

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

FORM 10-Q

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

FOR THE QUARTERLY PERIOD ENDED JUNE 30, 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 001-38086

Vistra Corp.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

36-4833255
(I.R.S. Employer Identification No.)

6555 Sierra Drive, Irving, Texas 75039
(Address of principal executive offices) (Zip Code)

(214) 812-4600
(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, par value \$0.01 per share	VST	New York Stock Exchange
Warrants	VST.WS.A	New York Stock Exchange

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

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

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

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

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

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

As of August 2, 2022, there were 416,348,199 shares of common stock, par value \$0.01, outstanding of Vistra Corp.

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Vistra Corp.'s (Vistra) annual reports, quarterly reports, current reports and any amendments to those reports are made available to the public, free of charge, on the Vistra website at <http://www.vistracorp.com>, as soon as reasonably practicable after they have been filed with or furnished to the Securities and Exchange Commission pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended. Additionally, Vistra posts important information, including press releases, investor presentations, sustainability reports, and notices of upcoming events on its website and utilizes its website as a channel of distribution to reach public investors and as a means of disclosing material non-public information for complying with disclosure obligations under Regulation FD. Investors may be notified of posting to the website by signing up for email alerts and RSS feeds on the "Investor Relations" page of Vistra's website. The information on Vistra's website shall not be deemed a part of, or incorporated by reference into, this quarterly report on Form 10-Q. The representations and warranties contained in any agreement that we have filed as an exhibit to this quarterly report on Form 10-Q, or that we have or may publicly file in the future, may contain representations and warranties that may (i) be made by and to the parties thereto at specific dates, (ii) be subject to exceptions and qualifications contained in separate disclosure schedules, (iii) represent the parties' risk allocation in the particular transaction, or (iv) be qualified by materiality standards that differ from what may be viewed as material for securities law purposes.

This quarterly report on Form 10-Q and other Securities and Exchange Commission filings of Vistra and its subsidiaries occasionally make references to Vistra (or "we," "our," "us" or "the Company"), Luminant, TXU Energy, Ambit, Value Based Brands, Dynegy Energy Services, Homefield Energy, TriEagle Energy, Public Power or U.S. Gas & Electric, when describing actions, rights or obligations of their respective subsidiaries. These references reflect the fact that the subsidiaries are consolidated with, or otherwise reflected in, the Vistra financial statements for financial reporting purposes. However, these references should not be interpreted to imply that the parent company is actually undertaking the action or has the rights or obligations of the relevant subsidiary company or vice versa.

GLOSSARY

When the following terms and abbreviations appear in the text of this report, they have the meanings indicated below.

2021 Form 10-K	Vistra's annual report on Form 10-K for the year ended December 31, 2021, filed with the SEC on February 25, 2022
Ambit or Ambit Energy	Ambit Holdings, LLC, and/or its subsidiaries (d/b/a Ambit), depending on context
ARO	asset retirement and mining reclamation obligation
CAISO	The California Independent System Operator
CARES Act	Coronavirus Aid, Relief, and Economic Security Act
CCGT	combined cycle gas turbine
CCR	coal combustion residuals
CFTC	U.S. Commodity Futures Trading Commission
CME	Chicago Mercantile Exchange
CO₂	carbon dioxide
CPUC	California Public Utilities Commission
Crius	Crius Energy Trust and/or its subsidiaries, depending on context
Dynegy	Dynegy Inc., and/or its subsidiaries, depending on context
Dynegy Energy Services	Dynegy Energy Services, LLC and Dynegy Energy Services (East), LLC (each d/b/a Dynegy, Better Buy Energy, Brighten Energy, Honor Energy and True Fit Energy), indirect, wholly owned subsidiaries of Vistra, that are REPs in certain areas of MISO and PJM, respectively, and are engaged in the retail sale of electricity to residential and business customers.
EBITDA	earnings (net income) before interest expense, income taxes, depreciation and amortization
Effective Date	October 3, 2016, the date our predecessor completed its reorganization under Chapter 11 of the U.S. Bankruptcy Code
Emergence	emergence of our predecessor from reorganization under Chapter 11 of the U.S. Bankruptcy Code as subsidiaries of a newly formed company, Vistra, on the Effective Date
EPA	U.S. Environmental Protection Agency
ERCOT	Electric Reliability Council of Texas, Inc.
ESS	energy storage system
Exchange Act	Securities Exchange Act of 1934, as amended
FERC	U.S. Federal Energy Regulatory Commission
GAAP	generally accepted accounting principles
GHG	greenhouse gas
GWh	gigawatt-hours
Homefield Energy	Illinois Power Marketing Company (d/b/a Homefield Energy), an indirect, wholly owned subsidiary of Vistra, a REP in certain areas of MISO that is engaged in the retail sale of electricity to municipal customers
ICE	Intercontinental Exchange
IEPA	Illinois Environmental Protection Agency
IPCB	Illinois Pollution Control Board
IRC	Internal Revenue Code of 1986, as amended
IRS	U.S. Internal Revenue Service
ISO	independent system operator
ISO-NE	ISO New England Inc.
LIBOR	London Interbank Offered Rate, an interest rate at which banks can borrow funds, in marketable size, from other banks in the London interbank market
load	demand for electricity
LTSA	long-term service agreements for plant maintenance
Luminant	subsidiaries of Vistra engaged in competitive market activities consisting of electricity generation and wholesale energy sales and purchases as well as commodity risk management

market heat rate	Heat rate is a measure of the efficiency of converting a fuel source to electricity. Market heat rate is the implied relationship between wholesale electricity prices and natural gas prices and is calculated by dividing the wholesale market price of electricity, which is based on the price offer of the marginal supplier (generally natural gas plants), by the market price of natural gas.
Merger	the merger of Dynegy with and into Vistra, with Vistra as the surviving corporation
Merger Date	April 9, 2018, the date Vistra and Dynegy completed the transactions contemplated by the Agreement and Plan of Merger, dated as of October 29, 2017, by and between Vistra and Dynegy
MISO	Midcontinent Independent System Operator, Inc.
MMBtu	million British thermal units
Moody's	Moody's Investors Service, Inc. (a credit rating agency)
MSHA	U.S. Mine Safety and Health Administration
MW	megawatts
MWh	megawatt-hours
NERC	North American Electric Reliability Corporation
NO_x	nitrogen oxide
NRC	U.S. Nuclear Regulatory Commission
NYISO	New York Independent System Operator, Inc.
NYMEX	the New York Mercantile Exchange, a commodity derivatives exchange
Parent	Vistra Corp.
PJM	PJM Interconnection, LLC
Plan of Reorganization	Third Amended Joint Plan of Reorganization filed by the parent company of our predecessor in August 2016 and confirmed by the U.S. Bankruptcy Court for the District of Delaware in August 2016 solely with respect to our predecessor
PrefCo	Vistra Preferred Inc.
PrefCo Preferred Stock Sale	as part of the tax-free spin-off from Energy Future Holdings Corp. (EFH Corp.), executed pursuant to the Plan of Reorganization on the Effective Date by our predecessor, the contribution of certain of the assets of our predecessor and its subsidiaries by a subsidiary of TEX Energy LLC to PrefCo in exchange for all of PrefCo's authorized preferred stock, consisting of 70,000 shares, par value \$0.01 per share
Preferred Stock	Vistra's Series A Preferred Stock and Series B Preferred Stock
Public Power	Public Power, LLC (d/b/a Public Power), an indirect, wholly owned subsidiary of Vistra, a REP in certain areas of PJM, ISO-NE, NYISO and MISO that is engaged in the retail sale of electricity to residential and business customers
PUCT	Public Utility Commission of Texas
REP	retail electric provider
RCT	Railroad Commission of Texas, which among other things, has oversight of lignite mining activity in Texas, and has jurisdiction over oil and natural gas exploration and production, permitting and inspecting intrastate pipelines, and overseeing natural gas utility rates and compliance
RTO	regional transmission organization
S&P	Standard & Poor's Ratings (a credit rating agency)
SEC	U.S. Securities and Exchange Commission
Securities Act	Securities Act of 1933, as amended
Series A Preferred Stock	Vistra's 8.0% Series A Fixed-Rate Reset Cumulative Redeemable Perpetual Preferred Stock, \$0.01 par value, with a liquidation preference of \$1,000 per share
Series B Preferred Stock	Vistra's 7.0% Series B Fixed-Rate Reset Cumulative Green Redeemable Perpetual Preferred Stock, \$0.01 par value, with a liquidation preference of \$1,000 per share
SG&A	selling, general and administrative
SO₂	sulfur dioxide
Tax Matters Agreement	Tax Matters Agreement, dated as of the Effective Date, by and among EFH Corp., Energy Future Intermediate Holding Company LLC, EFIH Finance Inc. and EFH Merger Co. LLC

TCEH	Texas Competitive Electric Holdings Company LLC, a direct, wholly owned subsidiary of Energy Future Competitive Holdings Company LLC, and, prior to the Effective Date, the parent company of our predecessor, depending on context, that were engaged in electricity generation and wholesale and retail energy market activities, and whose major subsidiaries included Luminant and TXU Energy
TCEQ	Texas Commission on Environmental Quality
TRA	Tax Receivable Agreement, containing certain rights (TRA Rights) to receive payments from Vistra related to certain tax benefits, including benefits realized as a result of certain transactions entered into at Emergence (see Note 7 to the Financial Statements)
TRE	Texas Reliability Entity, Inc., an independent organization that develops reliability standards for the ERCOT region and monitors and enforces compliance with NERC standards and monitors compliance with ERCOT protocols
TriEagle Energy	TriEagle Energy, LP (d/b/a TriEagle Energy, TriEagle Energy Services, Eagle Energy, Energy Rewards, Power House Energy and Viridian Energy), an indirect, wholly owned subsidiary of Vistra, a REP in certain areas of ERCOT and PJM that is engaged in the retail sale of electricity to residential and business customers
TXU Energy	TXU Energy Retail Company LLC (d/b/a TXU), an indirect, wholly owned subsidiary of Vistra that is a REP in competitive areas of ERCOT and is engaged in the retail sale of electricity to residential and business customers
U.S.	United States of America
U.S. Gas & Electric	U.S. Gas and Electric, Inc. (d/b/a USG&E, Illinois Gas & Electric and ILG&E), an indirect, wholly owned subsidiary of Vistra, a REP in certain areas of PJM, ISO-NE, NYISO and MISO that is engaged in the retail sale of electricity to residential and business customers
Value Based Brands	Value Based Brands LLC (d/b/a 4Change Energy, Express Energy and Veteran Energy), an indirect, wholly owned subsidiary of Vistra that is a REP in competitive areas of ERCOT and is engaged in the retail sale of electricity to residential and business customers
Vistra	Vistra Corp. and/or its subsidiaries, depending on context
Vistra Intermediate	Vistra Intermediate Company LLC, a direct, wholly owned subsidiary of Vistra
Vistra Operations	Vistra Operations Company LLC, an indirect, wholly owned subsidiary of Vistra that is the issuer of certain series of notes (see Note 10 to the Financial Statements) and borrower under the Vistra Operations Credit Facilities
Vistra Operations Credit Agreement	Credit agreement, dated as of October 3, 2016 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time), by and among Vistra Operations, Vistra Intermediate, the lenders party thereto, the letter of credit issuers party thereto, the administrative agent, the collateral agent, and the other parties named therein
Vistra Operations Credit Facilities	Vistra Operations senior secured financing facilities (see Note 10 to the Financial Statements)

PART I. FINANCIAL INFORMATION

Item 1. FINANCIAL STATEMENTS

VISTRA CORP. CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (Unaudited) (Millions of Dollars, Except Per Share Amounts)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Operating revenues (Note 4)	\$ 1,588	\$ 2,565	\$ 4,713	\$ 5,772
Fuel, purchased power costs and delivery fees	(2,162)	(1,320)	(4,441)	(6,065)
Operating costs	(435)	(429)	(851)	(801)
Depreciation and amortization	(394)	(464)	(824)	(887)
Selling, general and administrative expenses	(280)	(252)	(569)	(502)
Impairment of long-lived assets (Note 17)	—	(38)	—	(38)
Operating income (loss)	(1,683)	62	(1,972)	(2,521)
Other income (Note 17)	71	36	77	92
Other deductions (Note 17)	(9)	(2)	(13)	(7)
Interest expense and related charges (Note 17)	(109)	(135)	(116)	(164)
Impacts of Tax Receivable Agreement (Note 7)	(34)	(41)	(115)	(4)
Net loss before income taxes	(1,764)	(80)	(2,139)	(2,604)
Income tax benefit (Note 6)	407	115	498	600
Net income (loss)	\$ (1,357)	\$ 35	\$ (1,641)	\$ (2,004)
Net (income) loss attributable to noncontrolling interest	(8)	1	(9)	(2)
Net income (loss) attributable to Vistra	\$ (1,365)	\$ 36	\$ (1,650)	\$ (2,006)
Cumulative dividends attributable to preferred stock	(37)	—	(75)	—
Net income (loss) attributable to Vistra common stock	\$ (1,402)	\$ 36	\$ (1,725)	\$ (2,006)
Weighted average shares of common stock outstanding:				
Basic	429,193,031	486,022,633	440,336,286	485,364,606
Diluted	429,193,031	487,366,226	440,336,286	485,364,606
Net income (loss) per weighted average share of common stock outstanding:				
Basic	\$ (3.27)	\$ 0.07	\$ (3.92)	\$ (4.13)
Diluted	\$ (3.27)	\$ 0.07	\$ (3.92)	\$ (4.13)

See Notes to the Condensed Consolidated Financial Statements.

CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS) (Unaudited) (Millions of Dollars)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Net income (loss)	\$ (1,357)	\$ 35	\$ (1,641)	\$ (2,004)
Other comprehensive income, net of tax effects:				
Effects related to pension and other retirement benefit obligations (net of tax expense of \$—, \$1, \$— and \$1)	—	1	—	3
Total other comprehensive income	—	1	—	3
Comprehensive income (loss)	\$ (1,357)	\$ 36	\$ (1,641)	\$ (2,001)
Comprehensive (income) loss attributable to noncontrolling interest	(8)	1	(9)	(2)
Comprehensive income (loss) attributable to Vistra	\$ (1,365)	\$ 37	\$ (1,650)	\$ (2,003)

See Notes to the Condensed Consolidated Financial Statements.

VISTRA CORP.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited) (Millions of Dollars)

	Six Months Ended June 30,	
	2022	2021
Cash flows — operating activities:		
Net loss	\$ (1,641)	\$ (2,004)
Adjustments to reconcile net loss to cash used in operating activities:		
Depreciation and amortization	1,054	969
Deferred income tax benefit, net	(501)	(626)
Impairment of long-lived assets	—	38
Unrealized net loss from mark-to-market valuations of commodities	2,347	182
Unrealized net gain from mark-to-market valuations of interest rate swaps	(171)	(79)
Asset retirement obligation accretion expense	17	19
Impacts of Tax Receivable Agreement	115	4
Stock-based compensation	34	25
Other, net	66	56
Changes in operating assets and liabilities:		
Margin deposits, net	(1,893)	(240)
Uplift securitization proceeds receivable from ERCOT	544	—
Accrued interest	13	8
Accrued taxes	(62)	(75)
Accrued employee incentive	(38)	(107)
Other operating assets and liabilities	(607)	773
Cash used in operating activities	(723)	(1,057)
Cash flows — investing activities:		
Capital expenditures, including nuclear fuel purchases and LTSA prepayments	(613)	(546)
Proceeds from sales of nuclear decommissioning trust fund securities	334	267
Investments in nuclear decommissioning trust fund securities	(345)	(277)
Proceeds from sales of environmental allowances	266	64
Purchases of environmental allowances	(258)	(173)
Insurance proceeds	1	63
Proceeds from sale of assets	14	8
Other, net	(8)	19
Cash used in investing activities	(609)	(575)
Cash flows — financing activities:		
Issuances of long-term debt	1,498	1,250
Borrowings under Commodity-Linked Facility	2,750	—
Repayments under Commodity-Linked Facility	(1,700)	—
Borrowings under Term Loan A	—	1,250
Repayment under Term Loan A	—	(1,250)
Proceeds from forward capacity agreement	—	500
Repayments/repurchases of debt	(223)	(101)
Net borrowings under accounts receivable financing	725	361
Borrowings under Revolving Credit Facility	1,500	1,300
Repayments under Revolving Credit Facility	(1,250)	(1,300)
Share repurchases	(1,194)	(175)
Dividends paid to common stockholders	(152)	(147)
Dividends paid to preferred stockholders	(76)	—
Debt tender offer and other financing fees	(21)	(13)

VISTRA CORP.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited) (Millions of Dollars)

	Six Months Ended June 30,	
	2022	2021
Other, net	23	(4)
Cash provided by financing activities	1,880	1,671
Net change in cash, cash equivalents and restricted cash	548	39
Cash, cash equivalents and restricted cash — beginning balance	1,359	444
Cash, cash equivalents and restricted cash — ending balance	<u>\$ 1,907</u>	<u>\$ 483</u>

See Notes to the Condensed Consolidated Financial Statements.

VISTRA CORP.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited) (Millions of Dollars)

	June 30, 2022	December 31, 2021
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 1,871	\$ 1,325
Restricted cash (Note 17)	25	21
Trade accounts receivable — net (Note 17)	1,790	1,397
Income taxes receivable	18	15
Inventories (Note 17)	601	610
Commodity and other derivative contractual assets (Note 14)	7,457	2,513
Margin deposits related to commodity contracts	3,160	1,263
Uplift securitization proceeds receivable from ERCOT (Note 1)	—	544
Prepaid expense and other current assets	231	195
Total current assets	15,153	7,883
Restricted cash (Note 17)	11	13
Investments (Note 17)	1,715	2,049
Property, plant and equipment — net (Note 17)	12,784	13,056
Operating lease right-of-use assets	40	40
Goodwill (Note 5)	2,583	2,583
Identifiable intangible assets — net (Note 5)	2,042	2,146
Commodity and other derivative contractual assets (Note 14)	924	250
Accumulated deferred income taxes	1,818	1,302
Other noncurrent assets	398	361
Total assets	\$ 37,468	\$ 29,683
LIABILITIES AND EQUITY		
Current liabilities:		
Short-term borrowings (Note 10)	\$ 1,300	\$ —
Accounts receivable financing (Note 9)	725	—
Long-term debt due currently (Note 10)	41	254
Trade accounts payable	1,472	1,515
Commodity and other derivative contractual liabilities (Note 14)	9,934	3,023
Margin deposits related to commodity contracts	43	39
Accrued taxes other than income	145	207
Accrued interest	156	143
Asset retirement obligations (Note 17)	112	104
Operating lease liabilities	6	5
Other current liabilities	565	553
Total current liabilities	14,499	5,843
Long-term debt, less amounts due currently (Note 10)	11,949	10,477
Operating lease liabilities	37	38
Commodity and other derivative contractual liabilities (Note 14)	1,650	804
Tax Receivable Agreement obligation (Note 7)	509	394
Asset retirement obligations (Note 17)	2,338	2,346
Other noncurrent liabilities and deferred credits (Note 17)	1,083	1,489
Total liabilities	32,065	21,391

VISTRA CORP.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited) (Millions of Dollars)

	June 30, 2022	December 31, 2021
Commitments and Contingencies (Note 11)		
Total equity (Note 12):		
Preferred stock, number of shares authorized — 100,000,000; Series A (liquidation preference — \$1,000; shares outstanding: June 30, 2022 and December 31, 2021 — 1,000,000); Series B (liquidation preference — \$1,000; shares outstanding: June 30, 2022 and December 31, 2021 — 1,000,000)	2,000	2,000
Common stock (par value — \$0.01; number of shares authorized — 1,800,000,000) (shares outstanding: June 30, 2022 — 420,839,230; December 31, 2021 — 469,072,597)	5	5
Treasury stock, at cost (shares: June 30, 2022 — 115,372,902; December 31, 2021 — 63,856,879)	(2,645)	(1,558)
Additional paid-in-capital	9,890	9,824
Retained deficit	(3,842)	(1,964)
Accumulated other comprehensive loss	(16)	(16)
Stockholders' equity	5,392	8,291
Noncontrolling interest in subsidiary	11	1
Total equity	5,403	8,292
Total liabilities and equity	\$ 37,468	\$ 29,683

See Notes to the Condensed Consolidated Financial Statements.

VISTRA CORP.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. BUSINESS AND SIGNIFICANT ACCOUNTING POLICIES

Description of Business

References in this report to "we," "our," "us" and "the Company" are to Vistra and/or its subsidiaries, as apparent in the context. See *Glossary* for defined terms.

Vistra is a holding company operating an integrated retail and electric power generation business primarily in markets throughout the U.S. Through our subsidiaries, we are engaged in competitive energy market activities including electricity generation, wholesale energy sales and purchases, commodity risk management and retail sales of electricity and natural gas to end users.

Vistra has six reportable segments: (i) Retail, (ii) Texas, (iii) East, (iv) West, (v) Sunset and (vi) Asset Closure. See Note 16 for further information concerning our reportable business segments.

Winter Storm Uri

In February 2021, a severe winter storm with extremely cold temperatures affected much of the U.S., including Texas. This severe weather resulted in surging demand for power, gas supply shortages, operational challenges for generators, and a significant load shed event that was ordered by ERCOT beginning on February 15, 2021 and continuing through February 18, 2021. Winter Storm Uri had a material adverse impact on our results of operations and operating cash flows.

Uplift Securitization Proceeds from ERCOT — As part of the 2021 regular Texas legislative sessions and in response to extraordinary costs incurred by electricity market participants during Winter Storm Uri, the Texas legislature passed House Bill (HB) 4492 for ERCOT to obtain financing to distribute to load-serving entities (LSEs) that were uplifted and paid to ERCOT exceptionally high price adders and ancillary service costs during Winter Storm Uri. In October 2021, the PUCT issued a Debt Obligation Order approving \$2.1 billion financing and the methodology for allocation of proceeds to the LSEs. In December 2021, ERCOT finalized the amount of allocations to the LSEs, and we received \$544 million of proceeds from ERCOT in the second quarter of 2022. The Company accounted for the proceeds we received by analogy to the contribution model within Accounting Standards Codification (ASC) 958-605, *Not-for-Profit Entities - Revenue Recognition* and the grant model within International Accounting Standard 20, *Accounting for Government Grants and Disclosure of Government Assistance*, as a reduction to expenses in the statements of operations in the annual period for which the proceeds are intended to compensate. We concluded that the threshold for recognizing a receivable was met in December 2021 as the amounts to be received were determinable and ERCOT was directed by its governing body, the PUCT, to take all actions required to effectuate the \$2.1 billion funding approved in the Debt Obligation Order. The final financial impact of Winter Storm Uri continues to be subject to the outcome of litigation arising from the event.

Recent Developments

Share Repurchase Program — On August 4, 2022, the Board authorized an incremental \$1.25 billion for repurchases under the Share Repurchase Program. Including the original Board authorization, approximately \$1.65 billion remains available for share repurchases under the Share Repurchase Program as of August 4, 2022. We expect to complete repurchases under the Share Repurchase Program by the end of 2023.

Dividends Declared — In July 2022, the Board declared a quarterly dividend of \$0.184 per share of common stock that will be paid in September 2022. In July 2022, the Board declared a semi-annual dividend of \$40.00 per share of Series A Preferred Stock that will be paid in October 2022.

Accounts Receivable Financing — In July 2022, certain subsidiaries of the Company entered into amendments to the Receivables Facility and Repurchase Facility, respectively, extending the terms of each facility to July 2023. Additionally, the amendment to the Receivables Facility adjusted the commitment of the purchasers to purchase interests in the receivables under the Receivables Facility during certain periods to align with the peak retail season and increasing the commitments by \$25 million for the settlement periods through December 2022 as compared to the prior year periods (see Note 9).

Vistra Operations Credit Agreement Amendment — In July 2022, the Vistra Operations Credit Agreement was amended to, among other things, (i) establish a new class of extended revolving credit commitments in an aggregate amount of \$725 million and maturing April 29, 2027, (ii) require Vistra Operations to terminate at least \$350 million in revolving commitments maturing April 29, 2027 by December 30, 2022, or earlier if Vistra Operations or any guarantor receives proceeds from any capital markets transaction whose primary purpose is designed to enhance the liquidity of Vistra Operations and its guarantors, and (iii) appoint certain additional revolving letter of credit issuers. See Note 10 for details of the Vistra Operations Credit Agreement amendment.

Basis of Presentation

The condensed consolidated financial statements have been prepared in accordance with U.S. GAAP and on the same basis as the audited financial statements included in our 2021 Form 10-K. The condensed consolidated financial information herein reflects all adjustments which are, in the opinion of management, necessary to fairly state the results for the interim periods presented. All such adjustments are of a normal nature. All intercompany items and transactions have been eliminated in consolidation. Certain information and footnote disclosures normally included in annual consolidated financial statements prepared in accordance with U.S. GAAP have been omitted pursuant to the rules and regulations of the SEC. Because the condensed consolidated interim financial statements do not include all of the information and footnotes required by U.S. GAAP, they should be read in conjunction with the audited financial statements and related notes contained in our 2021 Form 10-K. The results of operations for an interim period may not give a true indication of results for a full year. All dollar amounts in the financial statements and tables in the notes are stated in millions of U.S. dollars unless otherwise indicated.

Use of Estimates

Preparation of financial statements requires estimates and assumptions about future events that affect the reporting of assets and liabilities at the balance sheet dates and the reported amounts of revenue and expense, including fair value measurements, estimates of expected obligations, judgments related to the potential timing of events and other estimates. In the event estimates and/or assumptions prove to be different from actual amounts, adjustments are made in subsequent periods to reflect more current information.

2. DEVELOPMENT OF GENERATION FACILITIES

Texas Segment Solar Generation and Energy Storage Projects

We have announced the planned development of up to 768 MW of solar photovoltaic power generation facilities and 260 MW of battery ESS in Texas. The first 158 MW of solar generation came online in January and February 2022 and the battery ESS came online in April 2022. Estimated commercial operation dates for the remaining facilities range from summer of 2024 to the end of 2026. At June 30, 2022, we had accumulated approximately \$152 million in construction-work-in-process for these remaining Texas segment solar generation projects, including costs for our Emerald Grove solar facility which reached substantial completion in July 2022.

East Segment Solar Generation and Energy Storage Projects

In September 2021, we announced the planned development of up to 300 MW of solar photovoltaic power generation facilities and up to 150 MW of battery ESS at retired or to-be-retired plant sites in Illinois, based on the passage of Illinois Senate Bill 2408, the Energy Transition Act. Estimated commercial operation dates for these facilities range from 2023 to 2025.

West Segment Energy Storage Projects

Oakland — In June 2019, East Bay Community Energy (EBCE) signed a ten-year contract to receive resource adequacy capacity from the planned development of a 20 MW battery ESS at our Oakland Power Plant site in California. In April 2020, the project received necessary approvals from EBCE and from Pacific Gas and Electric Company (PG&E). The contract was amended to increase the capacity of the planned development to a 36.25 MW battery ESS. In April 2020, the concurrent Local Area Reliability Service (LARS) agreement to ensure grid reliability as part of the Oakland Clean Energy Initiative was signed, but required California Public Utilities Commission (CPUC) approval. PG&E did not receive CPUC approval as of April 15, 2021. On April 16, 2021, Vistra terminated the LARS agreement with PG&E. We are continuing development of the Oakland battery ESS project while seeking another contractual arrangement that will allow the investment to move forward.

Moss Landing — In June 2018, we announced that, subject to approval by the CPUC, we would enter into a 20-year resource adequacy contract with PG&E to develop a 300 MW battery ESS at our Moss Landing Power Plant site in California (Moss Landing Phase I). The CPUC approved the resource adequacy contract in November 2018. Under the contract, PG&E will pay us a fixed monthly resource adequacy payment, while we will receive the energy revenues and incur the costs from dispatching and charging the ESS. Moss Landing Phase I commenced commercial operations in May 2021.

In May 2020, we announced that, subject to approval by the CPUC, we would enter into a 10-year resource adequacy contract with PG&E to develop an additional 100 MW battery ESS at our Moss Landing Power Plant site (Moss Landing Phase II). The CPUC approved the resource adequacy contract in August 2020. Moss Landing Phase II commenced commercial operations in July 2021.

In January 2022, we announced that, subject to approval by the CPUC, we would enter into a 15-year resource adequacy contract with PG&E to develop an additional 350 MW battery ESS at our Moss Landing Power Plant site (Moss Landing Phase III). The CPUC approved the resource adequacy contract in April 2022. Moss Landing Phase III is expected to enter commercial operations in the summer of 2023. At June 30, 2022, we had accumulated approximately \$32 million in construction-work-in-process for Moss Landing Phase III.

Moss Landing Outages — In September 2021, Moss Landing Phase I experienced an incident impacting a portion of the battery ESS. A review found the root cause originated in systems separate from the battery system. The facility was offline as we performed the work necessary to return the facility to service. Moss Landing Phase II was not affected by this incident.

In February 2022, Moss Landing Phase II experienced an incident impacting a portion of the battery ESS. A review found the root cause originated in systems separate from the battery system. The facility was offline as we performed the work necessary to return the facility to service. Moss Landing Phase I was not affected by this incident.

We have continued restoration work on the facilities and have restored approximately 393 MW (or 98% of the 400 MW capacity) at June 30, 2022.

We do not expect these incidents to have a material impact on our results of operations.

3. RETIREMENT OF GENERATION FACILITIES

In 2020, we announced our intention to retire all of our remaining coal generation facilities in Illinois and Ohio, one coal generation facility in Texas and one natural gas facility in Illinois no later than year-end 2027 due to economic challenges, including incremental expenditures that would be required to comply with the CCR rule and ELG rule (see Note 11), and in furtherance of our efforts to significantly reduce our carbon footprint. In April 2021, we announced we would retire the Joppa generation facilities by September 1, 2022 in order to settle a complaint filed with the Illinois Pollution Control Board (IPCB) by the Sierra Club in 2018. We had previously announced that Joppa would retire no later than the end of 2027. As previously announced in July 2021, we retired the Zimmer coal generation facility in June 2022 due to the inability to secure capacity revenues for the plant in the PJM capacity auction held in May 2021.

Operational results for plants with defined retirement dates are included in our Sunset segment beginning in the quarter when a retirement plan is announced and move to the Asset Closure segment at the beginning of the calendar year the retirement is expected to occur.

Facility	Location	ISO/RTO	Fuel Type	Net Generation Capacity (MW)	Expected Retirement Date (a)	Segment
Baldwin	Baldwin, IL	MISO	Coal	1,185	By the end of 2025	Sunset
Coletto Creek	Goliad, TX	ERCOT	Coal	650	By the end of 2027	Sunset
Edwards	Bartonville, IL	MISO	Coal	585	January 1, 2023	Sunset
Joppa	Joppa, IL	MISO	Coal	802	By September 1, 2022	Asset Closure
Joppa	Joppa, IL	MISO	Natural Gas	221	By September 1, 2022	Asset Closure
Kincaid	Kincaid, IL	PJM	Coal	1,108	By the end of 2027	Sunset
Miami Fort	North Bend, OH	PJM	Coal	1,020	By the end of 2027	Sunset
Newton	Newton, IL	MISO/PJM	Coal	615	By the end of 2027	Sunset
Zimmer	Moscow, OH	PJM	Coal	1,300	Retired June 1, 2022	Asset Closure
Total				7,486		

(a) Generation facilities may retire earlier than the end of 2027 if economic or other conditions dictate.

4. REVENUE

	Three Months Ended June 30, 2022							
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations	Consolidated
Revenue from contracts with customers:								
Retail energy charge in ERCOT	\$ 1,757	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 1,757
Retail energy charge in Northeast/Midwest	543	—	—	—	—	—	—	543
Wholesale generation revenue from ISO/RTO	—	(59)	170	53	220	183	—	567
Capacity revenue from ISO/RTO (a)	—	—	(4)	—	25	8	—	29
Revenue from other wholesale contracts	—	146	202	35	38	9	—	430
Total revenue from contracts with customers	2,300	87	368	88	283	200	—	3,326
Other revenues:								
Intangible amortization	(1)	—	—	—	(2)	—	—	(3)
Hedging and other revenues (b)	(507)	(453)	(295)	(12)	(389)	(79)	—	(1,735)
Affiliate sales (c)	—	(257)	246	3	25	—	(17)	—
Total other revenues	(508)	(710)	(49)	(9)	(366)	(79)	(17)	(1,738)
Total revenues	\$ 1,792	\$ (623)	\$ 319	\$ 79	\$ (83)	\$ 121	\$ (17)	\$ 1,588

(a) Represents net capacity sold (purchased) in each ISO/RTO. The East segment includes \$102 million of capacity purchased offset by \$98 million of capacity sold. The Sunset segment includes \$2 million of capacity purchased offset by \$27 million of capacity sold. The Asset Closure segment includes \$8 million of capacity sold.

(b) Includes \$2.088 billion of unrealized net losses from mark-to-market valuations of commodity position, including Retail segment unrealized net losses of \$414 million due to the discontinuance of normal purchases or normal sales (NPNS) accounting on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions. See Note 16 for unrealized net gains (losses) by segment.

(c) Texas, East and Sunset segments include \$918 million, \$151 million and \$99 million, respectively, of affiliated unrealized net losses from mark-to-market valuations of commodity positions with the Retail segment.

Three Months Ended June 30, 2021								
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations	Consolidated
Revenue from contracts with customers:								
Retail energy charge in ERCOT	\$ 1,417	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 1,417
Retail energy charge in Northeast/Midwest	504	—	—	—	—	—	—	504
Wholesale generation revenue from ISO/RTO	—	128	96	31	129	56	—	440
Capacity revenue from ISO/RTO (a)	—	—	2	—	32	11	—	45
Revenue from other wholesale contracts	—	56	130	24	44	—	—	254
Total revenue from contracts with customers	1,921	184	228	55	205	67	—	2,660
Other revenues:								
Intangible amortization	(2)	—	73	—	(2)	—	—	69
Hedging and other revenues (b)	—	(8)	131	(7)	(172)	(108)	—	(164)
Affiliate sales (c)	—	(644)	73	—	(38)	—	609	—
Total other revenues	(2)	(652)	277	(7)	(212)	(108)	609	(95)
Total revenues	\$ 1,919	\$ (468)	\$ 505	\$ 48	\$ (7)	\$ (41)	\$ 609	\$ 2,565

- (a) Represents net capacity sold (purchased) in each ISO/RTO. The East segment includes \$119 million of capacity sold offset by \$117 million of capacity purchased. The Sunset segment includes \$33 million of capacity sold offset by \$1 million of capacity purchased. The Asset Closure segment includes \$11 million of capacity sold.
- (b) Includes \$343 million of unrealized net losses from mark-to-market valuations of commodity positions. See Note 16 for unrealized net gains (losses) by segment.
- (c) Texas, East and Sunset segments include \$952 million, \$263 million and \$121 million, respectively, of affiliated unrealized net losses from mark-to-market valuations of commodity positions with the Retail segment.

Six Months Ended June 30, 2022								
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations	Consolidated
Revenue from contracts with customers:								
Retail energy charge in ERCOT	\$ 3,162	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 3,162
Retail energy charge in Northeast/Midwest	1,183	—	—	—	—	—	—	1,183
Wholesale generation revenue from ISO/RTO	—	92	572	112	390	318	—	1,484
Capacity revenue from ISO/RTO (a)	—	—	(10)	—	63	20	—	73
Revenue from other wholesale contracts	—	265	445	73	81	21	—	885
Total revenue from contracts with customers	4,345	357	1,007	185	534	359	—	6,787
Other revenues:								
Intangible amortization	(1)	—	—	—	(4)	—	—	(5)
Hedging and other revenues (b)	(727)	(451)	13	(40)	(733)	(131)	—	(2,069)
Affiliate sales (c)	—	(1,624)	254	6	(20)	—	1,384	—
Total other revenues	(728)	(2,075)	267	(34)	(757)	(131)	1,384	(2,074)
Total revenues	\$ 3,617	\$ (1,718)	\$ 1,274	\$ 151	\$ (223)	\$ 228	\$ 1,384	\$ 4,713

- (a) Represents net capacity sold (purchased) in each ISO/RTO. The East segment includes \$238 million of capacity purchased offset by \$228 million of capacity sold. The Sunset segment includes \$3 million of capacity purchased offset by \$66 million of capacity sold. The Asset Closure segment includes \$20 million of capacity sold.
- (b) Includes \$2.447 billion of unrealized net losses from mark-to-market valuations of commodity positions, including Retail segment unrealized net losses of \$414 million due to the discontinuance of NPNS accounting on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions. See Note 16 for unrealized net gains (losses) by segment.
- (c) Texas, East and Sunset segments include \$2.928 billion, \$660 million and \$253 million, respectively, of affiliated unrealized net losses from mark-to-market valuations of commodity positions with the Retail segment.

Six Months Ended June 30, 2021								
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations	Consolidated
Revenue from contracts with customers:								
Retail energy charge in ERCOT	\$ 2,565	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 2,565
Retail energy charge in Northeast/Midwest	1,091	—	—	—	—	—	—	1,091
Wholesale generation revenue from ISO/RTO	—	3,374	252	69	808	100	—	4,603
Capacity revenue from ISO/RTO (a)	—	—	(2)	—	61	21	—	80
Revenue from other wholesale contracts	—	2,084	293	46	101	1	—	2,525
Total revenue from contracts with customers	3,656	5,458	543	115	970	122	—	10,864
Other revenues:								
Intangible amortization	(3)	—	74	—	(8)	—	—	63
Hedging and other revenues (b)	16	(4,450)	195	(36)	(739)	(141)	—	(5,155)
Affiliate sales (c)	—	(393)	418	2	26	—	(53)	—
Total other revenues	13	(4,843)	687	(34)	(721)	(141)	(53)	(5,092)
Total revenues	\$ 3,669	\$ 615	\$ 1,230	\$ 81	\$ 249	\$ (19)	\$ (53)	\$ 5,772

- (a) Represents net capacity sold (purchased) in each ISO/RTO. The East segment includes \$230 million of capacity purchased offset by \$228 million of capacity sold. The Sunset segment includes \$1 million of capacity purchased offset by \$62 million of capacity sold. The Asset Closure segment includes \$21 million of capacity sold.
- (b) Includes \$285 million of unrealized net losses from mark-to-market valuations of commodity positions. See Note 16 for unrealized net gains (losses) by segment.
- (c) Texas, East and Sunset segments include \$1.625 billion, \$347 million and \$154 million, respectively, of affiliated unrealized net losses from mark-to-market valuations of commodity positions with the Retail segment.

Performance Obligations

As of June 30, 2022, we have future performance obligations that are unsatisfied, or partially unsatisfied, relating to capacity auction volumes awarded through capacity auctions held by the ISO/RTO or contracts with customers. Therefore, an obligation exists as of the date of the results of the respective ISO/RTO capacity auction or the contract execution date. These obligations total \$216 million, \$467 million, \$278 million, \$179 million and \$111 million that will be recognized, in the balance of the year ended December 31, 2022 and the years ending December 31, 2023, 2024, 2025 and 2026, respectively, and \$735 million thereafter. Capacity revenues are recognized as capacity is made available to the related ISOs/RTOs or counterparties.

Accounts Receivable

The following table presents trade accounts receivable (net of allowance for uncollectible accounts) relating to both contracts with customers and other activities:

	June 30, 2022	December 31, 2021
Trade accounts receivable from contracts with customers — net	\$ 1,503	\$ 1,087
Other trade accounts receivable — net	287	310
Total trade accounts receivable — net	\$ 1,790	\$ 1,397

5. GOODWILL AND IDENTIFIABLE INTANGIBLE ASSETS AND LIABILITIES

Goodwill

At both June 30, 2022 and December 31, 2021, the carrying value of goodwill totaled \$2.583 billion, including \$2.461 billion allocated to our Retail reporting unit and \$122 million allocated to our Texas Generation reporting unit. Goodwill of \$1.944 billion is deductible for tax purposes over 15 years on a straight line basis.

Identifiable Intangible Assets and Liabilities

Identifiable intangible assets are comprised of the following:

Identifiable Intangible Asset	June 30, 2022			December 31, 2021		
	Gross Carrying Amount	Accumulated Amortization	Net	Gross Carrying Amount	Accumulated Amortization	Net
Retail customer relationship	\$ 2,085	\$ 1,699	\$ 386	\$ 2,083	\$ 1,631	\$ 452
Software and other technology-related assets	452	233	219	421	206	215
Retail and wholesale contracts	233	203	30	248	206	42
Contractual service agreements (a)	20	4	16	23	2	21
Other identifiable intangible assets (b)	57	7	50	95	20	75
Total identifiable intangible assets subject to amortization	<u>\$ 2,847</u>	<u>\$ 2,146</u>	<u>701</u>	<u>\$ 2,870</u>	<u>\$ 2,065</u>	<u>805</u>
Retail trade names (not subject to amortization)			1,341			1,341
Total identifiable intangible assets			<u>\$ 2,042</u>			<u>\$ 2,146</u>

- (a) At June 30, 2022, amounts related to contractual service agreements that have become liabilities due to amortization of the economic impacts of the intangibles have been removed from both the gross carrying amount and accumulated amortization.
- (b) Includes mining development costs and environmental allowances (emissions allowances and renewable energy certificates).

Identifiable intangible liabilities are comprised of the following:

Identifiable Intangible Liability	June 30, 2022	December 31, 2021
Contractual service agreements	\$ 129	\$ 125
Purchase and sale of power and capacity	4	8
Fuel and transportation purchase contracts	11	14
Total identifiable intangible liabilities	<u>\$ 144</u>	<u>\$ 147</u>

Expense related to finite-lived identifiable intangible assets and liabilities (including the classification in the condensed consolidated statements of operations) consisted of:

Identifiable Intangible Assets and Liabilities	Condensed Consolidated Statements of Operations	Three Months Ended June 30,		Six Months Ended June 30,	
		2022	2021	2022	2021
Retail customer relationship	Depreciation and amortization	\$ 34	\$ 50	\$ 68	\$ 98
Software and other technology-related assets	Depreciation and amortization	18	20	36	38
Retail and wholesale contracts/purchase and sale/fuel and transportation contracts	Operating revenues/fuel, purchased power costs and delivery fees	3	(69)	5	(61)
Other identifiable intangible assets	Operating revenues/fuel, purchased power costs and delivery fees/depreciation and amortization	98	48	186	105
Total intangible asset expense (a)		<u>\$ 153</u>	<u>\$ 49</u>	<u>\$ 295</u>	<u>\$ 180</u>

(a) Amounts recorded in depreciation and amortization totaled \$53 million and \$70 million for the three months ended June 30, 2022 and 2021, respectively, and \$105 million and \$138 million for the six months ended June 30, 2022 and 2021, respectively. Amounts exclude contractual services agreements. Amounts include all expenses associated with environmental allowances including expenses accrued to comply with emissions allowance programs and renewable portfolio standards which are presented in fuel, purchased power costs and delivery fees on our condensed consolidated statements of operations. Emissions allowance obligations are accrued as associated electricity is generated and renewable energy certificate obligations are accrued as retail electricity delivery occurs.

Estimated Amortization of Identifiable Intangible Assets and Liabilities

As of June 30, 2022, the estimated aggregate amortization expense of identifiable intangible assets and liabilities for each of the next five fiscal years is as shown below.

Year	Estimated Amortization Expense
2022	\$ 173
2023	\$ 152
2024	\$ 103
2025	\$ 77
2026	\$ 52

6. INCOME TAXES

Income Tax Expense

The calculation of our effective tax rate is as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Net loss before income taxes	\$ (1,764)	\$ (80)	\$ (2,139)	\$ (2,604)
Income tax benefit	\$ 407	\$ 115	\$ 498	\$ 600
Effective tax rate	23.1 %	143.8 %	23.3 %	23.0 %

For the three months ended June 30, 2022, the effective tax rate of 23.1% was higher than the U.S. federal statutory rate of 21% due primarily to expenses such as the nondeductible impacts of the TRA and state income taxes. For the six months ended June 30, 2022, the effective tax rate of 23.3% was higher than the U.S. federal statutory rate of 21% due primarily to expenses such as the nondeductible impacts of the TRA and state income taxes.

For the three months ended June 30, 2021, the effective tax rate of 143.8% was higher than the U.S. federal statutory rate of 21% due primarily to expenses such as the nondeductible impacts of the TRA and state income taxes, including the impact of a decrease in our state valuation allowances primarily due to newly enacted state tax legislation. For the six months ended June 30, 2021, the effective tax rate of 23.0% was higher than the U.S. federal statutory rate of 21% due primarily to expenses such as the nondeductible impacts of the TRA and state income taxes.

Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and Final Section 163(j) Regulations

In response to the global pandemic related to COVID-19, the CARES Act was signed into law in March 2020. The CARES Act provides numerous relief provisions for corporate taxpayers, including modification of the utilization limitations on net operating losses, favorable expansion of the deduction for business interest expense under IRC Section 163(j) (Section 163(j)), the ability to accelerate timing of refundable alternative minimum tax (AMT) credits and the temporary suspension of certain payment requirements for the employer portion of social security taxes. Additionally, the final Section 163(j) regulations were issued in July 2020 and provided a critical correction to the proposed regulations with respect to the computation of adjusted taxable income. As of January 1, 2022, certain provisions in the final Section 163(j) regulations have sunset, including the addback of depreciation and amortization to adjusted taxable income. As a result, under the law as currently drafted, Vistra's deductible business interest expense will be significantly limited for the 2022 tax year. Vistra remains active in legislative monitoring and advocacy efforts to support a legislative solution to reinstate and make permanent the addback of depreciation and amortization to adjusted taxable income. Vistra is also utilizing the CARES Act payroll deferral mechanism to defer the payment of approximately \$22 million from 2020 to 2021 and 2022. We paid approximately half of the previously deferred taxes in December 2021.

Liability for Uncertain Tax Positions

Vistra and its subsidiaries file income tax returns in U.S. federal, state and foreign jurisdictions and are, at times, subject to examinations by the IRS and other taxing authorities. In February 2021, Vistra was notified that the IRS had opened a federal income tax audit for tax years 2018 and 2019 and an employment tax audit for tax year 2018. In the second quarter of 2022, the employment tax audit for tax year 2018 was closed with no adjustment. Crius is currently under audit by the IRS for the tax years 2015 and 2016. Uncertain tax positions totaled \$39 million and \$38 million at June 30, 2022 and December 31, 2021, respectively.

7. TAX RECEIVABLE AGREEMENT OBLIGATION

On the Effective Date, Vistra entered into a tax receivable agreement (the TRA) with a transfer agent on behalf of certain former first-lien creditors of TCEH. The TRA generally provides for the payment by us to holders of TRA Rights of 85% of the amount of cash savings, if any, in U.S. federal and state income tax that we realize in periods after Emergence as a result of (a) certain transactions consummated pursuant to the Plan of Reorganization (including the step-up in tax basis in our assets resulting from the PrefCo Preferred Stock Sale), (b) the tax basis of all assets acquired in connection with the acquisition of two CCGT natural gas-fueled generation facilities in April 2016 and (c) tax benefits related to imputed interest deemed to be paid by us as a result of payments under the TRA, plus interest accruing from the due date of the applicable tax return.

Pursuant to the TRA, we issued the TRA Rights for the benefit of the first-lien secured creditors of TCEH entitled to receive such TRA Rights under the Plan of Reorganization. Such TRA Rights are entitled to certain registration rights more fully described in the Registration Rights Agreement (see Note 15).

The following table summarizes the changes to the TRA obligation, reported as other current liabilities and Tax Receivable Agreement obligation in our condensed consolidated balance sheets, for the six months ended June 30, 2022 and 2021:

	Six Months Ended June 30,	
	2022	2021
TRA obligation at the beginning of the period	\$ 395	\$ 450
Accretion expense	32	32
Changes in tax assumptions impacting timing of payments (a)	83	(28)
Impacts of Tax Receivable Agreement	115	4
TRA obligation at the end of the period	510	454
Less amounts due currently	(1)	(3)
Noncurrent TRA obligation at the end of the period	\$ 509	\$ 451

(a) During the three and six months ended June 30, 2022, we recorded increases to the carrying value of the TRA obligation totaling \$17 million and \$83 million, respectively, as a result of adjustments to forecasted taxable income due to increases in commodity price forecasts, partially offset by anticipated tax benefits under current laws for planned additional renewable development projects. During the three months ended June 30, 2021, we recorded an increase to the carrying value of the TRA obligation totaling \$26 million as a result of adjustments to forecasted taxable income. During the six months ended June 30, 2021, we recorded a decrease to the carrying value of the TRA obligation totaling \$28 million as a result of adjustments to forecasted taxable income including the financial impacts of Winter Storm Uri.

