein.

/s/ Michael G. Rippey
Michael G. Rippey
Chief Executive Officer
February 24, 2023

Exhibit 32.2

CERTIFICATION OF
CHIEF FINANCIAL OFFICER OF SUNCOKE ENERGY, INC.
PURSUANT TO 18 U.S.C. SECTION 1350

In connection with this Annual Report on Form 10-K of SunCoke Energy, Inc. for the fiscal year ended December 31, 2022, I, Mark W. Marinko, Senior Vice President and Chief Financial Officer and Chairman of SunCoke Energy, Inc., hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. This Annual Report on Form 10-K for the fiscal year ended December 31, 2022 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in this Annual Report on Form 10-K for the fiscal year ended December 31, 2022 fairly presents, in all material respects, the financial condition and results of operations of SunCoke Energy, Inc. for the periods presented therein.

/s/ Mark W. Marinko
Mark W. Marinko
Senior Vice President and
Chief Financial Officer
February 24, 2023

Exhibit 95.1

SunCoke Energy, Inc.
Mine Safety Disclosures for the Period Ended December 31, 2022

We are committed to maintaining a safe work environment and working to ensure environmental compliance across all of our operations. The health and safety of our employees and limiting the impact to communities in which we operate are critical to our long-term success. We employ practices and conduct training to help ensure that our employees work safely. Furthermore, we utilize processes for managing, monitoring and improving safety and environmental performance.

We have consistently operated within the top quartiles for the U.S. Occupational Safety and Health Administration's recordable injury rates as measured and reported by the American Coke and Coal Chemicals Institute. We also have worked to maintain low injury rates reportable to the U.S. Department of Labor's Mine Safety and Health Administration ("MSHA") and won the Sentinels of Safety award for 2008, 2013 and 2016 from MSHA for having the mine with the most employee hours worked without experiencing a lost-time injury in that mine's category.

The following table presents the information concerning mine safety violations and other regulatory matters that we are required to report in accordance with Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Whenever MSHA believes that a violation of the Federal Mine Safety and Health Act of 1977 (the "Mine Act"), any health or safety standard, or any regulation has occurred, it may issue a citation which describes the violation and fixes a time within which the operator must abate the violation. In these situations, MSHA typically proposes a civil penalty, or fine, that the operator is ordered to pay. In evaluating the following table regarding mine safety, investors should take into account factors such as: (1) the number of citations and orders will vary depending on the size of a coal mine, (2) the number of citations issued will vary from inspector to inspector, mine to mine and MSHA district to district and (3) citations and orders can be contested and appealed, and during that process are often reduced in severity and amount, and are sometimes dismissed.

The mine data retrieval system maintained by MSHA may show information that is different than what is provided in the table below. Any such difference may be attributed to the need to update that information on MSHA's system or other factors. Orders and citations issued to independent contractors who work at our mine sites are not reported in the table below. All section references in the table below refer to provisions of the Mine Act.

Operating Name/MSHA Identification Number	Section 104 S&S Citations (#)(2)	Section 104(b) Orders (#) (3)	Section 104(d) Citations and Orders (#)(4)	Section 110(b)(2) Violations (#)(5)	Section 107(a) Orders (#) (6)	Total Dollar Value of MSHA Assessments Proposed ($)(7)	Total Number of Mining Related Fatalities (#)	Received Notice of Pattern of Violations Under Section 104(e) (yes/no) (8)	Received Notice of Potential to Have Pattern Under Section 104(e) (yes/no) (9)	Legal Actions Pending as of Last Day of Period (#)(10) (11)	Legal Actions Initiated During Period (#) (12)	Legal Actions Resolved During Period (#)(13)
Ceredo Dock / 46-09051	—	—	—	—	—	532	—	no	no	—	—	—
Quincy Dock / 46-07736	—	—	—	—	—	—	—	no	no	—	—	—
Dismal River Terminal / B3121	—	—	—	—	—	—	—	no	no	—	—	—
Jewell Coal Corp / 44-00649	1	—	—	—	—	1094	—	no	no	—	—	—
Total	**1**	—	—	—	—	**1626**	—	**no**	**no**	—	—	—

(1) The table does not include the following: (i) facilities which have been idle or closed unless they received a citation or order issued by MSHA, (ii) permitted mining sites where we have not begun operations or (iii) mines that are operated on our behalf by contractors who hold the MSHA numbers and have the MSHA liabilities.

(2) Alleged violations of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard.

(3) Alleged failures to totally abate a citation within the period of time specified in the citation.

(4) Alleged unwarrantable failure (i.e., aggravated conduct constituting more than ordinary negligence) to comply with a mining safety standard or regulation.

(5) Alleged flagrant violations issued.

(6) Alleged conditions or practices which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.

(7) Amounts shown include assessments proposed during the year ended December 31, 2022 and do not necessarily relate to the citations or orders reflected in this table. Assessments for citations or orders reflected in this table may be proposed by MSHA after December 31, 2022.

(8) Alleged pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards.

(9) Alleged potential to have a pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards.

(10) This number reflects legal proceedings which remain pending before the Federal Mine Safety and Health Review Commission (the "FMSHRC") as of December 31, 2022. The pending legal actions may relate to the citations or orders issued by MSHA during the reporting period or to citations or orders issued in prior periods. The FMSHRC has jurisdiction to hear not only challenges to citations, orders, and penalties but also certain complaints by miners. The number of "pending legal actions" reported here reflects the number of contested citations, orders, penalties or complaints which remain pending as of December 31, 2022.

(11) The legal proceedings reflected in this column of the table are categorized as follows in accordance with the categories established in the Procedural Rules of the FMSHRC:

Mine or Operating Name/MSHA Identification Number	Contests of Citations and Orders (#)	Contests of Proposed Penalties (#)	Complaints for Compensation (#)	Complaints for Discharge, Discrimination or Interference Under Section 105 (#)	Applications for Temporary Relief (#)	Appeals of Judges' Decisions or Orders (#)
Ceredo Dock / 46-09051	0	0	0	0	0	0
Quincy Dock / 46-07736	**0**	**0**	**0**	**0**	**0**	**0**
Dismal River Terminal / B3121	**0**	**0**	**0**	**0**	**0**	**0**
Jewell Coal Corp / 44-00649	**0**	**0**	**0**	**0**	**0**	**0**
Total	**0**	**0**	**0**	**0**	**0**	**0**

(12) This number reflects legal proceedings initiated before the FMSHRC during the year ended December 31, 2022. The number of "initiated legal actions" reported here may not have remained pending as of December 31, 2022.

(13) This number reflects legal proceedings before the FMSHRC that were resolved during the year ended December 31, 2022.