As of June 30, 2022, the estimated carrying value of the TRA obligation totaled \$510 million, which represents the discounted amount of projected payments under the TRA. The projected payments are based on certain assumptions, including but not limited to (a) the federal corporate income tax rate of 21%, (b) estimates of our taxable income in the current and future years and (c) additional states that Vistra now operates in, including the relevant tax rate and apportionment factor for each state. Our taxable income takes into consideration the current federal tax code, various relevant state tax laws and reflects our current estimates of future results of the business. The estimates of future business results include assumptions related to renewable development projects that Vistra is planning to execute that generate significant tax benefits. These benefits have a material impact on the timing of TRA obligation payments. These assumptions are subject to change, and those changes could have a material impact on the carrying value of the TRA obligation. As of June 30, 2022, the aggregate amount of undiscounted federal and state payments under the TRA is estimated to be approximately \$1.4 billion, with more than half of such amount expected to be paid during the next 15 years, and the final payment expected to be made around the year 2056 (if the TRA is not terminated earlier pursuant to its terms).

The carrying value of the obligation is being accreted to the amount of the gross expected obligation using the effective interest method. Changes in the amount of this obligation resulting from changes to either the timing or amount of TRA payments are recognized in the period of change and measured using the discount rate inherent in the initial fair value of the obligation.

8. EARNINGS PER SHARE

Basic earnings per share available to common stockholders are based on the weighted average number of common shares outstanding during the period. Diluted earnings per share is calculated using the treasury stock method and includes the effect of all potential issuances of common shares under stock-based incentive compensation arrangements.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Net income (loss) attributable to Vistra	\$ (1,365)	\$ 36	\$ (1,650)	\$ (2,006)
Less cumulative dividends attributable to Series A Preferred Stock	(20)	—	(40)	—
Less cumulative dividends attributable to Series B Preferred Stock	(17)	—	(35)	—
Net income (loss) attributable to common stock — basic	(1,402)	36	(1,725)	(2,006)
Weighted average shares of common stock outstanding — basic	429,193,031	486,022,633	440,336,286	485,364,606
Net income (loss) per weighted average share of common stock outstanding — basic	\$ (3.27)	\$ 0.07	\$ (3.92)	\$ (4.13)
Dilutive securities: Stock-based incentive compensation plan	—	1,343,593	—	—
Weighted average shares of common stock outstanding — diluted	429,193,031	487,366,226	440,336,286	485,364,606
Net income (loss) per weighted average share of common stock outstanding — diluted	\$ (3.27)	\$ 0.07	\$ (3.92)	\$ (4.13)

Stock-based incentive compensation plan awards excluded from the calculation of diluted earnings per share because the effect would have been antidilutive totaled 5,567,585 and 14,433,851 shares for the three months ended June 30, 2022 and 2021, respectively, and 8,052,517 and 15,734,553 shares for the six months ended June 30, 2022 and 2021, respectively.

9. ACCOUNTS RECEIVABLE FINANCING

Accounts Receivable Securitization Program

TXU Energy Receivables Company LLC (RecCo), an indirect subsidiary of Vistra, has an accounts receivable financing facility (Receivables Facility) provided by issuers of asset-backed commercial paper and commercial banks (Purchasers). The Receivables Facility was renewed in July 2022, extending the term of the Receivables Facility to July 2023, adjusting the commitment of the purchasers to purchase interests in the receivables under the Receivables Facility during certain periods to align with the peak retail season and increasing the commitments by \$25 million for the settlement periods through December 2022 as compared to prior year periods, as follows: (i) \$625 million beginning with the settlement date in July 2022 until the settlement date in August 2022, (ii) \$750 million from the settlement date in August 2022 until the settlement date in November 2022, (iii) \$625 million from the settlement date in November 2022 until the settlement date in December 2022, and (iv) \$600 million from the settlement date in December 2022 and thereafter for the remaining term of the Receivables Facility.

In connection with the Receivables Facility, TXU Energy, Dynegy Energy Services, Ambit Texas, Value Based Brands and TriEagle Energy, each indirect subsidiaries of Vistra and originators under the Receivables Facility (Originators), each sell and/or contribute, subject to certain exclusions, all of its receivables (other than any receivables excluded pursuant to the terms of the Receivables Facility), arising from the sale of electricity to its customers and related rights (Receivables), to RecCo, a consolidated, wholly owned, bankruptcy-remote, direct subsidiary of TXU Energy. RecCo, in turn, is subject to certain conditions, and may draw under the Receivables Facility up to the limits described above to fund its acquisition of the Receivables from the Originators. RecCo has granted a security interest on the Receivables and all related assets for the benefit of the Purchasers under the Receivables Facility and Vistra Operations has agreed to guarantee the obligations under the agreements governing the Receivables Facility. Amounts funded by the Purchasers to RecCo are reflected as short-term borrowings on the condensed consolidated balance sheets. Proceeds and repayments under the Receivables Facility are reflected as cash flows from financing activities in our condensed consolidated statements of cash flows. Receivables transferred to the Purchasers remain on Vistra's balance sheet and Vistra reflects a liability equal to the amount advanced by the Purchasers. The Company records interest expense on amounts advanced. TXU Energy continues to service, administer and collect the Receivables on behalf of RecCo and the Purchasers, as applicable.

As of June 30, 2022, outstanding borrowings under the Receivables Facility totaled \$600 million and were supported by \$1.096 billion of RecCo gross receivables. As of December 31, 2021, there were no outstanding borrowings under the Receivables Facility.

Repurchase Facility

TXU Energy and the other originators under the Receivables Facility have a repurchase facility (Repurchase Facility) that is provided on an uncommitted basis by a commercial bank as buyer (Buyer). In July 2022, the Repurchase Facility was renewed until July 2023 while maintaining the facility size of \$125 million. The Repurchase Facility is collateralized by a subordinated note (Subordinated Note) issued by RecCo in favor of TXU Energy for the benefit of Originators under the Receivables Facility and representing a portion of the outstanding balance of the purchase price paid for the Receivables sold by the Originators to RecCo under the Receivables Facility. Under the Repurchase Facility, TXU Energy may request that Buyer transfer funds to TXU Energy in exchange for a transfer of the Subordinated Note, with a simultaneous agreement by TXU Energy to transfer funds to Buyer at a date certain or on demand in exchange for the return of the Subordinated Note (collectively, the Transactions). Each Transaction is expected to have a term of one month, unless terminated earlier on demand by TXU Energy or terminated by Buyer after an event of default.

TXU Energy and the other Originators have each granted Buyer a first-priority security interest in the Subordinated Note to secure its obligations under the agreements governing the Repurchase Facility, and Vistra Operations has agreed to guarantee the obligations under the agreements governing the Repurchase Facility. Unless earlier terminated under the agreements governing the Repurchase Facility, the Repurchase Facility will terminate concurrently with the scheduled termination of the Receivables Facility.

As of June 30, 2022, outstanding borrowings under the Repurchase Facility totaled \$125 million. There were no outstanding borrowings at December 31, 2021.

10. DEBT

Amounts in the table below represent the categories of long-term debt obligations, including amounts due currently, incurred by the Company.

	June 30, 2022	December 31, 2021
Vistra Operations Credit Facilities	\$ 2,529	\$ 2,543
Vistra Operations Senior Secured Notes:		
4.875% Senior Secured Notes, due May 13, 2024	400	—
3.550% Senior Secured Notes, due July 15, 2024	1,500	1,500
5.125% Senior Secured Notes, due May 13, 2025	1,100	—
3.700% Senior Secured Notes, due January 30, 2027	800	800
4.300% Senior Secured Notes, due July 15, 2029	800	800
Total Vistra Operations Senior Secured Notes	4,600	3,100
Vistra Operations Senior Unsecured Notes:		
5.500% Senior Unsecured Notes, due September 1, 2026	1,000	1,000
5.625% Senior Unsecured Notes, due February 15, 2027	1,300	1,300
5.000% Senior Unsecured Notes, due July 31, 2027	1,300	1,300
4.375% Senior Unsecured Notes, due May 15, 2029	1,250	1,250
Total Vistra Operations Senior Unsecured Notes	4,850	4,850
Other:		
Forward Capacity Agreements	—	213
Equipment Financing Agreements	90	92
Other	3	6
Total other long-term debt	93	311
Unamortized debt premiums, discounts and issuance costs	(82)	(73)
Total long-term debt including amounts due currently	11,990	10,731
Less amounts due currently	(41)	(254)
Total long-term debt less amounts due currently	\$ 11,949	\$ 10,477

As of June 30, 2022 and December 31, 2021, short-term borrowings totaled \$1.3 billion and zero, respectively, and includes outstanding borrowings under the Commodity-Linked Facility and the Revolving Credit Facility (described below).

Vistra Operations Credit Facilities and Commodity-Linked Revolving Credit Facility

As of June 30, 2022, the Vistra Operations Credit Facilities consisted of up to \$5.529 billion in senior secured, first-lien revolving credit commitments and outstanding term loans, which consisted of revolving credit commitments of up to \$3.0 billion (Revolving Credit Facility) and term loans of \$2.529 billion (Term Loan B-3 Facility).

On April 29, 2022 (April 2022 Amendment Effective Date) and July 18, 2022 (July 2022 Amendment Effective Date), Vistra Operations entered into amendments (Credit Agreement Amendments) to the Vistra Operations Credit Agreement, among Vistra Operations, as borrower, Vistra Intermediate, the guarantors party thereto, Credit Suisse AG, Cayman Island Branch, as administrative agent and collateral agent, and the other parties named therein. Pursuant to the Credit Agreement Amendments, new classes of extended revolving credit commitments were established in aggregate amounts of \$2.8 billion and \$725 million as of the April 2022 Amendment Effective Date and the July 2022 Amendment Effective Date, respectively, and the maturity date was extended from June 14, 2023 to April 29, 2027. After giving effect to the Credit Agreement Amendments, the aggregate amount of revolving commitments maturing on April 29, 2027 equals \$3.525 billion (Extended Revolving Credit Facility), while the \$200 million in revolving commitments maturing on June 14, 2023 (Non-Extended Revolving Credit Facility) remain unchanged by the Credit Agreement Amendments. The July 18, 2022 amendment to the Vistra Operations Credit Agreement also provides that Vistra Operations will terminate at least \$350 million in Extended Revolving Credit Facility commitments by December 30, 2022 or earlier if Vistra Operations or any guarantor receives proceeds from any capital markets transaction whose primary purpose is designed to enhance the liquidity of Vistra Operations and its guarantors. Furthermore, the Credit Agreement Amendments appoint new revolving letter of credit issuers, such that the aggregate amount of revolving letter of credit commitments equals \$3.245 billion after giving effect to the Credit Agreement Amendments. Fees and expenses related to the Credit Agreement Amendments totaled \$1 million in both the three and six months ended June 30, 2022, which were capitalized as a reduction in the carrying amount of the debt, and additional fees and expenses totaling \$7 million were incurred in July 2022.

In March 2021, Vistra Operations borrowed \$1.0 billion principal amount under the Term Loan A Facility. In April 2021, Vistra Operations borrowed an additional \$250 million principal amount under the Term Loan A Facility. Proceeds from the Term Loan A Facility, together with cash on hand, were used to repay certain amounts outstanding under the Revolving Credit Facility. Borrowings under the Term Loan A Facility were reported in short-term borrowings in our condensed consolidated balance sheet. In May 2021, Vistra Operations used the proceeds from the issuance of the Vistra Operations 4.375% senior unsecured notes due 2029 (described below), together with cash on hand, to repay the \$1.250 billion borrowings under the Term Loan A Facility. We recorded an extinguishment loss of \$1 million on the transaction in the six months ended June 30, 2021.

Our credit facilities and related available capacity as of June 30, 2022 are presented below.

Credit Facilities	Maturity Date	June 30, 2022			
		Facility Limit	Cash Borrowings	Letters of Credit Outstanding	Available Capacity
Extended Revolving Credit Facility (a)	April 29, 2027	\$ 2,800	\$ 233	\$ 2,223	\$ 344
Non-Extended Revolving Credit Facility (b)	June 14, 2023	200	17	159	24
Term Loan B-3 Facility (c)	December 31, 2025	2,529	2,529	—	—
Total Vistra Operations Credit Facilities		\$ 5,529	\$ 2,779	\$ 2,382	\$ 368
Commodity-Linked Facility (d)	October 5, 2022	\$ 2,250	\$ 1,050		\$ 1,200
Total Credit Facilities		\$ 7,779	\$ 3,829	\$ 2,382	\$ 1,568

- (a) Extended Revolving Credit Facility used for general corporate purposes. Cash borrowings under the Extended Revolving Credit Facility are reported in short-term borrowings in our condensed consolidated balance sheets. The full amount of Extended Revolving Credit Facility available capacity can be utilized to issue letters of credit.
- (b) Non-Extended Revolving Credit Facility used for general corporate purposes. Cash borrowings under the Non-Extended Revolving Credit Facility are reported in short-term borrowings in our condensed consolidated balance sheets. The full amount of Non-Extended Revolving Credit Facility available capacity can be utilized to issue letters of credit.
- (c) Cash borrowings under the Term Loan B-3 Facility are subject to a required scheduled quarterly payment in annual amount equal to 1.00% of the original principal amount with the balance paid at maturity. Amounts paid cannot be reborrowed.
- (d) Commodity-Linked Facility (defined below) used to support our comprehensive hedging strategy. Facility limit and available capacity assume the borrowing base equals the aggregate commitments of \$2.25 billion. Cash borrowings under the Commodity-Linked Facility are reported in short-term borrowings in our condensed consolidated balance sheets.

Under the Vistra Operations Credit Agreement, the interest applicable to the Extended Revolving Credit Facility is based on a term Secured Overnight Financing Rate (SOFR), plus a spread that will range from 1.25% to 2.00%, based on the ratings of Vistra Operations' senior secured long-term debt securities, and the fee on any undrawn amounts with respect to the Extended Revolving Credit Facility had been revised to range from 17.5 basis points to 35.0 basis points, based on ratings of Vistra Operations' senior secured long-term debt securities. As of June 30, 2022, there was \$233 million outstanding borrowings under the Extended Revolving Credit Facility with a weighted average interest rate was 3.26%. Letters of credit issued under the Extended Revolving Credit Facility bear interest of 1.75%. The applicable interest rate margins for the Extended Revolving Credit Facility and the fee for undrawn amounts relating to such extended commitments may further be adjusted from time to time dependent upon the Company's performance relative to certain sustainability-linked targets and thresholds, as further described in the Vistra Operations Credit Agreement.

Under the Vistra Operations Credit Agreement, cash borrowings under the Non-Extended Revolving Credit Facility bear interest based on applicable LIBOR rates, plus a fixed spread of 1.75%. As of June 30, 2022, there was \$17 million outstanding borrowings under the Non-Extended Revolving Credit Facility with weighted average rate of 3.35%. Letters of credit issued under the Non-Extended Revolving Credit Facility bear interest of 1.75%. Amounts borrowed under the Term Loan B-3 Facility bears interest based on applicable LIBOR rates plus fixed spreads of 1.75%. As of June 30, 2022, the weighted average interest rates before taking into consideration interest rate swaps on outstanding borrowings was 3.39% under the Term Loan B-3 Facility. The Vistra Operations Credit Facilities also provide for certain additional fees payable to the agents and lenders, including fronting fees with respect to outstanding letters of credit and availability fees payable with respect to any unused portion of the available Non-Extended Revolving Credit Facility.

Obligations under the Vistra Operations Credit Facilities are secured by a lien covering substantially all of Vistra Operations' (and its subsidiaries') consolidated assets, rights and properties, subject to certain exceptions set forth in the Vistra Operations Credit Facilities, provided that the amount of loans outstanding under the Vistra Operations Credit Facilities that may be secured by a lien covering certain principal properties of the Company is expressly limited by the terms of the Vistra Operations Credit Facilities. The Vistra Operations Credit Agreement includes certain collateral suspension provisions that would take effect upon Vistra Operations achieving unsecured investment grade ratings from two ratings agencies, there being no Term Loans (under and as defined in the Vistra Operations Credit Agreement) then outstanding (or the holders thereof agreeing to release such security interests), and there being no outstanding revolving credit commitments the maturities of which have not been extended to April 29, 2027 (or the holders thereof agreeing to release such security interests), such collateral suspension provisions would continue to be in effect unless and until Vistra Operations no longer holds unsecured investment grade ratings from at least two ratings agencies, at which point collateral reversion provisions would take effect (subject to a 60-day grace period).

The Vistra Operations Credit Facilities also permit certain hedging agreements to be secured on a pari-passu basis with the Vistra Operations Credit Facilities in the event those hedging agreements met certain criteria set forth in the Vistra Operations Credit Facilities.

The Vistra Operations Credit Facilities provide for affirmative and negative covenants applicable to Vistra Operations (and its restricted subsidiaries), including affirmative covenants requiring it to provide financial and other information to the agents under the Vistra Operations Credit Facilities and to not change its lines of business, and negative covenants restricting Vistra Operations' (and its restricted subsidiaries') ability to incur additional indebtedness, make investments, dispose of assets, pay dividends, grant liens or take certain other actions, in each case, except as permitted in the Vistra Operations Credit Facilities. Vistra Operations' ability to borrow under the Vistra Operations Credit Facilities is subject to the satisfaction of certain customary conditions precedent set forth therein.

The Vistra Operations Credit Facilities provide for certain customary events of default, including events of default resulting from non-payment of principal, interest or fees when due, material breaches of representations and warranties, material breaches of covenants in the Vistra Operations Credit Facilities or ancillary loan documents, cross-defaults under other agreements or instruments and the entry of material judgments against Vistra Operations. Solely with respect to the Revolving Credit Facility, and solely during a compliance period (which, in general, is applicable when the aggregate revolving borrowings and issued revolving letters of credit (in excess of \$300 million) exceed 30% of the revolving commitments), the agreement includes a covenant that requires the consolidated first lien net leverage ratio, which is based on the ratio of net first lien debt compared to an EBITDA calculation defined under the terms of the Vistra Operations Credit Facilities, not to exceed 4.25 to 1.00 (or, during a collateral suspension period, a total net leverage ratio not to exceed 5.50 to 1.00). As of June 30, 2022, we were in compliance with this financial covenant. Upon the existence of an event of default, the Vistra Operations Credit Facilities provide that all principal, interest and other amounts due thereunder will become immediately due and payable, either automatically or at the election of specified lenders.

Commodity-Linked Revolving Credit Facility — In order to support our comprehensive hedging strategy, in February 2022, Vistra Operations entered into a \$1.0 billion senior secured commodity-linked revolving credit facility (Commodity-Linked Facility) by and among Vistra Operations, Vistra Intermediate, the lenders, joint lead arrangers and joint bookrunners party thereto, and Citibank, N.A., as administrative agent and collateral agent. In May 2022, we entered into an amendment to the Commodity-Linked Facility to increase the aggregate available commitments from \$1.0 billion to \$2.0 billion and to provide the flexibility, subject to our ability to obtain additional commitments, to further increase the size of the Commodity-Linked Facility by an additional \$1.0 billion to a facility size of \$3.0 billion. Subsequent amendments in May 2022 and June 2022 increased the aggregate available commitments from \$2.0 billion to \$2.25 billion. Fees and expenses related to the facility totaled \$2 million and \$4 million in the three and six months ended June 30, 2022, respectively, which were capitalized as a reduction in the carrying amount of the debt.

Under the Commodity-Linked Facility, the borrowing base is calculated on a weekly basis based on a set of theoretical transactions which approximate a portion of the hedge portfolio of Vistra Operations and certain of its subsidiaries in certain power markets, with availability thereunder not to exceed the aggregate available commitments nor be less than zero. Vistra Operations may, at its option, borrow an amount up to the borrowing base, as adjusted from time to time, provided that if outstanding borrowings at any time would exceed the borrowing base, Vistra Operations shall make a repayment to reduce outstanding borrowings to be less than or equal to the borrowing base. Vistra Operations intends to use any borrowings provided under the Commodity-Linked Facility to make cash postings as required under various commodity contracts to which Vistra Operations and its subsidiaries are parties as power prices increase from time-to time and for other working capital and general corporate purposes.

Interest Rate Swaps — Vistra employs interest rate swaps to hedge our exposure to variable rate debt. As of June 30, 2022, Vistra has entered into the following series of interest rate swap transactions.

	Notional Amount	Expiration Date	Rate Range
Swapped to fixed	\$3,000	July 2023	3.67 % - 3.91%
Swapped to variable	\$700	July 2023	3.20 % - 3.23%
Swapped to fixed	\$720	February 2024	3.71 % - 3.72%
Swapped to variable	\$720	February 2024	3.20 % - 3.20%
Swapped to fixed (a)	\$3,000	July 2026	4.72 % - 4.79%
Swapped to variable	\$700	July 2026	3.28 % - 3.33%

(a) Effective from July 2023 through July 2026.

During 2019, Vistra entered into \$2.12 billion of new interest rate swaps, pursuant to which Vistra will pay a variable rate and receive a fixed rate. The terms of these new swaps were matched against the terms of certain existing swaps, effectively offsetting the hedge of the existing swaps and fixing the out-of-the-money position of such swaps. These matched swaps will settle over time, in accordance with the original contractual terms. The remaining existing swaps continue to hedge our exposure on \$2.30 billion of debt through July 2026.

Secured Letter of Credit Facilities

In August and September 2020, Vistra entered into uncommitted standby letter of credit facilities that are each secured by a first lien on substantially all of Vistra Operations' (and its subsidiaries') assets (which ranks pari passu with the Vistra Operations Credit Facilities) (each, a Secured LOC Facility and collectively, the Secured LOC Facilities). The Secured LOC Facilities are used for general corporate purposes. In October 2021, Vistra entered into an additional Secured LOC Facility which will also be used for general corporate purposes. As of June 30, 2022, \$519 million of letters of credit were outstanding under the Secured LOC Facilities.

Vistra Operations Senior Secured Notes

In May 2022, Vistra Operations issued \$1.5 billion aggregate principal amount of senior secured notes (May 2022 Senior Secured Notes), consisting of \$400 million aggregate principal amount of 4.875% senior secured notes due 2024 (4.875% Senior Secured Notes) and \$1.1 billion aggregate principal amount of 5.125% senior secured notes due 2025 (5.125% Senior Secured Notes) in an offering to eligible purchasers under Rule 144A and Regulation S under the Securities Act (Senior Secured Notes Offering). The May 2022 Senior Secured Notes were sold pursuant to a purchase agreement by and among Vistra Operations, certain direct and indirect subsidiaries of Vistra Operations and Citigroup Global Markets Inc., as representative of the several initial purchasers. The 4.875% Senior Secured Notes mature in May 2024 and the 5.125% Senior Secured Notes mature in May 2025. Interest on the May 2022 Senior Secured Notes is payable in cash semiannually in arrears on May 13 and November 13 of each year, beginning in November 2022. Net proceeds from the Senior Secured Notes Offering totaling \$1.485 billion, together with cash on hand, were used to pay down borrowings under the Commodity-Linked Facility. Fees and expenses related to the offering totaled \$16 million in both the three and six months ended June 30, 2022, which were capitalized as a reduction in the carrying amount of the debt.

In 2019, Vistra Operations issued and sold \$3.1 billion aggregate principal amount of senior secured notes in offerings to eligible purchasers under Rule 144A and Regulation S under the Securities Act. The indenture (as may be amended or supplemented from time to time, the Vistra Operations Senior Secured Indenture) governing the 3.550% senior secured notes due 2024, the 3.700% senior secured notes due 2027, the 4.300% senior secured notes due 2029 and the May 2022 Senior Secured Notes (collectively, as each may be amended or supplemented from time to time, the Senior Secured Notes) provides for the full and unconditional guarantee by certain of Vistra Operations' current and future subsidiaries that also guarantee the Vistra Operations Credit Facilities. The Senior Secured Notes are secured by a first-priority security interest in the same collateral that is pledged for the benefit of the lenders under the Vistra Operations Credit Facilities, which consists of a substantial portion of the property, assets and rights owned by Vistra Operations and certain direct and indirect subsidiaries of Vistra Operations as subsidiary guarantors (collectively, the Guarantor Subsidiaries) as well as the stock of Vistra Operations held by Vistra Intermediate. The collateral securing the Senior Secured Notes will be released if Vistra Operations' senior, unsecured long-term debt securities obtain an investment grade rating from two out of the three rating agencies, subject to reversion if such rating agencies withdraw the investment grade rating of Vistra Operations' senior, unsecured long-term debt securities or downgrade such rating below investment grade. The Vistra Operations Senior Secured Indenture contains certain covenants and restrictions, including, among others, restrictions on the ability of Vistra Operations and its subsidiaries, as applicable, to create certain liens, merge or consolidate with another entity, and sell all or substantially all of their assets.

Vistra Operations Senior Unsecured Notes

In May 2021, Vistra Operations issued and sold \$1.25 billion aggregate principal amount of 4.375% senior unsecured notes due 2029 in an offering to eligible purchasers under Rule 144A and Regulation S under the Securities Act. The 4.375% senior unsecured notes due 2029 were sold pursuant to a purchase agreement by and among Vistra Operations, the Guarantor Subsidiaries and J.P. Morgan Securities LLC, as representative of the several initial purchasers. The 4.375% senior unsecured notes mature in May 2029, with interest payable in arrears on May 1 and November 1 beginning November 1, 2021 with interest accrued from May 10, 2021. Net proceeds, together with cash on hand, were used to repay all amounts outstanding under the Term Loan A Facility and to pay fees and expenses of \$15 million related to the offering.

Since 2018, Vistra Operations has issued and sold \$4.85 billion aggregate principal amount of senior unsecured notes in offerings to eligible purchasers under Rule 144A and Regulation S under the Securities Act. The indentures governing the 5.500% senior unsecured notes due 2026, the 5.625% senior unsecured notes due 2027, the 5.000% senior unsecured notes due 2027 and the 4.375% senior unsecured notes due 2029 (collectively, as each may be amended or supplemented from time to time, the Vistra Operations Senior Unsecured Indentures) provide for the full and unconditional guarantee by the Guarantor Subsidiaries of the punctual payment of the principal and interest on such notes. The Vistra Operations Senior Unsecured Indentures contain certain covenants and restrictions, including, among others, restrictions on the ability of Vistra Operations and its subsidiaries, as applicable, to create certain liens, merge or consolidate with another entity, and sell all or substantially all of their assets.

Debt Repurchase Program

In March 2021, the Board authorized up to \$1.8 billion to repay or repurchase outstanding debt. Through June 30, 2022, no amounts had been repurchased under the March 2021 authorization.

Other Long-Term Debt

Forward Capacity Agreements — In March 2021, the Company sold a portion of the PJM capacity that cleared for Planning Years 2021-2022 to a financial institution (2021-2022 Forward Capacity Agreement). The buyer in this transaction received capacity payments from PJM during the Planning Years 2021-2022 in the amount of approximately \$515 million. In May 2022, the final capacity payment from PJM during the Planning Years 2021-2022 was paid, and the terms of the 2021-2022 Forward Capacity were fulfilled.

On the Merger Date, the Company assumed the obligation of Dynegy's agreements under which a portion of the PJM capacity that cleared for Planning Years 2018-2019, 2019-2020 and 2020-2021 was sold to a financial institution (Legacy Forward Capacity Agreements, and, together with the 2021-2022 Forward Capacity Agreement, the Forward Capacity Agreements). In May 2021, the final capacity payment from PJM during the Planning Years 2020-2021 was paid, and the terms of the Legacy Forward Capacity were fulfilled.

Maturities

Long-term debt maturities at June 30, 2022 are as follows:

	June 30, 2022
Remainder of 2022	\$ 26
2023	40
2024	1,940
2025	3,570
2026	1,006
Thereafter	5,490
Unamortized premiums, discounts and debt issuance costs	(82)
Total long-term debt, including amounts due currently	\$ 11,990

11. COMMITMENTS AND CONTINGENCIES**Guarantees**

We have entered into contracts that contain guarantees to unaffiliated parties that could require performance or payment under certain conditions. Material guarantees are discussed below.

Letters of Credit

At June 30, 2022, we had outstanding letters of credit totaling \$2.901 billion as follows:

- \$2.565 billion to support commodity risk management collateral requirements in the normal course of business, including over-the-counter and exchange-traded transactions and collateral postings with ISOs/RTOs;
- \$174 million to support battery and solar development projects;
- \$27 million to support executory contracts and insurance agreements;
- \$74 million to support our REP financial requirements with the PUCT, and
- \$61 million for other credit support requirements.

Surety Bonds

At June 30, 2022, we had outstanding surety bonds totaling \$591 million to support performance under various contracts and legal obligations in the normal course of business.

Litigation and Regulatory Proceedings

Our material legal proceedings and regulatory proceedings affecting our business are described below. We believe that we have valid defenses to the legal proceedings described below and intend to defend them vigorously. We also intend to participate in the regulatory processes described below. We record reserves for estimated losses related to these matters when information available indicates that a loss is probable and the amount of the loss, or range of loss, can be reasonably estimated. As applicable, we have established an adequate reserve for the matters discussed below. In addition, legal costs are expensed as incurred. Management has assessed each of the following legal matters based on current information and made a judgment concerning its potential outcome, considering the nature of the claim, the amount and nature of damages sought, and the probability of success. Unless specified below, we are unable to predict the outcome of these matters or reasonably estimate the scope or amount of any associated costs and potential liabilities, but they could have a material impact on our results of operations, liquidity, or financial condition. As additional information becomes available, we adjust our assessment and estimates of such contingencies accordingly. Because litigation and rulemaking proceedings are subject to inherent uncertainties and unfavorable rulings or developments, it is possible that the ultimate resolution of these matters could be at amounts that are different from our currently recorded reserves and that such differences could be material.

Gas Index Pricing Litigation — We, through our subsidiaries, and other companies have been named as defendants in lawsuits claiming damages resulting from alleged price manipulation through false reporting of natural gas prices to various index publications, wash trading and churn trading from 2000-2002. The plaintiffs in these cases allege that the defendants engaged in an antitrust conspiracy to inflate natural gas prices during the relevant time period and seek damages under the respective state antitrust statutes. We now remain as a defendant in only one action, which is a consolidated putative class action lawsuit pending in federal court in Wisconsin where a class has been certified and an interlocutory appeal has been filed in the U.S. Court of Appeals for the Seventh Circuit (Seventh Circuit Court).

Illinois Attorney General Complaint Against Illinois Gas & Electric (IG&E) — In May 2022, the Illinois Attorney General filed a complaint against IG&E, a subsidiary we acquired when we purchased Crius in July 2019. The complaint filed in Illinois state court alleges, among other things, that IG&E engaged in improper marketing conduct and overcharged customers. The vast majority of the conduct in question occurred prior to our acquisition of IG&E. In July 2022, we moved to dismiss the complaint.

Winter Storm Uri Legal Proceedings

Repricing Challenges — In March 2021, we filed an appeal in the Third Court of Appeals in Austin, Texas (Third Court of Appeals), challenging the PUCT's February 15 and February 16, 2021 orders governing ERCOT's determination of wholesale power prices during load-shedding events. We filed our opening brief in June 2021, and response briefs were filed in September 2021. Oral argument was held in April 2022. In our brief, we argue that the prior PUCT rushed to adopt a rule that dramatically raised the price of electricity in ERCOT, but in doing so failed to follow any of the rulemaking procedures required for the PUCT to undertake an emergency rulemaking, and we have asked the court to vacate this rule. Other parties also filed briefs in support of our challenge to the PUCT's orders. In addition, we have also submitted settlement disputes with ERCOT over power prices and other issues during Winter Storm Uri. Following an appeal of the PUCT's March 5, 2021 verbal order and other statements made by the PUCT, the Texas Attorney General, on behalf of the PUCT, its client, represented in a letter agreement filed with the Third Court of Appeals that we and other parties may continue disputing the pricing during Winter Storm Uri through the ERCOT process and, to the extent the outcome of that process comes before the PUCT for review, the PUCT has not prejudged or made a final decision on that matter.

Koch Disputes — In March 2021, we filed a lawsuit in Texas state court against Odessa-Ector Power Partners, L.P., Koch Resources, LLC, Koch AG & Energy Solutions, LLC, and Koch Energy Services, LLC (Koch) seeking equitable relief in which we contested the amount of the February 2021 earnout payment under the terms of the 2017 asset purchase agreement (APA) with Koch. Koch subsequently filed its own related lawsuit in Delaware Chancery Court, and the Delaware Chancery Court ruled that all claims related to the APA dispute (including our equitable claims) would proceed in Delaware. We contested Koch's demand for \$286 million for the February 2021 earnout payment as an unjust windfall and inconsistent with the parties' intent when they entered into the APA in 2017. In the three months ended March 31, 2021, we recorded a \$286 million liability in other noncurrent liabilities and deferred credits in our condensed consolidated balance sheets. In March 2021, we also filed a lawsuit in New York state court against Koch for breach of contract and ineffective notice of force majeure related to Koch's failure to deliver contracted-for quantities of gas during Winter Storm Uri, which Koch removed to federal court. In November 2021, the disputes we had with Koch were resolved to the parties' mutual satisfaction and all the lawsuits have been dismissed. The matter was resolved within the amount that was reserved and was paid in the second quarter of 2022.

Regulatory Investigations and Other Litigation Matters — Following the events of Winter Storm Uri, various regulatory bodies, including ERCOT, the ERCOT Independent Market Monitor, the Texas Attorney General, the FERC and the NRC initiated investigations or issued requests for information of various parties related to the significant load shed event that occurred during the event as well as operational challenges for generators arising from the event, including performance and fuel and supply issues. We responded to all those investigatory requests. In addition, a number of personal injury and wrongful death lawsuits related to Winter Storm Uri have been filed in various Texas state courts against us and numerous generators, transmission and distribution utilities, retail and electric providers, as well as ERCOT. We and other defendants requested that all pretrial proceedings in these personal injury cases be consolidated and transferred to a single multi-district litigation (MDL) pretrial judge. In June 2021, the MDL panel granted the request to consolidate all these cases into a MDL for pretrial proceedings. In addition, in January 2022, an insurance subrogation lawsuit was filed in Austin state court by over one hundred insurance companies against ERCOT, Vistra and several other defendants. The lawsuit seeks recovery of insurance funds paid out by these insurance companies to various policyholders for claims related to Winter Storm Uri, and that case has also now been consolidated with the MDL proceedings. We believe we have strong defenses to these lawsuits and intend to defend against these cases vigorously.

Climate Change

In January 2021, the Biden administration issued a series of Executive Orders, including one titled *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis* (the Environment Executive Order) which directed agencies, including the EPA, to review various agency actions promulgated during the prior administration and take action where the previous administration's action conflicts with national objectives. Several of the EPA agency actions discussed below are now subject to this review.

Greenhouse Gas Emissions

In July 2019, the EPA finalized a rule that repealed the Clean Power Plan (CPP) that had been finalized in 2015 and established new regulations addressing GHG emissions from existing coal-fueled electric generation units, referred to as the Affordable Clean Energy (ACE) rule. The ACE rule developed emission guidelines that states must use when developing plans to regulate GHG emissions from existing coal-fueled electric generating units. In response to challenges brought by environmental groups and certain states, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) vacated the ACE rule, including the repeal of the CPP, in January 2021 and remanded the rule to the EPA for further action. In October 2021, the U.S. Supreme Court granted four petitions for certiorari of the D.C. Circuit Court's decision and consolidated the cases for review. In June 2022, the U.S. Supreme Court issued an opinion reversing the D.C. Circuit Court's decision, and finding that the EPA exceeded its authority under Section 111 of the Clean Air Act when the EPA set emission requirements in the CPP based on generation shifting. Additionally, in January 2021, the EPA, just prior to the transition to the Biden administration, issued a final rule setting forth a significant contribution finding for the purpose of regulating GHG emissions from new, modified, or reconstructed electric utility generating units. In April 2021, the D.C. Circuit Court granted the EPA's unopposed motion for voluntary vacatur and remand of the GHG significant contribution rule.

Cross-State Air Pollution Rule (CSAPR)

In April 2022, the EPA proposed a revised version of the CSAPR to address the 2015 ozone National Ambient Air Quality Standards (NAAQS). The rule would apply to 25 states beginning with the 2023 ozone seasons. States where Vistra operates generation units that would be subject to this proposed rule are Illinois, New Jersey, New York, Ohio, Pennsylvania, Texas, Virginia and West Virginia. The revised Group 3 trading program (previously established in the Revised CSAPR Update Rule) would include emission budgets that the EPA says are achievable through existing controls installed at power plants. Starting in 2026, the budgets would be based on levels achieved through installation of selective catalytic reduction (SCR) controls at the approximately 20% of large coal-fueled power plants that do not currently have such controls. Starting in 2025, the budgets would be updated annually to account for source retirements. Starting in 2024, the rule would also impose a daily emissions rate limit for coal-fired units with existing controls and would impose such a limit for units installing new controls in 2027. We, along with many other companies, trade groups, states and ISOs, including ERCOT, PJM and MISO, filed responsive comments to the EPA's proposal in June 2022, expressing concerns about certain elements of the proposal, particularly those that may result in challenges to electric reliability under certain conditions. The EPA is expected to finalize a rule by early 2023. We cannot predict the outcome of the final rule or the effects of the final rule on operations of our generation fleet.

Regional Haze — Reasonable Progress and Best Available Retrofit Technology (BART) for Texas

In October 2017, the EPA issued a final rule addressing BART for Texas electricity generation units, with the rule serving as a partial approval of Texas' 2009 State Implementation Plan (SIP) and a partial Federal Implementation Plan (FIP). For SO₂, the rule established an intrastate Texas emission allowance trading program as a "BART alternative" that operates in a similar fashion to a CSAPR trading program. The program includes 39 generating units (including the Martin Lake, Big Brown, Monticello, Sandow 4, Coletto Creek, Stryker 2 and Graham 2 plants). The compliance obligations in the program started on January 1, 2019. For NO_x, the rule adopted the CSAPR's ozone program as BART and for particulate matter, the rule approved Texas' SIP that determines that no electricity generation units are subject to BART for particulate matter. In August 2020, the EPA issued a final rule affirming the prior BART final rule but also included additional revisions that were proposed in November 2019. Challenges to both the 2017 rule and the 2020 rules have been consolidated in the D.C. Circuit Court, where we have intervened in support of the EPA. We are in compliance with the rule, and the retirements of our Monticello, Big Brown and Sandow 4 plants have enhanced our ability to comply. The BART rule is subject to the Environment Executive Order discussed above, and the EPA has stated it is starting a proceeding for reconsideration of the BART rule. The challenges in the D.C. Circuit Court have been held in abeyance pending the EPA's action on reconsideration.

SO₂ Designations for Texas

In November 2016, the EPA finalized its nonattainment designations for counties surrounding our Martin Lake generation plant and our now retired Big Brown and Monticello plants. The final designations require Texas to develop nonattainment plans for these areas. In February 2017, the State of Texas and Luminant filed challenges to the nonattainment designations in the U.S. Court of Appeals for the Fifth Circuit (Fifth Circuit Court). Subsequently, in October 2017, the Fifth Circuit Court granted the EPA's motion to hold the case in abeyance considering the EPA's representation that it intended to revisit the nonattainment rule. In December 2017, the TCEQ submitted a petition for reconsideration to the EPA. In August 2019, the EPA issued a proposed Error Correction Rule for all three areas, which, if finalized, would have revised its previous nonattainment designations and each area at issue would be designated unclassifiable. In August 2020, the EPA issued a Finding of Failure for Texas to submit an attainment plan. In May 2021, the EPA finalized a "Clean Data" determination for the areas surrounding the retired Big Brown and Monticello plants, redesignating those areas as attainment based on monitoring data supporting an attainment designation. In June 2021, the EPA published two notices; one that it was withdrawing the August 2019 Error Correction Rule and a second separate notice denying petitions from Luminant and the State of Texas to reconsider the original nonattainment designations. We, along with the State of Texas, challenged that EPA action and have consolidated it with the pending challenge in the Fifth Circuit Court, and this case was argued before the Fifth Circuit Court in July 2022. In September 2021, the TCEQ considered a proposal for its nonattainment SIP revision for the Martin Lake area and an agreed order to reduce SO₂ emissions from the plant. The proposed agreed order associated with the SIP proposal reduces emission limits as of January 2022. Emission reductions required are those necessary to demonstrate attainment with the NAAQS. The TCEQ's SIP action was finalized in February 2022 and has been submitted to the EPA for review and approval.

Effluent Limitation Guidelines (ELGs)

In November 2015, the EPA revised the ELGs for steam electricity generation facilities, which will impose more stringent standards (as individual permits are renewed) for wastewater streams, such as flue gas desulfurization (FGD), fly ash, bottom ash and flue gas mercury control wastewaters. Various parties filed petitions for review of the ELG rule, and the petitions were consolidated in the Fifth Circuit Court. In April 2017, the EPA granted petitions requesting reconsideration of the ELG rule and administratively stayed the rule's compliance date deadlines. In August 2017, the EPA announced that its reconsideration of the ELG rule would be limited to a review of the effluent limitations applicable to FGD and bottom ash wastewaters and the agency subsequently postponed the earliest compliance dates in the ELG rule for the application of effluent limitations for FGD and bottom ash wastewaters. Based on these administrative developments, the Fifth Circuit Court agreed to sever and hold in abeyance challenges to those effluent limitations. The remainder of the case proceeded, and in April 2019 the Fifth Circuit Court vacated and remanded portions of the EPA's ELG rule pertaining to effluent limitations for legacy wastewater and leachate. The EPA published a final rule in October 2020 that extends the compliance date for both FGD and bottom ash transport water to no later than December 2025, as negotiated with the state permitting agency. Additionally, the final rule allows for a retirement exemption that exempts facilities certifying that units will retire by December 2028 provided certain effluent limitations are met. In November 2020, environmental groups petitioned for review of the new ELG revisions, and Vistra subsidiaries filed a motion to intervene in support of the EPA in December 2020. In July 2021, the EPA announced its intent to revise the ELG rule and moved to hold the 2020 ELG revision litigation in abeyance pending the EPA's completion of its reconsideration rulemaking. Notifications were made to Texas, Illinois and Ohio state agencies on the retirement exemption for applicable coal plants by the regulatory deadline of October 13, 2021.

Coal Combustion Residuals (CCR)/Groundwater

In August 2018, the D.C. Circuit Court issued a decision that vacates and remands certain provisions of the 2015 CCR rule, including an applicability exemption for legacy impoundments. In August 2020, the EPA issued a final rule establishing a deadline of April 11, 2021 to cease receipt of waste and initiate closure at unlined CCR impoundments. The final rule allows a generation plant to seek the EPA's approval to extend this deadline if no alternative disposal capacity is available and either a conversion to comply with the CCR rule is underway or retirement will occur by either 2023 or 2028 (depending on the size of the impoundment at issue). Prior to the November 2020 deadline, we submitted applications to the EPA requesting compliance extensions under both conversion and retirement scenarios. In November 2020, environmental groups petitioned for review of this rule in the D.C. Circuit Court, and Vistra subsidiaries filed a motion to intervene in support of the EPA in December 2020. Also, in November 2020, the EPA finalized a rule that would allow an alternative liner demonstration for certain qualifying facilities. In November 2020, we submitted an alternate liner demonstration for one CCR unit at Martin Lake. In August 2021, we submitted a request to transfer our conversion application for the Zimmer facility to a retirement application following announcement that Zimmer will close by May 31, 2022. In January 2022, the EPA determined that our conversion and retirement applications for our CCR facilities were complete but has not yet proposed action on any of those applications. In addition, in January 2022, the EPA also made a series of public statements, including in a press release, that purported to impose new, more onerous closure requirements for CCR units. The EPA issued these new purported requirements without prior notice and without following the legal requirements for adopting new rules. These new purported requirements announced by the EPA are contrary to existing regulations and the EPA's prior positions. In April 2022, we, along with the Utility Solid Waste Activities Group (USWAG), a trade association of over 130 utility operating companies, energy companies, and certain other industry associations, filed petitions for review with the D.C. Circuit Court and intend to ask the court to determine that the EPA cannot implement or enforce the new purported requirements because the EPA has not followed the required procedures. The State of Texas and the TCEQ have intervened in support of the petitions filed by the Vistra subsidiaries and USWAG, and various environmental groups have intervened on behalf of the EPA.

MISO — In 2012, the Illinois Environmental Protection Agency (IEPA) issued violation notices alleging violations of groundwater standards onsite at our Baldwin and Vermilion facilities' CCR surface impoundments. These violation notices remain unresolved; however, in 2016, the IEPA approved our closure and post-closure care plans for the Baldwin old east, east, and west fly ash CCR surface impoundments. We have completed closure activities at those ponds at our Baldwin facility.

At our retired Vermilion facility, which was not potentially subject to the EPA's 2015 CCR rule until the aforementioned D.C. Circuit Court decision in August 2018, we submitted proposed corrective action plans involving closure of two CCR surface impoundments (*i.e.*, the old east and the north impoundments) to the IEPA in 2012, and we submitted revised plans in 2014. In May 2017, in response to a request from the IEPA for additional information regarding the closure of these Vermilion surface impoundments, we agreed to perform additional groundwater sampling and closure options and riverbank stabilizing options. In May 2018, Prairie Rivers Network (PRN) filed a citizen suit in federal court in Illinois against DMG, alleging violations of the Clean Water Act for alleged unauthorized discharges. In August 2018, we filed a motion to dismiss the lawsuit. In November 2018, the district court granted our motion to dismiss and judgment was entered in our favor. In June 2021, the Seventh Circuit Court affirmed the district court's dismissal of the lawsuit, but stated that PRN may refile. In April 2019, PRN also filed a complaint against DMG before the IPCB, alleging that groundwater flows allegedly associated with the ash impoundments at the Vermilion site have resulted in exceedances both of surface water standards and Illinois groundwater standards dating back to 1992. We answered that complaint in July 2021, and this matter remains in the very early stages.

In 2012, the IEPA issued violation notices alleging violations of groundwater standards at the Newton and Coffeen facilities' CCR surface impoundments. We are addressing these CCR surface impoundments in accordance with the federal CCR rule. In June 2018, the IEPA issued a violation notice for alleged seep discharges claimed to be coming from the surface impoundments at our retired Vermilion facility, which is owned by our subsidiary DMG, and that notice was referred to the Illinois Attorney General. In June 2021, the Illinois Attorney General and the Vermilion County State Attorney filed a complaint in Illinois state court with an agreed interim consent order which the court subsequently entered. Given the violation notices and the enforcement action, the unique characteristics of the site, and the proximity of the site to the only national scenic river in Illinois, we agreed to enter into the interim consent order to resolve this matter. Per the terms of the agreed interim consent order, DMG is required to evaluate the closure alternatives under the requirements of the newly implemented Illinois Coal Ash regulation (discussed below) and close the site by removal. In addition, the interim consent order requires that during the impoundment closure process, impacted groundwater will be collected before it leaves the site or enters the nearby Vermilion river and, if necessary, DMG will be required to install temporary riverbank protection if the river migrates within a certain distance of the impoundments. These proposed closure costs are reflected in the ARO in our condensed consolidated balance sheets (see Note 17).

In July 2019, coal ash disposal and storage legislation in Illinois was enacted. The legislation addresses state requirements for the proper closure of coal ash ponds in the state of Illinois. The law tasks the IEPA and the IPCB to set up a series of guidelines, rules and permit requirements for closure of ash ponds. Under the final rule, which was finalized and became effective in April 2021, coal ash impoundment owners would be required to submit a closure alternative analysis to the IEPA for the selection of the best method for coal ash remediation at a particular site. The rule does not mandate closure by removal at any site. In May 2021, we filed an appeal in the Illinois Fourth Judicial District over certain provisions of the final rule. We filed our opening brief in October 2021. Other parties have also filed appeals of certain provisions of the final rule. In October 2021, we filed operating permit applications for 18 impoundments as required by the Illinois coal ash rule, and filed construction permit applications for three of our sites in January 2022 and one additional site in July 2022. Additional construction permit applications will be filed in August 2022.

For all of the above matters, if certain corrective action measures, including groundwater treatment or removal of ash, are required at any of our coal-fueled facilities, we may incur significant costs that could have a material adverse effect on our financial condition, results of operations and cash flows. The Illinois coal ash rule was finalized in April 2021 and does not require removal. However, the rule required us to undertake further site specific evaluations required by each program. We will not know the full range of decommissioning costs, including groundwater remediation, if any, that ultimately may be required under the Illinois rule until permit applications have been approved by the IEPA. However, the currently anticipated CCR surface impoundment and landfill closure costs, as reflected in our existing ARO liabilities, reflect the costs of closure methods that our operations and environmental services teams believe are appropriate and protective of the environment for each location.

MISO 2015-2016 Planning Resource Auction

In May 2015, three complaints were filed at FERC regarding the Zone 4 results for the 2015-2016 planning resource auction (PRA) conducted by MISO. Dynegy is a named party in one of the complaints. The complainants, Public Citizen, Inc., the Illinois Attorney General and Southwestern Electric Cooperative, Inc. (Complainants), challenged the results of the PRA as unjust and unreasonable, requested rate relief/refunds, and requested changes to the MISO planning resource auction structure going forward. Complainants also alleged that Dynegy may have engaged in economic or physical withholding in Zone 4 constituting market manipulation in the PRA. The Independent Market Monitor for MISO (MISO IMM), which was responsible for monitoring the PRA, determined that all offers were competitive and that no physical or economic withholding occurred. The MISO IMM also stated, in a filing responding to the complaints, that there is no basis for the remedies sought by the Complainants. We filed our answer to these complaints explaining that we complied fully with the terms of the MISO tariff in connection with the PRA and disputing the allegations. The Illinois Industrial Energy Consumers filed a related complaint at FERC against MISO in June 2015 requesting prospective changes to the MISO tariff. Dynegy also responded to this complaint with respect to Dynegy's conduct alleged in the complaint.

In October 2015, FERC issued an order of nonpublic, formal investigation (the investigation) into whether market manipulation or other potential violations of FERC orders, rules and regulations occurred before or during the PRA.

In December 2015, FERC issued an order on the complaints requiring a number of prospective changes to the MISO tariff provisions effective as of the 2016-2017 planning resource auction. The order did not address the arguments of the Complainants regarding the PRA and stated that those issues remained under consideration and would be addressed in a future order.

In July 2019, FERC issued an order denying the remaining issues raised by the complaints and noted that the investigation into Dynegy was closed. FERC found that Dynegy's conduct did not constitute market manipulation and the results of the PRA were just and reasonable because the PRA was conducted in accordance with MISO's tariff. With the issuance of the order, this matter has been resolved in Dynegy's favor. The request for rehearing was denied by FERC in March 2020. The order was appealed by Public Citizen, Inc. to the D.C. Circuit Court in May 2020, and Vistra, Dynegy and Illinois Power Marketing Company intervened in the case in June 2020. In August 2021, the D.C. Circuit Court issued a ruling denying Public Citizen, Inc.'s arguments that FERC failed to meet its obligation to ensure just and reasonable rates because it did not review the prices resulting from the auction before those prices went into effect and that FERC was arbitrary and capricious in failing to adequately explain its decision to close its investigation into whether Dynegy engaged in market manipulation. The D.C. Circuit Court of Appeals granted Public Citizen, Inc.'s petition in part finding that FERC's decision that the auction results were just and reasonable solely because the auction process complied with the filed tariff was unreasonable and remanded the case back to FERC for further proceedings on that issue. On February 4, 2022 the Illinois Attorney General and Public Citizen, Inc. filed a motion at FERC requesting that FERC on remand reverse its prior decision and either find that auction results were not just and reasonable and order Dynegy to pay refunds to Illinois or, in the alternative, initiate an evidentiary hearing and discovery. We have filed a response to this motion and will vigorously defend our position. In June 2022, FERC issued an order on remand establishing paper hearing procedures and directing the Office of Enforcement to file a remand report within 90 days providing the Office of Enforcement's assessment of Dynegy's actions with regard to the 2015-2016 planning resource auction. We have filed a request for rehearing of the June 2022 order and will vigorously defend our position. While FERC directed the Office of Enforcement to file a remand report, FERC stated in the June 2022 order that it is not reopening the Office of Enforcement investigation.

Other Matters

We are involved in various legal and administrative proceedings and other disputes in the normal course of business, the ultimate resolutions of which, in the opinion of management, are not anticipated to have a material effect on our results of operations, liquidity or financial condition.

12. EQUITY

Share Repurchase Programs

In October 2021, we announced that the Board has authorized a new share repurchase program (Share Repurchase Program) under which up to \$2.0 billion of our outstanding shares of common stock may be repurchased. The Share Repurchase Program became effective on October 11, 2021, at which time it superseded the 2020 Share Repurchase Program (described below) and any authorization remaining as of such date. We intend to use the net proceeds from the Series A Offering (described below) to repurchase shares of our outstanding common stock. In the three months ended June 30, 2022, 19,100,259 shares of our common stock were repurchased under the Share Repurchase Program for approximately \$474 million at an average price of \$24.83 per share of common stock. In the six months ended June 30, 2022, 46,661,160 shares of our common stock were repurchased under the Share Repurchase Program for approximately \$1.086 billion at an average price of \$23.28 per share of common stock (shares repurchased include 320,000 of unsettled shares repurchased for \$7 million as of June 30, 2022). As of June 30, 2022, approximately \$505 million was available for additional repurchases under the Share Repurchase Program. From July 1, 2022 through August 2, 2022, 4,530,102 of our common stock had been repurchased under the Share Repurchase Program for \$105 million at an average price per share of common stock of \$23.06, and at August 2, 2022, approximately \$400 million was available for repurchase under the Share Repurchase Program.

On August 4, 2022, the Board authorized an incremental \$1.25 billion for repurchases under the Share Repurchase Program. Including the original Board authorization, approximately \$1.65 billion remains available for share repurchases under the Share Repurchase Program as of August 4, 2022. We expect to complete repurchases under the Share Repurchase Program by the end of 2023.

Under the Share Repurchase Program, shares of the Company's common stock may be repurchased in open-market transactions at prevailing market prices, in privately negotiated transactions, pursuant to plans complying with the Exchange Act, or by other means in accordance with federal securities laws. The actual timing, number and value of shares repurchased under the Share Repurchase Program or otherwise will be determined at our discretion and will depend on a number of factors, including our capital allocation priorities, the market price of our stock, general market and economic conditions, applicable legal requirements and compliance with the terms of our debt agreements and the certificate of designation of the Series A Preferred Stock and the Series B Preferred Stock, respectively.

In September 2020, we announced that the Board authorized a share repurchase program (2020 Share Repurchase Program) under which up to \$1.5 billion of our outstanding shares of common stock may be repurchased. The 2020 Share Repurchase Program was effective on January 1, 2021. No shares were repurchased in the three months ended June 30, 2021. In the six months ended June 30, 2021, 8,658,153 shares of our common stock were repurchased under the 2020 Share Repurchase Program for approximately \$175 million at an average price of \$20.21 per share of common stock. The 2020 Share Repurchase Program was superseded by the Share Repurchase Program in October 2021.

Preferred Stock

On October 15, 2021 (Series A Issuance Date), we issued 1,000,000 shares of Series A Preferred Stock in a private offering (Series A Offering). The net proceeds of the Series A Offering were approximately \$990 million, after deducting underwriting commissions and offering expenses. We intend to use the net proceeds from the Series A Offering to repurchase shares of our outstanding common stock under the Share Repurchase Program (described above).

On December 10, 2021 (Series B Issuance Date), we issued 1,000,000 shares of Series B Preferred Stock in a private offering (Series B Offering). The net proceeds of the Series B Offering were approximately \$985 million, after deducting underwriting commissions and offering expenses. We intend to use the net proceeds from the Series B Offering to pay for or reimburse existing and new eligible renewable and battery ESS developments.

The Series A Preferred Stock and the Series B Preferred Stock are not convertible into or exchangeable for any other securities of the Company and have limited voting rights. The Series A Preferred Stock may be redeemed at the option of the Company at any time after the Series A First Reset Date (defined below) and in certain other circumstances prior to the Series A First Reset Date. The Series B Preferred Stock may be redeemed at the option of the Company at any time after the Series B First Reset Date (defined below) and in certain other circumstances prior to the Series B First Reset Date.

Dividends

Common Stock — In November 2018, Vistra announced the Board adopted a dividend program which we initiated in the first quarter of 2019. Each dividend under the program is subject to declaration by the Board and, thus, may be subject to numerous factors in existence at the time of any such declaration including, but not limited to, prevailing market conditions, Vistra's results of operations, financial condition and liquidity, Delaware law and any contractual limitations.

In February 2021, April 2021, July 2021 and October 2021, the Board declared quarterly dividends of \$0.15 per share of common stock that were paid in March 2021, June 2021, September 2021 and December 2021, respectively.

In February 2022 and May 2022, the Board declared quarterly dividends of \$0.17 and \$0.177 per share of common stock that were paid in March 2022 and June 2022, respectively. In July 2022, the Board declared a quarterly dividend of \$0.184 per share of common stock that will be paid in September 2022.

Preferred Stock — The annual dividend rate on each share of Series A Preferred Stock is 8.0% from the Issuance Date to, but excluding October 15, 2026 (Series A First Reset Date). On and after the Series A First Reset Date, the dividend rate on each share of Series A Preferred Stock shall equal the five-year U.S. Treasury rate as of the most recent reset dividend determination date (subject to a floor of 1.07%), plus a spread of 6.93% per annum. The Series A Preferred Stock has a liquidation preference of \$1,000 per share, plus accumulated but unpaid dividends. Cumulative cash dividends on the Series A Preferred Stock are payable semiannually, in arrears, on each April 15 and October 15, commencing on April 15, 2022, when, as and if declared by the Board.

In February 2022, the Board declared a semi-annual dividend of \$40.00 per share of Series A Preferred Stock that was paid in April 2022. In July 2022, the Board declared a semi-annual dividend of \$40.00 per share of Series A Preferred Stock that will be paid in October 2022.

The annual dividend rate on each share of Series B Preferred Stock is 7.0% from the Series B Issuance Date to, but excluding December 15, 2026 (Series B First Reset Date). On and after the Series B First Reset Date, the dividend rate on each share of Series B Preferred Stock shall equal the five-year U.S. Treasury rate as of the most recent reset dividend determination date (subject to a floor of 1.26%), plus a spread of 5.74% per annum. The Series B Preferred Stock has a liquidation preference of \$1,000 per share, plus accumulated but unpaid dividends. Cumulative cash dividends on the Series B Preferred Stock are payable semiannually, in arrears, on each June 15 and December 15, commencing on June 15, 2022, when, as and if declared by the Board.

In May 2022, the Board declared a semi-annual dividend of \$35.97 (including amounts accrued from December 10, 2021 to December 15, 2021) per share of Series B Preferred Stock that was paid in June 2022.

Dividend Restrictions

The Vistra Operations Credit Agreement generally restricts the ability of Vistra Operations to make distributions to any direct or indirect parent unless such distributions are expressly permitted thereunder. As of June 30, 2022, Vistra Operations can distribute approximately \$4.4 billion to Parent under the Vistra Operations Credit Agreement without the consent of any party. The amount that can be distributed by Vistra Operations to Parent was partially reduced by distributions made by Vistra Operations to Parent of approximately \$350 million and \$100 million during the three months ended June 30, 2022 and 2021, respectively, and \$950 million and \$330 million for the six months ended June 30, 2022 and 2021, respectively. Additionally, Vistra Operations may make distributions to Parent in amounts sufficient for Parent to make any payments required under the TRA or the Tax Matters Agreement or, to the extent arising out of Parent's ownership or operation of Vistra Operations, to pay any taxes or general operating or corporate overhead expenses. As of June 30, 2022, all of the restricted net assets of Vistra Operations may be distributed to Parent.

In addition to the restrictions under the Vistra Operations Credit Agreement, under applicable Delaware law, we are only permitted to make distributions either out of "surplus," which is defined as the excess of our net assets above our capital (the aggregate par value of all outstanding shares of our stock), or out of net profits for the fiscal year in which the distribution is declared or the prior fiscal year.

Under the terms of the Series A Preferred Stock and the Series B Preferred Stock, unless full cumulative dividends have been or contemporaneously are being paid or declared and a sum sufficient for the payment thereof set apart for payment on all outstanding Series A Preferred Stock (and any parity securities) and Series B Preferred Stock (and any parity securities), respectively, with respect to dividends through the most recent dividend payment dates, (i) no dividend may be declared or paid or set apart for payment on any junior security (other than a dividend payable solely in junior securities with respect to both dividends and the liquidation, winding-up and dissolution of our affairs), including our common stock, and (ii) we may not redeem, purchase or otherwise acquire any parity security or junior security, including our common stock, in each case subject to certain exceptions as described in the certificate of designation of the Series A Preferred Stock and the Series B Preferred Stock, respectively.

Warrants

At the Merger Date, the Company entered into an agreement whereby the holder of each outstanding warrant previously issued by Dynegy would be entitled to receive, upon paying an exercise price of \$35.00 (subject to adjustment from time to time), the number of shares of Vistra common stock that such holder would have been entitled to receive if it had held one share of Dynegy common stock at the closing of the Merger, or 0.652 shares of Vistra common stock. Accordingly, upon exercise, a warrant holder would effectively pay \$53.68 (subject to adjustment of the exercise price from time to time) per share of Vistra common stock received. In January 2022, in accordance with the terms of the warrant agreement, the exercise price of each warrant was adjusted downward to \$34.00 (subject to further adjustment from time to time), or \$52.15 (subject to adjustment of the exercise price from time to time) per share of Vistra common stock received. As of June 30, 2022, nine million warrants expiring in 2024 were outstanding. The warrants were included in equity based on their fair value at the Merger Date.

Equity

The following table presents the changes to equity for the three months ended June 30, 2022:

	Preferred Stock	Common Stock (a)	Treasury Stock	Additional Paid-in Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Noncontrolling Interest in Subsidiary	Total Equity
Balance at March 31, 2022	\$ 2,000	\$ 5	\$ (2,170)	\$ 9,844	\$ (2,363)	\$ (16)	\$ 7,300	\$ 2	\$ 7,302
Stock repurchases	—	—	(474)	—	—	—	(474)	—	(474)
Dividends declared on common stock	—	—	—	—	(75)	—	(75)	—	(75)
Dividends declared on preferred stock	—	—	—	—	(38)	—	(38)	—	(38)
Effects of stock-based incentive compensation plans	—	—	—	40	—	—	40	—	40
Net income (loss)	—	—	—	—	(1,365)	—	(1,365)	8	(1,357)
Other	—	—	(1)	6	(1)	—	4	1	5
Balance at June 30, 2022	<u>\$ 2,000</u>	<u>\$ 5</u>	<u>\$ (2,645)</u>	<u>\$ 9,890</u>	<u>\$ (3,842)</u>	<u>\$ (16)</u>	<u>\$ 5,392</u>	<u>\$ 11</u>	<u>\$ 5,403</u>

The following table presents the changes to equity for the six months ended June 30, 2022:

	Preferred Stock (a)	Common Stock (b)	Treasury Stock	Additional Paid-in Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Noncontrolling Interest in Subsidiary	Total Equity
Balance at December 31, 2021	\$ 2,000	\$ 5	\$ (1,558)	\$ 9,824	\$ (1,964)	\$ (16)	\$ 8,291	\$ 1	\$ 8,292
Stock repurchases	—	—	(1,086)	—	—	—	(1,086)	—	(1,086)
Dividends declared on common stock	—	—	—	—	(152)	—	(152)	—	(152)
Dividends declared on preferred stock	—	—	—	—	(76)	—	(76)	—	(76)
Effects of stock-based incentive compensation plans	—	—	—	58	—	—	58	—	58
Net income (loss)	—	—	—	—	(1,650)	—	(1,650)	9	(1,641)
Other	—	—	(1)	8	—	—	7	1	8
Balance at June 30, 2022	<u>\$ 2,000</u>	<u>\$ 5</u>	<u>\$ (2,645)</u>	<u>\$ 9,890</u>	<u>\$ (3,842)</u>	<u>\$ (16)</u>	<u>\$ 5,392</u>	<u>\$ 11</u>	<u>\$ 5,403</u>

- (a) Authorized shares totaled 100,000,000 at June 30, 2022. Outstanding shares of Series A Preferred Stock totaled 1,000,000 at both June 30, 2022 and December 31, 2021 and outstanding shares of Series B Preferred Stock totaled 1,000,000 at both June 30, 2022 and December 31, 2021.
- (b) Authorized shares totaled 1,800,000,000 at June 30, 2022. Outstanding common shares totaled 420,839,230 and 469,072,597 at June 30, 2022 and December 31, 2021, respectively. Treasury shares totaled 115,372,902 and 63,856,879 at June 30, 2022 and December 31, 2021, respectively.

The following table presents the changes to equity for the three months ended June 30, 2021:

	Common Stock (a)	Treasury Stock	Additional Paid-in Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Noncontrolling Interest	Total Eq
Balance at March 31, 2021	\$ 5	\$ (1,148)	\$ 9,805	\$ (2,516)	\$ (46)	\$ 6,100	\$ (7)	\$ 6,093
Dividends declared on common stock	—	—	—	(73)	—	(73)	—	(73)
Effects of stock-based incentive compensation plans	—	—	10	—	—	10	—	10
Net income (loss)	—	—	—	36	—	36	(1)	35
Change in accumulated other comprehensive income (loss)	—	—	—	—	1	1	—	1
Other	—	—	1	1	—	2	—	2
Balance at June 30, 2021	<u>\$ 5</u>	<u>\$ (1,148)</u>	<u>\$ 9,816</u>	<u>\$ (2,552)</u>	<u>\$ (45)</u>	<u>\$ 6,076</u>	<u>\$ (8)</u>	<u>\$ 6,068</u>

The following table presents the changes to equity for the six months ended June 30, 2021:

	Common Stock (a)	Treasury Stock	Additional Paid-in Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Noncontrolling Interest in Subsidiary	Total Equity
Balance at December 31, 2020	\$ 5	\$ (973)	\$ 9,786	\$ (399)	\$ (48)	\$ 8,371	\$ (10)	\$ 8,361
Stock repurchases	—	(175)	—	—	—	(175)	—	(175)
Dividends declared on common stock	—	—	—	(147)	—	(147)	—	(147)
Effects of stock-based incentive compensation plans	—	—	27	—	—	27	—	27
Net income (loss)	—	—	—	(2,006)	—	(2,006)	2	(2,004)
Change in accumulated other comprehensive income (loss)	—	—	—	—	3	3	—	3
Other	—	—	3	—	—	3	—	3
Balance at June 30, 2021	<u>\$ 5</u>	<u>\$ (1,148)</u>	<u>\$ 9,816</u>	<u>\$ (2,552)</u>	<u>\$ (45)</u>	<u>\$ 6,076</u>	<u>\$ (8)</u>	<u>\$ 6,068</u>

(a) Authorized shares totaled 1,800,000,000 at June 30, 2021. Outstanding common shares totaled 482,468,556 and 489,305,888 at June 30, 2021 and December 31, 2020, respectively. Treasury shares totaled 49,701,377 and 41,043,224 at June 30, 2021 and December 31, 2020, respectively.

13. FAIR VALUE MEASUREMENTS

We utilize several different valuation techniques to measure the fair value of assets and liabilities, relying primarily on the market approach of using prices and other market information for identical and/or comparable assets and liabilities for those items that are measured on a recurring basis. We use a mid-market valuation convention (the mid-point price between bid and ask prices) as a practical expedient to measure fair value for the majority of our assets and liabilities and use valuation techniques to maximize the use of observable inputs and minimize the use of unobservable inputs. Our valuation policies and procedures were developed, maintained and validated by a centralized risk management group that reports to the Vistra Chief Financial Officer.

Fair value measurements of derivative assets and liabilities incorporate an adjustment for credit-related nonperformance risk. These nonperformance risk adjustments take into consideration master netting arrangements, credit enhancements and the credit risks associated with our credit standing and the credit standing of our counterparties (see Note 14 for additional information regarding credit risk associated with our derivatives). We utilize credit ratings and default rate factors in calculating these fair value measurement adjustments.

We categorize our assets and liabilities recorded at fair value based upon the following fair value hierarchy:

- Level 1 valuations use quoted prices in active markets for identical assets or liabilities that are accessible at the measurement date. Our Level 1 assets and liabilities include CME or ICE (electronic commodity derivative exchanges) futures and options transacted through clearing brokers for which prices are actively quoted. We report the fair value of CME and ICE transactions without taking into consideration margin deposits, with the exception of certain margin amounts related to changes in fair value on certain CME transactions that are legally characterized as settlement of derivative contracts rather than collateral.
- Level 2 valuations utilize over-the-counter broker quotes, quoted prices for similar assets or liabilities that are corroborated by correlations or other mathematical means, and other valuation inputs such as interest rates and yield curves observable at commonly quoted intervals. We attempt to obtain multiple quotes from brokers that are active in the markets in which we participate and require at least one quote from two brokers to determine a pricing input as observable. The number of broker quotes received for certain pricing inputs varies depending on the depth of the trading market, each individual broker's publication policy, recent trading volume trends and various other factors.
- Level 3 valuations use unobservable inputs for the asset or liability. Unobservable inputs are used to the extent observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at the measurement date. We use the most meaningful information available from the market combined with internally developed valuation methodologies to develop our best estimate of fair value. Significant unobservable inputs used to develop the valuation models include volatility curves, correlation curves, illiquid pricing delivery periods and locations and credit-related nonperformance risk assumptions. These inputs and valuation models are developed and maintained by employees trained and experienced in market operations and fair value measurements and validated by the Company's risk management group.

With respect to amounts presented in the following fair value hierarchy tables, the fair value measurement of an asset or liability (*e.g.*, a contract) is required to fall in its entirety in one level, based on the lowest level input that is significant to the fair value measurement.

Assets and liabilities measured at fair value on a recurring basis consisted of the following at the respective balance sheet dates shown below:

	June 30, 2022					December 31, 2021				
	Level 1	Level 2	Level 3 (a)	Reclass (b)	Total	Level 1	Level 2	Level 3 (a)	Reclass (b)	Total
Assets:										
Commodity contracts	\$ 5,625	\$ 1,487	\$ 1,196	\$ 26	\$ 8,334	\$ 1,408	\$ 889	\$ 442	\$ 5	\$ 2,744
Interest rate swaps	—	47	—	—	47	—	19	—	—	19
Nuclear decommissioning trust – equity securities (c)	555	—	—	—	555	724	—	—	—	724
Nuclear decommissioning trust – debt securities (c)	—	626	—	—	626	—	679	—	—	679
Sub-total	<u>\$ 6,180</u>	<u>\$ 2,160</u>	<u>\$ 1,196</u>	<u>\$ 26</u>	<u>9,562</u>	<u>\$ 2,132</u>	<u>\$ 1,587</u>	<u>\$ 442</u>	<u>\$ 5</u>	<u>4,166</u>
Assets measured at net asset value (d):										
Nuclear decommissioning trust – equity securities (c)					446					557
Total assets					<u>\$ 10,008</u>					<u>\$ 4,723</u>
Liabilities:										
Commodity contracts	\$ 7,327	\$ 1,946	\$ 2,211	\$ 26	\$ 11,510	\$ 2,153	\$ 650	\$ 802	\$ 5	\$ 3,610
Interest rate swaps	—	74	—	—	74	—	217	—	—	217
Total liabilities	<u>\$ 7,327</u>	<u>\$ 2,020</u>	<u>\$ 2,211</u>	<u>\$ 26</u>	<u>\$ 11,584</u>	<u>\$ 2,153</u>	<u>\$ 867</u>	<u>\$ 802</u>	<u>\$ 5</u>	<u>\$ 3,827</u>

(a) See table below for description of Level 3 assets and liabilities.

(b) Fair values are determined on a contract basis, but certain contracts result in a current asset and a noncurrent liability, or vice versa, as presented in our condensed consolidated balance sheets.

(c) The nuclear decommissioning trust investment is included in the other investments line in our condensed consolidated balance sheets. See Note 17.

(d) The fair value amounts presented in this line are intended to permit reconciliation of the fair value hierarchy to the amounts presented in our condensed consolidated balance sheets. Certain investments measured at fair value using the net asset value per share (or its equivalent) have not been classified in the fair value hierarchy.

Commodity contracts consist primarily of natural gas, electricity, coal and emissions agreements and include financial instruments entered into for economic hedging purposes as well as physical contracts that have not been designated as NPNS. Interest rate swaps are used to reduce exposure to interest rate changes by converting floating-rate interest to fixed rates. See Note 14 for further discussion regarding derivative instruments.

Nuclear decommissioning trust assets represent securities held for the purpose of funding the future retirement and decommissioning of our nuclear generation facility. These investments include equity, debt and other fixed-income securities consistent with investment rules established by the NRC and the PUCT.

The following tables present the fair value of the Level 3 assets and liabilities by major contract type and the significant unobservable inputs used in the valuations at June 30, 2022 and December 31, 2021:

June 30, 2022								
Contract Type (a)	Fair Value			Valuation Technique	Significant Unobservable Input	Range (b)		Average (b)
	Assets	Liabilities	Total					
Electricity purchases and sales	\$ 891	\$ (1,457)	\$ (566)	Income Approach	Hourly price curve shape (c)	\$ —	to \$75 MWh	\$37
					Illiquid delivery periods for hub power prices and heat rates (d)	\$ 45	to \$120 MWh	\$83
Options	—	(541)	(541)	Option Pricing Model	Gas to power correlation (e)	10 %	to 100%	56%
					Power and gas volatility (e)	5 %	to 570%	287%
Financial transmission rights	166	(47)	119	Market Approach (f)	Illiquid price differences between settlement points (g)	\$ (15)	to \$10 MWh	\$(2)
Natural gas	89	(156)	(67)	Income Approach	Gas basis and illiquid delivery periods (h)	\$ —	to \$15 MMBtu	\$7
Coal	36	—	36	Income Approach	Probability of default (i)	—%	to 40%	20 %
					Recovery rate (j)	—%	to 40%	20 %
Other (k)	14	(10)	4					
Total	<u>\$ 1,196</u>	<u>\$ (2,211)</u>	<u>\$ (1,015)</u>					
December 31, 2021								
Contract Type (a)	Fair Value			Valuation Technique	Significant Unobservable Input	Range (b)		Average (b)
	Assets	Liabilities	Total					
Electricity purchases and sales	\$ 204	\$ (470)	\$ (266)	Income Approach	Hourly price curve shape (c)	\$ —	to \$60 MWh	\$30
					Illiquid delivery periods for hub power prices and heat rates (d)	\$ 20	to \$140 MWh	\$80
Options	1	(209)	(208)	Option Pricing Model	Gas to power correlation (e)	10 %	to 100%	56%
					Power and gas volatility (e)	5 %	to 490%	248%
Financial transmission rights	122	(34)	88	Market Approach (f)	Illiquid price differences between settlement points (g)	\$ (30)	to \$10 MWh	\$(9)
Natural gas	29	(86)	(57)	Income Approach	Gas basis (h)	\$ (1)	to \$16 MMBtu	\$8
Coal	61	—	61	Income Approach	Probability of default (i)	—%	to 40%	20 %
					Recovery rate (j)	—%	to 40%	20 %
Other (k)	25	(3)	22					
Total	<u>\$ 442</u>	<u>\$ (802)</u>	<u>\$ (360)</u>					

- (a) Electricity purchase and sales contracts include power and heat rate positions in ERCOT, PJM, ISO-NE, NYISO and MISO regions. The forward purchase contracts (swaps and options) used to hedge electricity price differences between settlement points are referred to as congestion revenue rights (CRRs) in ERCOT and financial transmission rights (FTRs) in PJM, ISO-NE, NYISO and MISO regions. Options consist of physical electricity options, spread options, swaptions and natural gas options.
- (b) The range of the inputs may be influenced by factors such as time of day, delivery period, season and location. The average represents the arithmetic average of the underlying inputs and is not weighted by the related fair value or notional amount.
- (c) Primarily based on the historical range of forward average hourly ERCOT North Hub prices.

- (d) Primarily based on historical forward ERCOT and PJM power prices and ERCOT heat rate variability.
- (e) Primarily based on the historical forward correlation and volatility within ERCOT and PJM.
- (f) While we use the market approach, there is insufficient market data to consider the valuation liquid.
- (g) Primarily based on the historical price differences between settlement points within ERCOT hubs and load zones.
- (h) Primarily based on the historical forward PJM and Northeast gas basis prices and fixed prices.
- (i) Estimate of the range of probabilities of default based on past experience, the length of the contract, and both the Company's and the counterparty's credit ratings.
- (j) Estimate of the default recovery rate based on historical corporate rates.
- (k) Other includes contracts for environmental allowances.

See the table below for discussion of transfers between Level 2 and Level 3 for the three and six months ended June 30, 2022 and 2021.

The following table presents the changes in fair value of the Level 3 assets and liabilities for the three and six months ended June 30, 2022 and 2021.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Net asset (liability) balance at beginning of period	\$ (629)	\$ 204	\$ (360)	\$ 22
Total unrealized valuation gains (losses) (a)	(572)	(16)	(1,021)	174
Purchases, issuances and settlements (b):				
Purchases	57	23	95	40
Issuances	(31)	(4)	(42)	(10)
Settlements	77	(146)	174	(166)
Transfers into Level 3 (c)	38	—	39	2
Transfers out of Level 3 (c)	45	(15)	100	(16)
Net change (d)	(386)	(158)	(655)	24
Net asset (liability) balance at end of period	\$ (1,015)	\$ 46	\$ (1,015)	\$ 46
Unrealized valuation gains (losses) relating to instruments held at end of period	\$ (489)	\$ 3	\$ (743)	\$ 49

- (a) During both the three and six months ended June 30, 2022, includes a net loss of \$178 million due to the discontinuance of NPNS accounting on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions.
- (b) Settlements reflect reversals of unrealized mark-to-market valuations previously recognized in net income. Purchases and issuances reflect option premiums paid or received, including CRRs and FTRs.
- (c) Includes transfers due to changes in the observability of significant inputs. All Level 3 transfers during the periods presented are in and out of Level 2. For the three and six months ended June 30, 2022, transfers into Level 3 primarily consist of power derivatives where forward pricing inputs have become unobservable and transfers out of Level 3 primarily consist of power and coal derivatives where forward pricing inputs have become observable. For the three and six months ended June 30, 2021, transfers out of Level 3 primarily consist of gas and power derivatives where forward pricing inputs have become observable.
- (d) Activity excludes change in fair value in the month positions settle. Substantially all changes in values of commodity contracts are reported as operating revenues in our condensed consolidated statements of operations.

14. COMMODITY AND OTHER DERIVATIVE CONTRACTUAL ASSETS AND LIABILITIES

Strategic Use of Derivatives

We transact in derivative instruments, such as options, swaps, futures and forward contracts, to manage commodity price and interest rate risk. See Note 13 for a discussion of the fair value of derivatives.

Commodity Hedging and Trading Activity — We utilize natural gas and electricity derivatives to reduce exposure to changes in electricity prices primarily to hedge future revenues from electricity sales from our generation assets and to hedge future purchased power costs for our retail operations. We also utilize short-term electricity, natural gas, coal and emissions derivative instruments for fuel hedging and other purposes. Counterparties to these transactions include energy companies, financial institutions, electric utilities, independent power producers, fuel oil and gas producers, local distribution companies and energy marketing companies. Unrealized gains and losses arising from changes in the fair value of derivative instruments as well as realized gains and losses upon settlement of the instruments are reported in our condensed consolidated statements of operations in operating revenues and fuel, purchased power costs and delivery fees.

Interest Rate Swaps — Interest rate swap agreements are used to reduce exposure to interest rate changes by converting floating-rate interest rates to fixed rates, thereby hedging future interest costs and related cash flows. Unrealized gains and losses arising from changes in the fair value of the swaps as well as realized gains and losses upon settlement of the swaps are reported in our condensed consolidated statements of operations in interest expense and related charges. During 2019, Vistra entered into \$2.12 billion of new interest rate swaps, pursuant to which Vistra will pay a variable rate and receive a fixed rate. The terms of these new swaps were matched against the terms of certain existing swaps, effectively offsetting the hedge of the existing swaps and fixing the out-of-the-money position of such swaps. These matched swaps will settle over time, in accordance with the original contractual terms. The remaining existing swaps continue to hedge our exposure on \$2.30 billion of debt through July 2026.

Financial Statement Effects of Derivatives

Substantially all derivative contractual assets and liabilities are accounted for under mark-to-market accounting consistent with accounting standards related to derivative instruments and hedging activities. The following tables provide detail of derivative contractual assets and liabilities as reported in our condensed consolidated balance sheets at June 30, 2022 and December 31, 2021. Derivative asset and liability totals represent the net value of the contract, while the balance sheet totals represent the gross value of the contract. During both the three and six months ended June 30, 2022, a net loss of \$414 million was recognized in operating revenues due to the discontinuance of NPNS accounting on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions. These amounts are reflected in commodity contracts derivative liabilities at June 30, 2022.

	June 30, 2022				
	Derivative Assets		Derivative Liabilities		Total
	Commodity Contracts	Interest Rate Swaps	Commodity Contracts	Interest Rate Swaps	
Current assets	\$ 7,410	\$ 39	\$ 8	\$ —	\$ 7,457
Noncurrent assets	913	8	3	—	924
Current liabilities	(7)	—	(9,904)	(23)	(9,934)
Noncurrent liabilities	(8)	—	(1,591)	(51)	(1,650)
Net assets (liabilities)	\$ 8,308	\$ 47	\$ (11,484)	\$ (74)	\$ (3,203)

	December 31, 2021				
	Derivative Assets		Derivative Liabilities		Total
	Commodity Contracts	Interest Rate Swaps	Commodity Contracts	Interest Rate Swaps	
Current assets	\$ 2,496	\$ 14	\$ 3	\$ —	\$ 2,513
Noncurrent assets	244	5	1	—	250
Current liabilities	—	—	(2,964)	(59)	(3,023)
Noncurrent liabilities	(1)	—	(645)	(158)	(804)
Net assets (liabilities)	\$ 2,739	\$ 19	\$ (3,605)	\$ (217)	\$ (1,064)

At June 30, 2022 and December 31, 2021, there were no derivative positions accounted for as cash flow or fair value hedges.

The following table presents the pre-tax effect of derivative gains (losses) on net income, including realized and unrealized effects. Amount represents changes in fair value of positions in the derivative portfolio during the period, as realized amounts related to positions settled are assumed to equal reversals of previously recorded unrealized amounts.

Derivative (condensed consolidated statements of operations presentation)	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Commodity contracts (Operating revenues)	\$ (2,180)	\$ (183)	\$ (3,007)	\$ (98)
Commodity contracts (Fuel, purchased power costs and delivery fees)	249	74	341	115
Interest rate swaps (Interest expense and related charges)	35	(22)	149	53
Net gain (loss)	<u>\$ (1,896)</u>	<u>\$ (131)</u>	<u>\$ (2,517)</u>	<u>\$ 70</u>

Balance Sheet Presentation of Derivatives

We elect to report derivative assets and liabilities in our condensed consolidated balance sheets on a gross basis without taking into consideration netting arrangements we have with counterparties to those derivatives. We maintain standardized master netting agreements with certain counterparties that allow for the right to offset assets and liabilities and collateral in order to reduce credit exposure between us and the counterparty. These agreements contain specific language related to margin requirements, monthly settlement netting, cross-commodity netting and early termination netting, which is negotiated with the contract counterparty.

Generally, margin deposits that contractually offset these derivative instruments are reported separately in our condensed consolidated balance sheets, with the exception of certain margin amounts related to changes in fair value on CME transactions that are legally characterized as settlement of forward exposure rather than collateral. Margin deposits received from counterparties are primarily used for working capital or other general corporate purposes.

The following tables reconcile our derivative assets and liabilities on a contract basis to net amounts after taking into consideration netting arrangements with counterparties and financial collateral:

	June 30, 2022				December 31, 2021			
	Derivative Assets and Liabilities	Offsetting Instruments (a)	Cash Collateral (Received) Pledged (b)	Net Amounts	Derivative Assets and Liabilities	Offsetting Instruments (a)	Cash Collateral (Received) Pledged (b)	Net Amounts
Derivative assets:								
Commodity contracts	\$ 8,308	\$ (7,362)	\$ (30)	\$ 916	\$ 2,739	\$ (2,051)	\$ (27)	\$ 661
Interest rate swaps	47	(43)	—	4	19	(19)	—	—
Total derivative assets	<u>8,355</u>	<u>(7,405)</u>	<u>(30)</u>	<u>920</u>	<u>2,758</u>	<u>(2,070)</u>	<u>(27)</u>	<u>661</u>
Derivative liabilities:								
Commodity contracts	(11,484)	7,362	1,881	(2,241)	(3,605)	2,051	784	(770)
Interest rate swaps	(74)	43	—	(31)	(217)	19	—	(198)
Total derivative liabilities	<u>(11,558)</u>	<u>7,405</u>	<u>1,881</u>	<u>(2,272)</u>	<u>(3,822)</u>	<u>2,070</u>	<u>784</u>	<u>(968)</u>
Net amounts	<u>\$ (3,203)</u>	<u>\$ —</u>	<u>\$ 1,851</u>	<u>\$ (1,352)</u>	<u>\$ (1,064)</u>	<u>\$ —</u>	<u>\$ 757</u>	<u>\$ (307)</u>

(a) Amounts presented exclude trade accounts receivable and payable related to settled financial instruments.

(b) Represents cash amounts received or pledged pursuant to a master netting arrangement, including fair value-based margin requirements, and to a lesser extent, initial margin requirements.

Derivative Volumes

The following table presents the gross notional amounts of derivative volumes at June 30, 2022 and December 31, 2021:

Derivative type	Notional Volume		Unit of Measure
	June 30, 2022	December 31, 2021	
Natural gas (a)	7,266	4,701	Million MMBtu
Electricity	716,650	440,236	GWh
Financial transmission rights (b)	247,006	224,876	GWh
Coal	53	25	Million U.S. tons
Fuel oil	109	87	Million gallons
Emissions	71	18	Million tons
Renewable energy certificates	30	32	Million certificates
Interest rate swaps – variable/fixed (c)	\$ 6,720	\$ 6,720	Million U.S. dollars
Interest rate swaps – fixed/variable (c)	\$ 2,120	\$ 2,120	Million U.S. dollars

(a) Represents gross notional forward sales, purchases and options transactions, locational basis swaps and other natural gas transactions.

(b) Represents gross forward purchases associated with instruments used to hedge electricity price differences between settlement points within regions.

(c) Includes notional amounts of interest rate swaps with maturity dates through July 2026.

Credit Risk-Related Contingent Features of Derivatives

Our derivative contracts may contain certain credit risk-related contingent features that could trigger liquidity requirements in the form of cash collateral, letters of credit or some other form of credit enhancement. Certain of these agreements require the posting of collateral if our credit rating is downgraded by one or more credit rating agencies or include cross-default contractual provisions that could result in the settlement of such contracts if there was a failure under other financing arrangements related to payment terms or other covenants.

The following table presents the commodity derivative liabilities subject to credit risk-related contingent features that are not fully collateralized:

	June 30, 2022	December 31, 2021
Fair value of derivative contract liabilities (a)	\$ (2,817)	\$ (1,200)
Offsetting fair value under netting arrangements (b)	1,757	660
Cash collateral and letters of credit	436	95
Liquidity exposure	\$ (624)	\$ (445)

(a) Excludes fair value of contracts that contain contingent features that do not provide specific amounts to be posted if features are triggered, including provisions that generally provide the right to request additional collateral (material adverse change, performance assurance and other clauses).

(b) Amounts include the offsetting fair value of in-the-money derivative contracts and net accounts receivable under master netting arrangements.

Concentrations of Credit Risk Related to Derivatives

We have concentrations of credit risk with the counterparties to our derivative contracts. At June 30, 2022, total credit risk exposure to all counterparties related to derivative contracts totaled \$8.695 billion (including associated accounts receivable). The net exposure to those counterparties totaled \$1.012 billion at June 30, 2022, after taking into effect netting arrangements, setoff provisions and collateral, with the largest net exposure to ERCOT totaling \$178 million. At June 30, 2022, the credit risk exposure to the banking and financial sector represented 84% of the total credit risk exposure and 24% of the net exposure.

Exposure to banking and financial sector counterparties is considered to be within an acceptable level of risk tolerance because all of this exposure is with counterparties with investment grade credit ratings. However, this concentration increases the risk that a default by any of these counterparties would have a material effect on our financial condition, results of operations and liquidity. The transactions with these counterparties contain certain provisions that would require the counterparties to post collateral in the event of a material downgrade in their credit rating.

We maintain credit risk policies with regard to our counterparties to minimize overall credit risk. These policies authorize specific risk mitigation tools including, but not limited to, use of standardized master agreements that allow for netting of positive and negative exposures associated with a single counterparty. Credit enhancements such as parent guarantees, letters of credit, surety bonds, liens on assets and margin deposits are also utilized. Prospective material changes in the payment history or financial condition of a counterparty or downgrade of its credit quality result in the reassessment of the credit limit with that counterparty. The process can result in the subsequent reduction of the credit limit or a request for additional financial assurances. An event of default by one or more counterparties could subsequently result in termination-related settlement payments that reduce available liquidity if amounts are owed to the counterparties related to the derivative contracts or delays in receipts of expected settlements if the counterparties owe amounts to us.

15. RELATED PARTY TRANSACTIONS

In connection with Emergence, we entered into agreements with certain of our affiliates and with parties who received shares of common stock and TRA Rights in exchange for their claims.

Registration Rights Agreement

Pursuant to the Plan of Reorganization, on the Effective Date, we entered into a Registration Rights Agreement (the RRA) with certain selling stockholders. Pursuant to the RRA, we maintain a registration statement on Form S-3 providing for registration of the resale of the Vistra common stock held by such selling stockholders. In addition, under the terms of the RRA, among other things, if we propose to file certain types of registration statements under the Securities Act with respect to an offering of equity securities, we will be required to use our reasonable best efforts to offer the other parties to the RRA the opportunity to register all or part of their shares on the terms and conditions set forth in the RRA.

Tax Receivable Agreement

On the Effective Date, Vistra entered into the TRA with a transfer agent on behalf of certain former first-lien creditors of TCEH. See Note 7 for discussion of the TRA.

16. SEGMENT INFORMATION

The operations of Vistra are aligned into six reportable business segments: (i) Retail, (ii) Texas, (iii) East, (iv) West, (v) Sunset and (vi) Asset Closure.

Our Chief Operating Decision Maker (CODM) reviews the results of these segments separately and allocates resources to the respective segments as part of our strategic operations. A measure of assets is not applicable, as segment assets are not regularly reviewed by the CODM for evaluating performance or allocating resources.

The Retail segment is engaged in retail sales of electricity and natural gas to residential, commercial and industrial customers. Substantially all of these activities are conducted by TXU Energy, Ambit, Value Based Brands, Dynegy Energy Services, Homefield Energy, TriEagle Energy, Public Power and U.S. Gas & Electric across 19 states in the U.S.

The Texas and East segments are engaged in electricity generation, wholesale energy sales and purchases, commodity risk management activities, fuel production and fuel logistics management. The Texas segment represents results from Vistra's electricity generation operations in the ERCOT market, other than assets that are now part of the Sunset or Asset Closure segments. The East segment represents results from Vistra's electricity generation operations in the Eastern Interconnection of the U.S. electric grid, other than assets that are now part of the Sunset or Asset Closure segments, respectively, and includes operations in the PJM, ISO-NE and NYISO markets. We determined it was appropriate to aggregate results from these markets into one reportable segment, East, given similar economic characteristics.

The West segment represents results from the CAISO market, including our development of battery ESS projects at our Moss Landing and Oakland power plant sites (see Note 2).

The Sunset segment consists of generation plants with announced retirement dates after December 31, 2022. Separately reporting the Sunset segment differentiates operating plants with announced retirement plans from our other operating plants in the Texas, East and West segments. We have allocated unrealized gains and losses on the commodity risk management activities to the Sunset segment for the generation plants that have announced retirement dates after December 31, 2022.

The Asset Closure segment is engaged in the decommissioning and reclamation of retired plants and mines (see Note 3). The Asset Closure segment also includes results from generation plants we plan to retire in the year ended December 31, 2022. Separately reporting the Asset Closure segment provides management with better information related to the performance and earnings power of Vistra's ongoing operations and facilitates management's focus on minimizing the cost associated with decommissioning and reclamation of retired plants and mines. We have allocated unrealized gains and losses on the commodity risk management activities attributable to the plants scheduled to be retired in 2022.

Corporate and Other represents the remaining non-segment operations consisting primarily of general corporate expenses, interest, taxes and other expenses related to our support functions that provide shared services to our operating segments.

The accounting policies of the business segments are the same as those described in the summary of significant accounting policies in Note 1 of our 2021 Form 10-K. Our CODM uses more than one measure to assess segment performance, including segment net income (loss), which is the measure most comparable to consolidated net income (loss) prepared based on U.S. GAAP. We account for intersegment sales and transfers as if the sales or transfers were to third parties, that is, at market prices. Certain shared services costs are allocated to the segments.

Three months ended	Retail	Texas	East	West	Sunset	Asset Closure	Corporate and Other (b)	Eliminations	Consolidated
Operating revenues (a):									
June 30, 2022	\$ 1,792	\$ (623)	\$ 319	\$ 79	\$ (83)	\$ 121	\$ —	\$ (17)	\$ 1,588
June 30, 2021	1,919	(468)	505	48	(7)	(41)	—	609	2,565
Depreciation and amortization:									
June 30, 2022	\$ (36)	\$ (146)	\$ (179)	\$ 11	\$ (18)	\$ (9)	\$ (17)	\$ —	\$ (394)
June 30, 2021	(54)	(159)	(193)	(10)	(26)	(4)	(18)	—	(464)
Operating income (loss):									
June 30, 2022	\$ 910	\$ (1,706)	\$ (661)	\$ 24	\$ (168)	\$ (50)	\$ (32)	\$ —	\$ (1,683)
June 30, 2021	1,811	(1,167)	(95)	(18)	(249)	(194)	(26)	—	62
Net income (loss):									
June 30, 2022	\$ 898	\$ (1,638)	\$ (662)	\$ 25	\$ (168)	\$ (45)	\$ 233	\$ —	\$ (1,357)
June 30, 2021	1,810	(1,138)	(100)	(13)	(246)	(192)	(86)	—	35
Six Months ended	Retail	Texas	East	West	Sunset	Asset Closure	Corporate and Other (b)	Eliminations	Consolidated
Operating revenues (a):									
June 30, 2022	\$ 3,617	\$ (1,718)	\$ 1,274	\$ 151	\$ (223)	\$ 228	\$ —	\$ 1,384	\$ 4,713
June 30, 2021	3,669	615	1,230	81	249	(19)	—	(53)	5,772
Depreciation and amortization:									
June 30, 2022	\$ (72)	\$ (269)	\$ (358)	\$ (31)	\$ (37)	\$ (23)	\$ (34)	\$ —	\$ (824)
June 30, 2021	(107)	(283)	(389)	(15)	(51)	(8)	(34)	—	(887)
Operating income (loss):									
June 30, 2022	\$ 3,342	\$ (3,684)	\$ (788)	\$ (37)	\$ (618)	\$ (113)	\$ (74)	\$ —	\$ (1,972)
June 30, 2021	1,905	(3,723)	(92)	(52)	(246)	(258)	(55)	—	(2,521)
Net income (loss) (b):									
June 30, 2022	\$ 3,326	\$ (3,610)	\$ (791)	\$ (36)	\$ (619)	\$ (107)	\$ 196	\$ —	\$ (1,641)
June 30, 2021	1,898	(3,656)	(99)	(44)	(241)	(239)	377	—	(2,004)
Capital expenditures, including nuclear fuel and excluding LTSA prepayments and development and growth expenditures:									
June 30, 2022	\$ —	\$ 228	\$ 18	\$ 25	\$ 11	\$ —	\$ 24	\$ —	\$ 306
June 30, 2021	—	142	26	2	11	4	21	—	206

(a) The following unrealized net gains (losses) from mark-to-market valuations of commodity positions are included in operating revenues:

Three months ended	Retail (1)	Texas	East	West	Sunset	Asset Closure	Corporate and Other	Eliminations (2)	Consolidated
June 30, 2022	\$ (667)	\$ (1,652)	\$ (649)	\$ (33)	\$ (290)	\$ 37	\$ —	\$ 1,166	\$ (2,088)
June 30, 2021	(18)	(1,116)	(148)	(35)	(259)	(103)	—	1,336	(343)
Six Months ended	Retail (1)	Texas	East	West	Sunset	Asset Closure	Corporate and Other	Eliminations (2)	Consolidated
June 30, 2022	\$ (1,037)	\$ (3,625)	\$ (849)	\$ (79)	\$ (725)	\$ 30	\$ —	\$ 3,838	\$ (2,447)
June 30, 2021	(22)	(1,657)	(183)	(88)	(330)	(131)	—	2,126	(285)

- (1) For both the three and six months ended June 30, 2022, Retail segment includes unrealized net losses of \$414 million due to the discontinuance of NPNS accounting on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions.
- (2) Amounts attributable to generation segments offset in fuel, purchased power costs and delivery fees in the Retail segment, with no impact to consolidated results.

- (b) Income tax (expense) benefit is generally not reflected in net income (loss) of the segments but is reflected almost entirely in Corporate and Other net income (loss).

17. SUPPLEMENTARY FINANCIAL INFORMATION

Impairment of Long-Lived Assets

In the second quarter of 2021, we recognized an impairment loss of \$38 million related to our Zimmer generation facility in Ohio as a result of a significant decrease in the estimated useful life of the facility, reflecting a decrease in the economic forecast of the facility and the inability to secure capacity revenues for the plant in the PJM capacity auction held in May 2021. The impairment is reported in our Asset Closure segment and includes write-downs of property, plant and equipment of \$33 million and write-downs of inventory of \$5 million in the second quarter of 2021.

Interest Expense and Related Charges

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Interest paid/accrued	\$ 147	\$ 118	\$ 273	\$ 230
Unrealized mark-to-market net (gains) losses on interest rate swaps	(45)	9	(171)	(79)
Amortization of debt issuance costs, discounts and premiums	7	9	13	14
Debt extinguishment loss	—	1	—	1
Capitalized interest	(8)	(10)	(14)	(18)
Other	8	8	15	16
Total interest expense and related charges	\$ 109	\$ 135	\$ 116	\$ 164

The weighted average interest rate applicable to the Vistra Operations Credit Facilities, taking into account the interest rate swaps discussed in Note 10, was 4.05% and 3.89% at June 30, 2022 and 2021.

Other Income and Deductions

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Other income:				
Insurance settlements (a)	\$ 62	\$ 27	\$ 63	\$ 65
Gain on settlement of rail transportation disputes (b)	—	—	—	15
Sale of land (b)	5	1	5	1
Interest income	2	—	2	—
All other	2	8	7	11
Total other income	\$ 71	\$ 36	\$ 77	\$ 92
Other deductions:				
All other	9	2	13	7
Total other deductions	\$ 9	\$ 2	\$ 13	\$ 7

- (a) For the three months ended June 30, 2022, reported in the Texas segment. For the six months ended June 30, 2022, \$62 million reported in the Texas segment and \$1 million reported in the Corporate and Other non-segment. For the three months ended June 30, 2021, reported in the Texas segment. For the six months ended June 30, 2021, \$63 million reported in the Texas segment and \$2 million reported in the Corporate and Other non-segment.
- (b) Reported in the Asset Closure segment.

Restricted Cash

	June 30, 2022		December 31, 2021	
	Current Assets	Noncurrent Assets	Current Assets	Noncurrent Assets
Amounts related to remediation escrow accounts	\$ 25	\$ 11	\$ 21	\$ 13
Total restricted cash	\$ 25	\$ 11	\$ 21	\$ 13

Trade Accounts Receivable

	June 30, 2022	December 31, 2021
Wholesale and retail trade accounts receivable	\$ 1,842	\$ 1,442
Allowance for uncollectible accounts	(52)	(45)
Trade accounts receivable — net	\$ 1,790	\$ 1,397

Gross trade accounts receivable at June 30, 2022 and December 31, 2021 included unbilled retail revenues of \$633 million and \$426 million, respectively.

Allowance for Uncollectible Accounts Receivable

	Six Months Ended June 30,	
	2022	2021
Allowance for uncollectible accounts receivable at beginning of period	\$ 45	\$ 45
Increase for bad debt expense	65	55
Decrease for account write-offs	(58)	(49)
Allowance for uncollectible accounts receivable at end of period	\$ 52	\$ 51

Inventories by Major Category

	June 30, 2022	December 31, 2021
Materials and supplies	\$ 264	\$ 260
Fuel stock	276	314
Natural gas in storage	61	36
Total inventories	\$ 601	\$ 610

Investments

	June 30, 2022	December 31, 2021
Nuclear plant decommissioning trust	\$ 1,627	\$ 1,960
Assets related to employee benefit plans	41	42
Land	42	44
Miscellaneous other	5	3
Total investments	\$ 1,715	\$ 2,049

Nuclear Decommissioning Trust

Investments in a trust that will be used to fund the costs to decommission the Comanche Peak nuclear generation plant are carried at fair value. Decommissioning costs are being recovered from Oncor Electric Delivery Company LLC's (Oncor) customers as a delivery fee surcharge over the life of the plant and deposited by Vistra (and prior to the Effective Date, a subsidiary of TCEH) in the trust fund. Income and expense, including gains and losses associated with the trust fund assets and the decommissioning liability are offset by a corresponding change in a regulatory asset/liability (currently a regulatory asset reported in other noncurrent assets) that will ultimately be settled through changes in Oncor's delivery fees rates. If funds recovered from Oncor's customers held in the trust fund are determined to be inadequate to decommission the Comanche Peak nuclear generation plant, Oncor would be required to collect all additional amounts from its customers, with no obligation from Vistra, provided that Vistra complied with PUCT rules and regulations regarding decommissioning trusts. A summary of the fair market value of investments in the fund follows:

	June 30, 2022	December 31, 2021
Debt securities (a)	\$ 626	\$ 679
Equity securities (b)	1,001	1,281
Total	<u>\$ 1,627</u>	<u>\$ 1,960</u>

- (a) The investment objective for debt securities is to invest in a diversified tax efficient portfolio with an overall portfolio rating of AA or above as graded by S&P or Aa2 by Moody's. The debt securities are heavily weighted with government and municipal bonds and investment grade corporate bonds. The debt securities had an average coupon rate 2.62% and 2.54% at June 30, 2022 and December 31, 2021, respectively, and an average maturity of 12 years and 10 years at June 30, 2022 and December 31, 2021, respectively.
- (b) The investment objective for equity securities is to invest tax efficiently and to match the performance of the S&P 500 Index for U.S. equity investments and the MSCI EAFE Index for non-U.S. equity investments.

Debt securities held at June 30, 2022 mature as follows: \$221 million in one to five years, \$149 million in five to 10 years and \$256 million after 10 years.

The following table summarizes proceeds from sales of securities and investments in new securities.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Proceeds from sales of securities	\$ 236	\$ 134	\$ 334	\$ 267
Investments in securities	\$ (242)	\$ (139)	\$ (345)	\$ (277)

Property, Plant and Equipment

	June 30, 2022	December 31, 2021
Power generation and structures	\$ 16,599	\$ 16,195
Land	589	608
Office and other equipment	190	183
Total	17,378	16,986
Less accumulated depreciation	(5,368)	(4,801)
Net of accumulated depreciation	12,010	12,185
Finance lease right-of-use assets (net of accumulated depreciation)	171	173
Nuclear fuel (net of accumulated amortization of \$106 million and \$125 million)	259	212
Construction work in progress	344	486
Property, plant and equipment — net	<u>\$ 12,784</u>	<u>\$ 13,056</u>

Depreciation expenses totaled \$341 million and \$394 million for three months ended June 30, 2022 and 2021, respectively, and \$719 million and \$749 million for six months ended June 30, 2022 and 2021, respectively.

Asset Retirement and Mining Reclamation Obligations (ARO)

These liabilities primarily relate to nuclear generation plant decommissioning, land reclamation related to lignite mining, remediation or closure of coal ash basins, and generation plant disposal costs. There is no earnings impact with respect to changes in the nuclear plant decommissioning liability, as all costs are recoverable through the regulatory process as part of delivery fees charged by Oncor. As of June 30, 2022 and December 31, 2021, asbestos removal liabilities totaled zero and \$3 million, respectively. We have also identified conditional AROs for asbestos removal and disposal, which are specific to certain generation assets.

At June 30, 2022, the carrying value of our ARO related to our nuclear generation plant decommissioning totaled \$1.661 billion, which is higher than the fair value of the assets contained in the nuclear decommissioning trust. Since the costs to ultimately decommission that plant are recoverable through the regulatory rate making process as part of Oncor's delivery fees, a corresponding regulatory asset has been recorded to our condensed consolidated balance sheet of \$34 million in other noncurrent assets.

The following table summarizes the changes to these obligations, reported as AROs (current and noncurrent liabilities) in our condensed consolidated balance sheets, for the six months ended June 30, 2022 and 2021.

	Six Months Ended June 30, 2022				Six Months Ended June 30, 2021			
	Nuclear Plant Decommissioning	Mining Land Reclamation	Coal Ash and Other	Total	Nuclear Plant Decommissioning	Mining Land Reclamation	Coal Ash and Other	Total
Liability at beginning of period	\$ 1,635	\$ 320	\$ 495	\$ 2,450	\$ 1,585	\$ 359	\$ 492	\$ 2,436
Additions:								
Accretion	26	7	10	43	25	8	11	44
Adjustment for change in estimates	—	(2)	5	3	—	1	4	5
Reductions:								
Payments	—	(37)	(9)	(46)	—	(28)	(8)	(36)
Liability at end of period	1,661	288	501	2,450	1,610	340	499	2,449
Less amounts due currently	—	(98)	(14)	(112)	—	(87)	(16)	(103)
Noncurrent liability at end of period	\$ 1,661	\$ 190	\$ 487	\$ 2,338	\$ 1,610	\$ 253	\$ 483	\$ 2,346

Other Noncurrent Liabilities and Deferred Credits

The balance of other noncurrent liabilities and deferred credits consists of the following:

	June 30, 2022	December 31, 2021
Retirement and other employee benefits	\$ 276	\$ 276
Winter Storm Uri impact (a)	170	261
Identifiable intangible liabilities (Note 5)	144	147
Regulatory liability (b)	—	325
Finance lease liabilities	238	235
Uncertain tax positions, including accrued interest	13	13
Liability for third-party remediation	18	17
Accrued severance costs	36	39
Other accrued expenses	188	176
Total other noncurrent liabilities and deferred credits	\$ 1,083	\$ 1,489

(a) Includes the allocation of ERCOT default uplift charges and future bill credits related to large commercial and industrial customers that curtailed during Winter Storm Uri.

- (b) As of June 30, 2022, the carrying value of our ARO related to our nuclear generation plant decommissioning was higher than the fair value of the assets contained in the nuclear decommissioning trust and recorded as a regulatory asset of \$34 million in other noncurrent assets. As of December 31, 2021, the fair value of the assets contained in the nuclear decommissioning trust was higher than the carrying value of our ARO related to our nuclear generation plant decommissioning and recorded as a regulatory liability of \$325 million in other noncurrent liabilities and deferred credits.

Fair Value of Debt

		June 30, 2022		December 31, 2021	
Long-term debt (see Note 10):	Fair Value Hierarchy	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Long-term debt under the Vistra Operations Credit Facilities	Level 2	\$ 2,534	\$ 2,409	\$ 2,549	\$ 2,518
Vistra Operations Senior Notes	Level 2	9,368	8,781	7,880	8,193
Forward Capacity Agreements	Level 3	—	—	211	211
Equipment Financing Agreements	Level 3	85	85	85	85
Building Financing	Level 2	—	—	3	3
Other debt	Level 3	3	3	3	3

We determine fair value in accordance with accounting standards as discussed in Note 13. We obtain security pricing from an independent party who uses broker quotes and third-party pricing services to determine fair values. Where relevant, these prices are validated through subscription services, such as Bloomberg.

Supplemental Cash Flow Information

The following table reconciles cash, cash equivalents and restricted cash reported in our condensed consolidated statements of cash flows to the amounts reported in our condensed consolidated balance sheets at June 30, 2022 and December 31, 2021:

	June 30, 2022	December 31, 2021
Cash and cash equivalents	\$ 1,871	\$ 1,325
Restricted cash included in current assets	25	21
Restricted cash included in noncurrent assets	11	13
Total cash, cash equivalents and restricted cash	<u>\$ 1,907</u>	<u>\$ 1,359</u>

The following table summarizes our supplemental cash flow information for the six months ended June 30, 2022 and 2021:

	Six Months Ended June 30,	
	2022	2021
Cash payments related to:		
Interest paid	\$ 264	\$ 230
Capitalized interest	(14)	(18)
Interest paid (net of capitalized interest)	\$ 250	\$ 212
Income taxes paid (refunds received) (a)	\$ 10	\$ 35

- (a) For the six months ended June 30, 2022 and 2021, we paid state income taxes of \$18 million and \$37 million, respectively, and received state tax refunds of \$8 million and \$2 million, respectively.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The discussion below, as well as other portions of this quarterly report on Form 10-Q, contain forward-looking statements within the meaning of Section 27A of the Securities Act, Section 21E of the Exchange Act and the Private Securities Litigation Reform Act of 1995. In addition, management may make forward-looking statements orally or in other writing, including, but not limited to, in press releases, quarterly earnings calls, executive presentations, in the annual report to stockholders and in other filings with the SEC. Readers can usually identify these forward-looking statements by the use of such words as "may," "will," "should," "likely," "plans," "projects," "expects," "anticipates," "believes" or similar words. These statements involve a number of risks and uncertainties. Actual results could materially differ from those anticipated by such forward-looking statements. For more discussion about risk factors that could cause or contribute to such differences, see Part II, Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Part I, Item 1A "Risk Factors" in the Company's 2021 Form 10-K and any updates contained herein. Forward-looking statements reflect the information only as of the date on which they are made. The Company does not undertake any obligation to update any forward-looking statements to reflect future events, developments, or other information. If Vistra does update one or more forward-looking statements, no inference should be drawn that additional updates will be made regarding that statement or any other forward-looking statements. This discussion is intended to clarify and focus on our results of operations, certain changes in our financial position, liquidity, capital structure and business developments for the periods covered by the condensed consolidated financial statements included under Part I, Item 1 of this quarterly report on Form 10-Q for the three and six months ended June 30, 2022. This discussion should be read in conjunction with those condensed consolidated financial statements and the related notes and is qualified by reference to them.

The following discussion and analysis of our financial condition and results of operations for the three and six months ended June 30, 2022 and 2021 should be read in conjunction with our condensed consolidated financial statements and the notes to those statements.

All dollar amounts in the tables in the following discussion and analysis are stated in millions of U.S. dollars unless otherwise indicated.

Critical Accounting Policies and Estimates

The Company's discussion and analysis of its financial position and results of operations is based upon its condensed consolidated financial statements. The preparation of these condensed consolidated financial statements requires estimation and judgment that affect the reported amounts of revenue, expenses, assets and liabilities. The Company bases its estimates on historical experience and on various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the accounting for assets and liabilities that are not readily apparent from other sources. If the estimates differ materially from actual results, the impact on the condensed consolidated financial statements may be material. The Company's critical accounting policies are disclosed in our 2021 Form 10-K.

Business

Vistra is a holding company operating an integrated retail and electric power generation business primarily in markets throughout the U.S. Through our subsidiaries, we are engaged in competitive energy market activities including electricity generation, wholesale energy sales and purchases, commodity risk management and retail sales of electricity and natural gas to end users.

Operating Segments

Vistra has six reportable segments: (i) Retail, (ii) Texas, (iii) East, (iv) West, (v) Sunset and (vi) Asset Closure. See Note 16 to the Financial Statements for further information concerning our reportable business segments.

CEO Transition

In March 2022, Vistra announced that the Board had named Jim Burke as its next Chief Executive Officer (CEO), effective August 1, 2022. Mr. Burke, who previously served as President and Chief Financial Officer, also joined the Company's Board upon assuming his new role. Vistra's previous CEO and director, Curt Morgan, will serve as a special advisor to Mr. Burke and the Board until April 30, 2023. The transition from Mr. Morgan to Mr. Burke was a product of the Company's formal succession planning process. In July 2022, the Company announced the appointment of Kris Moldovan as the Company's Executive Vice President and Chief Financial Officer, effective August 1, 2022.

Significant Activities and Events and Items Influencing Future Performance

Climate Change, Investments in Clean Energy and CO₂ Reductions

Environmental Regulations — We are subject to extensive environmental regulation by governmental authorities, including the EPA and the environmental regulatory bodies of states in which we operate. Environmental regulations could have a material impact on our business, such as certain corrective action measures that may be required under the CCR rule and the ELG rule (see Note 11 to the Financial Statements). However, such rules and the regulatory environment are continuing to evolve and change, and we cannot predict the ultimate effect that such changes may have on our business.

Emissions Reductions — Vistra is targeting to achieve a 60% reduction in Scope 1 and Scope 2 CO₂ equivalent emissions by 2030 as compared to a 2010 baseline, with a long-term goal to achieve net-zero carbon emissions by 2050, assuming necessary advancements in technology and supportive market constructs and public policy. In furtherance of Vistra's efforts to meet its net-zero target, Vistra expects to deploy multiple levers to transition the Company to operating with net-zero emissions.

Solar Generation and Energy Storage Projects — In January 2022, we announced that, subject to approval by the CPUC, we would enter into a 15-year resource adequacy contract with PG&E to develop an additional 350 MW battery ESS at our Moss Landing Power Plant site. The CPUC approved the resource adequacy contract in April 2022. In September 2021, we announced the planned development, at a cost of approximately \$550 million, of up to 300 MW of solar photovoltaic power generation facilities and up to 150 MW of battery ESS at retired or to-be-retired plant sites in Illinois, based on the passage of Illinois Senate Bill 2408, the Energy Transition Act. In September 2020, we announced the planned development, at a cost of approximately \$850 million, of up to 768 MW of solar photovoltaic power generation facilities and 260 MW of battery ESS in Texas. Of this planned development in Texas, 158 MW of solar generation and the 260 MW battery ESS came online in the first six months of 2022. We will only invest in these growth projects if we are confident in the expected returns. See Note 2 to the Financial Statements for a summary of our solar and battery energy storage projects.

CO₂ Reductions — In April 2021, we announced we would retire the Joppa generation facilities by September 1, 2022, and in June 2022, we retired the Zimmer coal generation facility. See Note 3 to the Financial Statements for a summary of our planned generation retirements.

Moss Landing Outages

In September 2021, Moss Landing Phase I experienced an incident impacting a portion of the battery ESS. A review found the root cause originated in systems separate from the battery system. The facility was offline as we performed the work necessary to return the facility to service. Moss Landing Phase II was not affected by this incident.

In February 2022, Moss Landing Phase II experienced an incident impacting a portion of the Battery ESS. A review found the root cause originated in systems separate from the battery system. The facility was offline as we performed the work necessary to return the facility to service. Moss Landing Phase I was not affected by this incident.

We have continued restoration work on the facilities and have restored approximately 393 MW (or 98% of the 400 MW capacity) at June 30, 2022.

We do not expect these incidents to have a material impact on our results of operations.

Winter Storm Uri

In February 2021, a severe winter storm with extremely cold temperatures affected much of the U.S., including Texas. This severe weather resulted in surging demand for power, gas supply shortages, operational challenges for generators, and a significant load shed event that was ordered by ERCOT beginning on February 15, 2021 and continuing through February 18, 2021. Winter Storm Uri had a material adverse impact on our results of operations and operating cash flows.

The weather event resulted in a \$2.9 billion negative impact on the Company's pre-tax earnings in the six months ended June 30, 2021. The weather event resulted in a \$2.2 billion negative impact on the Company's pre-tax earnings in the year ended December 31, 2021, after taking into account approximately \$544 million in securitization proceeds Vistra received from ERCOT as further described below. The primary drivers of the loss were the need to procure power in ERCOT at market prices at or near the price cap due to lower output from our natural gas-fueled power plants driven by natural gas deliverability issues and our coal-fueled power plants driven by coal fuel handling challenges, high fuel costs, and high retail load costs.

As part of the 2021 regular Texas legislative sessions and in response to extraordinary costs incurred by electricity market participants during Winter Storm Uri, the Texas legislature passed House Bill (HB) 4492 for ERCOT to obtain financing to distribute to load-serving entities (LSEs) that were charged and paid to ERCOT exceptionally high price adders and ancillary service costs during Winter Storm Uri. In October 2021, the PUCT issued a debt obligation order approving ERCOT's \$2.1 billion financing and the methodology for allocation of proceeds to the LSEs. In December 2021, ERCOT finalized the amount of allocations to the LSEs, and we received \$544 million in proceeds from ERCOT in the second quarter of 2022. We concluded that the threshold for recognizing a receivable was met in December 2021 as the amounts to be received were determinable and ERCOT was directed by its governing body, the PUCT, to take all actions required to effectuate the \$2.1 billion funding approved in the debt obligation order. Accordingly, we recognized the \$544 million in expected proceeds as an expense reduction in the fourth quarter of 2021 within fuel, purchased power costs and delivery fees in our consolidated statements of operation. The final financial impact of Winter Storm Uri continues to be subject to the outcome of litigation arising from the event.

Vistra has taken various actions to improve its risk profile for future weather-driven volatility events, including investing in improvements to further harden its coal fuel handling capabilities and to further weatherize its ERCOT fleet for even colder temperatures and longer durations; carrying more backup generation into the peak seasons after accounting for weatherization investments and ERCOT market improvements implemented going forward; contracting for incremental gas storage to support its gas fleet; adding additional dual fuel capabilities at its gas steam units and increasing fuel oil inventory at its existing dual fuel sites; participating in processes with the PUCT and ERCOT for registration of gas infrastructure as critical resources with the transmission and distribution utilities and for enhanced winterization of both gas and power assets in the state; and engaging in processes to evaluate potential market reforms.

Dividend Program

In November 2018, we announced that the Board had adopted a dividend program, which we initiated in the first quarter of 2019. See Note 12 to the Financial Statements for more information about our dividend program.

Preferred Stock Offerings

In October 2021, we issued 1,000,000 shares of Series A Preferred Stock in a private offering (Offering). The net proceeds of the Offering were approximately \$990 million, after deducting underwriting commissions and offering expenses. We intend to use the net proceeds from the Offering to repurchase shares of our outstanding common stock under the Share Repurchase Program (discussed below).

In December 2021, we issued 1,000,000 shares of Series B Preferred Stock in a private offering (Series B Offering) under our Green Finance Framework. The net proceeds of the Series B Offering were approximately \$985 million, after deducting underwriting commissions and offering expenses. We intend to use the proceeds from the Series B Offering to pay for or reimburse existing and new eligible renewable and battery ESS developments.

See Note 12 to the Financial Statements for more information concerning the Series A Preferred Stock and the Series B Preferred Stock.

Share Repurchase Program

In October 2021, we announced that the Board had authorized a new share repurchase program (Share Repurchase Program) under which up to \$2.0 billion of our outstanding common stock may be repurchased. The Share Repurchase Program became effective in October 2021. The Share Repurchase Program superseded the \$1.5 billion share repurchase program previously announced in September 2020 (2020 Share Repurchase Program). In the six months ended June 30, 2022, 46,661,160 shares of our common stock were repurchased under the Share Repurchase Program for approximately \$1.086 billion at an average price of \$23.28 per share of common stock (shares repurchased include 320,000 of unsettled shares repurchased for \$7 million as of June 30, 2022). As of June 30, 2022, approximately \$505 million was available for additional repurchases under the Share Repurchase Program. From July 1, 2022 through August 2, 2022, 4,530,102 of our common stock had been repurchased under the Share Repurchase Program for \$105 million at an average price per share of common stock of \$23.06, and at August 2, 2022, \$400 million was available for repurchase under the Share Repurchase Program. Since inception, 70,521,627 shares of our common stock were repurchased under the Share Repurchase Program for approximately \$1.6 billion at an average price of \$22.68 per share of common stock.

On August 4, 2022, the Board authorized an incremental \$1.25 billion for repurchases under the Share Repurchase Program. Including the original Board authorization, approximately \$1.65 billion remains available for share repurchases under the Share Repurchase Program as of August 4, 2022. We expect to complete repurchases under the Share Repurchase Program by the end of 2023. See Note 12 to the Financial Statements for more information concerning the Share Repurchase Program and the 2020 Share Repurchase Program.

Macroeconomic Conditions

Global market demand, geopolitical events and high natural gas price volatility have resulted in increased market prices for energy, and we expect these conditions to persist, in particular in the near term. Due in large part to the Russia and Ukraine conflict as well as other factors, we have experienced substantial shifts in commodity prices, which in turn have (i) facilitated our comprehensive hedging strategy which we believe has positioned us to lock in significant revenues and Adjusted EBITDA opportunities in 2023 and beyond, (ii) led to significant mark-to-market impacts on forward commodity derivative instruments, and (iii) combined with our comprehensive hedging strategy, resulted in significant increases in our collateral posting obligations and required liquidity to support these net liabilities. See also *Financial Condition* for further discussion of our collateral posting obligations and liquidity management activities.

Accordingly, with forward power and natural gas curves increasing materially in 2022, we have increased our hedging for future periods. As of June 30, 2022, we have hedged over 60% of our expected generation volumes on average for the three-year period 2023 to 2025 (with approximately 80% hedged for 2023).

Changes to the geopolitical situation and the inflationary environment, among other factors, have also created supply chain constraints that have reduced the availability of certain fuels, such as coal, as well as reduced the availability of certain equipment and supply relevant to construction of renewables projects. We are proactively managing through increased costs of materials and supply chain disruptions and continuing to prudently re-evaluate the business cases and timing of our planned development projects, which has resulted in a deferral of some of our planned capital spend for our renewables projects from 2022 to 2023. In addition, depending on the final passage of the recently proposed Inflation Reduction Act, our Vistra Zero development projects could see enhanced returns from the impact of this legislation.

Additionally, we are closely monitoring developments of the Russia and Ukraine conflict including sanctions (or potential sanctions) against Russian energy exports and Russian nuclear fuel supply and enrichment activities, as well as actions by Russia to limit energy deliveries, which may further impact commodity prices in Europe and globally. Our 2022 refueling has not been affected by the Russia and Ukraine conflict. We work with a diverse set of global nuclear fuel cycle suppliers to procure our nuclear fuel, and therefore, we expect to have enough nuclear fuel to support all our refueling needs for the next few years. We are taking affirmative action by including mitigating strategies in our procurement portfolio to ensure we can secure the nuclear fuel needed to continue to operate our nuclear facility. If imports from Russia were banned, U.S. nuclear power generators could be in jeopardy of not being able to refuel all reactors.

Debt Activity

We have stated our objective to reduce our consolidated net leverage. We also intend to continue to simplify and optimize our capital structure, maintain adequate liquidity and pursue opportunities to refinance our long-term debt to extend maturities and/or reduce ongoing interest expense. While the financial impacts resulting from Winter Storm Uri and higher margining requirements as a result of increasing power prices have caused an increase in our consolidated net leverage, the Company remains committed to a strong balance sheet. See Note 10 to the Financial Statements for details of our debt activity and Note 9 to the Financial Statements for details of our accounts receivable financing.

Vistra Operations Credit Agreement Amendments — In April 2022 and July 2022, the Vistra Operations Credit Agreement was amended to, among other things, (i) establish new classes of extended revolving credit commitments in aggregate amounts of \$2.8 billion and \$725 million as of April 2022 and July 2022, respectively, and the maturity date was extended from June 14, 2023 to April 29, 2027, (ii) require Vistra Operations to terminate at least \$350 million in revolving commitments maturing April 29, 2027 by December 30, 2022 or earlier if Vistra Operations or any guarantor receives proceeds from any capital markets transaction whose primary purpose is designed to enhance the liquidity of Vistra Operations and its guarantors, and (iii) appoint certain additional revolving letter of credit issuers. See Note 10 to the Financial Statements for details of the Vistra Operations Credit Agreement amendments.

Commodity-Linked Revolving Credit Facility — In February 2022, Vistra Operations entered into a credit agreement by and among Vistra Operations, Vistra Intermediate, the lenders, joint lead arrangers and joint bookrunners party thereto, and Citibank, N.A., as administrative agent and collateral agent. The Credit Agreement provides for a senior secured commodity-linked revolving credit facility (the Commodity-Linked Facility). Vistra Operations intends to use the liquidity provided under the Commodity-Linked Facility to make cash postings as required under various commodity contracts to which Vistra Operations and its subsidiaries are parties as power prices increase from time-to time and for other working capital and general corporate purposes.

In order to support our comprehensive hedging strategy, in May 2022, we entered into an amendment to our Commodity-Linked Facility to increase the aggregate available commitments from \$1.0 billion to \$2.0 billion and to provide the flexibility, subject to our ability to obtain additional commitments, to further increase the size of the Commodity-Linked Facility by an additional \$1.0 billion to a facility size of \$3.0 billion. Subsequent amendments in May 2022 and June 2022 increased the aggregate available commitments under the Commodity-Linked Facility from \$2.0 billion to \$2.25 billion.

See Note 10 to the Financial Statements for more information concerning the Commodity-Linked Facility.

Power Price, Natural Gas Price and Market Heat Rate Exposure

Estimated hedging levels for generation volumes in our Texas, East, West and Sunset segments at June 30, 2022 were as follows:

	2022	2023
<i>Nuclear/Renewable/Coal Generation:</i>		
Texas	95 %	85 %
Sunset	97 %	75 %
<i>Gas Generation:</i>		
Texas	87 %	52 %
East	95 %	89 %
West	96 %	92 %

The following sensitivity table provides approximate estimates of the potential impact of movements in power prices and spark spreads (the difference between the power revenue and fuel expense of natural gas-fired generation as calculated using an assumed heat rate of 7.2 MMBtu/MWh) on realized pre-tax earnings (in millions) taking into account the hedge positions noted above for the periods presented. The residual gas position is calculated based on two steps: first, calculating the difference between actual heat rates of our natural gas generation units and the assumed 7.2 heat rate used to calculate the sensitivity to spark spreads; and second, calculating the residual natural gas exposure that is not already included in the gas generation spark spread sensitivity shown in the table below. The estimates related to price sensitivity are based on our expected generation, related hedges and forward prices as of June 30, 2022.

	Balance 2022		2023	
<i>Texas:</i>				
Nuclear/Renewable/Coal Generation: \$2.50/MWh increase in power price	\$	3	\$	18
Nuclear/Renewable/Coal Generation: \$2.50/MWh decrease in power price	\$	(3)	\$	(17)
Gas Generation: \$1.00/MWh increase in spark spread	\$	4	\$	20
Gas Generation: \$1.00/MWh decrease in spark spread	\$	(3)	\$	(19)
Residual Natural Gas Position: \$0.25/MMBtu increase in natural gas price	\$	1	\$	(19)
Residual Natural Gas Position: \$0.25/MMBtu decrease in natural gas price	\$	(1)	\$	13
<i>East:</i>				
Gas Generation: \$1.00/MWh increase in spark spread	\$	2	\$	6
Gas Generation: \$1.00/MWh decrease in spark spread	\$	(1)	\$	(4)
Residual Natural Gas Position: \$0.25/MMBtu increase in natural gas price	\$	(1)	\$	6
Residual Natural Gas Position: \$0.25/MMBtu decrease in natural gas price	\$	1	\$	(6)
<i>West:</i>				
Gas Generation: \$1.00/MWh increase in spark spread	\$	—	\$	—
Gas Generation: \$1.00/MWh decrease in spark spread	\$	—	\$	—
Residual Natural Gas Position: \$0.25/MMBtu increase in natural gas price	\$	—	\$	1
Residual Natural Gas Position: \$0.25/MMBtu decrease in natural gas price	\$	—	\$	(1)
<i>Sunset:</i>				
Coal Generation: \$2.50/MWh increase in power price	\$	1	\$	13
Coal Generation: \$2.50/MWh decrease in power price	\$	(1)	\$	(12)
Residual Natural Gas Position: \$0.25/MMBtu increase in natural gas price	\$	1	\$	(10)
Residual Natural Gas Position: \$0.25/MMBtu increase in natural gas price	\$	(1)	\$	10

PJM Auction Results

In June 2022, Vistra reported its results from PJM's Reliability Pricing Model (RPM) auction results for planning year 2023-2024, and the table below lists clearing price per MW-day and our cleared capacity volumes by zone:

	Clearing Price per MW-day	East Segment MW Cleared	Sunset Segment MW Cleared	Total MW Cleared
RTO zone	\$ 34.13	2,890	—	2,890
ComEd zone	\$ 34.13	1,151	408	1,559
DEOK zone	\$ 34.13	11	924	935
EMAAC zone	\$ 49.49	828	—	828
MAAC zone	\$ 49.49	545	—	545
ATSI zone	\$ 34.13	112	—	112
Total	\$ 37.20	5,537	1,332	6,869

RESULTS OF OPERATIONS

In the three and six months ended June 30, 2022, our operating segments delivered strong operating performance with a disciplined focus on cost management, while generating and selling essential electricity in a safe and reliable manner. Our performance reflected the stability of our integrated model, including a diversified generation fleet, retail and commercial and hedging activities in support of our integrated business. Notably, we hedged longer-dated revenues and fuel costs to reduce risk and lock in value as forward power and gas curves moved up materially, and we executed on our share repurchase strategy.

Consolidated Financial Results — Three and Six Months Ended June 30, 2022 Compared to Three and Six Months Ended June 30, 2021

	Three Months Ended June 30,		Favorable (Unfavorable) \$ Change	Six Months Ended June 30,		Favorable (Unfavorable) \$ Change
	2022	2021		2022	2021	
Operating revenues	\$ 1,588	\$ 2,565	\$ (977)	\$ 4,713	\$ 5,772	\$ (1,059)
Fuel, purchased power costs and delivery fees	(2,162)	(1,320)	(842)	(4,441)	(6,065)	1,624
Operating costs	(435)	(429)	(6)	(851)	(801)	(50)
Depreciation and amortization	(394)	(464)	70	(824)	(887)	63
Selling, general and administrative expenses	(280)	(252)	(28)	(569)	(502)	(67)
Impairment of long-lived assets	—	(38)	38	—	(38)	38
Operating income (loss)	(1,683)	62	(1,745)	(1,972)	(2,521)	549
Other income	71	36	35	77	92	(15)
Other deductions	(9)	(2)	(7)	(13)	(7)	(6)
Interest expense and related charges	(109)	(135)	26	(116)	(164)	48
Impacts of Tax Receivable Agreement	(34)	(41)	7	(115)	(4)	(111)
Income (loss) before income taxes	(1,764)	(80)	(1,684)	(2,139)	(2,604)	465
Income tax benefit	407	115	292	498	600	(102)
Net income (loss)	<u>\$ (1,357)</u>	<u>\$ 35</u>	<u>\$ (1,392)</u>	<u>\$ (1,641)</u>	<u>\$ (2,004)</u>	<u>\$ 363</u>

	Three Months Ended June 30, 2022							
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations / Corporate and Other	Vistra Consolidated
Operating revenues	\$ 1,792	\$ (623)	\$ 319	\$ 79	\$ (83)	\$ 121	\$ (17)	\$ 1,588
Fuel, purchased power costs and delivery fees	(616)	(697)	(713)	(51)	17	(119)	17	(2,162)
Operating costs	(35)	(208)	(73)	(11)	(74)	(34)	—	(435)
Depreciation and amortization	(36)	(146)	(179)	11	(18)	(9)	(17)	(394)
Selling, general and administrative expenses	(195)	(32)	(15)	(4)	(10)	(9)	(15)	(280)
Operating income (loss)	910	(1,706)	(661)	24	(168)	(50)	(32)	(1,683)
Other income	—	63	—	—	—	6	2	71
Other deductions	(8)	(1)	—	—	—	—	—	(9)
Interest expense and related charges	(4)	6	(1)	1	—	(1)	(110)	(109)
Impacts of Tax Receivable Agreement	—	—	—	—	—	—	(34)	(34)
Income (loss) before income taxes	898	(1,638)	(662)	25	(168)	(45)	(174)	(1,764)
Income tax benefit	—	—	—	—	—	—	407	407
Net income (loss)	\$ 898	\$ (1,638)	\$ (662)	\$ 25	\$ (168)	\$ (45)	\$ 233	\$ (1,357)

Three Months Ended June 30, 2021

	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations / Corporate and Other	Vistra Consolidated
Operating revenues	\$ 1,919	\$ (468)	\$ 505	\$ 48	\$ (7)	\$ (41)	\$ 609	\$ 2,565
Fuel, purchased power costs and delivery fees	150	(333)	(319)	(38)	(139)	(32)	(609)	(1,320)
Operating costs	(29)	(184)	(69)	(10)	(69)	(68)	—	(429)
Depreciation and amortization	(54)	(159)	(193)	(10)	(26)	(4)	(18)	(464)
Selling, general and administrative expenses	(175)	(23)	(19)	(8)	(8)	(11)	(8)	(252)
Impairment of long-lived assets	—	—	—	—	—	(38)	—	(38)
Operating income (loss)	1,811	(1,167)	(95)	(18)	(249)	(194)	(26)	62
Other income	1	27	—	—	3	2	3	36
Other deductions	—	(2)	—	—	—	—	—	(2)
Interest expense and related charges	(2)	4	(5)	5	—	—	(137)	(135)
Impacts of Tax Receivable Agreement	—	—	—	—	—	—	(41)	(41)
Income (loss) before income taxes	1,810	(1,138)	(100)	(13)	(246)	(192)	(201)	(80)
Income tax benefit	—	—	—	—	—	—	115	115
Net income (loss)	\$ 1,810	\$ (1,138)	\$ (100)	\$ (13)	\$ (246)	\$ (192)	\$ (86)	\$ 35

Consolidated results decreased \$1.745 billion to an operating loss of \$1.683 billion in the three months ended June 30, 2022 compared to the three months ended June 30, 2021. The change in results is primarily driven by a \$1.709 billion pre-tax increase in unrealized mark-to-market losses on commodity hedging transactions which was driven by a material increase in forward power and natural gas price curves during the three months ended June 30, 2022 and a pre-tax net unrealized loss of \$414 million recorded due to the discontinuance of NPNS accounting as of June 30, 2022 on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions. We believe the increase in forward power and natural gas prices has positioned us to significantly benefit operating results in 2023 and beyond.

Interest expense and related charges decreased \$26 million to \$109 million in the three months ended June 30, 2022 compared to the three months ended June 30, 2021 driven by unrealized mark-to-market gains on interest rate swaps of \$45 million in 2022 compared to unrealized mark-to-market losses on interest rate swaps of \$9 million in 2021. The change in unrealized results is driven by an increase in interest rates during the three months ended June 30, 2022. This favorable variance is partially offset by an increase in interest paid/accrued of \$29 million driven by higher average borrowings during the three months ended June 30, 2022. See Note 17 to the Financial Statements.

For the three months ended June 30, 2022 and 2021, the Impacts of the Tax Receivable Agreement totaled expense of \$34 million and \$41 million, respectively. See Note 7 to the Financial Statements for discussion of the impacts of the Tax Receivable Agreement obligation.

For the three months ended June 30, 2022, income tax benefit totaled \$407 million and the effective tax rate was 23.1%. For the three months ended June 30, 2021, income tax benefit totaled \$115 million and the effective tax rate was 143.8%. See Note 6 to the Financial Statements for reconciliation of the effective rates to the U.S. federal statutory rate.

Six Months Ended June 30, 2022								
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations / Corporate and Other	Vistra Consolidated
Operating revenues	\$ 3,617	\$ (1,718)	\$ 1,274	\$ 151	\$ (223)	\$ 228	\$ 1,384	\$ 4,713
Fuel, purchased power costs and delivery fees	248	(1,223)	(1,541)	(124)	(196)	(221)	(1,384)	(4,441)
Operating costs	(68)	(409)	(130)	(23)	(142)	(78)	(1)	(851)
Depreciation and amortization	(72)	(269)	(358)	(31)	(37)	(23)	(34)	(824)
Selling, general and administrative expenses	(383)	(65)	(33)	(10)	(20)	(19)	(39)	(569)
Operating income (loss)	3,342	(3,684)	(788)	(37)	(618)	(113)	(74)	(1,972)
Other income	—	64	—	—	—	8	5	77
Other deductions	(11)	(1)	—	—	—	(1)	—	(13)
Interest expense and related charges	(5)	11	(3)	1	(1)	(1)	(118)	(116)
Impacts of Tax Receivable Agreement	—	—	—	—	—	—	(115)	(115)
Income (loss) before income taxes	3,326	(3,610)	(791)	(36)	(619)	(107)	(302)	(2,139)
Income tax benefit	—	—	—	—	—	—	498	498
Net income (loss)	\$ 3,326	\$ (3,610)	\$ (791)	\$ (36)	\$ (619)	\$ (107)	\$ 196	\$ (1,641)

Six Months Ended June 30, 2021								
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations / Corporate and Other	Vistra Consolidated
Operating revenues	\$ 3,669	\$ 615	\$ 1,230	\$ 81	\$ 249	\$ (19)	\$ (53)	\$ 5,772
Fuel, purchased power costs and delivery fees	(1,250)	(3,651)	(773)	(86)	(299)	(59)	53	(6,065)
Operating costs	(60)	(364)	(123)	(17)	(129)	(108)	—	(801)
Depreciation and amortization	(107)	(283)	(389)	(15)	(51)	(8)	(34)	(887)
Selling, general and administrative expenses	(347)	(40)	(37)	(15)	(16)	(26)	(21)	(502)
Impairment of long-lived assets	—	—	—	—	—	(38)	—	(38)
Operating income (loss)	1,905	(3,723)	(92)	(52)	(246)	(258)	(55)	(2,521)
Other income	1	64	—	—	4	19	4	92
Other deductions	(4)	(4)	—	—	1	—	—	(7)
Interest expense and related charges	(4)	7	(7)	8	—	—	(168)	(164)
Impacts of Tax Receivable Agreement	—	—	—	—	—	—	(4)	(4)
Income (loss) before income taxes	1,898	(3,656)	(99)	(44)	(241)	(239)	(223)	(2,604)
Income tax benefit	—	—	—	—	—	—	600	600
Net income (loss)	\$ 1,898	\$ (3,656)	\$ (99)	\$ (44)	\$ (241)	\$ (239)	\$ 377	\$ (2,004)

Operating loss decreased \$549 million to \$1.972 billion in the six months ended June 30, 2022 compared to the six months ended June 30, 2021. The change in results is driven by the \$2.9 billion realized loss associated with Winter Storm Uri in the first quarter of 2021. Partially offsetting the Winter Storm Uri impact, results were unfavorably impacted by a \$2.165 billion increase in pre-tax unrealized mark-to-market losses on derivative positions. Power and natural gas forward market curves moved up during the six months ended June 30, 2022 driving pre-tax unrealized mark-to-market losses on commodity hedging transactions. Additionally, a pre-tax net unrealized loss of \$414 million was recorded due to the discontinuance of NPNS accounting as of June 30, 2022 on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions. We believe the increase in forward power and natural gas prices has positioned us to significantly benefit operating results in 2023 and beyond.

Interest expense and related charges decreased \$48 million to \$116 million in the six months ended June 30, 2022 compared to the six months ended June 30, 2021 driven by unrealized mark-to-market gains on interest rate swaps of \$171 million in 2022 compared to \$79 million in 2021 which is due to a more significant rise in interest rates in the six months ended June 30, 2022, partially offset by an increase in interest paid/accrued of \$43 million driven by higher average borrowings in 2022. See Note 17 to the Financial Statements.

For the six months ended June 30, 2022 and 2021, the Impacts of the Tax Receivable Agreement totaled expense of \$115 million and \$4 million, respectively. See Note 7 to the Financial Statements for discussion of the impacts of the Tax Receivable Agreement obligation.

For the six months ended June 30, 2022, income tax benefit totaled \$498 million and the effective tax rate was 23.3%. For the six months ended June 30, 2021, income tax benefit totaled \$600 million, and the effective tax rate was 23.0%. See Note 6 to the Financial Statements for reconciliation of the effective rates to the U.S. federal statutory rate.

Discussion of Adjusted EBITDA

Non-GAAP Measures — In analyzing and planning for our business, we supplement our use of GAAP financial measures with non-GAAP financial measures, including EBITDA and Adjusted EBITDA as performance measures. These non-GAAP financial measures reflect an additional way of viewing aspects of our business that, when viewed with our GAAP results and the accompanying reconciliations to corresponding GAAP financial measures included in the tables below, may provide a more complete understanding of factors and trends affecting our business. These non-GAAP financial measures should not be relied upon to the exclusion of GAAP financial measures and are, by definition, an incomplete understanding of Vistra and must be considered in conjunction with GAAP measures. In addition, non-GAAP financial measures are not standardized; therefore, it may not be possible to compare these financial measures with other companies' non-GAAP financial measures having the same or similar names. We strongly encourage investors to review our consolidated financial statements and publicly filed reports in their entirety and not rely on any single financial measure.

EBITDA and Adjusted EBITDA — We believe EBITDA and Adjusted EBITDA provide meaningful representations of our operating performance. We consider EBITDA as another way to measure financial performance on an ongoing basis. Adjusted EBITDA is meant to reflect the operating performance of our segments for the period presented. We define EBITDA as earnings (loss) before interest expense, income tax expense (benefit) and depreciation and amortization expense. We define Adjusted EBITDA as EBITDA adjusted to exclude (i) gains or losses on the sale or retirement of certain assets, (ii) the impacts of mark-to-market changes on derivatives, (iii) the impact of impairment charges, (iv) certain amounts associated with fresh-start reporting, acquisitions, dispositions, transition costs or restructurings, (v) non-cash compensation expense, (vi) impacts from the Tax Receivable Agreement and (vii) other material nonrecurring or unusual items.

Because EBITDA and Adjusted EBITDA are financial measures that management uses to allocate resources, determine our ability to fund capital expenditures, assess performance against our peers, and evaluate overall financial performance, we believe they provide useful information for investors.

When EBITDA or Adjusted EBITDA is discussed in reference to performance on a consolidated basis, the most directly comparable GAAP financial measure to EBITDA and Adjusted EBITDA is Net income (loss).

Adjusted EBITDA — Three and Six Months Ended June 30, 2022 Compared to Three and Six Months Ended June 30, 2021

	Three Months Ended June 30,		Favorable (Unfavorable) \$ Change	Six Months Ended June 30,		Favorable (Unfavorable) \$ Change
	2022	2021		2022	2021	
Net income (loss)	\$ (1,357)	\$ 35	\$ (1,392)	\$ (1,641)	\$ (2,004)	\$ 363
Income tax benefit	(407)	(115)	(292)	(498)	(600)	102
Interest expense and related charges (a)	109	135	(26)	116	164	(48)
Depreciation and amortization (b)	412	484	(72)	864	927	(63)
EBITDA before Adjustments	(1,243)	539	(1,782)	(1,159)	(1,513)	354
Unrealized net loss resulting from commodity hedging transactions (c)	1,987	278	1,709	2,347	182	2,165
Generation plant retirement expenses	—	15	(15)	6	15	(9)
Fresh start/purchase accounting impacts	—	(79)	79	—	(79)	79
Impacts of Tax Receivable Agreement	34	41	(7)	115	4	111
Non-cash compensation expenses	17	12	5	34	29	5
Transition and merger expenses	3	1	2	20	(13)	33
Impairment of long-lived assets	—	38	(38)	—	38	(38)
Winter Storm Uri impact (d)	(62)	(35)	(27)	(116)	900	(1,016)
Other, net	1	1	—	31	7	24
Adjusted EBITDA	<u>\$ 737</u>	<u>\$ 811</u>	<u>\$ (74)</u>	<u>\$ 1,278</u>	<u>\$ (430)</u>	<u>\$ 1,708</u>

(a) Includes unrealized mark-to-market net gains on interest rate swaps of \$45 million and unrealized mark-to-market losses on interest rate swaps of \$9 million for the three months ended June 30, 2022 and 2021, respectively, and unrealized mark-to-market net gains on interest rate swaps of \$171 million and \$79 million for the six months ended June 30, 2022 and 2021, respectively.

(b) Includes nuclear fuel amortization in the Texas segment of \$18 million and \$20 million for the three months ended June 30, 2022 and 2021, respectively, and \$40 million and \$40 million for the six months ended June 30, 2022 and 2021, respectively.

(c) Net pre-tax unrealized mark-to-market losses on commodity and hedging transactions were driven by the increase in power and natural gas forward market curves during the three and six months ended June 30, 2022. Additionally, a pre-tax net unrealized loss of \$414 million was recorded due to the discontinuance of NPNS accounting as of June 30, 2022 on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions.

(d) For the six months ended June 30, 2021, includes the following of the Winter Storm Uri impacts, which we believe are not reflective of our operating performance: the allocation of ERCOT default uplift charges which are expected to be paid over several decades under current protocols, accrual of Koch earn-out amounts that we paid in the second quarter of 2022, future bill credits related to Winter Storm Uri and Winter Storm Uri related legal fees and other costs. The adjustment for future bill credits relates to large commercial and industrial customers that curtailed their usage during Winter Storm Uri and will reverse and impact Adjusted EBITDA in future periods as the credits are applied to customer bills. The Company believes the inclusion of the bill credits as a reduction to Adjusted EBITDA in the years in which such bill credits are applied more accurately reflects its operating performance. Accordingly, for the three and six months ended June 30, 2022 and the three months ended June 30, 2021, includes reductions to Adjusted EBITDA attributable to bill credit applications of \$53 million, \$66 million and \$50 million, respectively. Also includes a reduction to Adjusted EBITDA related to a reduction in the allocation of ERCOT default uplift charges of \$12 million and \$56 million for the three and six months ended June 30, 2022, respectively, attributable to ERCOT receiving payments that reduced the market wide default balance.

Three Months Ended June 30, 2022

	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations / Corporate and Other	Vistra Consolidated
Net income (loss)	\$ 898	\$ (1,638)	\$ (662)	\$ 25	\$ (168)	\$ (45)	\$ 233	\$ (1,357)
Income tax benefit	—	—	—	—	—	—	(407)	(407)
Interest expense and related charges (a)	4	(6)	1	(1)	—	1	110	109
Depreciation and amortization (b)	36	164	179	(11)	18	9	17	412
EBITDA before Adjustments	938	(1,480)	(482)	13	(150)	(35)	(47)	(1,243)
Unrealized net (gain) loss resulting from hedging transactions	(500)	1,665	645	28	140	9	—	1,987
Generation plant retirement expenses	—	—	—	—	1	(1)	—	—
Impacts of Tax Receivable Agreement	—	—	—	—	—	—	34	34
Non-cash compensation expenses	—	—	—	—	—	—	17	17
Transition and merger expenses	3	—	—	—	—	—	—	3
Winter Storm Uri impacts (c)	(52)	(10)	—	—	—	—	—	(62)
Other, net	14	6	1	(1)	(7)	3	(15)	1
Adjusted EBITDA	<u>\$ 403</u>	<u>\$ 181</u>	<u>\$ 164</u>	<u>\$ 40</u>	<u>\$ (16)</u>	<u>\$ (24)</u>	<u>\$ (11)</u>	<u>\$ 737</u>

(a) Includes \$45 million of unrealized mark-to-market net gains on interest rate swaps.

(b) Includes nuclear fuel amortization of \$18 million in Texas segment.

(c) Includes the application of future bill credits to large commercial and industrial customers that curtailed their usage during Winter Storm Uri and a reduction in the allocation of ERCOT default uplift charges which are expected to be paid over several decades under current protocols.

Three Months Ended June 30, 2021

	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations / Corporate and Other	Vistra Consolidated
Net income (loss)	\$ 1,810	\$ (1,138)	\$ (100)	\$ (13)	\$ (246)	\$ (192)	\$ (86)	\$ 35
Income tax benefit	—	—	—	—	—	—	(115)	(115)
Interest expense and related charges (a)	2	(4)	5	(5)	—	—	137	135
Depreciation and amortization (b)	54	179	193	10	26	4	18	484
EBITDA before Adjustments	1,866	(963)	98	(8)	(220)	(188)	(46)	539
Unrealized net (gain) loss resulting from hedging transactions	(1,318)	1,093	133	27	248	95	—	278
Generation plant retirement expenses	—	—	—	—	(1)	15	1	15
Fresh start/purchase accounting impacts	2	(1)	(73)	—	(4)	(3)	—	(79)
Impacts of Tax Receivable Agreement	—	—	—	—	—	—	41	41
Non-cash compensation expenses	—	—	—	—	—	—	12	12
Transition and merger expenses	3	—	—	—	—	—	(2)	1
Impairment of long-lived assets	—	—	—	—	—	38	—	38
Winter Storm Uri impacts (c)	(47)	12	—	—	—	—	—	(35)
Other, net	4	3	2	2	2	—	(12)	1
Adjusted EBITDA	<u>\$ 510</u>	<u>\$ 144</u>	<u>\$ 160</u>	<u>\$ 21</u>	<u>\$ 25</u>	<u>\$ (43)</u>	<u>\$ (6)</u>	<u>\$ 811</u>

(a) Includes \$9 million of unrealized mark-to-market net losses on interest rate swaps.

(b) Includes nuclear fuel amortization of \$20 million in Texas segment.

- (c) Includes the following of the Winter Storm Uri impacts, which we believe are not reflective of our operating performance: future bill credits related to Winter Storm Uri, partially offset by the allocation of additional ERCOT default uplift charges, which are expected to be paid over several decades under current protocols, and Winter Storm Uri related legal fees and other costs. The adjustment for future bill credits relates to large commercial and industrial customers that curtailed their usage during Winter Storm Uri and will reverse and impact Adjusted EBITDA in future periods as the credits are applied to customer bills. The Company believes the inclusion of the bill credits as a reduction to Adjusted EBITDA in the years in which such bill credits are applied more accurately reflects its operating performance.

	Six Months Ended June 30, 2022							
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations / Corporate and Other	Vistra Consolidated
Net income (loss)	\$ 3,326	\$ (3,610)	\$ (791)	\$ (36)	\$ (619)	\$ (107)	\$ 196	\$ (1,641)
Income tax benefit	—	—	—	—	—	—	(498)	(498)
Interest expense and related charges (a)	5	(11)	3	(1)	1	1	118	116
Depreciation and amortization (b)	72	309	358	31	37	23	34	864
EBITDA before Adjustments	3,403	(3,312)	(430)	(6)	(581)	(83)	(150)	(1,159)
Unrealized net (gain) loss resulting from hedging transactions	(2,805)	3,696	738	71	605	42	—	2,347
Generation plant retirement expenses	—	—	—	—	5	1	—	6
Impacts of Tax Receivable Agreement	—	—	—	—	—	—	115	115
Non-cash compensation expenses	—	—	—	—	—	—	34	34
Transition and merger expenses	9	—	1	—	—	—	10	20
Winter Storm Uri impacts (c)	(64)	(52)	—	—	—	—	—	(116)
Other, net	23	19	3	1	4	10	(29)	31
Adjusted EBITDA	\$ 566	\$ 351	\$ 312	\$ 66	\$ 33	\$ (30)	\$ (20)	\$ 1,278

(a) Includes \$171 million of unrealized mark-to-market net gains on interest rate swaps.

(b) Includes nuclear fuel amortization of \$40 million in Texas segment.

(c) Includes the application of bill credits to large commercial and industrial customers that curtailed their usage during Winter Storm Uri and a reduction in the allocation of ERCOT default uplift charges which are expected to be paid over several decades under current protocols. We estimate bill credit amounts to be applied in future periods are for the remainder of 2022 (approximately \$82 million), 2023 (approximately \$44 million), 2024 (approximately \$39 million) and 2025 (approximately \$1 million).

Six Months Ended June 30, 2021								
	Retail	Texas	East	West	Sunset	Asset Closure	Eliminations / Corporate and Other	Vistra Consolidated
Net income (loss)	\$ 1,898	\$ (3,656)	\$ (99)	\$ (44)	\$ (241)	\$ (239)	\$ 377	\$ (2,004)
Income tax benefit	—	—	—	—	—	—	(600)	(600)
Interest expense and related charges (a)	4	(7)	7	(8)	—	—	168	164
Depreciation and amortization (b)	107	323	389	15	51	8	34	927
EBITDA before Adjustments	2,009	(3,340)	297	(37)	(190)	(231)	(21)	(1,513)
Unrealized net (gain) loss resulting from hedging transactions	(2,101)	1,615	153	80	315	120	—	182
Generation plant retirement expenses	—	—	—	—	—	15	—	15
Fresh start/purchase accounting impacts	3	(2)	(74)	—	(3)	(3)	—	(79)
Impacts of Tax Receivable Agreement	—	—	—	—	—	—	4	4
Non-cash compensation expenses	—	—	—	—	—	—	29	29
Transition and merger expenses	3	—	—	—	—	(15)	(1)	(13)
Impairment of long-lived assets	—	—	—	—	—	38	—	38
Winter Storm Uri impacts (c)	384	514	—	—	1	—	1	900
Other, net	12	5	4	2	4	—	(20)	7
Adjusted EBITDA	\$ 310	\$ (1,208)	\$ 380	\$ 45	\$ 127	\$ (76)	\$ (8)	\$ (430)

(a) Includes \$79 million of unrealized mark-to-market net gains on interest rate swaps.

(b) Includes nuclear fuel amortization of \$40 million in Texas segment.

(c) Includes the following of the Winter Storm Uri impacts, which we believe are not reflective of our operating performance: the allocation of ERCOT default uplift charges which are expected to be paid over several decades under current protocols, accrual of Koch earn-out amounts that we paid in the second quarter of 2022, future bill credits related to Winter Storm Uri and Winter Storm Uri related legal fees and other costs. The adjustment for future bill credits relates to large commercial and industrial customers that curtailed their usage during Winter Storm Uri and will reverse and impact Adjusted EBITDA in future periods as the credits are applied to customer bills. The Company believes the inclusion of the bill credits as a reduction to Adjusted EBITDA in the years in which such bill credits are applied more accurately reflects its operating performance.

Retail Segment — Three and Six Months Ended June 30, 2022 Compared to Three and Six Months Ended June 30, 2021

	Three Months Ended June 30,		Favorable (Unfavorable) Change	Six Months Ended June 30,		Favorable (Unfavorable) Change
	2022	2021		2022	2021	
Operating revenues:						
Revenues in ERCOT	\$ 1,913	\$ 1,434	\$ 479	\$ 3,465	\$ 2,604	\$ 861
Revenues in Northeast/Midwest	547	504	43	1,190	1,091	99
Amortization expense	(1)	(2)	1	(1)	(3)	2
Unrealized net losses on hedging activities (a)	(667)	(17)	(650)	(1,037)	(23)	(1,014)
Total operating revenues	1,792	1,919	(127)	3,617	3,669	(52)
Fuel, purchased power costs and delivery fees:						
Purchases from affiliates	(1,183)	(726)	(457)	(2,453)	(2,177)	(276)
Unrealized net gains on hedging activities with affiliates (b)	1,166	1,336	(170)	3,838	2,126	1,712
Unrealized net gains (losses) on hedging activities	1	—	1	4	(3)	7
Delivery fees	(563)	(436)	(127)	(1,074)	(877)	(197)
Other costs (c)	(37)	(24)	(13)	(67)	(319)	252
Total fuel, purchased power costs and delivery fees	(616)	150	(766)	248	(1,250)	1,498
Net income	\$ 898	\$ 1,810	\$ (912)	\$ 3,326	\$ 1,898	\$ 1,428
Adjusted EBITDA	\$ 403	\$ 510	\$ (107)	\$ 566	\$ 310	\$ 256
Retail sales volumes (GWh):						
Retail electricity sales volumes:						
Sales volumes in ERCOT	16,823	13,636	3,187	31,036	26,483	4,553
Sales volumes in Northeast/Midwest	8,326	8,474	(148)	17,432	17,524	(92)
Total retail electricity sales volumes	25,149	22,110	3,039	48,468	44,007	4,461
Weather (North Texas average) - percent of normal (d):						
Cooling degree days	139.8 %	80.6 %		136.2 %	79.3 %	
Heating degree days	27.7 %	127.1 %		111.2 %	117.1 %	

(a) For both the three and six months ended June 30, 2022, Retail segment includes unrealized net losses of \$414 million due to the discontinuance of NPNS accounting on a retail electric contract portfolio where physical settlement is no longer considered probable throughout the contract term as we opportunistically monetized certain positions.

(b) Includes unrealized net gains from mark-to-market valuations of commodity positions with the Texas, East and Sunset segments.

(c) For the six months ended June 30, 2021, includes \$162 million of future bill credits to large commercial and industrial customers.

(d) Weather data is obtained from Weatherbank, Inc. For the three and six months ended June 30, 2022, normal is defined as the average over the 10-year period from June 2012 to June 2021. For the three and six months ended June 30, 2021, normal is defined as the average over the 10-year period from June 2011 to June 2020.

The following table presents changes in net income and Adjusted EBITDA for the three and six months ended June 30, 2022 compared to the three and six months ended June 30, 2021.

	Three Months Ended June 30, 2022 Compared to 2021	Six Months Ended June 30, 2022 Compared to 2021
Winter Storm Uri, including bill credits	\$ (16)	\$ 498
Higher/(lower) seasonal commodity costs	3	(111)
Lower margins reflecting self-help gains in 2021 partially offset by favorable weather in 2022	(65)	(89)
Other driven by higher bad debt expense and revenue-based taxes due to higher revenues in 2022	(29)	(42)
Change in Adjusted EBITDA	\$ (107)	\$ 256
Favorable/(unfavorable) impact of unrealized net gains on hedging activities	(818)	704
Future bill credits and other costs related to Winter Storm Uri	5	448
Decrease in depreciation and amortization expenses	18	35
Change in transition and merger and other expenses	(10)	(15)
Change in net income	\$ (912)	\$ 1,428

Generation — Three Months Ended June 30, 2022 Compared to Three Months Ended June 30, 2021

	Three Months Ended June 30,							
	Texas		East		West		Sunset	
	2022	2021	2022	2021	2022	2021	2022	2021
Operating revenues:								
Electricity sales	\$ 369	\$ 340	\$ 573	\$ 241	\$ 111	\$ 82	\$ 59	\$ 140
Capacity revenue from ISO/RTO	—	—	(4)	2	—	—	25	32
Sales to affiliates	660	308	397	337	1	—	125	82
Rolloff of unrealized net gains (losses) representing positions settled in the current period	(63)	(129)	(105)	(23)	2	(6)	37	3
Unrealized net losses on hedging activities	(671)	(35)	(393)	138	(37)	(29)	(228)	(141)
Unrealized net gains (losses) on hedging activities with affiliates	(918)	(952)	(151)	(263)	2	—	(99)	(121)
Other revenues	—	—	2	73	—	1	(2)	(2)
Operating revenues	(623)	(468)	319	505	79	48	(83)	(7)
Fuel, purchased power costs and delivery fees:								
Fuel for generation facilities and purchased power costs	(582)	(310)	(709)	(326)	(55)	(44)	(132)	(148)
Fuel for generation facilities and purchased power costs from affiliates	(3)	(1)	1	—	—	—	2	—
Unrealized gains (losses) from hedging activities	(11)	23	4	15	5	8	148	11
Unrealized net gains (losses) on hedging activities with affiliates	(2)	—	—	—	—	—	2	—
Ancillary and other costs	(99)	(45)	(9)	(8)	(1)	(2)	(3)	(2)
Fuel, purchased power costs and delivery fees	(697)	(333)	(713)	(319)	(51)	(38)	17	(139)
Net loss	\$ (1,638)	\$ (1,138)	\$ (662)	\$ (100)	\$ 25	\$ (13)	\$ (168)	\$ (246)
Adjusted EBITDA	\$ 181	\$ 144	\$ 164	\$ 160	\$ 40	\$ 21	\$ (16)	\$ 25
Production volumes (GWh):								
Natural gas facilities	7,749	6,698	11,418	12,143	869	1,101		
Lignite and coal facilities	5,363	5,580					5,219	6,540
Nuclear facilities	4,137	4,879						
Solar facilities	263	126						
Capacity factors:								
CCGT facilities	43.7 %	37.9 %	48.0 %	49.9 %	37.7 %	49.4 %		
Lignite and coal facilities	63.8 %	66.4 %					46.3 %	58.0 %
Nuclear facilities	82.3 %	97.1 %						
Weather - percent of normal (a):								
Cooling degree days	129.6 %	88.5 %	96.2 %	126.5 %	101.7 %	101.7 %	126.0 %	119.0 %
Heating degree days	17.6 %	148.6 %	95.0 %	94.1 %	127.5 %	96.9 %	96.9 %	95.4 %

(a) Reflects cooling degree days or heating degree days for the region based on Weather Services International (WSI) data.

The following table presents changes in net income (loss) and Adjusted EBITDA for the three months ended June 30, 2022 compared to the three months ended June 30, 2021.

	Three Months Ended June 30, 2022 Compared to 2021			
	Texas	East	West	Sunset
Favorable/(unfavorable) change in revenue net of fuel	\$ (13)	\$ 4	\$ 19	\$ (30)
Winter Storm Uri impact	47	—	—	—
Unfavorable change in other operating costs	(25)	(4)	(1)	(18)
Favorable/(unfavorable) change in selling, general and administrative expenses	(4)	4	1	—
Other	32	—	—	7
Change in Adjusted EBITDA	\$ 37	\$ 4	\$ 19	\$ (41)
Favorable change in depreciation and amortization	15	14	21	8
Change in unrealized net losses on hedging activities	(572)	(512)	(1)	108
Generation plant retirement, transition and merger expenses	—	—	—	(2)
Fresh start/purchase accounting impacts	(1)	(73)	—	(4)
Winter Storm Uri impact (ERCOT default uplift and Koch earn-out)	22	—	—	—
Other (including interest and COVID-19 related expenses)	(1)	5	(1)	9
Change in Net income (loss)	\$ (500)	\$ (562)	\$ 38	\$ 78

The change in West segment results was driven by higher realized energy margins in CAISO in the three months ended June 30, 2022 versus the three months ended June 30, 2021.

The change in Sunset segment results was driven by lower unrealized hedging losses in the three months ended June 30, 2022 versus the three months ended June 30, 2021 due to unrealized gains on forward lignite and coal purchases as forward prices increased in the three months ended June 30, 2022, partially offset by a favorable change in revenue net of fuel.

Generation — Six Months Ended June 30, 2022 Compared to Six Months Ended June 30, 2021

	Six Months Ended June 30,							
	Texas		East		West		Sunset	
	2022	2021	2022	2021	2022	2021	2022	2021
Operating revenues:								
Electricity sales	\$ 603	\$ 1,040	\$ 1,218	\$ 575	\$ 227	\$ 167	\$ 211	\$ 345
Capacity revenue from ISO/RTO	—	—	(10)	(2)	—	—	63	61
Sales to affiliates	1,304	1,232	914	765	3	2	232	181
Rolloff of unrealized net gains (losses) representing positions settled in the current period	188	(154)	(69)	32	(2)	(11)	86	(25)
Unrealized net gains (losses) on hedging activities	(885)	122	(120)	132	(80)	(77)	(558)	(151)
Unrealized net gains (losses) on hedging activities with affiliates	(2,928)	(1,625)	(660)	(347)	3	—	(253)	(154)
Other revenues	—	—	1	75	—	—	(4)	(8)
Operating revenues	(1,718)	615	1,274	1,230	151	81	(223)	249
Fuel, purchased power costs and delivery fees:								
Fuel for generation facilities and purchased power costs	(993)	(1,982)	(1,638)	(785)	(129)	(92)	(311)	(310)
Fuel for generation facilities and purchased power costs from affiliates	(3)	(1)	1	—	—	—	1	(1)
Unrealized (gains) losses from hedging activities	(66)	42	110	30	8	8	116	16
Unrealized (gains) losses from hedging activities with affiliates	(5)	—	1	—	—	—	4	—
Ancillary and other costs	(156)	(1,710)	(15)	(18)	(3)	(2)	(6)	(4)
Fuel, purchased power costs and delivery fees	(1,223)	(3,651)	(1,541)	(773)	(124)	(86)	(196)	(299)
Net loss	\$ (3,610)	\$ (3,656)	\$ (791)	\$ (99)	\$ (36)	\$ (44)	\$ (619)	\$ (241)
Adjusted EBITDA	\$ 351	\$ (1,208)	\$ 312	\$ 380	\$ 66	\$ 45	\$ 33	\$ 127
Production volumes (GWh):								
Natural gas facilities	13,650	13,545	25,754	26,021	2,065	2,363		
Lignite and coal facilities	11,733	11,472					11,868	13,576
Nuclear facilities	9,360	10,089						
Solar facilities	429	222						
Capacity factors:								
CCGT facilities	38.9 %	38.2 %	54.7 %	54.7 %	45.8 %	53.3 %		
Lignite and coal facilities	70.2 %	68.6 %					52.9 %	60.5 %
Nuclear facilities	93.7 %	101.0 %						
Weather - percent of normal (a):								
Cooling degree days	122.9 %	85.8 %	96.0 %	126.3 %	100.9 %	99.0 %	126.0 %	119.0 %
Heating degree days	128.1 %	122.9 %	99.4 %	96.0 %	98.1 %	108.2 %	103.7 %	94.8 %

(a) Reflects cooling degree days or heating degree days for the region based on Weather Services International (WSI) data.

	Six Months Ended June 30,			Six Months Ended June 30,	
	2022	2021		2022	2021
Market pricing			Average Market On-Peak Power Prices (\$/MWh) (b):		
Average ERCOT North power price (\$/MWh)	\$ 50.07	\$ 262.05	PJM West Hub	\$ 75.68	\$ 34.20
Average NYMEX Henry Hub natural gas price (\$/MMBtu)	\$ 6.01	\$ 3.13	AEP Dayton Hub	\$ 72.45	\$ 35.04
Average natural gas price (a):			NYISO Zone C	\$ 61.32	\$ 25.88
TetcoM3 (\$/MMBtu)	\$ 6.75	\$ 2.79	Massachusetts Hub	\$ 94.11	\$ 44.07
Algonquin Citygates (\$/MMBtu)	\$ 10.41	\$ 3.97	Indiana Hub	\$ 75.53	\$ 40.16
			Northern Illinois Hub	\$ 64.72	\$ 32.52
			CAISO NP15	\$ 60.06	\$ 43.76

(a) Reflects the average of daily quoted prices for the periods presented and does not reflect costs incurred by us.

(b) Reflects the average of day-ahead quoted prices for the periods presented and does not necessarily reflect prices we realized.

The following table presents changes in net income (loss) and Adjusted EBITDA for the six months ended June 30, 2022 compared to the six months ended June 30, 2021.

	Six Months Ended June 30, 2022 Compared to 2021			
	Texas	East	West	Sunset
Favorable/(unfavorable) change in revenue net of fuel	\$ 79	\$ (17)	\$ 24	\$ (57)
Winter Storm Uri impact	1,548	(50)	—	(17)
Unfavorable change in other operating costs	(52)	(8)	(6)	(25)
Favorable/(unfavorable) change in selling, general and administrative expenses	(14)	5	3	(4)
Other	(2)	2	—	9
Change in Adjusted EBITDA	\$ 1,559	\$ (68)	\$ 21	\$ (94)
Favorable/(unfavorable) change in depreciation and amortization	14	31	(16)	14
Change in unrealized net losses on hedging activities	(2,081)	(585)	9	(290)
Generation plant retirement expenses	—	—	—	(5)
Fresh start/purchase accounting impacts	(2)	(74)	—	(3)
Winter Storm Uri impact (ERCOT default uplift and Koch earn-out)	566	—	—	1
Other (including interest and COVID-19 related expenses)	(10)	4	(6)	(1)
Change in Net income (loss)	\$ 46	\$ (692)	\$ 8	\$ (378)

The change in Texas segment results was primarily driven by the Winter Storm Uri impacts in 2021, partially offset by higher unrealized hedging losses in the six months ended June 30, 2022 versus the six months ended June 30, 2021 due to increases in forward power prices. The increase in operating costs are due to summer readiness expenses and inflationary pressures in the six months ended June 30, 2022.

The change in East segment results was driven by higher unrealized hedging losses in the six months ended June 30, 2022 versus the six months ended June 30, 2021 due to increases in forward power prices, partially offset by favorable Winter Storm Uri impacts recognized in the six months ended June 30, 2021.

The change in West segment results was driven by higher depreciation and amortization in the six months ended June 30, 2022 versus the six months ended June 30, 2021 reflecting battery ESS projects placed in service during summer 2021 (see Note 2 to the Financial Statements), partially offset by a favorable change in revenue net of fuel driven by higher realized energy margins.

The change in Sunset segment results was driven by higher unrealized hedging losses in the six months ended June 30, 2022 versus the six months ended June 30, 2021 due to increases in forward power prices and an unfavorable change in revenue net of fuel.

Asset Closure Segment — Three and Six Months Ended June 30, 2022 Compared to Three and Six Months Ended June 30, 2021

	Three Months Ended June 30,		Favorable (Unfavorable) Change	Six Months Ended June 30,		Favorable (Unfavorable) Change
	2022	2021		2022	2021	
Operating revenues	\$ 121	\$ (41)	\$ 162	\$ 228	\$ (19)	\$ 247
Fuel, purchased power costs and delivery fees	(119)	(32)	(87)	(221)	(59)	(162)
Operating costs	\$ (34)	\$ (68)	\$ 34	\$ (78)	\$ (108)	\$ 30
Depreciation and amortization	(9)	(4)	(5)	(23)	(8)	(15)
Selling, general and administrative expenses	(9)	(11)	2	(19)	(26)	7
Impairment of long-lived assets	—	(38)	38	—	(38)	38
Operating loss	(50)	(194)	144	(113)	(258)	145
Other income	6	2	4	8	19	(11)
Other deductions	—	—	—	(1)	—	(1)
Interest expense and related charges	(1)	—	(1)	(1)	—	(1)
Loss before income taxes	(45)	(192)	147	(107)	(239)	132
Net loss	\$ (45)	\$ (192)	\$ 147	\$ (107)	\$ (239)	\$ 132
Adjusted EBITDA	\$ (24)	\$ (43)	\$ 19	\$ (30)	\$ (76)	\$ 46
Production volumes (GWh)	2,660	2,055	605	5,859	3,552	2,307

Results and volumes for the Asset Closure segment include those from the Zimmer and Joppa generation plants that we retired in May 2022 and plan to retire in September 2022, respectively. Operating costs for the three and six months ended June 30, 2022 and 2021 also include ongoing costs associated with the decommissioning and reclamation of retired plants and mines. The change in Asset Closure segment results for both the three and six months ended June 30, 2022 is primarily due to severance and impairment expense recorded in the three months ended June 30, 2021, in connection with plant closure announcements (see Note 3 to the Financial Statements).

Energy-Related Commodity Contracts and Mark-to-Market Activities

The table below summarizes the changes in commodity contract assets and liabilities for the six months ended June 30, 2022 and 2021. The net change in these assets and liabilities, excluding "other activity" as described below, reflects \$2.347 billion and \$182 million in unrealized net losses, respectively, for the six months ended June 30, 2022 and 2021, respectively, arising from mark-to-market accounting for positions in the commodity contract portfolio.

	Six Months Ended June 30,	
	2022	2021
Commodity contract net liability at beginning of period	\$ (866)	\$ (75)
Settlements/termination of positions (a)	319	(199)
Changes in fair value of positions in the portfolio (b)	(2,666)	17
Other activity (c)	37	(52)
Commodity contract net liability at end of period	<u>\$ (3,176)</u>	<u>\$ (309)</u>

- (a) Represents reversals of previously recognized unrealized gains and losses upon settlement/termination (offsets realized gains and losses recognized in the settlement period). Excludes changes in fair value in the month the position settled as well as amounts related to positions entered into, and settled, in the same month.
- (b) Represents unrealized net gains (losses) recognized, reflecting the effect of changes in fair value. Excludes changes in fair value in the month the position settled as well as amounts related to positions entered into, and settled, in the same month.
- (c) Represents changes in fair value of positions due to receipt or payment of cash not reflected in unrealized gains or losses. Amounts are generally related to premiums related to options purchased or sold as well as certain margin deposits classified as settlement for certain transactions executed on the CME.

Maturity Table — The following table presents the net commodity contract liability arising from recognition of fair values at June 30, 2022, scheduled by the source of fair value and contractual settlement dates of the underlying positions.

Source of fair value	Maturity dates of unrealized commodity contract net liability at June 30, 2022				
	Less than 1 year	1-3 years	4-5 years	Excess of 5 years	Total
Prices actively quoted	\$ (1,205)	\$ (469)	\$ (28)	\$ —	\$ (1,702)
Prices provided by other external sources	(357)	(103)	1	—	(459)
Prices based on models	(434)	(365)	(141)	(75)	(1,015)
Total	<u>\$ (1,996)</u>	<u>\$ (937)</u>	<u>\$ (168)</u>	<u>\$ (75)</u>	<u>\$ (3,176)</u>

FINANCIAL CONDITION

Operating Cash Flows

Cash used in operating activities totaled \$723 million for the six months ended June 30, 2022 compared to cash used in operating activities of \$1.057 billion for the six months ended June 30, 2021. The favorable change of \$334 million was primarily driven by lower cash from operations in 2021 due to Winter Storm Uri impacts and \$544 million of securitization proceeds from ERCOT in 2022 (see Note 1 to the Financial Statements), partially offset by \$1.653 billion in higher margin deposits in 2022 related to commodity contracts which support our comprehensive hedging strategy.

Depreciation and amortization expense reported as a reconciling adjustment in the condensed consolidated statements of cash flows exceeds the amount reported in the condensed consolidated statements of operations by \$230 million and \$82 million for the six months ended June 30, 2022 and 2021, respectively. The difference represented amortization of nuclear fuel, which is reported as fuel costs in the condensed consolidated statements of operations consistent with industry practice, and amortization of intangible net assets and liabilities that are reported in various other condensed consolidated statements of operations line items including operating revenues and fuel and purchased power costs and delivery fees.

Investing Cash Flows

Cash used in investing activities totaled \$609 million and \$575 million for the six months ended June 30, 2022 and 2021, respectively. Capital expenditures totaled \$613 million and \$546 million for the six months ended June 30, 2022 and 2021, respectively, and consisted of the following:

	Six Months Ended June 30,	
	2022	2021
Capital expenditures, including LTSA prepayments	\$ 293	\$ 273
Nuclear fuel purchases	\$ 117	\$ 15
Growth and development expenditures	\$ 203	\$ 258
Capital expenditures	\$ 613	\$ 546

Cash used in investing activities for the six months ended June 30, 2022 and 2021 also reflected net sales of environmental allowances of \$8 million and net purchases of environmental allowances of \$109 million, respectively. In the six months ended June 30, 2022 and 2021, we received insurance proceeds for reimbursement of capital expenditures of \$1 million and \$63 million, respectively.

Financing Cash Flows

Cash provided by financing activities totaled \$1.880 billion and \$1.671 billion for the six months ended June 30, 2022 and 2021, respectively. The change was primarily driven by:

- the issuance of \$1.498 billion principal amount of Vistra Operations senior secured notes in May 2022;
- net borrowings of \$1.050 billion under the Commodity-Linked Facility in 2022; and
- net borrowings of \$725 million under the accounts receivable financing facilities in 2022 compared to net borrowings of \$361 million in 2021.

These increases in cash provided by financing activities are partially offset by:

- the issuance of \$1.250 billion principal amount of Vistra Operations senior unsecured notes in May 2021;
- \$1.194 billion in cash paid for share repurchases in 2022, including \$114 million of unsettled share repurchases accrued as of December 31, 2021 and excluding \$7 million of unsettled share repurchases accrued as of June 30, 2022, compared to \$175 million in cash paid in 2021;
- \$500 million in cash received from the sale of a portion of the PJM capacity that cleared for Planning Years 2021-2022 in 2021; and
- dividends of \$76 million paid to preferred stockholders in 2022.

Debt Activity

The maturities of our long-term debt are relatively modest until 2024. See Note 9 to the Financial Statements for details of the Receivables Facility and Repurchase Facility and Note 10 to the Financial Statements for details of the Vistra Operations Credit Facilities and other long-term debt.

Available Liquidity

The following table summarizes changes in available liquidity for the six months ended June 30, 2022:

	June 30, 2022	December 31, 2021	Change
Cash and cash equivalents	\$ 1,871	\$ 1,325	\$ 546
Vistra Operations Credit Facilities — Revolving Credit Facility	368	1,254	(886)
Vistra Operations — Commodity-Linked Facility (a)	1,200	—	1,200
Total available liquidity (b)	\$ 3,439	\$ 2,579	\$ 860

(a) Assumes the borrowing base equals the aggregate commitments of \$2.25 billion.

(b) Excludes amounts available to be borrowed under the Receivables Facility and the Repurchase Facility, respectively. See Note 9 to the Financial Statements for detail on our accounts receivable financing.

The \$860 million increase in available liquidity for the six months ended June 30, 2022 was primarily driven by \$1.498 billion principal amount of Vistra Operations senior secured notes issued, \$1.05 billion in net borrowings under the new Commodity-Linked Facility and \$725 million in net cash borrowings under the accounts receivable financing facilities, partially offset by cash used in operations, including the change in margin deposits related to commodity contracts, \$1.194 billion in cash paid for share repurchases, \$613 million of capital expenditures (including LTSA prepayments, nuclear fuel and development and growth expenditures), a \$911 million increase in letters of credit outstanding under the Revolving Credit Facility, \$152 million in dividends paid to common stockholders and \$76 million in dividends paid to preferred stockholders.

We believe that we will have access to sufficient liquidity to fund our anticipated cash requirements through at least the next 12 months. Our operational cash flows tend to be seasonal and weighted toward the second half of the year.

Higher commodity market prices combined with our comprehensive hedging strategy have resulted in significantly increased collateral posting obligations during the first six months of 2022. The majority of this collateral relates to hedges in place through 2023 and is expected to be returned as we satisfy our obligations under those contracts. As of August 3, 2022, Vistra had approximately \$4.5 billion of cash and availability under its credit facilities to meet its liquidity needs. The Company believes it has additional alternatives to maintain access to liquidity, including drawing upon available liquidity, accessing additional sources of capital, or reducing capital expenditures, planned voluntary debt repayments or operating costs.

Liquidity Effects of Commodity Hedging and Trading Activities

We have entered into commodity hedging and trading transactions that require us to post collateral if the forward price of the underlying commodity moves such that the hedging or trading instrument we hold has declined in value. We use cash, letters of credit and other forms of credit support to satisfy such collateral posting obligations. See Note 10 to the Financial Statements for discussion of the Vistra Operations Credit Facilities and the Commodity-Linked Facility.

Exchange cleared transactions typically require initial margin (*i.e.*, the upfront cash and/or letter of credit posted to take into account the size and maturity of the positions and credit quality) in addition to variation margin (*i.e.*, the daily cash margin posted to take into account changes in the value of the underlying commodity). The amount of initial margin required is generally defined by exchange rules. Clearing agents, however, typically have the right to request additional initial margin based on various factors, including market depth, volatility and credit quality, which may be in the form of cash, letters of credit, a guaranty or other forms as negotiated with the clearing agent. Cash collateral received from counterparties is either used for working capital and other business purposes, including reducing borrowings under credit facilities, or is required to be deposited in a separate account and restricted from being used for working capital and other corporate purposes. With respect to over-the-counter transactions, counterparties generally have the right to substitute letters of credit for such cash collateral. In such event, the cash collateral previously posted would be returned to such counterparties, which would reduce liquidity in the event the cash was not restricted.

At June 30, 2022, we received or posted cash and letters of credit for commodity hedging and trading activities as follows:

- \$3.160 billion in cash has been posted with counterparties as compared to \$1.263 billion posted at December 31, 2021;
- \$43 million in cash has been received from counterparties as compared to \$39 million received at December 31, 2021;
- \$2.565 billion in letters of credit have been posted with counterparties as compared to \$1.558 billion posted at December 31, 2021; and
- \$49 million in letters of credit have been received from counterparties as compared to \$35 million received at December 31, 2021.

See *Collateral Support Obligations* below for information related to collateral posted in accordance with the PUCT and ISO/RTO rules.

Income Tax Payments

In the next 12 months, we do not expect to make federal income tax payments due to Vistra's NOL carryforwards. We expect to make approximately \$45 million in state income tax payments, offset by \$5 million in state tax refunds, and \$1 million in TRA payments in the next 12 months.

For the six months ended June 30, 2022, there were no federal income tax payments, \$18 million in state income tax payments, \$8 million in state income tax refunds and no TRA payments.

Financial Covenants

The Vistra Operations Credit Agreement includes a covenant, solely with respect to the Revolving Credit Facility and solely during a compliance period (which, in general, is applicable when the aggregate revolving borrowings and issued revolving letters of credit (in excess of \$300 million) exceed 30% of the revolving commitments), that requires the consolidated first-lien net leverage ratio not exceed 4.25 to 1.00 (or, during a collateral suspension period, a total net leverage ratio not to exceed 5.50 million to 1.00). As of June 30, 2022, we were in compliance with this financial covenant.

See Note 10 to the Financial Statements for discussion of other covenants related to the Vistra Operations Credit Facilities.

Collateral Support Obligations

The RCT has rules in place to assure that parties can meet their mining reclamation obligations. In September 2016, the RCT agreed to a collateral bond of up to \$975 million to support Luminant's reclamation obligations. The collateral bond is effectively a first lien on all of Vistra Operations' assets (which ranks pari passu with the Vistra Operations Credit Facilities) that contractually enables the RCT to be paid (up to \$975 million) before the other first-lien lenders in the event of a liquidation of our assets. Collateral support relates to land mined or being mined and not yet reclaimed as well as land for which permits have been obtained but mining activities have not yet begun and land already reclaimed but not released from regulatory obligations by the RCT, and includes cost contingency amounts.

The PUCT has rules in place to assure adequate creditworthiness of each REP, including the ability to return customer deposits, if necessary. Under these rules, at June 30, 2022, Vistra has posted letters of credit in the amount of \$74 million with the PUCT, which is subject to adjustments.

The ISOs/RTOs we operate in have rules in place to assure adequate creditworthiness of parties that participate in the markets operated by those ISOs/RTOs. Under these rules, Vistra has posted collateral support totaling \$574 million in the form of letters of credit, \$20 million in the form of a surety bond and \$26 million of cash at June 30, 2022 (which is subject to daily adjustments based on settlement activity with the ISOs/RTOs).

Material Cross Default/Acceleration Provisions

Certain of our contractual arrangements contain provisions that could result in an event of default if there were a failure under financing arrangements to meet payment terms or to observe covenants that could result in an acceleration of payments due. Such provisions are referred to as "cross default" or "cross acceleration" provisions.

A default by Vistra Operations or any of its restricted subsidiaries in respect of certain specified indebtedness in an aggregate amount in excess of \$300 million may result in a cross default under the Vistra Operations Credit Facilities. Such a default would allow the lenders to accelerate the maturity of outstanding balances under such facilities, which totaled approximately \$2.779 billion at June 30, 2022.

Each of Vistra Operations' (or its subsidiaries') commodity hedging agreements and interest rate swap agreements that are secured with a lien on its assets on a pari passu basis with the Vistra Operations Credit Facilities lenders contains a cross-default provision. An event of a default by Vistra Operations or any of its subsidiaries relating to indebtedness equal to or above a threshold defined in the applicable agreement that results in the acceleration of such debt, would give such counterparty under these hedging agreements the right to terminate its hedge or interest rate swap agreement with Vistra Operations (or its applicable subsidiary) and require all outstanding obligations under such agreement to be settled.

Under the Vistra Operations Senior Unsecured Indentures and the Vistra Operations Senior Secured Indenture, a default under any document evidencing indebtedness for borrowed money by Vistra Operations or any Guarantor Subsidiary for failure to pay principal when due at final maturity or that results in the acceleration of such indebtedness in an aggregate amount of \$300 million or more may result in a cross default under the Vistra Operations Senior Unsecured Notes, the Senior Secured Notes, the Vistra Operations Credit Facilities, the Receivables Facility, the Commodity-Linked Facility and other current or future documents evidencing any indebtedness for borrowed money by the applicable borrower or issuer, as the case may be, and the applicable Guarantor Subsidiaries party thereto.

Additionally, we enter into energy-related physical and financial contracts, the master forms of which contain provisions whereby an event of default or acceleration of settlement would occur if we were to default under an obligation in respect of borrowings in excess of thresholds, which may vary by contract.

The Receivables Facility contains a cross-default provision. The cross-default provision applies, among other instances, if TXU Energy, Dynegy Energy Services, Ambit Texas, Value Based Brands and TriEagle, each indirect subsidiaries of Vistra and originators under the Receivables Facility (Originators), fails to make a payment of principal or interest on any indebtedness that is outstanding in a principal amount of at least \$300 million, or, in the case of TXU Energy or any of the other Originators, in a principal amount of at least \$50 million, after the expiration of any applicable grace period, or if other events occur or circumstances exist under such indebtedness which give rise to a right of the debtholder to accelerate such indebtedness, or if such indebtedness becomes due before its stated maturity. If this cross-default provision is triggered, a termination event under the Receivables Facility would occur and the Receivables Facility may be terminated.

The Repurchase Facility contains a cross-default provision. The cross-default provision applies, among other instances, if an event of default (or similar event) occurs under the Receivables Facility or the Vistra Operations Credit Facilities. If this cross-default provision is triggered, a termination event under the Repurchase Facility would occur and the Repurchase Facility may be terminated.

Under the Secured LOC Facilities, a default under any document evidencing indebtedness for borrowed money by Vistra Operations or any Guarantor Subsidiary for failure to pay principal when due at final maturity or that results in the acceleration of such indebtedness in an aggregate amount of \$300 million or more, may result in a termination of the Secured LOC Facilities.

Under the Commodity-Linked Facility, a default under any document evidencing indebtedness for borrowed money by Vistra Operations or any Guarantor Subsidiary for failure to pay principal when due at final maturity or that results in the acceleration of such indebtedness in an aggregate amount of \$300 million or more, may result in a termination of the Commodity-Linked Facility.

Guarantees

See Note 11 to the Financial Statements for discussion of guarantees.

COMMITMENTS AND CONTINGENCIES

See Note 11 to the Financial Statements for discussion of commitments and contingencies.

CHANGES IN ACCOUNTING STANDARDS

See Note 1 to the Financial Statements for discussion of changes in accounting standards.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market risk is the risk that in the normal course of business we may experience a loss in value because of changes in market conditions that affect economic factors such as commodity prices, interest rates and counterparty credit. Our exposure to market risk is affected by several factors, including the size, duration and composition of our energy and financial portfolio, as well as the volatility and liquidity of markets. Instruments used to manage this exposure include interest rate swaps to hedge debt costs, as well as exchange-traded, over-the-counter contracts and other contractual arrangements to hedge commodity prices.

Risk Oversight

We manage the commodity price, counterparty credit and commodity-related operational risk related to the competitive energy business within limitations established by senior management and in accordance with overall risk management policies. Interest rate risk is managed centrally by our treasury function. Market risks are monitored by risk management groups that operate independently of the wholesale commercial operations, utilizing defined practices and analytical methodologies. These techniques measure the risk of change in value of the portfolio of contracts and the hypothetical effect on this value from changes in market conditions and include, but are not limited to, position reporting and review, Value at Risk (VaR) methodologies and stress test scenarios. Key risk control activities include, but are not limited to, transaction review and approval (including credit review), operational and market risk measurement, transaction authority oversight, validation of transaction capture, market price validation and reporting, and portfolio valuation and reporting, including mark-to-market, VaR and other risk measurement metrics.

Vistra has a risk management organization that enforces applicable risk limits, including the respective policies and procedures to ensure compliance with such limits, and evaluates the risks inherent in our businesses.

Commodity Price Risk

Our business is subject to the inherent risks of market fluctuations in the price of electricity, natural gas and other energy-related products it markets or purchases. We actively manage the portfolio of generation assets, fuel supply and retail sales load to mitigate the near-term impacts of these risks on results of operations. Similar to other participants in the market, we cannot fully manage the long-term value impact of structural declines or increases in natural gas and power prices.

In managing energy price risk, we enter into a variety of market transactions including, but not limited to, short- and long-term contracts for physical delivery, exchange-traded and over-the-counter financial contracts and bilateral contracts with customers. Activities include hedging, the structuring of long-term contractual arrangements and proprietary trading. We continuously monitor the valuation of identified risks and adjust positions based on current market conditions. We strive to use consistent assumptions regarding forward market price curves in evaluating and recording the effects of commodity price risk.

VaR Methodology — A VaR methodology is used to measure the amount of market risk that exists within the portfolio under a variety of market conditions. The resultant VaR produces an estimate of a portfolio's potential for loss given a specified confidence level and considers, among other things, market movements utilizing standard statistical techniques given historical and projected market prices and volatilities.

Parametric processes are used to calculate VaR and are considered by management to be the most effective way to estimate changes in a portfolio's value based on assumed market conditions for liquid markets. The use of this method requires a number of key assumptions, such as use of (i) an assumed confidence level, (ii) an assumed holding period (*i.e.*, the time necessary for management action, such as to liquidate positions) and (iii) historical estimates of volatility and correlation data. The table below details a VaR measure related to various portfolios of contracts.

VaR for Underlying Generation Assets and Energy-Related Contracts — This measurement estimates the potential loss in value, due to changes in market conditions, of all underlying generation assets and contracts, based on a 95% confidence level and an assumed holding period of 60 days. The forward period covered by this calculation includes the current and subsequent calendar year at the time of calculation.

	Six Months Ended June 30, 2022	Year Ended December 31, 2021
Month-end average VaR	\$ 587	\$ 424
Month-end high VaR	\$ 686	\$ 684
Month-end low VaR	\$ 448	\$ 222

The month-end high VaR risk measure in 2022 is consistent with the prior year.

Interest Rate Risk

At June 30, 2022, the potential reduction of annual pretax earnings over the next twelve months due to a one percentage-point (100 basis points) increase in floating interest rates on long-term debt totaled approximately \$2 million taking into account the interest rate swaps discussed in Note 10 to Financial Statements.

Credit Risk

Credit risk relates to the risk of loss associated with nonperformance by counterparties. We minimize credit risk by evaluating potential counterparties, monitoring ongoing counterparty risk and assessing overall portfolio risk. This includes review of counterparty financial condition, current and potential credit exposures, credit rating and other quantitative and qualitative credit criteria. We also employ certain risk mitigation practices, including utilization of standardized master agreements that provide for netting and setoff rights, as well as credit enhancements such as margin deposits and customer deposits, letters of credit, parental guarantees and surety bonds. See Note 14 to the Financial Statements for further discussion of this exposure.

Credit Exposure — Our gross credit exposure (excluding collateral impacts) associated with retail and wholesale trade accounts receivable and net derivative assets arising from commodity contracts and hedging and trading activities totaled \$2.353 billion at June 30, 2022.

At June 30, 2022, Retail segment credit exposure totaled approximately \$1.252 billion, including \$1.239 billion of trade accounts receivable and \$13 million related to derivatives. Cash deposits and letters of credit held as collateral for these receivables totaled \$69 million, resulting in a net exposure of approximately \$1.183 billion. Allowances for uncollectible accounts receivable are established for the potential loss from nonpayment by these customers based on historical experience, market or operational conditions and changes in the financial condition of large business customers.

At June 30, 2022, aggregate Texas, East, Sunset and Asset Closure segments credit exposure totaled \$1.098 billion including \$890 million related to derivative assets and \$208 million of trade accounts receivable, after taking into account master netting agreement provisions but excluding collateral impacts.

Including collateral posted to us by counterparties, our net Texas, East, Sunset and Asset Closure segments exposure was \$1.014 billion, as seen in the following table that presents the distribution of credit exposure by counterparty credit quality at June 30, 2022. Credit collateral includes cash and letters of credit but excludes other credit enhancements such as guarantees or liens on assets.

	Exposure Before Credit Collateral	Credit Collateral	Net Exposure
Investment grade	\$ 557	\$ 30	\$ 527
Below investment grade or no rating	541	54	487
Totals	\$ 1,098	\$ 84	\$ 1,014

Significant (*i.e.*, 10% or greater) concentration of credit exposure exists with four counterparties, which represented an aggregate \$545 million, or 54%, of our total net exposure at June 30, 2022. We view exposure to these counterparties to be within an acceptable level of risk tolerance due to the counterparties' credit ratings, the counterparties' market role and deemed creditworthiness and the importance of our business relationship with the counterparty. An event of default by one or more counterparties could subsequently result in termination-related settlement payments that reduce available liquidity if amounts such as margin deposits are owed to the counterparties or delays in receipts of expected settlements owed to us.

Contracts classified as "normal" purchase or sale and non-derivative contractual commitments are not marked-to-market in the financial statements and are excluded from the detail above. Such contractual commitments may contain pricing that is favorable considering current market conditions and therefore represent economic risk if the counterparties do not perform.

FORWARD-LOOKING STATEMENTS

This report and other presentations made by us contain "forward-looking statements." All statements, other than statements of historical facts, that are included in this report, or made in presentations, in response to questions or otherwise, that address activities, events or developments that may occur in the future, including (without limitation) such matters as activities related to our financial or operational projections, capital allocation, capital expenditures, liquidity, dividend policy, business strategy, competitive strengths, goals, future acquisitions or dispositions, development or operation of power generation assets, market and industry developments and the growth of our businesses and operations (often, but not always, through the use of words or phrases such as "intends," "plans," "will likely," "unlikely," "expected," "anticipated," "estimated," "should," "may," "projection," "target," "goal," "objective" and "outlook"), are forward-looking statements. Although we believe that in making any such forward-looking statement our expectations are based on reasonable assumptions, any such forward-looking statement involves uncertainties and risks and is qualified in its entirety by reference to the discussion under Part II, Item 1A *Risk Factors* and Part I, Item 2 *Management's Discussion and Analysis of Financial Condition and Results of Operations* in this quarterly report on Form 10-Q and the following important factors, among others, that could cause our actual results to differ materially from those projected in or implied by such forward-looking statements:

- the actions and decisions of judicial and regulatory authorities;
- prohibitions and other restrictions on our operations due to the terms of our agreements;
- prevailing federal, state and local governmental policies and regulatory actions, including those of the legislatures and other government actions of states in which we operate, the U.S. Congress, the FERC, the NERC, the TRE, the public utility commissions of states and locales in which we operate, CAISO, ERCOT, ISO-NE, MISO, NYISO, PJM, the RCT, the NRC, the EPA, the environmental regulatory bodies of states in which we operate, the MSHA and the CFTC, with respect to, among other things:
 - allowed prices;
 - industry, market and rate structure;
 - purchased power and recovery of investments;
 - operations of nuclear generation facilities;
 - operations of fossil-fueled generation facilities;
 - operations of mines;
 - acquisition and disposal of assets and facilities;
 - development, construction and operation of facilities;
 - decommissioning costs;
 - present or prospective wholesale and retail competition;
 - changes in federal, state and local tax laws, rates and policies, including additional regulation, interpretations, amendments, or technical corrections to The Tax Cuts and Jobs Act of 2017;
 - changes in and compliance with environmental and safety laws and policies, including the Coal Combustion Residuals Rule, National Ambient Air Quality Standards, the Cross-State Air Pollution Rule, the Mercury and Air Toxics Standard, regional haze program implementation and GHG and other climate change initiatives, and
 - clearing over-the-counter derivatives through exchanges and posting of cash collateral therewith;
- expectations regarding, or impacts of, environmental matters, including costs of compliance, availability and adequacy of emission credits, and the impact of ongoing proceedings and potential regulations or changes to current regulations, including those relating to climate change, air emissions, cooling water intake structures, coal combustion byproducts, and other laws and regulations that we are, or could become, subject to, which could increase our costs, result in an impairment of our assets, cause us to limit or terminate the operation of certain of our facilities, or otherwise negatively impact our financial results or stock price;
- legal and administrative proceedings and settlements;
- general industry trends;
- economic conditions, including the impact of any inflationary period, recession or economic downturn;
- investor sentiment relating to climate change and utilization of fossil fuels in connection with power generation could reduce demand for, or increase potential volatility in the market price of, our common stock;
- the severity, magnitude and duration of pandemics, including the COVID-19 pandemic, and the resulting effects on our results of operations, financial condition and cash flows;
- the severity, magnitude and duration of extreme weather events, drought and limitations on access to water, and other weather conditions and natural phenomena, contingencies and uncertainties relating thereto, most of which are difficult to predict and many of which are beyond our control, and the resulting effects on our results of operations, financial condition and cash flows;
- acts of sabotage, geopolitical conflicts, wars, or terrorist, cybersecurity, cybercriminal, or cyber-espionage threats or activities;

- risk of contract performance claims by us or our counterparties, and risks of, or costs associated with, pursuing or defending such claims;
- our ability to collect trade receivables from counterparties in the amount or at the time expected, if at all;
- our ability to attract, retain and profitably serve customers;
- restrictions on or prohibitions of competitive retail pricing or direct-selling businesses;
- adverse publicity associated with our retail products or direct selling businesses, including our ability to address the marketplace and regulators regarding our compliance with applicable laws;
- changes in wholesale electricity prices or energy commodity prices, including the price of natural gas;
- changes in prices of transportation of natural gas, coal, fuel oil and other refined products;
- sufficiency of, access to, and costs associated with coal, fuel oil, natural gas, and uranium inventories and transportation and storage thereof;
- changes in the ability of counterparties and suppliers to provide or deliver commodities, materials, or services as needed;
- beliefs and assumptions about the benefits of state- or federal-based subsidies to our market competition, and the corresponding impacts on us, including if such subsidies are disproportionately available to our competitors;
- the effects of, or changes to, market design and the power, ancillary services and capacity procurement processes in the markets in which we operate;
- changes in market heat rates in the CAISO, ERCOT, ISO-NE, MISO, NYISO and PJM electricity markets;
- our ability to effectively hedge against unfavorable commodity prices, including the price of natural gas, market heat rates and interest rates;
- population growth or decline, or changes in market supply or demand and demographic patterns;
- our ability to mitigate forced outage risk, including managing risk associated with Capacity Performance in PJM and performance incentives in ISO-NE;
- efforts to identify opportunities to reduce congestion and improve busbar power prices;
- access to adequate transmission facilities to meet changing demands;
- changes in interest rates, commodity prices, rates of inflation or foreign exchange rates;
- changes in operating expenses, liquidity needs and capital expenditures;
- commercial bank market and capital market conditions and the potential impact of disruptions in U.S. and international credit markets;
- access to capital, the attractiveness of the cost and other terms of such capital and the success of financing and refinancing efforts, including availability of funds in capital markets;
- our ability to maintain prudent financial leverage and achieve our capital allocation, performance, and cost-saving initiatives and objectives;
- our ability to generate sufficient cash flow to make principal and interest payments in respect of, or refinance, our debt obligations;
- our expectation that we will continue to pay (i) a consistent aggregate cash dividend amount to common stockholders on a quarterly basis and (ii) the applicable semiannual cash dividend to the Series A Preferred Stock and Series B Preferred Stock stockholders, respectively;
- our ability to implement and successfully execute upon our strategic and growth initiatives, including the completion and integration of mergers, acquisitions and/or joint venture activity, the identification and completion of sales and divestitures activity, and the completion and commercialization of our other business development and construction projects;
- competition for new energy development and other business opportunities;
- inability of various counterparties to meet their obligations with respect to our financial instruments;
- counterparties' collateral demands and other factors affecting our liquidity position and financial condition;
- changes in technology (including large-scale electricity storage) used by and services offered by us;
- changes in electricity transmission that allow additional power generation to compete with our generation assets;
- our ability to attract and retain qualified employees;
- significant changes in our relationship with our employees, including the availability of qualified personnel, and the potential adverse effects if labor disputes or grievances were to occur or changes in laws or regulations relating to independent contractor status;
- changes in assumptions used to estimate costs of providing employee benefits, including medical and dental benefits, pension and other postretirement employee benefits, and future funding requirements related thereto, including joint and several liability exposure under ERISA;
- hazards customary to the industry and the possibility that we may not have adequate insurance to cover losses resulting from such hazards;
- the impact of our obligations under the TRA;
- our ability to optimize our assets through targeted investment in cost-effective technology enhancements and operations performance initiatives;

- our ability to effectively and efficiently plan, prepare for and execute expected asset retirements and reclamation obligations and the impacts thereof;
- our ability to successfully complete the integration of businesses acquired by Vistra and our ability to successfully capture the full amount of projected operational and financial synergies relating to such transactions, and
- actions by credit rating agencies.

Any forward-looking statement speaks only at the date on which it is made, and except as may be required by law, we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which it is made or to reflect the occurrence of unanticipated events or circumstances. New factors emerge from time to time, and it is not possible for us to predict them. In addition, we may be unable to assess the impact of any such event or condition or the extent to which any such event or condition, or combination of events or conditions, may cause results to differ materially from those contained in or implied by any forward-looking statement. As such, you should not unduly rely on such forward-looking statements.

INDUSTRY AND MARKET INFORMATION

Certain industry and market data and other statistical information used throughout this report are based on independent industry publications, government publications, reports by market research firms or other published independent sources, including certain data published by CAISO, ERCOT, ISO-NE, MISO, NYISO, PJM, the environmental regulatory bodies of states in which we operate and NYMEX. We did not commission any of these publications, reports or other sources. Some data is also based on good faith estimates, which are derived from our review of internal surveys, as well as the independent sources listed above. Industry publications, reports and other sources generally state that they have obtained information from sources believed to be reliable, but do not guarantee the accuracy and completeness of such information. While we believe that each of these studies, publications, reports and other sources is reliable, we have not independently investigated or verified the information contained or referred to therein and make no representation as to the accuracy or completeness of such information. Forecasts are particularly likely to be inaccurate, especially over long periods of time, and we do not know what assumptions were used in preparing such forecasts. Statements regarding industry and market data and other statistical information used throughout this report involve risks and uncertainties and are subject to change based on various factors.

Item 4. CONTROLS AND PROCEDURES

An evaluation was performed under the supervision and with the participation of our management, including the principal executive officer and principal financial officer, of the effectiveness of the design and operation of the disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15a-15(e) of the Exchange Act) in effect at June 30, 2022. Based on the evaluation performed, our principal executive officer and principal financial officer concluded that the disclosure controls and procedures were effective. During the fiscal quarter covered by this quarterly report on Form 10-Q, there have been no changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(e) and 15a-15(e) of the Exchange Act) that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

Reference is made to the discussion in Note 11 to the Financial Statements regarding legal proceedings.

Item 1A. RISK FACTORS

There have been no material changes to the risk factors discussed in Part I, Item 1A *Risk Factors* in our 2021 Form 10-K. We could also be affected by additional factors that are not presently known to us or that we currently consider to be immaterial to our operations.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

The following table provides information about our repurchase of equity securities that are registered by us pursuant to Section 12 of the Exchange Act, as amended, during the quarter ended June 30, 2022.

	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of a Publicly Announced Program	Maximum Dollar Amount of Shares that may yet be Purchased under the Program (in millions)
April 1 - April 30, 2022	6,315,304	\$ 24.57	6,315,304	\$ 824
May 1 - May 31, 2022	8,406,950	\$ 25.37	8,406,950	\$ 610
June 1 - June 30, 2022	4,378,005	\$ 24.14	4,378,005	\$ 505
For the quarter ended June 30, 2022	19,100,259	\$ 24.83	19,100,259	\$ 505

In October 2021, we announced that the Board had authorized a new share repurchase program (Share Repurchase Program) under which up to \$2.0 billion of our outstanding common stock may be repurchased. The Share Repurchase Program became effective on October 11, 2021. The Share Repurchase Program supersedes the \$1.5 billion share repurchase program previously announced in September 2020, which had \$1.325 billion of remaining authorization as of September 30, 2021. As an initial step in our broader capital allocation plan, we intend to use all of the net proceeds from our October 2021 Series A Preferred Stock offering to repurchase shares of our outstanding common stock.

On August 4, 2022, the Board authorized an incremental \$1.25 billion for repurchases under the Share Repurchase Program. Including the original Board authorization, approximately \$1.65 billion remains available for share repurchases under the Share Repurchase Program as of August 4, 2022. We expect to complete repurchases under the Share Repurchase Program by the end of 2023.

Under the Share Repurchase Program, any purchases of shares of the Company's stock may be repurchased from time to time in open-market transactions at prevailing market prices, in privately negotiated transactions, pursuant to plans complying with the Exchange Act, or by other means in accordance with federal securities laws. The actual timing, number and value of shares repurchased under the Share Repurchase Program or otherwise will be determined at our discretion and will depend on a number of factors, including our capital allocation priorities, the market price of our stock, general market and economic conditions, applicable legal requirements and compliance with the terms of our debt agreements and the certificate of designation of the Series A Preferred Stock and the Series B Preferred Stock, respectively.

See Note 12 to the Financial Statements for more information concerning the Share Repurchase Program.

Item 3. DEFAULTS UPON SENIOR SECURITIES

None.

Item 4. MINE SAFETY DISCLOSURES

Vistra currently owns and operates, or is in the process of reclaiming, 12 surface lignite coal mines in Texas to provide fuel for its electricity generation facilities. Vistra also owns or leases, and is in the process of reclaiming, two waste-to-energy surface facilities in Pennsylvania. These mining operations are regulated by the MSHA under the Federal Mine Safety and Health Act of 1977, as amended (the Mine Act), as well as other federal and state regulatory agencies such as the RCT and Office of Surface Mining. The MSHA inspects U.S. mines, including Vistra's mines, on a regular basis, and if it believes a violation of the Mine Act or any health or safety standard or other regulation has occurred, it may issue a citation or order, generally accompanied by a proposed fine or assessment. Such citations and orders can be contested and appealed, which often results in a reduction of the severity and amount of fines and assessments and sometimes results in dismissal. Disclosure of MSHA citations, orders and proposed assessments are provided in Exhibit 95.1 to this quarterly report on Form 10-Q.

Item 5. OTHER INFORMATION

None.

Item 6. EXHIBITS

(a) Exhibits filed or furnished as part of Part II are:

Exhibits	Previously Filed With File Number*	As Exhibit	
(3(i))	Articles of Incorporation		
3.1	0001-38086 Form 8-K (filed May 4, 2020)	3.1	— Restated Certificate of Incorporation of Vistra Energy Corp. (now known as Vistra Corp.)
3.2	0001-38086 Form 8-K (filed June 29, 2020)	3.1	— Certificate of Amendment of the Restated Certificate of Incorporation of Vistra Energy Corp. (now known as Vistra Corp.), effective July 2, 2020
3.3	0001-38086 Form 8-K (filed October 15, 2021)	3.1	— Series A Preferred Stock Certificate of Designation, filed with the Secretary of State of Delaware on October 14, 2021
3.4	0001-38086 Form 8-K (filed December 13, 2021)	3.1	— Series B Preferred Stock Certificate of Designation, filed with the Secretary of State of Delaware on December 9, 2021
(3(ii))	By-laws		
3.3	001-38086 Form 10-K (Year ended December 31, 2021) (filed February 25, 2022)	3.5	— Amended and Restated Bylaws of Vistra Corp., effective February 23, 2022
(4)	Instruments Defining the Rights of Security Holders, Including Indentures		
4.1	0001-38086 Form 8-K (filed May 16, 2022)	4.1	— Eleventh Supplemental Indenture, dated as of May 13, 2022, among Vistra Operations Company LLC, as Issuer, the Subsidiary Guarantors (as defined therein), and Wilmington Trust, National Association, as Trustee
4.2	0001-38086 Form 8-K (filed May 16, 2022)	4.2	— Form of Rule 144A Global Security for 4.875% Senior Note due 2024 (included in Exhibit 4.1)
4.3	0001-38086 Form 8-K (filed May 16, 2022)	4.3	— Form of Regulation S Global Security for 4.875% Senior Note due 2024 (included in Exhibit 4.1)
4.4	0001-38086 Form 8-K (filed May 16, 2022)	4.4	— Form of Rule 144A Global Security for 5.125% Senior Note due 2025 (included in Exhibit 4.1)

Exhibits	Previously Filed With File Number*	As Exhibit		
4.5	0001-38086 Form 8-K (filed May 16, 2022)	4.5	—	Form of Regulation S Global Security for 5.125% Senior Note due 2025 (included in Exhibit 4.1)
4.6	0001-38086 Form 8-K (filed July 15, 2022)	4.1	—	Twelfth Amendment to Receivables Purchase Agreement, dated as of July 11, 2022, among TXU Energy Receivables Company LLC, as seller, TXU Energy Retail Company LLC, as servicer, Vistra Operations Company LLC, as performance guarantor, certain purchaser agents and purchasers named therein and Credit Agricole Corporate and Investment Bank, as administrator
(10)	Material Contracts			
10.1	0001-38086 Form 8-K (filed May 5, 2022)	10.1	—	Eleventh Amendment to the Credit Agreement, dated April 29, 2022, by and among Vistra Operations Company LLC (as Borrower), Vistra Intermediate Company LLC (as Holdings), the other Credit Parties (as defined in the Credit Agreement) party thereto, the other Credit Parties (as defined in the Credit Agreement) party thereto, the Lenders (as defined in the Credit Agreement) party thereto, the financial institutions providing 2022 New Revolving Credit Commitments (as defined in the Credit Agreement), the Revolving Credit Lenders providing 2022 Extended Revolving Credit Commitments (as defined in the Credit Agreement), the Revolving Letter of Credit Issuers (as defined in the Credit Agreement) party thereto, and Credit Suisse AG, Cayman Islands Branch (as Administrative Agent and as Collateral Agent
10.2	0001-38086 Form 8-K (filed May 16, 2022)	10.1	—	Purchase Agreement, dated May 10, 2022, by and among Vistra Operations Company LLC and Citigroup Global Markets Inc, on behalf of itself and the several Initial Purchases named in Schedule I to the Purchase Agreement
10.3	**		—	First Amendment to Credit Agreement, dated as of May 5, 2022, among Vistra Operations Company LLC, as Borrower, Vistra Intermediate Company LLC, as Holdings, Citibank, N.A., as Administrative Agent and as Collateral Agent, and the other lenders party thereto
10.4	**		—	Second Amendment to Credit Agreement, dated as of May 26, 2022, among Vistra Operations Company LLC, as Borrower, Vistra Intermediate Company LLC, as Holdings, Citibank, N.A., as Administrative Agent and as Collateral Agent, and the other lenders party thereto
10.5	**		—	Third Amendment to Credit Agreement, dated as of June 8, 2022, among Vistra Operations Company LLC, as Borrower, Vistra Intermediate Company LLC, as Holdings, Citibank, N.A., as Administrative Agent and as Collateral Agent, and the other lenders party thereto
10.6	**		—	Amended and Restated Employment Agreement, dated as of May 5, 2022, by and among Stephanie Zapata Moore, Vistra Corp. and Vistra Corporate Services Company
10.7	**		—	Amended and Restated Employment Agreement, dated as of May 5, 2022, between Carrie Lee Kirby, Vistra Corp. and Vistra Corporate Services Company
10.8	**		—	Amended and Restated Employment Agreement, dated as of May 5, 2022, between Scott A. Hudson, Vistra Corp. and Vistra Corporate Services Company
10.9	**		—	Amended and Restated Employment Agreement, dated as of May 5, 2022, between Stephen J. Muscato, Vistra Corp. and Vistra Corporate Services Company

Exhibits	Previously Filed With File Number*	As Exhibit	
10.10	0001-38086 Form 8-K (filed July 15, 2022)	10.1	— Amendment No. 3 to Master Framework Agreement, dated as of July 11, 2022, by and among TXU Energy Retail Company LLC, as seller and seller party agent, certain originators named therein, Vistra Operations Company LLC, as guarantor, and MUFG Bank, Ltd., as buyer
(31)	Rule 13a-14(a) / 15d-14(a) Certifications		
31.1	**		— Certification of James A. Burke, principal executive officer of Vistra Corp., pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	**		— Certification of Kristopher E. Moldovan, principal financial officer of Vistra Corp., pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
(32)	Section 1350 Certifications		
32.1	***		— Certification of James A. Burke, principal executive officer of Vistra Corp., pursuant to U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	***		— Certification of Kristopher E. Moldovan, principal financial officer of Vistra Corp., pursuant to U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
(95)	Mine Safety Disclosures		
95.1	**		— Mine Safety Disclosures
	XBRL Data Files		
101.INS	**		— The following financial information from Vistra Corp.'s Quarterly Report on Form 10-Q for the period ended June 30, 2022 formatted in Inline XBRL (Extensible Business Reporting Language) includes: (i) the Condensed Consolidated Statements of Operations, (ii) the Condensed Consolidated Statements of Comprehensive Income (Loss), (iii) the Condensed Consolidated Statements of Cash Flows, (iv) the Condensed Consolidated Balance Sheets and (v) the Notes to the Condensed Consolidated Financial Statements
101.SCH	**		— XBRL Taxonomy Extension Schema Document
101.CAL	**		— XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	**		— XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	**		— XBRL Taxonomy Extension Label Linkbase Document
101.PRE	**		— XBRL Taxonomy Extension Presentation Linkbase Document
104	**		— The Cover Page Interactive Data File does not appear in Exhibit 104 because its XBRL tags are embedded within the Inline XBRL document

* Incorporated herein by reference

** Filed herewith

*** Furnished herewith

SIGNATURE

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

Vistra Corp.

By: /s/ CHRISTY DOBRY
Name: Christy Dobry
Title: Senior Vice President and Controller
(Principal Accounting Officer)

Date: August 5, 2022

FIRST AMENDMENT TO CREDIT AGREEMENT

This FIRST AMENDMENT TO CREDIT AGREEMENT, dated as of May 5, 2022 (including the annexes, schedules, exhibits and other attachments hereto, this “First Amendment”), by and among Vistra Operations Company LLC, a Delaware limited liability company (the “Borrower”), Vistra Intermediate Company LLC, a Delaware limited liability company (“Holdings”), the other Credit Parties (as defined in the Credit Agreement referred to below) party hereto, the financial institutions providing 2022-A New Revolving Credit Commitments (as defined below) (each, a “2022-A New Revolving Loan Lender”), the Lenders party hereto and Citibank, N.A., as Administrative Agent and as Collateral Agent. Capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Credit Agreement (as defined below) as modified hereby.

RECITALS:

WHEREAS, reference is hereby made to the Credit Agreement, dated as of February 4, 2022 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time prior to the First Amendment Effective Date referred to below, the “Credit Agreement”), among Holdings, the Borrower, the Lenders party thereto, the Administrative Agent, the Collateral Agent and the other parties named therein;

WHEREAS, the Borrower intends to amend the Credit Agreement to establish additional Revolving Credit Commitments by, among other things, entering into this First Amendment with the Required Lenders, the Administrative Agent and the 2022-A New Revolving Loan Lenders as set forth herein, subject to the terms and conditions hereof and the Credit Agreement (as modified hereby);

WHEREAS, pursuant to Section 13.1 of the Credit Agreement, the Borrower and Lenders party hereto constituting not less than the Required Lenders hereby agree to amend certain provisions of the Credit Agreement as set forth herein, in each case, subject to the terms and conditions hereof and the Credit Agreement (as modified hereby);

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

A. Amendments to Credit Agreement.

1. Amendments to the Credit Agreement. Effective as of the First Amendment Effective Date, and subject to the terms and conditions set forth herein, the Credit Agreement is hereby amended to incorporate the changes reflected in the redlined version of the Credit Agreement attached hereto as Exhibit A.

B. Special Provisions Applicable to Revolving Credit Commitments.

Each 2022-A New Revolving Loan Lender acknowledges and agrees that upon its execution of this First Amendment and the provision of its 2022-A New Revolving Credit Commitment that such 2022-A New Revolving Loan Lender shall be (or become) a “Revolving Credit Lender” and a “Lender” with respect to 2022-A New Revolving Credit Commitments (as defined below) under, and for all purposes of, the Credit Agreement and the other Credit Documents (in each case, as modified hereby), and shall be subject to and bound by the terms thereof, and shall perform all the obligations of and shall have all rights of a Revolving Credit Lender and a Lender thereunder.

Each 2022-A New Revolving Loan Lender hereby agrees to provide additional Revolving Credit Commitments (and make Revolving Credit Loans) in the aggregate principal amount set forth opposite such 2022-A New Revolving Loan Lender’s name on Schedule I annexed hereto (such additional Revolving Credit Commitments, the “2022-A New Revolving Credit Commitments”), on the terms and subject to the conditions set forth below and in the Credit Agreement (as modified hereby) (the “2022-A Revolving Commitment Increase”), which shall constitute an increase to the existing Revolving Credit Commitments.

Each 2022-A New Revolving Loan Lender (i) confirms that it has received a copy of the Credit Agreement and the other Credit Documents and the schedules and exhibits thereto (in each case, as modified hereby), together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this First Amendment; (ii) agrees 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 decisions in taking or not taking action under the Credit Agreement (as modified hereby); (iii) appoints and authorizes each Agent to take such action as agent on its behalf and to exercise such powers under the Credit Agreement and the other Credit Documents (in each case, as modified hereby) as are delegated to such

Agent by the terms thereof, together with such powers as are reasonably incidental thereto; and (iv) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Credit Agreement (as modified hereby) are required to be performed by it as a Revolving Credit Lender.

1. Revolving Credit Commitments.

(a) The parties hereto hereby agree that, on the First Amendment Effective Date, (i) the Total Revolving Credit Commitment shall increase by the aggregate amount of the 2022-A New Revolving Credit Commitments of the 2022-A New Revolving Loan Lenders provided hereunder and (ii) the Borrower and the Administrative Agent, as the case may be, shall be permitted to take all actions that are, in their reasonable discretion, necessary or advisable to consummate the transactions contemplated by this First Amendment (including any prepayments and reborrowings (or deemed prepayments and reborrowings) of Revolving Credit Loans requested by the Administrative Agent after giving effect to the 2022-A Revolving Commitment Increase). For the avoidance of doubt, each of the Revolving Credit Lenders with an existing Revolving Credit Commitment on the First Amendment Effective Date prior to giving effect to this First Amendment shall automatically and without further act be deemed to have assigned to each 2022-A New Revolving Loan Lender with a 2022-A New Revolving Credit Commitment, and each of such 2022-A New Revolving Loan Lenders shall automatically and without further act be deemed to have purchased and assumed, at the principal amount thereof, such interests in the Revolving Credit Loans on the First Amendment Effective Date as shall be necessary in order that, after giving effect to all such assignments and assumptions, the Revolving Credit Loans will be held by all Revolving Credit Lenders (including the 2022-A New Revolving Loan Lenders) ratably in accordance with their respective Revolving Credit Commitments after giving effect to the 2022-A Revolving Commitment Increase (and the Administrative Agent and the Lenders party hereto hereby agree that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to this clause (a)).

(b) Substantially simultaneously with the effectiveness of the 2022-A New Revolving Credit Commitments, Schedule 1.1(a) to the Credit Agreement shall be amended and restated in its entirety as follows:

Revolving Credit Commitments

<u>Revolving Credit Lender</u>	<u>Revolving Credit Commitment</u>
Citibank, N.A.	\$585,000,000
Bank of Montreal, Chicago Branch	\$84,000,000
Barclays Bank PLC	\$84,000,000
BNP Paribas	\$84,000,000
Credit Agricole Corporate and Investment Bank	\$84,000,000
Credit Suisse AG, New York Branch	\$84,000,000
Goldman Sachs Bank USA	\$584,000,000
JPMorgan Chase Bank, N.A.	\$84,000,000
Mizuho Bank, Ltd.	\$84,000,000
Morgan Stanley Senior Funding, Inc.	\$44,000,000
Morgan Stanley Bank, N.A.	\$40,000,000
MUFG Bank, Ltd.	\$25,000,000
Natixis, New York Branch	\$50,000,000
Royal Bank of Canada	\$84,000,000
TOTAL:	\$2,000,000,000

(c) The 2022-A New Revolving Credit Commitments shall (i) become a part of the existing class of Revolving Credit Commitments for all purposes of the Credit Agreement and the other Credit Documents

(in each case, as modified hereby) and (ii) together with all related Revolving Credit Exposure, be subject to the same prepayment provisions, Revolving Credit Termination Date and other terms and conditions applicable to the existing Revolving Credit Commitments and Revolving Credit Loans under the Credit Agreement and the other Credit Documents (in each case, as modified hereby).

C. Consents.

1. Each Lender party hereto hereby consents to the transactions contemplated by this First Amendment on the terms and conditions set forth herein.

2. Each Lender party hereto hereby consents to an increase of the Total Revolving Credit Commitment to an amount not to exceed \$3,000,000,000 (including pursuant to one or more amendments to the Credit Agreement that are consummated after the First Amendment Effective Date) and to any amendments to the provisions of the Credit Agreement to implement any such increase that the Administrative Agent and the Borrower reasonably believe are necessary or desirable.

3. Notwithstanding anything to the contrary contained in the Credit Agreement (but subject to the immediately succeeding proviso and the satisfaction of the conditions to borrowing set forth in Section 7 of the Credit Agreement), the Borrower shall be permitted to incur Revolving Credit Loans on the First Amendment Effective Date (or the first Business Day thereafter) and on the effective date of any subsequent upside to the Total Revolving Credit Commitment as contemplated under Section C.2 of this First Amendment (or the first Business Day thereafter); provided that, after giving effect to any such incurrence, the aggregate outstanding amount of the Revolving Credit Loans shall not exceed the Borrowing Base (based on the most recently delivered Borrowing Base Certificate on or prior to the applicable date of incurrence).

D. Payments.

1. Prior to (or substantially simultaneously with) the first incurrence of Revolving Credit Loans after the First Amendment Effective Date, the Borrower shall pay (i) all then-accrued and outstanding interest with respect to all outstanding Revolving Credit Loans immediately prior to such incurrence and (ii) all then-accrued and outstanding Revolving Credit Commitment Fees immediately prior to such incurrence, in each case, irrespective of whether such accrued amounts are otherwise then due and payable by the terms of the Credit Agreement.

2. Prior to (or substantially simultaneously with) the first incurrence of Revolving Credit Loans after the First Amendment Effective Date, the Borrower shall (a) pay all fees and other amounts earned, due and payable to the Agents pursuant to (i) that certain Engagement Letter (the "Engagement Letter"), dated the First Amendment Effective Date (as the same may be amended, restated, amended and restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof), among, *inter alios*, the Borrower and Citigroup Global Markets Inc. and (ii) any other agreements or arrangements pursuant to which the Borrower has agreed to compensate any Agent or Lender in connection with the transactions contemplated by this First Amendment and (b) to the extent invoiced prior to the First Amendment Effective Date, reimburse or pay all reasonable and documented out-of-pocket expenses in connection with this First Amendment and any other reasonable and documented out-of-pocket expenses of the Agents, excluding the reasonable fees, charges and disbursements of counsel for the Agents as required to be paid or reimbursed pursuant to the Engagement Letter and/or the Credit Agreement, which shall be paid on a post-closing basis.

E. Conditions Precedent. This First Amendment shall become effective as of the first date (the "First Amendment Effective Date") when each of the conditions set forth in this Section E shall have been satisfied:

1. The Administrative Agent shall have received duly executed counterparts hereof that, when taken together, bear the signatures of (a) the Borrower, (b) each of the other Credit Parties, (c) the Administrative Agent and the Collateral Agent, (d) the Required Lenders and (e) each 2022-A New Revolving Loan Lender.

2. The Administrative Agent shall have received a customary legal opinion of (a) Sidley Austin LLP, counsel to the Credit Parties and (b) Yuki Whitmire, Associate General Counsel of Vistra Energy Corp., in each case, addressed to the Administrative Agent, the Collateral Agent and each Revolving Credit Lender party to the Credit Agreement (as modified hereby) as of the First Amendment Effective Date, in each case, dated as of the First Amendment Effective Date and in form and substance reasonably satisfactory to the Administrative Agent.

3. The Administrative Agent shall have received (w) a certificate from the Chief Financial Officer or Senior Vice President and Treasurer of the Borrower, dated the First Amendment Effective Date, substantially in the form of the certificate provided pursuant to Section 6.9 of the Credit Agreement (with appropriate adjustments to reflect the 2022-A Revolving Commitment Increase) and certifying that, immediately

after giving effect to this First Amendment and the 2022-A Revolving Commitment Increase and the other transactions contemplated hereby, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent, (x) a certificate of good standing (or subsistence) with respect to each Credit Party from the Secretary of State (or similar official) of the State of such Credit Party's organization, (y) a closing certificate executed by an Authorized Officer of the Borrower, dated the First Amendment Effective Date, certifying as to the accuracy (with respect to clauses (a), (b) and (c) of Section E.4 of this First Amendment, in all material respects) of the matters set forth in Section E.4 of this First Amendment and (z) a certificate executed by an Authorized Officer of the Borrower, dated the First Amendment Effective Date, certifying as to the incumbency and specimen signature of each officer of a Credit Party executing this First Amendment or any other document delivered in connection herewith on behalf of any Credit Party and attaching (A) a true and complete copy of the certificate of incorporation (or other applicable charter document) of each Credit Party, including all amendments thereto, as in effect on the First Amendment Effective Date, certified as of a recent date by the Secretary of State (or analogous official) of the jurisdiction of its organization, that has not been amended since the date of the last amendment thereto shown on the certificate of good standing furnished pursuant to clause (x) above, (B) a true and complete copy of the by-laws (or other applicable operating agreements) of each Credit Party as in effect on the First Amendment Effective Date and (C) a true and complete copy of resolutions duly adopted or written consents duly executed by the board of directors (or equivalent governing body or any committee thereof) of each Credit Party authorizing the execution, delivery and performance of this First Amendment, the performance of the Credit Agreement and the other Credit Documents (in each case, as modified hereby), the transactions contemplated by this First Amendment and certifying that such resolutions or written consents have not been modified, rescinded or amended and are in full force and effect. Notwithstanding the foregoing, the conditions set forth in clauses (z)(A) and (z)(B) of the immediately preceding sentence may be satisfied by a certification of an Authorized Officer of the Borrower certifying that there have been no changes to the applicable Organizational Documents since the versions thereof previously delivered to the Administrative Agent.

4. No Default or Event of Default shall have occurred and be continuing (both immediately before and immediately after giving effect to this First Amendment and the transactions contemplated hereby).

5. The Administrative Agent shall have received a certificate, dated as of the First Amendment Effective Date and executed by an Authorized Officer of the Borrower, certifying that the condition in Section E.4 above has been satisfied on such date.

6. The Administrative Agent shall have received, at least two Business Days prior to the First Amendment Effective Date, all documentation and other information with respect to the Credit Parties that is requested by the Administrative Agent or a Lender and is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, in each case to the extent reasonably requested in writing at least 5 Business Days prior to the First Amendment Effective Date by the Administrative Agent or the Lenders.

F. Other Terms.

1. **Credit Agreement Governs.** Except as expressly set forth in this First Amendment, the 2022-A New Revolving Credit Commitments shall otherwise be subject to the provisions of the Credit Agreement and the other Credit Documents (in each case, as modified hereby).

2. Each party hereto hereby agrees that the Revolving Credit Commitments of Citibank, N.A. and Goldman Sachs Bank USA may be repaid and cancelled without regard to the pro rata termination requirements set forth in Section 4.2 of the Credit Agreement with the proceeds received by the Borrower from the issuance of any debt instruments or equity securities to institutional investors if and to the extent such Revolving Credit Commitments exceed \$185,000,000 and \$184,000,000, respectively.

3. **[Reserved].**

4. **Credit Party Certifications.** By execution of this First Amendment, each Credit Party hereby certifies, solely with respect to itself and on behalf of the applicable Credit Party and not in his/her individual capacity, that as of the First Amendment Effective Date:

(a) such Credit Party has the corporate or other organizational power and authority to execute and deliver this First Amendment and carry out the terms and provisions of this First Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby) and has taken all necessary corporate or other organizational action to authorize the execution and delivery of this First Amendment and performance of this First Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby);

(a) such Credit Party has duly executed and delivered this First Amendment and each of this First Amendment and the Credit Agreement and the other Credit Documents (in each case, as

modified hereby) constitutes the legal, valid and binding obligation of such Credit Party enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization and other similar laws relating to or affecting creditors' rights generally and general principles of equity (whether considered in a proceeding in equity or law) (provided that, with respect to the creation and perfection of security interests with respect to Indebtedness, Stock and Stock Equivalents of Foreign Subsidiaries, only to the extent the creation and perfection of such obligation is governed by the Uniform Commercial Code);

(b) none of the execution and delivery by such Credit Party of this First Amendment, the performance by such Credit Party of this First Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby) or the compliance with the terms and provisions hereof or thereof or the consummation of the transactions contemplated hereby will (a) contravene any applicable provision of any material Applicable Law (including material Environmental Laws) other than any contravention which would not reasonably be expected to result in a Material Adverse Effect, (b) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any Lien upon any of the property or assets of Holdings, the Borrower or any Restricted Subsidiary (other than Liens created under the Credit Documents, Permitted Liens or Liens subject to an intercreditor agreement permitted hereby or the Collateral Trust Agreement) pursuant to the terms of any material indenture, loan agreement, lease agreement, mortgage, deed of trust or other material debt agreement or instrument to which Holdings, the Borrower or any Restricted Subsidiary is a party or by which it or any of its property or assets is bound other than any such breach, default or Lien that would not reasonably be expected to result in a Material Adverse Effect, or (c) violate any provision of the Organizational Documents of such Credit Party;

(c) the representations and warranties of such Credit Party contained in the Credit Agreement and the other Credit Documents (in each case, as modified hereby) are true and correct in all material respects on and as of the First Amendment Effective Date (both before and after giving effect thereto) to the same extent as though made on and as of the First Amendment Effective Date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date;

(d) no Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated hereby; and

(e) the Borrower falls under an express exclusion from the "legal entity customer" definition under 31 C.F.R. §1010.230(e)(2) and the applicable exclusion is 31 C.F.R. §1020.315(b)(5).

5. [Reserved].

6. [Reserved].

7. **Notice.** For purposes of the Credit Agreement, the initial notice address of any new Revolving Credit Lender shall be as set forth in the Administrative Questionnaire provided to the Administrative Agent by such new Revolving Credit Lender.

8. **Recordation of the New Commitments and Loans.** On the First Amendment Effective Date (promptly after giving effect thereto), the Administrative Agent will record the 2022-A New Revolving Credit Commitments provided by each 2022-A New Revolving Loan Lender (and related Revolving Credit Loans) (and the Administrative Agent will take into account and make an appropriate record of the amended and restated schedule of Revolving Credit Commitments set forth in Section B.1.b of this First Amendment), in each case, in the Register.

9. **Amendment, Modification and Waiver.** This First Amendment may not be amended, modified or waived except by an instrument or instruments in writing signed and delivered in accordance with the provisions of Section 13.1 of the Credit Agreement.

10. **Entire Agreement.** This First Amendment, the Credit Agreement (as modified hereby) and the other Credit Documents constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all other prior agreements and understandings, both written and verbal, among the parties or any of them with respect to the subject matter hereof.

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

12. Severability. Any term or provision of this First Amendment which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this First Amendment or affecting the validity or enforceability of any of the terms or provisions of this First Amendment in any other jurisdiction. If any provision of this First Amendment is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as would be enforceable.

13. Counterparts. This First Amendment may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by fax or other electronic transmission of an executed counterpart of a signature page to this First Amendment shall be effective as delivery of an original executed counterpart of this First Amendment and the words “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this First Amendment 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 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. The Administrative Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

14. Submission to Jurisdiction. Each party hereto irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this First Amendment and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America 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 such Person at such address of which the Administrative Agent shall have been notified pursuant to Section 13.2 of the Credit Agreement;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction;

(e) subject to the last paragraph of Section 13.5 of the Credit Agreement, waives, to the maximum extent not prohibited by Applicable Law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section F.14 any special, exemplary, punitive or consequential damages; and

(f) agrees that a final judgment in any action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Applicable Law.

15. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS FIRST AMENDMENT AND FOR ANY COUNTERCLAIM THEREIN.

16. Reaffirmation. By executing and delivering a counterpart hereof, (i) each Credit Party hereby agrees that, as of the First Amendment Effective Date and after giving effect to this First Amendment and the transactions contemplated hereby, all Obligations of the Borrower (including, without limitation, the Revolving Credit Exposure with respect to the 2022-A New Revolving Credit Commitments) shall be guaranteed pursuant to the Guarantee in accordance with the terms and provisions thereof and shall be secured pursuant to the Security Documents in accordance with the terms and provisions thereof; (ii) each Credit Party hereby (A) agrees that, notwithstanding the effectiveness of this First Amendment, as of the First Amendment

Effective Date and after giving effect thereto, the Security Documents continue to be in full force and effect, (B) agrees that, as of the First Amendment Effective Date and after giving effect to this First Amendment and the transactions contemplated hereby, all of the Liens and security interests created and arising under each Security Document to which it is a party remain in full force and effect on a continuous basis, and the perfected status and priority of each such Lien and security interest continues in full force and effect on a continuous basis, unimpaired, uninterrupted and undischarged, as collateral security for its Obligations under the Credit Documents (as modified hereby) to which it is a party, in each case, to the extent provided in, and subject to the limitations and qualifications set forth in, such Credit Documents (as modified hereby) and (C) affirms and confirms all of its obligations and liabilities under the Credit Agreement and each other Credit Document (as modified hereby) to which it is a party, in each case after giving effect to this First Amendment and the transactions contemplated hereby, including its guarantee of the Obligations and the pledge of and/or grant of a security interest in its assets as Collateral pursuant to the Security Documents (as modified hereby) to which it is a party to secure such Obligations, all as provided in the Security Documents (as modified hereby), and acknowledges and agrees that, as of the First Amendment Effective Date, such obligations, liabilities, guarantee, pledge and grant continue in full force and effect in respect of, and to secure, such Obligations under the Credit Agreement and the other Credit Documents, in each case after giving effect to this First Amendment and the incurrence of the 2022-A Revolving Commitment Increase effected hereby and the other transactions contemplated hereby; and (iii) each Guarantor agrees that nothing in the Credit Agreement, this First Amendment or any other Credit Document shall be deemed to require the consent of such Guarantor to any future amendment to the Credit Agreement. This First Amendment shall not extinguish the obligations of the parties outstanding under the Security Documents or discharge, release or otherwise change the priority of any Lien on any Collateral pursuant to any of the Security Documents. Nothing herein contained shall be construed as a substitution or novation of the obligations, guarantees and liabilities outstanding under the Security Documents, and it is the intent of the parties hereto to confirm that all of the respective obligations of each of the Borrower and each other Credit Party under the Security Documents to which it is a party shall continue in full force and effect.

17. **[Reserved]**.

18. **Miscellaneous.** This First Amendment shall constitute a Credit Document for all purposes of the Credit Agreement and the other Credit Documents (in each case, as modified hereby). The provisions of Section B of this First Amendment are deemed incorporated as of the First Amendment Effective Date into the Credit Agreement as if fully set forth therein. Except as specifically modified by this First Amendment, (i) the Credit Agreement and the other Credit Documents shall remain in full force and effect and (ii) the execution, delivery and performance of this First Amendment shall not constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of any Agent or Lender under, the Credit Agreement or any of the other Credit Documents.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, each of the undersigned has caused its duly authorized officer to execute and deliver this First Amendment as of the date first set forth above.

CITIBANK, N.A., as Administrative Agent, Collateral Agent, a Lender and a 2022-A New Revolving Loan Lender

By: /s/ Ashwani Khubani
Name: Ashwani Khubani
Title: Managing Director

[Signature Page to First Amendment]

CREDIT SUISSE AG, NEW YORK BRANCH, as a Lender

By: /s/ Mikhail Faybusovich
Name: Mikhail Faybusovich
Title: Authorized Signatory

By: /s/ Michael Dieffendbacher
Name: Michael Dieffendbacher
Title: Authorized Signatory

[Signature Page to First Amendment]

BARCLAYS BANK PLC, as a Lender

By: /s/ Sydney G. Dennis

Name: Sydney G. Dennis

Title: Director

[Signature Page to First Amendment]

GOLDMAN SACHS BANK USA, as a Lender and a 2022-A New Revolving Loan Lender

By: /s/ Thomas Manning

Name: Thomas Manning

Title: Authorized Signatory

[Signature Page to First Amendment]

JPMORGAN CHASE BANK, N.A., as a Lender

By: /s/ Arina Mavilian
Name: Arina Mavilian
Title: Executive Director

[Signature Page to First Amendment]

MIZUHO BANK, LTD., as a Lender

By: /s/ Edward Sacks

Name: Edward Sacks

Title: Executive Director

[Signature Page to First Amendment]

MORGAN STANLEY SENIOR FUNDING, INC., as a Lender

By: /s/ Tim Kok
Name: Tim Kok
Title: Vice President

[Signature Page to First Amendment]

MORGAN STANLEY BANK, N.A., as a Lender

By: /s/ Tim Kok
Name: Tim Kok
Title: Vice President

[Signature Page to First Amendment]

MUFG BANK, LTD., as a Lender

By: /s/ Jeffrey Fesenmaier

Name: Jeffrey Fesenmaier

Title: Managing Director

[Signature Page to First Amendment]

NATIXIS, NEW YORK BRANCH, as a Lender

By: /s/ Marilyn Zamuz
Name: Marilyn Zamuz
Title: Director

By: /s/ Elizabeth West
Name: Elizabeth West
Title: Vice President

[Signature Page to First Amendment]

ROYAL BANK OF CANADA, as a Lender

By: /s/ Frank Lambrinos
Name: Frank Lambrinos
Title: Authorized Signatory

[Signature Page to First Amendment]

BANK OF MONTREAL, CHICAGO BRANCH, as a Lender

By: /s/ Darren Thomas
Name: Darren Thomas
Title: Director

[Signature Page to First Amendment]

VISTRA OPERATIONS COMPANY LLC, as Borrower

By: /s/ Kristopher E. Moldovan
Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

VISTRA INTERMEDIATE COMPANY LLC, as Holdings

By: /s/ Kristopher E. Moldovan
Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

[Signature Page to First Amendment]

AMBIT CALIFORNIA, LLC
AMBIT ENERGY HOLDINGS, LLC
AMBIT HOLDINGS, LLC
AMBIT ILLINOIS, LLC
AMBIT MARKETING, LLC
AMBIT MIDWEST, LLC
AMBIT NEW YORK, LLC
AMBIT NORTHEAST, LLC
AMBIT TEXAS, LLC
ANGUS SOLAR, LLC
BELLINGHAM POWER GENERATION LLC
BIG BROWN POWER COMPANY LLC
BIG SKY GAS, LLC
BIG SKY GAS HOLDINGS, LLC
BLACKSTONE POWER GENERATION LLC
BLUENET HOLDINGS, LLC
BRIGHTSIDE SOLAR, LLC
CALUMET ENERGY TEAM, LLC
CASCO BAY ENERGY COMPANY, LLC
CINCINNATI BELL ENERGY LLC
COFFEEN AND WESTERN RAILROAD COMPANY
COLETO CREEK ENERGY STORAGE LLC
COLETO CREEK POWER, LLC
COMANCHE PEAK POWER COMPANY LLC
CORE SOLAR SPV I, LLC
CRIUS ENERGY CORPORATION
CRIUS ENERGY, LLC
CRIUS SOLAR FULFILLMENT, LLC
DALLAS POWER & LIGHT COMPANY, INC.
DICKS CREEK POWER COMPANY LLC
DYNEGY COAL HOLDCO, LLC
DYNEGY COAL TRADING & TRANSPORTATION, L.L.C.
DYNEGY CONESVILLE, LLC
DYNEGY ENERGY SERVICES (EAST), LLC
DYNEGY ENERGY SERVICES, LLC
DYNEGY KILLEN, LLC
DYNEGY MARKETING AND TRADE, LLC
DYNEGY MIDWEST GENERATION, LLC
DYNEGY OPERATING COMPANY
DYNEGY POWER MARKETING, LLC
DYNEGY RESOURCES GENERATING HOLDCO, LLC
DYNEGY SOUTH BAY, LLC
DYNEGY STUART, LLC
EMERALD GROVE SOLAR, LLC
ENERGY REWARDS, LLC
ENNIS POWER COMPANY, LLC
EQUIPOWER RESOURCES CORP.
EVERYDAY ENERGY, LLC
EVERYDAY ENERGY NJ, LLC

FAYETTE POWER COMPANY LLC
FOREST GROVE SOLAR LLC
GENERATION SVC COMPANY
HALLMARK SOLAR, LLC
HANGING ROCK POWER COMPANY LLC
HAYS ENERGY, LLC
HOPEWELL POWER GENERATION, LLC
ILLINOIS POWER GENERATING COMPANY
ILLINOIS POWER MARKETING COMPANY
ILLINOIS POWER RESOURCES GENERATING, LLC
ILLINOIS POWER RESOURCES, LLC
ILLINOVA CORPORATION
IPH, LLC
KENDALL POWER COMPANY LLC
KINCAID GENERATION, L.L.C.
LA FRONTERA HOLDINGS, LLC
LAKE ROAD GENERATING COMPANY, LLC
LIBERTY ELECTRIC POWER, LLC
LONE STAR ENERGY COMPANY, INC.
LONE STAR PIPELINE COMPANY, INC.
LUMINANT ADMINISTRATIVE SERVICES COMPANY
LUMINANT COAL GENERATION LLC
LUMINANT COMMERCIAL ASSET MANAGEMENT LLC
LUMINANT ENERGY COMPANY LLC
LUMINANT ENERGY TRADING CALIFORNIA COMPANY
LUMINANT ET SERVICES COMPANY LLC
LUMINANT GAS IMPORTS LLC
LUMINANT GENERATION COMPANY LLC
LUMINANT MINING COMPANY LLC
LUMINANT POWER GENERATION INC.
LUMINANT POWER LLC
MASSPOWER, LLC
MIAMI FORT POWER COMPANY LLC
MIDLOTHIAN ENERGY, LLC
MILFORD POWER COMPANY, LLC
MORRO BAY ENERGY STORAGE 1, LLC
MORRO BAY ENERGY STORAGE 2, LLC
MORRO BAY POWER COMPANY LLC
MOSS LANDING ENERGY STORAGE 1, LLC
MOSS LANDING ENERGY STORAGE 2, LLC
MOSS LANDING ENERGY STORAGE 3, LLC
MOSS LANDING ENERGY STORAGE 4, LLC
MOSS LANDING POWER COMPANY LLC
NCA RESOURCES DEVELOPMENT COMPANY LLC
NEPCO SERVICES COMPANY
NORTHEASTERN POWER COMPANY
OAK GROVE MANAGEMENT COMPANY LLC
OAK HILL SOLAR LLC

OAKLAND ENERGY STORAGE 1, LLC
OAKLAND ENERGY STORAGE 2, LLC
OAKLAND ENERGY STORAGE 3, LLC
OAKLAND POWER COMPANY LLC
ONTELAUNEE POWER OPERATING COMPANY, LLC
PLEASANTS ENERGY, LLC
PUBLIC POWER, LLC, A CONNECTICUT LIMITED LIABILITY COMPANY
PUBLIC POWER, LLC, A PENNSYLVANIA LIMITED LIABILITY COMPANY
PUBLIC POWER & UTILITY OF MARYLAND, LLC
PUBLIC POWER & UTILITY OF NY, INC.
REGIONAL ENERGY HOLDINGS, INC.
RICHLAND-STRYKER GENERATION LLC
SANDOW POWER COMPANY LLC
SAYREVILLE POWER GENERATION LP
SAYREVILLE POWER GP INC.
SAYREVILLE POWER HOLDINGS LLC
SITHE ENERGIES, INC.
SITHE/INDEPENDENCE LLC
SOUTHWESTERN ELECTRIC SERVICE COMPANY, INC.
TEXAS ELECTRIC SERVICE COMPANY, INC.
TEXAS ENERGY INDUSTRIES COMPANY, INC.
TEXAS POWER & LIGHT COMPANY, INC.
TEXAS UTILITIES COMPANY, INC.
TEXAS UTILITIES ELECTRIC COMPANY, INC.
TRIEAGLE 1, LLC
TRIEAGLE 2, LLC
TRIEAGLE ENERGY LP
TRINIDAD POWER STORAGE LLC
TXU ELECTRIC COMPANY, INC.
TXU ENERGY RETAIL COMPANY LLC
TXU RETAIL SERVICES COMPANY
UPTON COUNTY SOLAR 2, LLC
VALUE BASED BRANDS LLC
VIRIDIAN ENERGY, LLC
VIRIDIAN ENERGY NY, LLC
VIRIDIAN ENERGY PA LLC
VIRIDIAN INTERNATIONAL MANAGEMENT LLC
VIRIDIAN NETWORK, LLC
VISTRA ASSET COMPANY LLC
VISTRA CORPORATE SERVICES COMPANY
VISTRA EP PROPERTIES COMPANY
VISTRA FINANCE CORP.
VISTRA INSURANCE SOLUTIONS LLC
VISTRA PREFERRED INC.
VISTRA ZERO LLC
VOLT ASSET COMPANY, INC.
WASHINGTON POWER GENERATION, LLC

WISE COUNTY POWER COMPANY, LLC
WISE-FUELS PIPELINE, INC.
ZIMMER POWER COMPANY LLC, as Subsidiary Guarantors

By: /s/ Kristopher E. Moldovan
Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

[Signature Page to First Amendment]

SCHEDULE 1

2022-A New Revolving Loan Lender	Type of Commitment	Amount
Citibank, N.A.	2022-A New Revolving Credit Commitment	\$500,000,000.00
Goldman Sachs Bank USA	2022-A New Revolving Credit Commitment	\$500,000,000.00
TOTAL:	N/A	\$1,000,000,000.00

EXHIBIT A

~~EXECUTION VERSION~~ **EXHIBIT A TO FIRST AMENDMENT TO CREDIT AGREEMENT**

CREDIT AGREEMENT

Dated as of February 4, 2022 among
VISTRA INTERMEDIATE COMPANY LLC,
as Holdings

VISTRA OPERATIONS COMPANY LLC,
as the Borrower,

The Several Lenders
from Time to Time Parties Hereto,

CITIBANK, N.A.,
as Administrative Agent and Collateral Agent and
CITIBANK, N.A., BARCLAYS BANK PLC,
BMO CAPITAL MARKETS CORP., BNP PARIBAS SECURITIES
CORP.,
CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK, CREDIT SUISSE LOAN
FUNDING LLC,
GOLDMAN SACHS BANK USA, JPMORGAN CHASE BANK, N.A.,
MIZUHO BANK, LTD.,
MORGAN STANLEY SENIOR FUNDING, INC., MUFG BANK, LTD.,
NATIXIS, NEW YORK BRANCH AND
ROYAL BANK OF CANADA
as Joint Lead Arrangers and Joint Bookrunners

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CREDIT AGREEMENT, dated as of February 4, 2022, among VISTRA INTERMEDIATE COMPANY LLC (“**Holdings**”), VISTRA OPERATIONS COMPANY LLC (the “**Borrower**”), the lending institutions from time to time parties hereto (each a “**Lender**” or a “**Revolving Credit Lender**” and, collectively, the “**Lenders**” or the “**Revolving Credit Lenders**”) and CITIBANK, N.A., as Administrative Agent and Collateral Agent.

RECITALS:

WHEREAS, capitalized terms used and not defined in the preamble and these recitals shall have the respective meanings set forth for such terms in Section 1.1 hereof;

WHEREAS, as of the ~~date hereof~~ Closing Date, the Borrower and Holdings are party to the Senior Secured Credit Agreement and the other Credit Documents (as defined in the Senior Secured Credit Agreement);

WHEREAS, the Borrower requires commodity-linked revolving credit commitments, which shall be provided by the Lenders and which shall be secured by a Lien on the Collateral that is *pari passu* with the Liens securing the Obligations (as defined in the Senior Secured Credit Agreement);

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, each Lender hereby agrees to establish commodity-linked revolving credit commitments for the Borrower pursuant to the terms of this Agreement as follows:

SECTION 1. Definitions.

1.1. Defined Terms.

Unless otherwise defined herein, terms defined in the Senior Secured Credit Agreement and used herein shall have the meanings given to them in Section 1.1 of the Senior Secured Credit Agreement. As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires:

“**ABR**” shall mean for any day a fluctuating rate per annum equal to the greatest of (a) the Federal Funds Effective Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by the Wall Street Journal as the “U.S. prime rate” and (c) Adjusted Term SOFR Rate for a one-month tenor as published two U.S. Governmental Securities Business Days prior to such day (taking into account any Adjusted Term SOFR Rate floor set forth in the definition of “Adjusted Term SOFR Rate”) (or if such day is not a Business Day, the immediately preceding Business Day) plus 1.00%; provided, that for the purpose of this definition, Adjusted Term SOFR Rate for any day shall be based on the Term SOFR Reference Rate at approximately 6:00 a.m. New York time on such day (or an amended publication time for the Term SOFR Reference Rate, as specified by the CME Term SOFR Administrator in the Term SOFR Reference Rate methodology) provided, further that, if at any time any rate described in clause (a) or (b) is less than 1.00% then such rate in clause (a) or (b) shall be deemed to be 1.00%. If the Administrative Agent is unable to ascertain the Federal Funds Effective Rate due to its inability to obtain sufficient quotations in accordance with the definition thereof, after notice is provided to the Borrower, the ABR shall be determined without regard to clause (a) above until the circumstances giving rise to such inability no longer exist. Any change in the ABR due to a change in such rate announced by the Administrative Agent or in the Federal Funds Effective Rate shall take effect at the opening of business on the day specified in the public announcement of such change or on the effective date of such change in the Federal Funds Effective Rate or the Adjusted Term SOFR Rate, as applicable. If the ABR is being used as an alternate rate of interest

pursuant to Section 2.10 hereof (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to Section 2.10), then the ABR shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“**ABR Loan**” shall mean each Revolving Credit Loan bearing interest based on the ABR.

“**Adjusted Daily Simple SOFR**” means, for each SOFR Rate Day in any Interest Period, an interest rate per annum equal to (a) the Daily Simple SOFR, *plus* (b) 0.10%; provided that if the Adjusted Daily Simple SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

“**Adjusted Term SOFR Rate**” means, for any Interest Period, an interest rate per annum equal to (a) the Term SOFR Rate, *plus* (b) 0.10%; provided, that if the Adjusted Term SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

“**Adjusted Total Revolving Credit Commitment**” shall mean, at any time, the Total Revolving Credit Commitment less the aggregate Revolving Credit Commitments of all Defaulting Lenders.

“**Administrative Agent**” shall mean Citibank, N.A., as the administrative agent for the Lenders under this Agreement and the other Credit Documents, or any successor administrative agent pursuant to Section 12.9.

“**Administrative Agent’s Office**” shall mean the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 13.2, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

“**Administrative Questionnaire**” shall have the meaning provided in Section 13.6(b)(ii)(D).

“**Advisors**” shall mean legal counsel, financial advisors and third-party appraisers and consultants advising the Agents, the Lenders and their Related Parties in connection with this Agreement, the other Credit Documents and the consummation of the Transactions, limited in the case of legal counsel to one primary counsel for the Agents (as of the Closing Date, White & Case LLP) and, if necessary, one firm of regulatory counsel and/or one firm of local counsel in each appropriate jurisdiction (and, in the case of an actual or perceived conflict of interest where the Person affected by such conflict informs the Borrower of such conflict and thereafter, after receipt of the consent of the Borrower (which consent shall not be unreasonably withheld or delayed), retains its own counsel, of another firm of counsel for all such affected Persons (taken as a whole)).

“**Affected Financial Institution**” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“**Affiliate**” shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities or by contract. The terms “controlling” and “controlled” shall have meanings correlative thereto.

“**Agent Parties**” shall have the meaning provided in Section 13.17(d).

“**Agents**” shall mean the Administrative Agent, the Collateral Agent and each Joint Lead Arranger.

“**Aggregate Revolving Credit Outstandings**” means, as of any date of determination, the Revolving Credit Exposure of all Lenders as of such date of determination.

“**Agreement**” shall mean this Credit Agreement.

“**AHYDO Catch-Up Payment**” means any payment or redemption of Indebtedness, including subordinated debt obligations, to avoid the application of Code Section 163(e)(5) thereto.

“**Applicable Laws**” shall mean, as to any Person, any law (including common law), statute, regulation, ordinance, rule, order, decree, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or imposed or entered into or agreed by any Governmental Authority (including the PUCT and ERCOT), in each case applicable to or binding on such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

“**Applicable Margin**” means, for any day, with respect to any ABR Loan or SOFR Loan, or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption “ABR Spread”, “Adjusted SOFR Spread” or “Revolving Credit Commitment Fee Rate”, as the case may be, based upon the ratings by Moody’s and/or S&P, respectively, applicable on such date to the Index Debt:

Tier	Index Debt Ratings	ABR Spread	Adjusted SOFR Spread	Revolving Credit Commitment Fee Rate
1	Baa1 or better or BBB+ or better	0.25%	1.25%	0.175%
2	Baa2 or BBB	0.50%	1.50%	0.225%
3	Baa3 or BBB-	0.75%	1.75%	0.275%
4	Ba1 or lower or BB+ or lower	1.00%	2.00%	0.350%

For purposes of the foregoing, (i) if both Moody’s and S&P have established a rating for the Index Debt and such ratings established or deemed to have been established by Moody’s and S&P shall fall within different Tiers, then the Applicable Margin shall be based on the higher of the two ratings, unless one of the two ratings is two or more Tiers lower than the other, in which case the Applicable Margin shall be determined by reference to the Tier next below that of the higher of the two ratings and (ii) if the ratings established or deemed to have been established by Moody’s and S&P for the Index Debt shall be changed (other than as a result of a change in the rating system of Moody’s or S&P), such change shall be effective as of the date on which it is first announced by the applicable rating agency, irrespective of when notice of such change shall have been furnished by the Borrower to the Administrative Agent and the Lenders pursuant to Section 9.1 or otherwise. Each change in the Applicable Margin shall apply during the period commencing on the effective date of such change and ending on the date immediately

preceding the effective date of the next such change. If the rating system of Moody's or S&P shall change, or if either such rating agency shall cease to be in the business of rating corporate debt obligations, the Borrower and the Required Lenders shall negotiate in good faith to amend this definition to reflect such changed rating system or the unavailability of ratings from such rating agency and, pending the effectiveness of any such amendment, the Applicable Margin shall be determined by reference to the rating most recently in effect prior to such change or cessation.

"Applicable Settlement Price" shall mean (a) with respect to PJM Contracts, the market published price of the ICE "PMI" Contract, "PJM Western Hub Real-Time Peak (1 MW) Fixed Price Future" and (b) with respect to ERCOT Contracts, the market published price of the ICE "ERN" Contract, "ERCOT North 345KV Real-Time Peak Fixed Price Future".

"Assignment and Acceptance" shall mean an assignment and acceptance substantially in the form of Exhibit C, or such other form as may be approved by the Administrative Agent.

"Authorized Officer" shall mean the President, the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, the Treasurer, any Assistant Treasurer, the Controller, any Senior Vice President, with respect to certain limited liability companies or partnerships that do not have officers, any manager, managing member or general partner thereof, any other senior officer of Holdings, the Borrower or any other Credit Party designated as such in writing to the Administrative Agent by Holdings, the Borrower or any other Credit Party, as applicable, and, with respect to any document delivered on the Closing Date, the Secretary or any Assistant Secretary of any Credit Party. Any document (other than a solvency certificate) delivered hereunder that is signed by an Authorized Officer shall be conclusively presumed to have been authorized by all necessary corporate, limited liability company, partnership and/or other action on the part of Holdings, the Borrower or any other Credit Party and such Authorized Officer shall be conclusively presumed to have acted on behalf of such Person.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark (or component thereof) or payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, that is or may be used for determining the length of an Interest Period for any term rate or for determining any frequency of making payments of interest calculated pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 2.10(d)(v).

"Bail-In Action" means 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" means, (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, regulation, rule 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).

"Bankruptcy Code" shall have the meaning provided in Section 11.5.

"Benchmark" means, initially the Term SOFR Rate; provided that if a Benchmark Transition Event and the related Benchmark Replacement Date have occurred with respect to the Term

SOFR Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.10(d)(ii).

“**Benchmark Replacement**” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(1) Adjusted Daily Simple SOFR;

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities denominated in Dollars at such time in the United States and (b) the related Benchmark Replacement Adjustment.

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Credit Documents.

“**Benchmark Replacement Adjustment**” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in Dollars at such time.

“**Benchmark Replacement Conforming Changes**” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Alternate Base Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent, in consultation with the Borrower, decides may be appropriate to reflect the adoption and implementation of such Benchmark 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 exists, in such other manner of administration as the Administrative Agent, in consultation with the Borrower, decides is reasonably necessary in connection with the administration of this Agreement and the other Credit Documents).

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

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

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

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Board, the NYFRB, the CME Term SOFR Administrator, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation

thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Unavailability Period**” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Credit Document in accordance with Section 2.10 and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Credit Document in accordance with Section 2.10.

“**Benefit Plan**” shall mean an employee pension benefit plan (other than a Multiemployer Plan) which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code or Section 302 of ERISA and is maintained or contributed to by the Borrower, any Subsidiary or ERISA Affiliate or with respect to which the Borrower or any Subsidiary could incur liability pursuant to Title IV of ERISA.

“**Benefited Lender**” shall have the meaning provided in Section 13.8(a).

“**Board**” shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

“**Borrower**” shall have the meaning provided in the preamble to this Agreement. “**Borrowing**” shall mean and include the incurrence of one Type of Revolving Credit Loan on a given date (or resulting from conversions on a given date) having a single maturity date and in the case of SOFR Loans, the same Interest Period.

“**Borrowing Base**” shall mean the amount determined on each Calculation Date, equal to the MTM Amount of the Deemed Hedge Portfolio as of such Calculation Date.

“**Borrowing Base Certificate**” shall have the meaning provided in Section 9.1(i). “**Business Day**” shall mean any day excluding Saturday, Sunday and any other day on which banking institutions in New York City are authorized by law or other governmental actions to close.

“**Calculation Date**” shall mean each of (a) the Closing Date and (b) the last Business Day of each calendar week ending prior to the Revolving Credit Maturity Date.

“**Calculation Month**” shall mean, with respect to each PJM Contract or ERCOT Contract, all partial and full months of such PJM Contract or ERCOT Contract, as applicable, following the Calculation Date through and including the earlier of (a) the last month of such PJM Contract or ERCOT Contract and (b) December 31, 2023.

“**Certificated Securities**” shall have the meaning provided in Section 8.17.

“Change in Law” shall mean (a) the adoption of any Applicable Law after the Closing Date, (b) any change in any Applicable Law or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any party with any guideline, request, directive or order issued or made after the Closing Date by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law); provided, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the U.S. or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Closing Date” shall mean February 4, 2022.

“CME Term SOFR Administrator” means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (SOFR) (or a successor administrator).

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time. Section references to the Code are to the Code, as in effect on the Closing Date, and any subsequent provisions of the Code, amendatory thereof, supplemental thereto or substituted therefore.

“Collateral” shall mean all property pledged, mortgaged or purported to be pledged or mortgaged pursuant to the Security Documents (excluding, for the avoidance of doubt, all Excluded Collateral and the Monticello Property). For the avoidance of doubt, and notwithstanding anything to the contrary in any Credit Document, each Secured Bank Party hereby agrees that in no event shall the Monticello Property constitute Collateral securing the Obligations under the Credit Documents.

“Collateral Agent” shall mean Citibank, N.A., in its capacity as collateral agent for the Secured Bank Parties under this Agreement and the Security Documents, or any successor collateral agent appointed pursuant hereto.

“Collateral Representative” shall mean (i) initially, the Collateral Trustee or (ii) after the termination of the Collateral Trust Agreement, a collateral agent appointed by the Borrower and the Collateral Agent pursuant to a collateral agency agreement to be entered into between such parties (among others).

“Collateral Trust Agreement” shall mean that certain Collateral Trust Agreement, dated as of October 3, 2016, by and among the Borrower, the RCT, the Collateral Agent (as defined in the Senior Secured Credit Agreement), the Collateral Trustee and certain other First Lien Secured Parties from time to time party thereto (including the Collateral Agent).

“Collateral Trustee” shall mean Delaware Trust Company, and any permitted successors and assigns.

“Communications” shall have the meaning provided in Section 13.17(a).

“Compliance Quarter” shall mean any fiscal quarter in which, as of the last day of such fiscal quarter, the Aggregate Revolving Credit Outstandings exceeds 30% of the amount of the Total Revolving Credit Commitment.

“**Confidential Information**” shall have the meaning provided in Section 13.16.

“**Consolidated EBITDA**” shall have the meaning set forth in the Senior Secured Credit Agreement. Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated EBITDA under this Agreement for any period that includes any of the four fiscal quarters ended prior to the Closing Date, the Consolidated EBITDA for such fiscal quarter shall be the Consolidated EBITDA (as defined in the Senior Secured Credit Agreement) that was calculated under the Senior Secured Credit Agreement for such fiscal quarter.

“**Consolidated First Lien Net Leverage Ratio**” shall mean, as of any date of determination, the ratio of (a) the sum, without duplication, of (i) Consolidated Secured Debt that is secured by a Lien on the Collateral that is *pari passu* with the Liens securing the Obligations and (ii) Consolidated Secured Debt of the type described in clause (ii) of the definition thereof, in each case as of such date of determination to (b) Consolidated EBITDA for the most recent four fiscal quarter period for which financial statements described in Section 9.1(a) or (b) are available.

“**Consolidated Secured Debt**” shall mean, as of any date of determination, Consolidated Total Debt at such date which either (i) is secured by a Lien on the Collateral (and other assets of the Borrower or any Restricted Subsidiary pledged to secure the Obligations pursuant to Section 10.2(cc) of the Senior Secured Credit Agreement) or (ii) constitutes Capitalized Lease Obligations or purchase money Indebtedness of the Borrower or any Restricted Subsidiary.

“**Consolidated Total Debt**” shall mean, as of any date of determination, (a)(x)(i) the aggregate outstanding principal amount of all Indebtedness of the types described in clause (a) (solely to the extent such Indebtedness matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the sole option of the Borrower or any Restricted Subsidiary, to a date more than one year from the date of its creation), clause (d) (but, in the case of clause (d), only to the extent of any unreimbursed drawings under any letter of credit which are not cash collateralized or backstopped) and clause (f) of the definition thereof, in each case actually owing by the Borrower and the Restricted Subsidiaries on such date and to the extent appearing on the balance sheet of the Borrower determined on a consolidated basis in accordance with GAAP and (ii) purchase money Indebtedness (and excluding, for the avoidance of doubt, Hedging Obligations and Cash Management Obligations) and (y) Guarantee Obligations for the benefit of any Person (other than of the Borrower or any Restricted Subsidiary) of the type described in clause (x) above minus (b) the aggregate amount of all Unrestricted Cash minus (c) amounts in the Term C Loan Collateral Accounts, if any.

“**Contractual Requirement**” shall have the meaning provided in Section 8.3.

“**Corresponding Tenor**” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“**Credit Documents**” shall mean this Agreement, the Guarantee, the Security Documents, the Collateral Trust Agreement, any promissory notes issued by the Borrower hereunder and each other document designated in writing as such by each of the Borrower and the Administrative Agent as a Credit Document.

“**Credit Event**” shall mean and include the making (but not the conversion or continuation) of a Revolving Credit Loan.

“**Credit Party**” shall mean each of Holdings, the Borrower, each of the Subsidiary Guarantors and each other Subsidiary of the Borrower that is a party to a Credit Document.

“**Cure Amount**” shall have the meaning provided in Section 11.13(a).

“**Cure Period**” shall have the meaning provided in Section 11.13(a).

“**Cure Right**” shall have the meaning provided in Section 11.13(a).

“**Daily Simple SOFR**” means, for any day (a “**SOFR Rate Day**”), a rate per annum equal to SOFR for the day (such day “**SOFR Determination Date**”) that is five (5) U.S. Government Securities Business Day prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

“**Daily Simple SOFR Loan**” means a Revolving Credit Loan bearing interest a rate based on Adjusted Daily Simple SOFR.

“**Deemed Hedge Portfolio**” shall mean the theoretical cleared derivatives power hedge contracts, as set forth on Schedule 1.1(b), hereto, settling with reference to the Applicable Settlement Price with respect to markets managed by the PJM Interconnection regional transmission organization (“**PJM Contracts**”) and the Electric Reliability Council of Texas (“**ERCOT Contracts**”) under which the Borrower would be the “floating price” payor (or equivalent).

“**Default**” shall mean any event, act or condition that with notice or lapse of time hereunder, or both, would constitute an Event of Default.

“**Default Rate**” shall have the meaning provided in Section 2.8(d).

“**Defaulting Lender**” shall mean any Lender with respect to which a Lender Default is in effect.

“**Disqualified Institutions**” shall mean (a) those banks, financial institutions or other Persons separately identified in writing by the Borrower to the Administrative Agent on or prior to the Closing Date, or any affiliates of such banks, financial institutions or other persons identified by the Borrower in writing to the Administrative Agent or that are readily identifiable as affiliates on the basis of their name, (b) competitors identified in writing to the Administrative Agent from time to time (or affiliates thereof identified by the Borrower in writing or that are readily identifiable as affiliates on the basis of their name) of the Borrower or any of its Subsidiaries (other than such affiliate that is a bona fide debt fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of business and whose managers have fiduciary duties to the third-party investors in such fund or investment vehicle independent from their duties owed to such competitor); provided that no such identification after the date of a relevant assignment shall apply retroactively to disqualify any person that has previously acquired an assignment or participation of an interest in any of the Credit Facilities with respect to amounts previously acquired, (c) Excluded Affiliates (it being understood that ordinary course trading activity shall not be considered to be providing advisory services for purposes of determining whether such Excluded Affiliate is a Disqualified Institution) and (d) any Defaulting Lender. The list of all

Disqualified Institutions set forth in clauses (a), (b) and (d) shall be made available to all Lenders upon request.

“**Dividends**” or “**dividends**” shall have the meaning provided in Section 10.6.

“**Dollars**” and “**\$**” shall mean dollars in lawful currency of the United States of America.

“**Domestic Subsidiary**” shall mean each Subsidiary of the Borrower that is organized under the laws of the United States or any state thereof, or the District of Columbia.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**Employee Benefit Plan**” shall mean an employee benefit plan (as defined in Section 3(3) of ERISA), other than a Foreign Plan, that is maintained or contributed to by Holdings, Borrower or any Subsidiary (or, with respect to an employee benefit plan subject to Title IV of ERISA, any ERISA Affiliate).

“**Engagement Letter**” shall mean that certain Amended and Restated Engagement Letter, dated February 4, 2022, among the Borrower and the Joint Lead Arrangers.

“**Environmental Claims**” shall mean any and all actions, suits, proceedings, orders, decrees, demands, demand letters, claims, liens, notices of noncompliance, violation or potential responsibility or investigation (other than reports prepared by or on behalf of Holdings, the Borrower or any other Subsidiary of Holdings (a) in the ordinary course of such Person’s business or (b) as required in connection with a financing transaction or an acquisition or disposition of Real Estate) or proceedings in each case relating in any way to any applicable Environmental Law or any permit issued, or any approval given, under any applicable Environmental Law (hereinafter, “**Claims**”), including (i) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief relating to the presence, release or threatened release into the environment of Hazardous Materials or arising from alleged injury or threat of injury to human health or safety (to the extent relating to human exposure to Hazardous Materials), or to the environment, including ambient air, indoor air, surface water, groundwater, land surface and subsurface strata and natural resources such as wetlands.

“**Environmental Law**” shall mean any applicable Federal, state, foreign or local statute, law, rule, regulation, ordinance, code and rule of common law now or, with respect to any post-Closing Date requirements of the Credit Documents, hereafter in effect, and in each case as amended, and any legally binding judicial or administrative interpretation thereof, including any legally binding judicial or

administrative order, consent decree or judgment, relating to the protection of the environment, including ambient air, indoor air, surface water, groundwater, land surface and subsurface strata and natural resources such as wetlands, or to human health or safety (to the extent relating to human exposure to Hazardous Materials), or Hazardous Materials.

“ERCOT” shall mean the Electric Reliability Council of Texas or any other entity succeeding thereto.

“ERCOT Contracts” shall have the meaning provided in the definition of “Deemed Hedge Portfolio”.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time. Section references to ERISA are to ERISA as in effect on the Closing Date and any subsequent provisions of ERISA amendatory thereof, supplemental thereto or substituted therefor.

“ERISA Affiliate” shall mean each person (as defined in Section 3(9) of ERISA) that together with the Borrower or any Subsidiary of the Borrower would be deemed to be a “single employer” within the meaning of Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” shall mean (i) the failure of any Benefit Plan to comply with any provisions of ERISA and/or the Code or with the terms of such Benefit Plan; (ii) any Reportable Event; (iii) the existence with respect to any Benefit Plan of a non-exempt Prohibited Transaction; (iv) any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (v) 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 Pension Plan; (vi) the occurrence of any event or condition which would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or the incurrence by any Credit Party or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (vii) the receipt by any Credit Party or any of its ERISA Affiliates from the PBGC or a plan administrator of any written notice to terminate any Pension Plan under Section 4042(a) of ERISA or to appoint a trustee to administer any Pension Plan under Section 4042(b)(1) of ERISA; (viii) the incurrence by any Credit Party or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan (or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA) or Multiemployer Plan; or (ix) the receipt by any Credit Party or any of its ERISA Affiliates of any notice concerning the imposition on it of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent or in Reorganization, or terminated (within the meaning of Section 4041A of ERISA).

“Erroneous Payment” has the meaning assigned to it in Section 12.13(a).

“Erroneous Payment Deficiency Assignment” has the meaning assigned to it in Section 12.13(d)(i).

“Erroneous Payment Impacted Class” has the meaning assigned to it in Section 12.13(d)(i).

“Erroneous Payment Return Deficiency” has the meaning assigned to it in Section 12.13(d)(i).

“Erroneous Payment Subrogation Rights” has the meaning assigned to it in Section 12.13(e).

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Event of Default” shall have the meaning provided in Section 11.

“Excluded Affiliates” shall mean members of any Joint Lead Arranger or any of its affiliates that are engaged as principals primarily in private equity, mezzanine financing or venture capital, including through the provision of advisory services other than a limited number of senior employees who are required, in accordance with industry regulations or such Joint Lead Arranger’s internal policies and procedures to act in a supervisory capacity and the Joint Lead Arrangers’ internal legal, compliance, risk management, credit or investment committee members.

“Excluded Taxes” shall mean, with respect to any Agent or any Lender, (a) net income Taxes and franchise and excise Taxes (imposed in lieu of net income Taxes) imposed on such Agent or Lender, (b) any Taxes imposed on any Agent or any Lender as a result of any current or former connection between such Agent or Lender and the jurisdiction of the Governmental Authority imposing such Tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising from such Agent or Lender having executed, delivered or performed its obligations or received a payment under, or having been a party to or having enforced, this Agreement or any other Credit Document), (c) any U.S. federal withholding Tax that is imposed on amounts payable to any Lender under the law in effect at the time such Lender becomes a party to this Agreement (or designates a new lending office other than a new lending office designated at the request of the Borrower); provided that this subclause (c) shall not apply to the extent that (x) the indemnity payments or additional amounts any Lender would be entitled to receive (without regard to this subclause (c)) do not exceed the indemnity payment or additional amounts that the person making the assignment, participation or transfer to such Lender (or designation of a new lending office by such Lender) would have been entitled to receive in the absence of such assignment or (y) any Tax is imposed on a Lender in connection with an interest in any Revolving Credit Loan or other obligation that such Lender was required to acquire pursuant to Section 13.8(a) or that such Lender acquired pursuant to Section 13.7 (it being understood and agreed, for the avoidance of doubt, that any withholding Tax imposed on a Lender as a result of a Change in Law occurring after the time such Lender became a party to this Agreement (or designates a new lending office) shall not be an Excluded Tax under this subclause (c)) and (d) any Tax to the extent attributable to such Lender’s failure to comply with Sections 5.4(d), (e) (in the case of any Non-U.S. Lender) or Section 5.4(h) (in the case of a U.S. Lender) and (f) any Taxes imposed by FATCA.

“FATCA” shall mean 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 Treasury regulations promulgated thereunder or official administrative interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any law implementing an intergovernmental approach thereto.

“Federal Funds Effective Rate” shall mean, for any day, the weighted average of the *per annum* rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published on the next succeeding Business Day by the Federal

Reserve Bank of New York; 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 the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

“**Fees**” shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

“**First Amendment**” means that certain First Amendment to Credit Agreement, dated as of the First Amendment Effective Date, among Holdings, the Borrower, the other Credit Parties party thereto, the Administrative Agent, the Collateral Agent, the Lenders party thereto and the various other parties party thereto.

“**First Amendment Effective Date**” shall have the meaning provided in the First Amendment.

“**First Lien Intercreditor Agreement**” shall mean an Intercreditor Agreement among the representative of such holders of First Lien Obligations, the Collateral Representative, the Credit Parties and any other First Lien Secured Parties from time to time party thereto, whether on the Closing Date or at any time thereafter, in a form that is reasonably satisfactory in form and substance to the Borrower and the Collateral Agent (it being understood and agreed that any such intercreditor agreement otherwise permitted by the Senior Secured Credit Agreement is reasonably satisfactory).

“**First Lien Obligations**” shall mean, collectively, (i) the Obligations and (ii) the Indebtedness and related obligations which are permitted hereunder to be secured by Liens on the Collateral that rank *pari passu* (but without regard to the control of remedies) with the Liens securing the Obligations.

“**First Lien Secured Parties**” shall mean, collectively, (i) the Secured Bank Parties and (ii) the other holders from time to time of First Lien Obligations (other than the Secured Bank Parties) and any representative on their behalf for such purposes.

“**Fiscal Year**” shall have the meaning provided in Section 9.10.

“**Floor**” means the benchmark rate floor, if any provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the Adjusted Term SOFR Rate or Adjusted Daily Simple SOFR. For the avoidance of doubt, as of the Closing Date, the Floor for each of the Adjusted Term SOFR Rate and Adjusted Daily Simple SOFR is 0.00%

“**Foreign Plan**” shall mean any employee benefit plan, program, policy, arrangement or agreement maintained or contributed to by the Borrower or any of its Subsidiaries with respect to employees employed outside the United States.

“**Foreign Subsidiary**” shall mean each Subsidiary of the Borrower that is not a Domestic Subsidiary.

“**Fund**” shall mean any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course.

“GAAP” shall mean generally accepted accounting principles in the United States of America, as in effect from time to time; provided, however, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

“Governmental Authority” shall mean any nation, sovereign or government, any state, province, territory or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including a central bank, stock exchange, PUCT or ERCOT.

“Granting Lender” shall have the meaning provided in Section 13.6(g).

“Guarantee” shall mean the Guarantee made by each Guarantor in favor of the Administrative Agent for the benefit of the Secured Bank Parties, substantially in the form of Exhibit B.

“Guarantors” shall mean (a) Holdings, (b) each Domestic Subsidiary (other than an Excluded Subsidiary) on the Closing Date, and (c) each Domestic Subsidiary that becomes a party to the Guarantee on or after the Closing Date pursuant to Section 9.11 or otherwise.

“Hazardous Materials” shall mean (a) any petroleum or petroleum products spilled or released into the environment, radioactive materials, friable asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of “hazardous substances”, “hazardous waste”, “hazardous materials”, “extremely hazardous waste”, “restricted hazardous waste”, “toxic substances”, “toxic pollutants”, “contaminants”, or “pollutants”, or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, for which a release into the environment is prohibited, limited or regulated by any Environmental Law.

“Holdings” shall mean, (x) Vistra Intermediate Company LLC, a Delaware limited liability company; or (y) any other partnership, limited partnership, corporation, limited liability company, or business trust or any successor thereto organized under the laws of the United States or any state thereof or the District of Columbia (the “New Holdings”) that is a Subsidiary of Vistra Intermediate Company LLC or that has merged, amalgamated or consolidated with Vistra Intermediate Company LLC (or, in either case, the previous New Holdings, as the case may be) (the “Previous Holdings”); provided that, to the extent applicable, (a) such New Holdings owns directly or indirectly 100% of the Stock and Stock Equivalents of the Borrower, (b) the New Holdings shall expressly assume all the obligations of the Previous Holdings under this Agreement and the other Credit Documents to which it is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent (provided that any such supplement substantially in the form furnished to the administrative agent under the Senior Secured Credit Agreement shall be deemed reasonably satisfactory for purposes of the foregoing), (c) such substitution and any supplements to the Credit Documents shall preserve the enforceability of the Guarantee and the perfection and priority of the Liens under the Security Documents, and New Holdings shall have delivered to the Administrative Agent an officer’s certificate to that effect and (d) all assets of the Previous Holdings are contributed or otherwise transferred to such New Holdings; provided, further, that if the foregoing are satisfied, the Previous Holdings shall be

automatically released of all its obligations under the Credit Documents and any reference to “Holdings” in the Credit Documents shall be meant to refer to the “New Holdings”. Notwithstanding anything to the contrary contained in this Agreement, Holdings or any New Holdings may change its jurisdiction of organization or location for purposes of the UCC or its identity or type of organization or corporate structure, subject to compliance with the terms and provisions of the Pledge Agreement.

“**Incurrence/Payment Date**” shall mean the third Business Day following each Calculation Date that occurs prior to the Revolving Credit Maturity Date.

“**Indebtedness**” of any Person shall mean (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (c) the deferred purchase price of assets or services that in accordance with GAAP would be included as a liability on the balance sheet of such Person, (d) the face amount of all letters of credit issued for the account of such Person and, without duplication, all drafts drawn thereunder, (e) all Indebtedness of any other Person secured by any Lien on any property owned by such Person, whether or not such Indebtedness has been assumed by such Person, (f) the principal component of all Capitalized Lease Obligations of such Person, (g) the Swap Termination Value of Hedging Obligations of such Person, (h) without duplication, all Guarantee Obligations of such Person, (i) Disqualified Stock of such Person and (j) Receivables Indebtedness of such Person; provided that Indebtedness shall not include (i) trade and other ordinary course payables and accrued expenses arising in the ordinary course of business, (ii) deferred or prepaid revenue, (iii) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller, (iv) amounts payable by and between Holdings, the Borrower and any of its Subsidiaries in connection with retail clawback or other regulatory transition issues, (v) any Indebtedness defeased by such Person or by any Subsidiary of such Person, (vi) contingent obligations incurred in the ordinary course of business, (vii) [reserved], (viii) Performance Guaranties, and (ix) earnouts until earned, due and payable and not paid for a period of thirty (30) days. The amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (i) the aggregate unpaid principal amount of such Indebtedness and (ii) the fair market value of the property encumbered thereby as determined by such Person in good faith.

For all purposes hereof, the Indebtedness of the Borrower and the Restricted Subsidiaries shall (i) exclude all intercompany Indebtedness among the Borrower and its Subsidiaries having a term not exceeding 365 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business, and (ii) obligations constituting Non-Recourse Debt shall only constitute “Indebtedness” for purposes of Section 10.1, Section 10.2 and Section 10.10 and not for any other purpose hereunder.

“**indemnified liabilities**” shall have the meaning provided in Section 13.5.

“**Indemnified Taxes**” shall mean all Taxes (including Other Taxes) other than (i) Excluded Taxes and (ii) any interest, penalties or expenses caused by an Agent’s or Lender’s gross negligence or willful misconduct (as determined in a final non-appealable judgment of a court of competent jurisdiction).

“**Index Debt**” means senior secured long-term indebtedness for borrowed money of the Borrower.

“**Initial Power Price**” shall mean, with respect to each PJM Contract and ERCOT Contract, the specified fixed price agreed to and specified in such PJM Contract or ERCOT Contract, as applicable, as of the Closing Date.

“Insolvent” shall mean, with respect to any Multiemployer Plan, the condition that such Multiemployer Plan is insolvent within the meaning of Section 4245 of ERISA.

“Intercompany Subordinated Note” shall mean the Intercompany Note, dated as of October 3, 2016, executed by Holdings, the Borrower and each Restricted Subsidiary of the Borrower.

“Interest Period” shall mean, with respect to any Revolving Credit Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

“Joint Lead Arrangers” shall mean (a) Citibank, N.A., Barclays Bank PLC, BMO Capital Markets Corp., BNP Paribas Securities Corp., Credit Agricole Corporate and Investment Bank, Credit Suisse Loan Funding LLC, Goldman Sachs Bank USA, JPMorgan Chase Bank, N.A., Mizuho Bank, Ltd., Morgan Stanley Senior Funding, Inc., MUFG Bank, Ltd., Natixis, New York Branch and Royal Bank of Canada, as joint lead arrangers and joint bookrunners for the Lenders under this Agreement and the other Credit Documents and (b) Citibank, N.A., as lead arranger and bookrunner with respect to the First Amendment and the transactions contemplated thereby.

“Junior Lien Intercreditor Agreement” shall mean an Intercreditor Agreement among the representative of such holders of Indebtedness junior to the Obligations, the Collateral Agent, the Collateral Trustee (if applicable), the Borrower and any other First Lien Secured Parties from time to time party thereto, whether on the Closing Date or at any time thereafter, in form and substance reasonably satisfactory to the Borrower and the Collateral Agent (it being understood and agreed that an intercreditor agreement in substantially the form of the junior lien intercreditor agreement attached as Exhibit M to the Senior Secured Credit Agreement is reasonably satisfactory).

“Lender” shall have the meaning provided in the preamble to this Agreement.

“Lender Default” shall mean (a) the refusal or failure (which has not been cured) of a Lender to make available its portion of any Borrowing that it is required to make hereunder, (b) a Lender having notified the Administrative Agent and/or the Borrower that it does not intend to comply with its funding obligations under this Agreement or has made a public statement to that effect with respect to its funding obligations under this Agreement, (c) a Lender has failed to confirm (within one Business Day after a written request for such confirmation is received by such Lender from the Administrative Agent or the Borrower) in a manner reasonably satisfactory to the Administrative Agent and the Borrower that it will comply with its funding obligations under this Agreement (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation to that effect by the Administrative Agent and the Borrower (but only if such receipt of such written confirmation occurs prior to the date upon which such Lender is required to perform its funding obligations under this Agreement, in the event the receipt of the written confirmation occurs after such date then such Lender shall only cease to be a Defaulting Lender if the Borrower and Administrative Agent consent)), (d) a Lender being deemed insolvent or becoming the subject of a bankruptcy or insolvency proceeding or has admitted in writing that it is insolvent; *provided* that a Lender Default shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Stock in the applicable 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 the applicable 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 the applicable Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with the applicable Lender, or (e) a Lender that has, or has a direct or indirect parent company that has, become the subject of a Bail-In Action.

“**Lien**” shall mean any mortgage, pledge, security interest, hypothecation, collateral assignment, lien (statutory or other) or similar encumbrance (including any conditional sale or other title retention agreement or any lease or license in the nature thereof); provided that in no event shall an operating lease be deemed to be a Lien.

“**Line Cap**” means, on any date of determination, the lesser of (a) the Total Revolving Credit Commitments and (b) the Borrowing Base based on the Borrowing Base Certificate that was most recently delivered (or required to have been delivered) pursuant to Section 9.1(i).

“**Market ERCOT Power Price**” shall mean, with respect to each Calculation Month, the settlement price of the ICE “ERN” Contract, “ERCOT North 345KV Real-Time Peak Fixed Price Future” as of the end of the Business Day prior to the applicable Calculation Date.

“**Market PJM Power Price**” shall mean, with respect to each Calculation Month, the settlement price of the ICE “PMI” Contract, “PJM Western Hub Real-Time Peak (1 MW) Fixed Price Future” as of the end of the Business Day prior to the applicable Calculation Date.

“**Material Adverse Effect**” shall mean any circumstances or conditions affecting the business, assets, operations, properties or financial condition of the Borrower and its Subsidiaries, taken as a whole, that would, in the aggregate, materially adversely affect (a) the ability of the Borrower and its Restricted Subsidiaries, taken as a whole, to perform their payment obligations under this Agreement or any of the other Credit Documents (taken as a whole) or (b) the material rights or remedies (taken as a whole) of the Administrative Agent, the Collateral Representative and the Lenders under the Credit Documents.

“**Minimum Borrowing Amount**” shall mean (a) with respect to a Borrowing of Term SOFR Loans, \$5,000,000 (or, if less, the entire remaining Revolving Credit Commitments at the time of such Borrowing), (b) with respect to a Borrowing of Daily Simple SOFR Loans, \$1,000,000 (or, if less, the entire remaining Revolving Credit Commitments at the time of such Borrowing), and (c) with respect to a Borrowing of ABR Loans, \$1,000,000 (or, if less, the entire remaining Revolving Credit Commitments at the time of such Borrowing).

“**Monticello Property**” means the coal-fired Monticello Power Plant, and associated property and mines located in Titus, Camp, Franklin and Hopkins Counties, Texas (as further described below).

<u>Property Name</u>	<u>Description of Property</u>	<u>Owner of Record</u>	<u>County and State</u>
Monticello Plant	Monticello coal plant, approximately 7,328 acres	Luminant Generation Company LLC	Titus and Camp, Texas
	Monticello railroad (fee and easement)	Luminant Generation Company LLC	Titus and Camp, Texas
	Monticello north loading station and railroad spur (easement)	Luminant Generation Company LLC	Titus and Camp, Texas

	Monticello lifeline easements	Luminant Generation Company LLC	Titus and Camp, Texas
	Monticello Unit 4, approximately 109 acres	Luminant Generation Company LLC	Titus and Camp, Texas
Monticello Mining	Monticello Mining	Luminant Generation Company LLC and Luminant Mining Company LLC	Camp, Franklin, Hopkins, and Titus, Texas

“**Moody’s**” means Moody’s Investors Service, Inc. and any successor thereto.

“**Mortgage**” shall mean a mortgage or a deed of trust, deed to secure debt, trust deed or other security document entered into by the owner of a Mortgaged Property and the Collateral Representative for the benefit of the Secured Parties in respect of that Mortgaged Property, in a form to be mutually agreed with the Administrative Agent (it being understood and agreed that any Mortgage in substantially the form as any Mortgage that is in effect as of the Closing Date is acceptable to the Administrative Agent).

“**Mortgaged Property**” shall mean all Real Estate (i) that is subject to a Lien securing the Priority Lien Obligations as of the Closing Date (other than the Monticello Property) and (ii) with respect to which a Mortgage is required to be granted pursuant to Section 9.14.

“**MTM Amount**” shall mean, for any Calculation Date, the greater of (x) the sum of MTM Amount (PJM) *plus* the MTM Amount (ERCOT) and (y) zero.

“**MTM Amount (ERCOT)**” shall mean, for any Calculation Date and with respect to all ERCOT Contracts in the Deemed Hedge Portfolio in the aggregate, the sum of the amounts determined for each such ERCOT Contract as the product of (x) the notional amount/volume specified for such ERCOT Contract *multiplied by* (y) the average Market ERCOT Power Price for all Calculation Months *minus* the Initial Power Price of such ERCOT Contract. For the avoidance of doubt, the MTM Amount (ERCOT) may be a negative amount.

“**MTM Amount (PJM)**” shall mean, for any Calculation Date and with respect to all PJM Contracts in the Deemed Hedge Portfolio in the aggregate, the sum of the amounts determined for each such PJM Contract as the product of (x) the notional amount/volume specified for such PJM Contract *multiplied by* (y) the average Market PJM Power Price for all Calculation Months *minus* the Initial Power Price of such PJM Contract. For the avoidance of doubt, the MTM Amount (PJM) may be a negative amount.

“**Multiemployer Plan**” shall mean a plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA (i) to which any of the Borrower, any Subsidiary of the Borrower or any ERISA Affiliate is then making or has an obligation to make contributions or (ii) with respect to which

the Borrower, any Subsidiary of the Borrower or any ERISA Affiliate could incur liability pursuant to Title IV of ERISA.

“**Non-Consenting Lender**” shall have the meaning provided in Section 13.7(b).

“**Non-Defaulting Lender**” shall mean and include each Lender other than a Defaulting Lender.

“**Non-U.S. Lender**” shall mean any Agent or Lender that is not, for U.S. federal income tax purposes, (a) an individual who is a citizen or resident of the U.S., (b) a corporation, partnership or entity treated as a corporation or partnership created or organized in or under the laws of the U.S., or any political subdivision thereof, (c) an estate whose income is subject to U.S. federal income taxation regardless of its source or (d) a trust if a court within the U.S. is able to exercise primary supervision over the administration of such trust and one or more U.S. persons have the authority to control all substantial decisions of such trust or a trust that has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person.

“**Notice of Borrowing**” shall mean a request of the Borrower substantially in the form of Exhibit A or such other form as shall be approved by the Administrative Agent (acting reasonably).

“**Notice of Conversion or Continuation**” shall have the meaning provided in Section 2.6.

“**NYFRB**” means the Federal Reserve Bank of New York.

“**NYFRB’s Website**” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

“**Obligations**” shall mean all advances to, and debts, liabilities, obligations, covenants and duties of, any Credit Party arising under any Credit Document or otherwise with respect to any Revolving Credit Loans, in each case, entered into with Holdings, the Borrower or any Restricted Subsidiary, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party of any proceeding under any bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, in each case, other than RCT Reclamation Obligations and Permitted Other Debt Obligations secured pursuant to the Security Documents. Without limiting the generality of the foregoing, the Obligations of the Credit Parties under the Credit Documents (and any of their Restricted Subsidiaries to the extent they have obligations under the Credit Documents) (i) include the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, attorney costs, indemnities and other amounts payable by any Credit Party under any Credit Document and any obligations with respect to any Erroneous Payment Subrogation Rights and (ii) exclude, notwithstanding any term or condition in this Agreement or any other Credit Documents, RCT Reclamation Obligations and Permitted Other Debt Obligations secured pursuant to the Security Documents.

“**Organizational Documents**” shall mean, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction), (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or

other applicable agreement of formation or organization and, if applicable, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Other Taxes” shall mean any and all present or future stamp, registration, documentary or any other excise, property or similar taxes (including interest, fines, penalties, additions to tax and related expenses with regard thereto) arising from any payment made or required to be made under this Agreement or any other Credit Document or from the execution or delivery of, registration or enforcement of, consummation or administration of, or otherwise with respect to, this Agreement or any other Credit Document.

“Overnight Rate” shall mean, for any day, the greater of (a) the Federal Funds Effective Rate and (b) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“Participant” shall have the meaning provided in Section 13.6(c)(i).

“Participant Register” shall have the meaning provided in Section 13.6(c)(iii).

“Patriot Act” shall have the meaning provided in Section 13.8.

“Payment Default” shall mean any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default under Section 11.1.

“Payment Recipient” has the meaning assigned to it in Section 12.13(a).

“PBGC” shall mean the Pension Benefit Guaranty Corporation established pursuant to Section 4002 of ERISA, or any successor thereto.

“Pension Act” shall mean the Pension Protection Act of 2006, as it presently exists or as it may be amended from time to time.

“Pension Plan” shall mean any employee pension benefit plan (as defined in Section 3(2) of ERISA, but excluding any Multiemployer Plan) in respect of which any Credit Party or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4062 or Section 4069 of ERISA be reasonably expected to be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Person” shall mean any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise or any Governmental Authority.

“PJM Contracts” shall have the meaning provided in the definition of “Deemed Hedge Portfolio”.

“Platform” shall have the meaning provided in Section 13.17(c).

“Pledge Agreement” shall mean (a) the Amended and Restated Pledge Agreement, dated as of October 3, 2016 (as the same may be amended, restated, amended and restated, supplemented or otherwise modified or replaced from time to time), entered into by the Credit Parties party thereto, the Collateral Agent (as defined in the Senior Secured Credit Agreement), the Collateral Trustee and the

Collateral Representative for the benefit of the Secured Parties, and (b) any other Pledge Agreement with respect to any or all of the Obligations delivered pursuant to Section 9.12.

“Priority Lien Obligations” shall have the meaning provided in the Collateral Trust Agreement.

“Prohibited Transaction” shall have the meaning assigned to such term in Section 406 of ERISA or Section 4975(c) of the Code.

“Projections” shall have the meaning provided in Section 9.1(g).

“PUCT” shall mean the Public Utility Commission of Texas or any successor. **“RCT”** shall mean the Railroad Commission of Texas.

“RCT Reclamation Obligations” shall mean all amounts required to be paid by the Credit Parties or their Subsidiaries to the RCT or the State of Texas (x) in respect of reclamation obligations incurred by the RCT (or which may be incurred by the RCT) and for which any of the Credit Parties or their Subsidiaries may be liable under Applicable Law and (y) in respect of any other First-Out Obligations (as defined in the Collateral Trust Agreement).

“Reaffirmation Agreement” shall mean the Reaffirmation Agreement, dated as of the ~~date hereof~~ Closing Date (as the same may be amended, restated, amended and restated, supplemented or otherwise modified or replaced from time to time), entered into by the Credit Parties party thereto and acknowledged by the Collateral Trustee.

“Real Estate” shall mean any interest in land, buildings and improvements owned, leased or otherwise held by any Credit Party, but excluding all operating fixtures and equipment.

“Reference Time” with respect to any setting of the then-current Benchmark means (1) if such Benchmark is the Term SOFR Rate, 6:00 a.m. (New York time) on the day that is two U.S. Government Securities Business Days preceding the date of such setting and (2) if such Benchmark is not the Term SOFR Rate, the time determined by the Administrative Agent in its reasonable discretion.

“Register” shall have the meaning provided in Section 13.6(b)(iv).

“Regulation T” shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Related Parties” shall mean, with respect to any specified Person, such Person’s Affiliates and the directors, officers, employees, agents, trustees and advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

“Relevant Governmental Body” means the Board and/or the NYFRB, the CME Term SOFR Administrator, as applicable, or a committee officially endorsed or convened by the Board and/or the NYFRB or, in each case, any successor thereto.

“Reorganization” shall mean, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

“Reportable Event” shall mean an event described in Section 4043 of ERISA and the regulations thereunder, other than any event as to which the thirty day notice period has been waived.

“Required Lenders” shall mean, at any date, Non-Defaulting Lenders having or holding a majority of the sum of the Adjusted Total Revolving Credit Commitment at such date (or, if the Total Revolving Credit Commitment has been terminated or for the purposes of acceleration pursuant to Section 11, the Aggregate Revolving Credit Outstandings (excluding the Revolving Credit Loans of Defaulting Lenders) at such date).

“Requirement of Law” shall mean, as to any 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 assets or to which such Person or any of its property or assets is subject.

“Revolving Credit Commitment” shall mean, (a) with respect to each Lender on the ~~date hereof~~First Amendment Effective Date, the amount set forth opposite such Lender’s name on Schedule 1.1(a) (as amended by the First Amendment) as such Lender’s “Revolving Credit Commitment” and (b) in the case of any Lender that becomes a Lender after the ~~date hereof~~, the First Amendment Effective Date, the amount specified as such Lender’s “Revolving Credit Commitment” in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total Revolving Credit Commitment, in each case as such Revolving Credit Commitment may be changed from time to time pursuant to the terms hereof or the terms of the First Amendment. On the Closing Date, the aggregate amount of the Revolving Credit Commitments of all Lenders ~~is~~was \$1,000,000,000. On the First Amendment Effective Date, the aggregate amount of the Revolving Credit Commitments of all Lenders is \$2,000,000,000.

“Revolving Credit Commitment Fee” shall have the meaning provided in Section 4.1(a).

“Revolving Credit Commitment Fee Rate” shall have the meaning provided in the definition of “Applicable Margin”.

“Revolving Credit Commitment Percentage” shall mean at any time, for each Lender, the percentage obtained by dividing (a) such Lender’s Revolving Credit Commitment at such time by (b) the amount of the Total Revolving Credit Commitment at such time; provided that at any time when the Total Revolving Credit Commitment shall have been terminated, each Lender’s Revolving Credit Commitment Percentage shall be the percentage obtained by dividing (a) such Lender’s Revolving Credit Exposure at such time by (b) the Revolving Credit Exposure of all Lenders at such time.

“Revolving Credit Exposure” shall mean, with respect to any Lender at any time, the aggregate principal amount of the Revolving Credit Loans of such Lender then-outstanding.

“Revolving Credit Facility” shall mean the revolving credit facility represented by the Revolving Credit Commitments.

“Revolving Credit Lender” shall have the meaning provided in the preamble to this Agreement.

“Revolving Credit Loans” shall mean the loans made by a Revolving Credit Lender pursuant to Section 2.1(c).

“Revolving Credit Maturity Date” shall mean October 5, 2022.

“Revolving Credit Termination Date” shall mean the earlier to occur of (a) the Revolving Credit Maturity Date and (b) the date on which the Revolving Credit Commitments shall have terminated pursuant to the terms hereof.

“S&P” means Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business, and any successor thereto.

“Sanctions” shall have the meaning provided in Section 8.19.

“Sanctions Laws” shall have the meaning provided in Section 8.19.

“SEC” shall mean the Securities and Exchange Commission or any successor thereto.

“Section 9.1 Financials” shall mean the financial statements delivered, or required to be delivered, pursuant to Section 9.1(a) or 9.1(b) together with the accompanying officer’s certificate delivered, or required to be delivered, pursuant to Section 9.1(c).

“Secured Bank Parties” shall mean the Administrative Agent, the Collateral Agent, each Lender and each sub-agent pursuant to Section 12 appointed by the Administrative Agent with respect to matters relating to the Revolving Credit Facility or appointed by the Collateral Agent with respect to matters relating to any Security Document.

“Secured Parties” shall mean the Secured Bank Parties, the Collateral Trustee (for so long as the Collateral Trust Agreement is in effect), the RCT (at all times prior to the Discharge of the First-Out Obligations (as defined in the Collateral Trust Agreement)), each other First Lien Secured Party (other than the Secured Bank Parties) and each sub-agent appointed by the Collateral Representative with respect to matters relating to any Security Document.

“Security Agreement” shall mean the Amended and Restated Security Agreement, dated as of October 3, 2016 (as the same may be amended, restated, amended and restated, supplemented or otherwise modified or replaced from time to time), entered into by the Borrower, the other grantors party thereto, the Collateral Agent (as defined in the Senior Secured Credit Agreement), the Collateral Trustee and the Collateral Representative for the benefit of the Secured Parties.

“Security Documents” shall mean, collectively, (a) the Security Agreement, (b) the Pledge Agreement, (c) the Reaffirmation Agreement, (d) the Mortgages, (e) the Collateral Trust Agreement, the First Lien Intercreditor Agreement, the Junior Lien Intercreditor Agreement, and any other intercreditor agreement executed and delivered pursuant to Section 10.2 and (f) each other security agreement or other instrument or document executed and delivered pursuant to Section 9.11, 9.12, or 9.14 or pursuant to any other such Security Documents.

“Senior Secured Credit Agreement” shall mean the Credit Agreement, dated as of October 3, 2016, among Vistra Intermediate Company LLC, as Holdings, Vistra Operations Company LLC, as the Borrower, the lenders party thereto from time to time, the letter of credit issuers party thereto from time to time, Credit Suisse AG, Cayman Islands Branch, as administrative agent and collateral agent, and the other parties thereto from time to time (as the same has been amended, restated, supplemented, waived, refinanced, replaced and/or otherwise modified from time to time prior to the Closing Date). For the avoidance of doubt, unless otherwise expressly specified herein, all references in this Agreement to the Senior Secured Credit Agreement shall be deemed to be references to the Senior Secured Credit Agreement as in effect on the Closing Date (without regard for any future termination of the Senior Secured Credit Agreement).

“SOFR” means a rate equal to the secured overnight financing rate as administered by the NYFRB (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator’s Website” means the NYFRB’s website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“SOFR Borrowing” means, as to any Borrowing, the SOFR Loans comprising such Borrowing.

“SOFR Determination Date” has the meaning provided in the definition of “Daily Simple SOFR”.

“SOFR Loan” means a Term SOFR Loan and/or a Daily Simple SOFR Loan, as the context may require.

“SOFR Rate Day” has the meaning provided in the definition of “Daily Simple SOFR”.

“Solvent” shall mean, with respect to any Person, that as of the ~~Closing Date~~[applicable date of determination](#), (i) the present fair saleable value of the property (on a going concern basis) of such Person is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured in the ordinary course of business, (ii) such Person is not engaged in, and are not about to engage in, business contemplated as of the [applicable date hereof](#)~~of determination~~ for which they have unreasonably small capital and (iii) such Person is able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured in the ordinary course of business, and (iv) the fair value of the assets (on a going concern basis) of such Person exceeds, their debts and liabilities, subordinated, contingent or otherwise. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

“Specified Default” shall mean any Event of Default under Sections 11.1 or 11.5.

“**SPV**” shall have the meaning provided in Section 13.6(g).

“**Stock**” shall mean shares of capital stock or shares in the capital, as the case may be (whether denominated as common stock or preferred stock or ordinary shares or preferred shares, as the case may be), beneficial, partnership or membership interests, participations or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or non-voting, provided that any instrument evidencing Indebtedness convertible or exchangeable for Stock shall not be deemed to be Stock unless and until such instrument is so converted or exchanged.

“**Stock Equivalents**” shall mean all securities convertible into or exchangeable for Stock and all warrants, options or other rights to purchase or subscribe for any Stock, whether or not presently convertible, exchangeable or exercisable, provided that any instrument evidencing Indebtedness convertible or exchangeable for Stock Equivalents shall not be deemed to be Stock Equivalents unless and until such instrument is so converted or exchanged.

“**Subsidiary**” of any Person shall mean and include (a) any corporation more than 50% of whose Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time Stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries and (b) any limited liability company, partnership, association, joint venture or other entity of which such Person directly or indirectly through Subsidiaries has more than a 50% equity interest at the time or is a controlling general partner. Unless otherwise expressly provided, all references herein to a “Subsidiary” shall mean a Subsidiary of the Borrower.

“**Subsidiary Guarantor**” shall mean each Guarantor that is a Subsidiary of the Borrower.

“**Taxes**” shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings or other similar charges imposed by any Governmental Authority whether computed on a separate, consolidated, unitary, combined or other basis and any interest, fines, penalties or additions to tax with respect to the foregoing.

“**Term SOFR Determination Day**” has the meaning specified in the definition of Term SOFR Reference Rate.

“**Term SOFR Loan**” means a Revolving Credit Loan bearing interest at a rate based on the Adjusted Term SOFR Rate, other than pursuant to clause (c) of the definition of “ABR”.

“**Term SOFR Rate**” means, for any tenor comparable to the applicable Interest Period, the Term SOFR Reference Rate at approximately 6:00 a.m., New York time, two U.S. Government Securities Business Days prior to the commencement of such tenor comparable to the applicable Interest Period, as such rate is published by the CME Term SOFR Administrator.

“**Term SOFR Reference Rate**” means, for any day and time (such day, the “**Term SOFR Determination Day**”), for any tenor comparable to the applicable Interest Period, the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR. If by 5:00 pm (New York City time) such Term SOFR Determination Day, the “Term SOFR Reference Rate” for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Rate has not occurred, then the Term SOFR Reference

Rate for such Term SOFR Determination Day will be the Term SOFR Reference Rate as published in respect of the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate was published by the CME Term SOFR Administrator, so long as such first preceding Business Day is not more than five (5) Business Days prior to such Term SOFR Determination Day.

“**Test Period**” shall mean, for any determination under this Agreement, the four consecutive fiscal quarters of the Borrower then last ended and for which Section 9.1 Financials have been or were required to have been delivered (or, for purposes of any calculation of a financial ratio under this Agreement, for which the financial statements described in Section 9.1(a) or (b) are otherwise available).

“**Total Revolving Credit Commitment**” shall mean the sum of the Revolving Credit Commitments of all the Lenders.

“**Transactions**” shall mean, collectively, the transactions contemplated by this Agreement to occur on or around the Closing Date (including the entering into and funding hereunder) and the payment of the fees, costs, liabilities and expenses in connection with each of the foregoing and the consummation of any other transaction connected with the foregoing.

“**Transferee**” shall have the meaning provided in Section 13.6(e).

“**Trust Indenture Act**” shall have the meaning provided in Section 12.11.

“**Type**” shall mean, as to any Revolving Credit Loan, its nature as an ABR Loan, a Term SOFR Loan or a Daily Simple SOFR Loan.

“**UCC**” shall mean the Uniform Commercial Code of the State of New York or the State of Texas, as applicable, or of any other state the laws of which are required to be applied in connection with the perfection of security interests in any Collateral.

“**UK Financial Institution**” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within 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**” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“**Unadjusted Benchmark Replacement**” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“**Unfunded Current Liability**” of any Plan shall mean the amount, if any, by which the Accumulated Benefit Obligation (as defined under Statement of Financial Accounting Standards No. 87 (“**SFAS 87**”)) under the Plan as of the close of its most recent plan year, determined in accordance with SFAS 87 as in effect on the Closing Date, exceeds the fair market value of the assets allocable thereto.

“**Unrestricted Cash**” shall mean, without duplication, (a) all cash and Permitted Investments included in the cash and Permitted Investments accounts listed on the consolidated balance sheet of the Borrower and the Restricted Subsidiaries as at such date (other than any such amounts listed as “restricted cash” thereon) and (b) all margin deposits related to commodity positions listed as assets on

the consolidated balance sheet of the Borrower and the Restricted Subsidiaries; provided that Unrestricted Cash shall not include any amounts on deposit in or credited to any Term C Loan Collateral Account, if any.

“Unused Revolving Commitment” shall mean, as of any date, an amount equal to the excess, if any, of (a) the amount of the Total Revolving Credit Commitment over (b) the Aggregate Revolving Credit Outstandings.

“U.S. Government Securities Business Day” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“U.S. Lender” shall have the meaning provided in Section 5.4(h).

“Wholly Owned” shall mean, with respect to the ownership by a Person of a Subsidiary, that all of the Stock of such Subsidiary (other than directors’ qualifying shares or nominee or other similar shares required pursuant to Applicable Law) are owned by such Person or another Wholly Owned Subsidiary of such Person.

“Withdrawal Liability” shall mean 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.

“Write-Down and Conversion Powers” means, (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 Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b) The words “herein”, “hereto”, “hereof” and “hereunder” and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.
- (c) Article, Section, Exhibit and Schedule references are to the Credit Document in which such reference appears.
- (d) The term “including” is by way of example and not limitation.

(e) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) The words “asset” and “property” shall be construed to have the same meaning and effect and refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(g) All references to “knowledge” or “awareness” of any Credit Party or a Restricted Subsidiary thereof means the actual knowledge of an Authorized Officer of a Credit Party or such Restricted Subsidiary.

(h) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each mean “to but excluding”; and the word “through” means “to and including”.

(i) Any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all of the functions thereof.

(j) Section headings herein and in the other Credit Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Credit Document.

(k) [Reserved].

(l) All references to “in the ordinary course of business” of the Borrower or any Subsidiary thereof means (i) in the ordinary course of business of, or in furtherance of an objective that is in the ordinary course of business of the Borrower or such Subsidiary, as applicable, (ii) customary and usual in the industry or industries of the Borrower and its Subsidiaries in the United States or any other jurisdiction in which the Borrower or any Subsidiary does business, as applicable, or (iii) generally consistent with the past or current practice of the Borrower or such Subsidiary, as applicable, or any similarly situated businesses in the United States or any other jurisdiction in which the Borrower or any Subsidiary does business, as applicable.

(m) All references herein to the Senior Secured Credit Agreement or any provision contained therein (including references to the Senior Secured Credit Agreement contained in Sections 9 and 10 hereof) shall be read to incorporate the applicable provision thereof in its entirety herein as the applicable provision is in effect on the Closing Date (without regard for any future termination of the Senior Secured Credit Agreement), *mutatis mutandis*.

1.3. Accounting Terms. Section 1.3 of the Senior Secured Credit Agreement is hereby incorporated by reference in its entirety, *mutatis mutandis*.

1.4. Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.5. References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational documents, agreements (including the Credit Documents but, for the avoidance of doubt, excluding the Senior Secured Credit Agreement) and other Contractual Requirements shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are not prohibited by any Credit Document and (b) references to any Requirement of Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Requirement of Law.

1.6. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

1.7. Timing of Payment or Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

1.8. Currency Equivalents Generally. Section 1.8 of the Senior Secured Credit Agreement is hereby incorporated by reference in its entirety, *mutatis mutandis*.

1.9. Interest Rates; Benchmark Notification. The interest rate on any Revolving Credit Loan may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, Section 2.10 provides a mechanism for determining an alternative rate of interest. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to any interest rate used in this Agreement, or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Administrative Agent and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

1.10. Hedging Agreements. Section 1.10 of the Senior Secured Credit Agreement is hereby incorporated by reference in its entirety, *mutatis mutandis*.

1.11. Limited Condition Transactions. Section 1.11 of the Senior Secured Credit Agreement is hereby incorporated by reference in its entirety, *mutatis mutandis*.

1.12. Divisions. For all purposes under the Credit Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's

laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Stock at such time.

SECTION 2. Amount and Terms of Credit

2.1. Revolving Credit Commitments.

(a) [Reserved].

(b) [Reserved].

(c) (i) Subject to and upon the terms and conditions set forth in this Agreement, each Revolving Credit Lender having a Revolving Credit Commitment severally but, not jointly, agrees to make Revolving Credit Loans in Dollars to the Borrower.

(ii) Such Revolving Credit Loans (A) shall be made pursuant to the procedures set forth in Section 2.3 on any Incurrence/Payment Date after the Closing Date and prior to the Revolving Credit Termination Date, (B) may, at the option of the Borrower, be incurred and maintained as, and/or converted into, ABR Loans or SOFR Loans; provided that all Revolving Credit Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Revolving Credit Loans of the same Type, (C) may be repaid and reborrowed in accordance with the provisions hereof, (D) shall not, for any Lender at any time, after giving effect thereto and to the application of the proceeds thereof, result in such Lender's Revolving Credit Exposure at such time exceeding such Lender's Revolving Credit Commitment at such time, and (E) shall not, after giving effect thereto and to the application of the proceeds thereof, result at any time in the Aggregate Revolving Credit Outstandings at such time exceeding the Line Cap.

(d) No Credit Event may occur on any date other than an Incurrence/Payment Date.

(e) Each Lender may at its option make any SOFR Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Revolving Credit Loan; provided that (A) any exercise of such option shall not affect the obligation of the Borrower to repay such Revolving Credit Loan and (B) in exercising such option, such Lender shall use its reasonable efforts to minimize any increased costs to the Borrower resulting therefrom (which obligation of the Lender shall not require it to take, or refrain from taking, actions that it determines would result in material increased costs for which it will not be compensated hereunder or that it determines would be otherwise disadvantageous in any material respect to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.10 shall apply).

2.2. Minimum Amount of Each Borrowing; Maximum Number of Borrowings. The aggregate principal amount of each Borrowing of Revolving Credit Loans shall be in a minimum amount of at least the Minimum Borrowing Amount for such Type of Revolving Credit Loans and in a multiple of \$1,000,000 in excess thereof. More than one Borrowing may be incurred on any date; provided that at no time shall there be outstanding more than 10 Borrowings of SOFR Loans under this Agreement, unless the Administrative Agent in its sole discretion shall agree upon the request of the Borrower to a greater number of Borrowings of SOFR Loans.

2.3. Notice of Borrowing.

(a) Whenever the Borrower desires to incur Revolving Credit Loans, the Borrower shall give the Administrative Agent at the Administrative Agent's Office, (i) prior to 2:00 p.m. at least three U.S. Government Securities Business Days' prior written notice (or telephonic notice promptly confirmed in writing) of each Borrowing of Revolving Credit Loans if all or any of such Revolving Credit Loans are to be initially SOFR Loans and (ii) prior to 1:00 p.m. on the date of the proposed Borrowing of each Borrowing of Revolving Credit Loans if all or any of such Revolving Credit Loans are to be ABR Loans. Each such Notice of Borrowing shall specify (i) the aggregate principal amount of the Revolving Credit Loans to be made pursuant to such Borrowing, (ii) the date of the Borrowing (which shall be a Business Day), and (iii) whether the Borrowing shall consist of ABR Loans, Term SOFR Loans and/or Daily Simple SOFR Loans and, if SOFR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall promptly give each Revolving Credit Lender written notice (or telephonic notice promptly confirmed in writing) of each proposed Borrowing of Revolving Credit Loans, of such Lender's Revolving Credit Commitment Percentage thereof and of the other matters covered by the related Notice of Borrowing.

(b) Without in any way limiting the obligation of the Borrower to confirm in writing any notice it may give hereunder by telephone, the Administrative Agent may act prior to receipt of written confirmation without liability upon the basis of such telephonic notice believed by the Administrative Agent in good faith to be from an Authorized Officer of the Borrower.

2.4. Disbursement of Funds.

(a) No later than 2:00 p.m. on the Incurrence/Payment Date specified in each Notice of Borrowing, each Lender will make available its *pro rata* portion, if any, of each Borrowing requested to be made on such date in the manner provided below.

(b) Each Lender shall make available all amounts required under any Borrowing for its applicable Commitments in immediately available funds to the Administrative Agent at the Administrative Agent's Office in Dollars, and the Administrative Agent will make available to the Borrower, by depositing to an account designated by the Borrower to the Administrative Agent the aggregate of the amounts so made available in Dollars. Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available such amount to the Borrower, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrower in writing and the Borrower shall immediately pay such corresponding amount to the Administrative Agent in Dollars. The Administrative Agent shall also be entitled to recover from such Lender or the Borrower interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent, at a rate *per annum* equal to (i) if paid by such Lender, the Overnight Rate or (ii) if paid by the Borrower, the then-applicable rate of interest or fees, calculated in accordance with Section 2.8.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

2.5. Repayment of Revolving Credit Loans; Evidence of Debt.

(a) The Borrower shall repay to the Administrative Agent, for the benefit of the applicable Lenders, on the Revolving Credit Maturity Date, all of the then outstanding Revolving Credit Loans.

(b) Promptly following the reasonable request of any Lender at any time and from time to time after the Closing Date, the Borrower shall provide to such Lender, at the Borrower's own expense, a promissory note, substantially in the form of Exhibit D, evidencing the Revolving Credit Loans owing to such Lender.

(c) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to the appropriate lending office of such Lender resulting from each Revolving Credit Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(d) The Administrative Agent shall maintain the Register pursuant to Section 13.6(b), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Revolving Credit Loan made hereunder and, if applicable, the Type of each Revolving Credit Loan made and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(e) The entries made in the Register and accounts and subaccounts maintained pursuant to clauses (c) and (d) of this Section 2.5 shall, to the extent permitted by Applicable Law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Revolving Credit Loans made to the Borrower by such Lender in accordance with the terms of this Agreement.

2.6. Conversions and Continuations.

(a) Subject to the penultimate sentence of this clause (a), (x) the Borrower shall have the option on any Business Day to convert all or a portion equal to at least the Minimum Borrowing Amount of the outstanding principal amount of any Revolving Credit Loans of one Type into a Borrowing or Borrowings of another Type and (y) the Borrower shall have the option on any Business Day to continue the outstanding principal amount of any SOFR Loans of a given Type as SOFR Loans of such Type for an additional Interest Period; provided that (i) no partial conversion of SOFR Loans shall reduce the outstanding principal amount of SOFR Loans made pursuant to a single Borrowing to less than the applicable Minimum Borrowing Amount, (ii) ABR Loans may not be converted into SOFR Loans if a Payment Default or Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their

sole discretion not to permit such conversion, (iii) SOFR Loans may not be continued as SOFR Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Required Lenders have determined in their sole discretion not to permit such continuation, and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion or continuation shall be effected by the Borrower by giving the Administrative Agent at the Administrative Agent's Office prior to 2:00

p.m. at least (i) three U.S. Government Securities Business Days', in the case of a continuation of, or conversion to, SOFR Loans or (ii) one Business Day's in the case of a conversion into ABR Loans, prior written notice (or telephonic notice promptly confirmed in writing) (each, a "**Notice of Conversion or Continuation**") specifying the Revolving Credit Loans to be so converted or continued, the Type of Revolving Credit Loans to be converted into or continued and, if such Revolving Credit Loans are to be converted into, or continued as, SOFR Loans, the Interest Period to be initially applicable thereto; provided that, if no Interest Period is selected, the Borrower shall be deemed to have selected an Interest Period of one month's duration (in the case of a Term SOFR Loan) and one week's duration (in the case of a Daily Simple SOFR Loan). The Administrative Agent shall give each applicable Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Revolving Credit Loans.

(b) If any Payment Default or Event of Default is in existence at the time of any proposed continuation of any SOFR Loans and the Required Lenders have determined in their sole discretion not to permit such continuation, such SOFR Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans.

2.7. Pro Rata Borrowings. Subject to Section 2.1(c), each Borrowing of Revolving Credit Loans under this Agreement shall be made by the Lenders *pro rata* on the basis of their then applicable Revolving Credit Commitments. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Revolving Credit Loans hereunder and that each Lender severally but not jointly shall be obligated to make the Revolving Credit Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and (b) failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation under any Credit Document.

2.8. Interest.

(a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be the relevant Applicable Margin plus the ABR, in each case, in effect from time to time.

(b) The unpaid principal amount of each Term SOFR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be the relevant Applicable Margin plus the Adjusted Term SOFR Rate, in each case in effect from time to time.

(c) The unpaid principal amount of each Daily Simple SOFR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be the relevant Applicable Margin plus Adjusted Daily Simple SOFR, in each case in effect from time to time.

(d) If all or a portion of (i) the principal amount of any Revolving Credit Loan or (ii) any interest payable thereon or any other amount hereunder shall not be paid when due (whether at

the stated maturity, by acceleration or otherwise), and an Event of Default under Sections 11.1 or 11.5 shall have occurred and be continuing, then, upon the giving of written notice by the Administrative Agent to the Borrower (except in the case of an Event of Default under Section 11.5, for which no notice is required), such overdue amount (other than any such amount owed to a Defaulting Lender) shall bear interest at a rate *per annum* (the “**Default Rate**”) that is (x) in the case of overdue principal, the rate that would otherwise be applicable thereto plus 2% or (y) in the case of any overdue interest or other amounts due hereunder, to the extent permitted by Applicable Law, the rate described in Section 2.8(a), plus 2% from the date of written notice to the date on which such amount is paid in full (after as well as before judgment) (or if an Event of Default under Section 11.5 shall have occurred and be continuing, the date of the occurrence of such Event of Default).

(e) Interest on each Revolving Credit Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof and shall be payable in Dollars; provided that any Revolving Credit Loan that is repaid on the same date on which it is made shall bear interest for one day. Except as provided below, interest shall be payable (i) in respect of each ABR Loan, quarterly in arrears on the tenth Business Day following the end of each March, June, September and December, (ii) in respect of each SOFR Loan, on the last day of each Interest Period applicable thereto and, in the case of an Interest Period in excess of three months, on each date occurring at three-month intervals after the first day of such Interest Period, and (iii) in respect of each Revolving Credit Loan, (A) on any prepayment; provided that interest on ABR Loans shall only become due pursuant to this subclause (A) if the aggregate principal amount of the ABR Loans then-outstanding is repaid in full, (B) at maturity (whether by acceleration or otherwise) and (C) after such maturity, on demand.

(f) All computations of interest hereunder shall be made in accordance with Section 5.5.

(g) The Administrative Agent, upon determining the interest rate for any Borrowing of SOFR Loans, shall promptly notify the Borrower and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

2.9: Interest Periods. At the time the Borrower gives a Notice of Borrowing or Notice of Conversion or Continuation in respect of the making of, or conversion into or continuation as, a Borrowing of SOFR Loans in accordance with Section 2.6(a), the Borrower shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of the Interest Period applicable to such Borrowing, which Interest Period shall, at the option of the Borrower, be (i) in the case of a Term SOFR Loan, a one, three or six month period and (ii) in the case of a Daily Simple SOFR Loan, a one week period.

Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of SOFR Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of Term SOFR Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically

corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided that if any Interest Period in respect of a Term SOFR Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day;

(d) the Borrower shall not be entitled to elect any Interest Period in respect of any SOFR Loan if such Interest Period would extend beyond the Revolving Credit Maturity Date; and

(e) no tenor that has been removed from this Section 2.9 shall be available for specification in such Notice of Borrowing or Notice of Conversion or Continuation.

2.10. Increased Costs, Illegality, Etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent or (y) in the case of clauses (ii) and (iii) below, the Required Lenders shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the Adjusted Term SOFR Rate or Adjusted Daily Simple SOFR for any Interest Period that (x) deposits in the principal amounts and currencies of the Revolving Credit Loans comprising such SOFR Borrowing are not generally available in the relevant market or (y) by reason of any changes arising on or after the Closing Date affecting the SOFR market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Term SOFR Rate or Daily Simple SOFR, as applicable; or

(ii) at any time, that such Lender shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any SOFR Loans (other than any increase or reduction attributable to (i) Indemnified Taxes and Taxes indemnifiable under Section 5.4, (ii) net income Taxes and franchise and excise Taxes (imposed in lieu of net income Taxes) imposed on any Agent or Lender or (iii) Taxes included under clauses (c) through (f) of the definition of "Excluded Taxes") because of (x) any change since the Closing Date in any Applicable Law (or in the interpretation or administration thereof and including the introduction of any new Applicable Law), such as, for example, without limitation, a change in official reserve requirements, and/or (y) other circumstances affecting the SOFR market or the position of such Lender in such market; or

(iii) at any time, that the making or continuance of any SOFR Loan has become unlawful as a result of compliance by such Lender in good faith with any Applicable Law (or would conflict with any such Applicable Law not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the Closing Date that materially and adversely affects the SOFR market;

then, and in any such event, such Lender (or the Administrative Agent, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Borrower and to the Administrative Agent of such determination (which notice the Administrative Agent

shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, SOFR Loans shall no longer be available until such time as the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist (which notice the Administrative Agent agrees to give at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion or Continuation given by the Borrower with respect to SOFR Loans that have not yet been incurred shall be deemed rescinded by the Borrower, as applicable, (y) in the case of clause (ii) above, the Borrower shall pay to such Lender, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of or a different method of calculating, interest or otherwise, as such Lender in its reasonable discretion shall determine) as shall be required to compensate such Lender for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lender shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto) and (z) in the case of subclause (iii) above, the Borrower shall take one of the actions specified in Section 2.10(b) as promptly as possible and, in any event, within the time period required by Applicable Law.

(b) At any time that any SOFR Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrower may (and in the case of a SOFR Loan, affected pursuant to Section 2.10(a)(iii) shall) either (x) if the affected SOFR Loan is then being made pursuant to a Borrowing, cancel such Borrowing by giving the Administrative Agent telephonic notice (confirmed promptly in writing) thereof on the same date that the Borrower was notified by a Lender pursuant to Section 2.10(a)(ii) or (iii) or (y) if the affected SOFR Loan is then-outstanding, upon at least three Business Days' notice to the Administrative Agent require the affected Lender to convert each such SOFR Loan into an ABR Loan; provided that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, any Change in Law relating to capital adequacy or liquidity of any Lender or compliance by any Lender or its parent with any Change in Law relating to capital adequacy or liquidity occurring after the Closing Date, has or would have the effect of reducing the rate of return on such Lender's or its parent's or its Affiliates' capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or any Affiliate thereof could have achieved but for such Change in Law (taking into consideration such Lender's or parent's policies with respect to capital adequacy or liquidity), then from time to time, promptly after written demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or its parent for such reduction, it being understood and agreed, however, that a Lender shall not be entitled to such compensation as a result of such Lender's compliance with, or pursuant to any request or directive to comply with, any Applicable Law as in effect on the Closing Date. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written notice thereof to the Borrower, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrower's obligations to pay additional amounts pursuant to this Section 2.10(c) upon receipt of such notice.

(d) Alternate Rate of Interest.

(i) Subject to clauses (ii), (iii), (iv), (v) and (vi) of this Section 2.10(d), if

(1) the Administrative Agent determines (which determination shall be conclusive absent manifest error) prior to the commencement of any Interest

Period for a SOFR Borrowing, that adequate and reasonable means do not exist for ascertaining the Adjusted Term SOFR Rate, the Term SOFR Rate, Adjusted Daily Simple SOFR or Daily Simple SOFR (including because the Term SOFR Reference Rate or Daily Simple SOFR is not available or published on a current basis) for such Interest Period; or

(2) The Administrative Agent is advised by the Required Lenders that prior to the commencement of any Interest Period for a SOFR Borrowing, the Adjusted Term SOFR Rate or Adjusted Daily Simple SOFR for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Borrowings (or its Borrowings) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until (x) the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant benchmark rate and (y) the Borrower delivers a Notice of Conversion or Continuation in accordance with the terms of Section 2.6, any Notice of Conversion or Continuation that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Borrowing of SOFR Loans of the applicable Type may be revoked by the Borrower and, failing that, shall instead be deemed to be a Notice of Conversion or Continuation for an ABR Loan. Furthermore, if any SOFR Loan is outstanding on the date of the Borrower's receipt of the notice from the Administrative Agent referred to in this Section 2.10(d)(i) with respect to the Term SOFR Rate or Daily Simple SOFR, as applicable, then until (x) the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant benchmark rate and (y) the Borrower delivers a new Notice of Conversion or Continuation in accordance with the terms of Section 2.6, any such SOFR Loan of the applicable Type shall on the last day of the Interest Period applicable to such SOFR Loan (or the next succeeding Business Day if such day is not a Business Day), be converted by the Administrative Agent to, and shall constitute, an ABR Loan.

(ii) Notwithstanding anything to the contrary herein or in any other Credit Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Credit Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Credit Document and (y) if a Benchmark Replacement is determined in accordance with clause (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Credit Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) 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 Credit 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.

(iii) Notwithstanding anything to the contrary herein (including in Section 13.1 of this Agreement) or in any other Credit Document, 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 Credit 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 or any other Credit Document.

(iv) The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (v) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.10, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Credit Document, except, in each case, as expressly required pursuant to this Section 2.10.

(v) Notwithstanding anything to the contrary herein or in any other Credit Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Rate) and either (a) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (b) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (a) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (b) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(vi) the Borrower may revoke any request for a Borrowing of Term SOFR Loans, or a conversion to or continuation of a Term SOFR Loan to be converted or continued, during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any request for a Borrowing of Term SOFR Loans into a request for a Borrowing of or conversion to an ABR Loan. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of ABR based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR. Furthermore, if any Term SOFR Loan is outstanding on the date of the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to the Term SOFR Rate, then until such time as a Benchmark Replacement is implemented pursuant to this Section 2.10, any Term SOFR Loan shall on the

last day of the Interest Period applicable to such Revolving Credit Loan (or the next succeeding Business Day if such day is not a Business Day), be converted by the Administrative Agent to, and shall constitute, a ABR Loan.

(e) Notwithstanding the foregoing, no Lender shall demand compensation pursuant to this Section 2.10 if it shall not at the time be the general policy or practice of such Lender to demand such compensation in substantially the same manner as applied to other similarly situated borrowers under comparable syndicated credit facilities.

2.11. Compensation. If (i) any payment of principal of any Term SOFR Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such SOFR Loan as a result of a payment or conversion pursuant to Section 2.5, 2.6, 2.10, 5.1, 5.2 or 13.7, as a result of acceleration of the maturity of the Revolving Credit Loans pursuant to Section 11 or for any other reason, (ii) any Borrowing of SOFR Loans is not made as a result of a withdrawn Notice of Borrowing, (iii) any ABR Loan is not converted into a SOFR Loan as a result of a withdrawn Notice of Conversion or Continuation, (iv) any SOFR Loan is not continued as a SOFR Loan, as the case may be, as a result of a withdrawn Notice of Conversion or Continuation or (v) any prepayment of principal of any SOFR Loan is not made as a result of a withdrawn notice of prepayment pursuant to Section 5.1 or 5.2, the Borrower shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such SOFR Loan. Notwithstanding the foregoing, no Lender shall demand compensation pursuant to this Section 2.11 if it shall not at the time be the general policy or practice of such Lender to demand such compensation in substantially the same manner as applied to other similarly situated borrowers under comparable syndicated credit facilities. For the avoidance of doubt, the reallocation of SOFR Loans on the First Amendment Effective Date as contemplated by the First Amendment shall not require the payment of any compensation under this Section 2.11.

2.12. Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.4 with respect to such Lender, it will, if requested by the Borrower use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Revolving Credit Loans affected by such event; provided that such designation is made on such terms that such Lender and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Section 2.10 or 5.4.

2.13. Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Section 2.10, 2.11 or 5.4 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, tax or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Section 2.10, 2.11 or 5.4, as the case may be, for any such amounts incurred or accruing prior to the 181st day prior to the giving of such notice to the Borrower.

2.14. 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) No Defaulting Lender shall be entitled to receive any fee payable under Section 4 or any interest at the Default Rate payable under Section 2.8(d) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee or interest that otherwise would have been required to have been paid to that Defaulting Lender).

(b) If the Borrower and the Administrative Agent agree in writing in their discretion that a Lender that is a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon, as of the effective date specified in such notice and subject to any conditions set forth therein, such Lender will cease to be a Defaulting Lender and will be a Non-Defaulting Lender; provided that, except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender.

SECTION 3. [Reserved].

SECTION 4. Fees; Commitments.

4.1. Fees.

(a) The Borrower agrees to pay to the Administrative Agent in Dollars, for the account of each Revolving Credit Lender (in each case *pro rata* according to the respective Revolving Credit Commitments of all such Lenders), a commitment fee (the "**Revolving Credit Commitment Fee**") for each day from the Closing Date to, but excluding, the Revolving Credit Termination Date. The Revolving Credit Commitment Fee shall be earned, due and payable by the Borrower (x) quarterly in arrears on the tenth Business Day following the end of each March, June, September and December (for the three-month period (or portion thereof) ended on such day for which no payment has been received) and (y) on the Revolving Credit Termination Date (for the period ended on such date for which no payment has been received pursuant to clause (x) above), and shall be computed for each day during such period at a rate *per annum* equal to the applicable Revolving Credit Commitment Fee Rate in effect on such day on the applicable portion of the Unused Revolving Commitment in effect on such day.

(b) The Borrower agrees to pay directly to the Administrative Agent for its own account the administrative agent fees as separately agreed in writing.

(c) Notwithstanding the foregoing, the Borrower shall not be obligated to pay any amounts to any Defaulting Lender pursuant to this Section 4.1 (subject to Section 2.14).

4.2. Voluntary Reduction of Revolving Credit Commitments. Upon at least one Business Day's prior revocable written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent at the Administrative Agent's Office (which notice the Administrative Agent shall promptly transmit to each of the Revolving Credit Lenders), the Borrower shall have the right, without premium or penalty, on any day, permanently to terminate or reduce the Revolving Credit Commitments in whole or in part; provided that (a) any such termination or reduction of Revolving Credit Commitments shall apply proportionately and permanently to reduce the Revolving Credit Commitments of each of the Revolving Credit Lenders, (b) any partial reduction pursuant to this Section 4.2 shall be in

the amount of at least the Minimum Borrowing Amount for Term SOFR Loans and (c) after giving effect to such termination or reduction and to any prepayments of the Revolving Credit Loans made on the date thereof in accordance with this Agreement (including pursuant to Section 5.2(b)), the Aggregate Revolving Credit Outstandings shall not exceed the Line Cap.

4.3. Mandatory Termination of Revolving Credit Commitments. The Revolving Credit Commitment shall terminate at 5:00 p.m. on the Revolving Credit Maturity Date.

SECTION 5. Payments.

5.1. Voluntary Prepayments. The Borrower shall have the right to prepay Revolving Credit Loans, without premium or penalty (other than amounts, if any, required to be paid pursuant to Section 2.11 with respect to prepayments of SOFR Loans made on any date other than the last day of the applicable Interest Period), in whole or in part, from time to time on any date on the following terms and conditions: (a) the Borrower shall give the Administrative Agent at the Administrative Agent's Office revocable written notice (or telephonic notice promptly confirmed in writing) of its intent to make such prepayment, the amount of such prepayment and, in the case of SOFR Loans, the specific Borrowing(s) pursuant to which made, which notice shall be given by the Borrower no later than 1:00 p.m. (x) one Business Day prior to (in the case of ABR Loans) or (y) three Business Days prior to (in the case of SOFR Loans), (b) each partial prepayment of any Borrowing of Revolving Credit Loans shall be in a multiple of \$1,000,000 and in an aggregate principal amount of at least \$5,000,000; provided that no partial prepayment of SOFR Loans made pursuant to a single Borrowing shall reduce the outstanding SOFR Loans made pursuant to such Borrowing to an amount less than the applicable Minimum Borrowing Amount for SOFR Loans and (c) any prepayment of SOFR Loans pursuant to this Section 5.1 on any day prior to the last day of an Interest Period applicable thereto shall be subject to compliance by the Borrower with the applicable provisions of Section 2.11. All prepayments under this Section 5.1 shall also be subject to the provisions of Section 5.2(e). At the Borrower's election in connection with any prepayment pursuant to this Section 5.1, such prepayment shall not be applied to any Loan of a Defaulting Lender.

5.2. Mandatory Prepayments.

(a) [Reserved].

(b) Repayment of Revolving Credit Loans. If on any date the Aggregate Revolving Credit Outstandings for any reason exceeds the Line Cap then in effect, the Borrower shall, forthwith repay on the immediately succeeding Incurrence/Payment Date, the principal amount of the Revolving Credit Loans in an amount necessary to eliminate such deficiency.

(c) [Reserved].

(d) [Reserved].

(e) Application to Revolving Credit Loans. With respect to each prepayment of Revolving Credit Loans elected to be made by the Borrower pursuant to Section 5.1 or required by Section 5.2(b), the Borrower may designate the Types of Revolving Credit Loans that are to be prepaid and the specific Borrowing(s) pursuant to which made; provided that (x) each prepayment of any Revolving Credit Loans made pursuant to a Borrowing shall be applied *pro rata* among such Revolving Credit Loans; and (y) notwithstanding the provisions of the preceding clause (x), no prepayment made pursuant to Section 5.1 or 5.2(b) of Revolving Credit Loans shall be applied to the Revolving Credit Loans of any Defaulting Lender. In the absence of a designation by the Borrower as described in the

preceding sentence, the Administrative Agent shall, subject to the above, make such designation in its reasonable discretion with a view, but no obligation, to minimize breakage costs owing under Section 2.11. The mandatory prepayments set forth in this Section 5.2 shall not reduce the aggregate amount of Revolving Credit Commitments and amounts prepaid may be reborrowed in accordance with the terms hereof.

5.3. Method and Place of Payment.

(a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrower without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto not later than 2:00 p.m., in each case, on the date when due and shall be made in immediately available funds at the Administrative Agent's Office or at such other office as the Administrative Agent shall specify for such purpose by written notice to the Borrower, it being understood that written or facsimile notice by the Borrower to the Administrative Agent to make a payment from the funds in the Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of any Revolving Credit Loans (whether of principal, interest or otherwise) hereunder and all other payments under each Credit Document shall be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:00 p.m. or, otherwise, on the next Business Day) like funds relating to the payment of principal or interest or fees ratably to the Lenders entitled thereto.

(b) Any payments under this Agreement that are made later than 2:00 p.m. shall be deemed to have been made on the next succeeding Business Day. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall be payable during such extension at the applicable rate in effect immediately prior to such extension.

5.4. Net Payments.

(a) Any and all payments made by or on behalf of the Borrower or any Guarantor under this Agreement or any other Credit Document shall be made free and clear of, and without deduction or withholding for or on account of, any Indemnified Taxes; provided that if the Borrower or any Guarantor or the Administrative Agent shall be required by Applicable Law to deduct or withhold any Indemnified Taxes from such payments, then (i) the sum payable by the Borrower or any Guarantor shall be increased as necessary so that after making all such required deductions and withholdings (including such deductions or withholdings applicable to additional sums payable under this Section 5.4), the Administrative Agent, the Collateral Agent or any Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the Borrower or such Guarantor or the Administrative Agent shall make such deductions or withholdings and (iii) the Borrower or such Guarantor or the Administrative Agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority within the time allowed and in accordance with Applicable Law. Whenever any Indemnified Taxes are payable by the Borrower or such Guarantor, as promptly as possible thereafter, the Borrower or Guarantor shall send to the Administrative Agent for its own account or for the account of such Lender, as the case may be, a certified copy of an original official receipt (or other evidence acceptable to such Lender, acting reasonably) received by the Borrower or such Guarantor showing payment thereof.

(b) The Borrower shall timely pay and shall indemnify and hold harmless the Administrative Agent, the Collateral Agent and each Lender with regard to any Other Taxes (whether

or not such Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority).

(c) The Borrower shall indemnify and hold harmless the Administrative Agent, the Collateral Agent and each Lender within fifteen Business Days after written demand therefor, for the full amount of any Indemnified Taxes imposed on the Administrative Agent, the Collateral Agent or such Lender as the case may be, on or with respect to any payment by or on account of any obligation of the Borrower or any Guarantor hereunder or under any other Credit Document (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.4) and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth reasonable detail as to the amount of such payment or liability delivered to the Borrower by a Lender, the Administrative Agent or the Collateral Agent (as applicable) on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

(d) Any Non-U.S. Lender that is entitled to an exemption from or reduction of withholding Tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or under any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Credit Document shall, to the extent it is legally able to do so, deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. A Lender's obligation under the prior sentence shall apply only if the Borrower or the Administrative Agent has made a request for such documentation. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in this Section 5.4(d), the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.4(e), 5.4(h) and 5.4(i) 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 would materially prejudice the legal or commercial position of such Lender.

(e) Each Non-U.S. Lender with respect to any Revolving Credit Loan made to the Borrower shall, to the extent it is legally entitled to do so:

(i) deliver to the Borrower and the Administrative Agent, prior to the date on which the first payment to the Non-U.S. Lender is due hereunder, two copies of (x) in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding Tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", United States Internal Revenue Service Form W-8BEN or W-8BEN-E (together with a certificate substantially in the form of Exhibit E representing that such Non-U.S. Lender is not a bank for purposes of Section 881(c) of the Code, is not a 10-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Borrower, any interest payment received by such Non-U.S. Lender under this Agreement or any other Credit Document is not effectively connected with the conduct of a trade or business in the United States and is not a controlled foreign corporation related to the Borrower (within the meaning of Section 864(d)(4) of the Code)), (y) Internal Revenue Service Form W-8BEN, Form W-8-BEN-E or Form W-8ECI, in each case properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from, or reduced rate of, U.S. Federal withholding Tax on payments by the Borrower

under this Agreement or (z) if a Non-U.S. Lender does not act or ceases to act for its own account with respect to any portion of any sums paid or payable to such Lender under any of the Credit Documents (for example, in the case of a typical participation or where Non-U.S. Lender is a pass through entity) Internal Revenue Service Form W-8IMY and all necessary attachments (including the forms described in clauses (x) and (y) above, as required); and

(ii) deliver to the Borrower and the Administrative Agent two further copies of any such form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower.

If in any such case any Change in Law has occurred prior to the date on which any such delivery would otherwise be required that renders any such form inapplicable or would prevent such Non-U.S. Lender from duly completing and delivering any such form with respect to it, such Non-U.S. Lender shall promptly so advise the Borrower and the Administrative Agent.

(f) If any Lender, the Administrative Agent or the Collateral Agent, as applicable, determines, in its sole discretion exercised in good faith, that it had received and retained a refund of an Indemnified Tax (including an Other Tax) for which a payment has been made by the Borrower pursuant to this Agreement, which refund in the good faith judgment of such Lender, the Administrative Agent or the Collateral Agent, as the case may be, is attributable to such payment made by the Borrower, then the Lender, the Administrative Agent or the Collateral Agent, as the case may be, shall reimburse the Borrower for such amount (net of all out-of-pocket expenses of such Lender, the Administrative Agent or the Collateral Agent, as the case may be, and without interest other than any interest received thereon from the relevant Governmental Authority with respect to such refund) as the Lender, the Administrative Agent or the Collateral Agent, as the case may be, determines in its sole discretion exercised in good faith to be the proportion of the refund as will leave it, after such reimbursement, in no better or worse position (taking into account expenses or any Taxes imposed on the refund) than it would have been in if the payment had not been required; provided that the Borrower, upon the request of the Lender, the Administrative Agent or the Collateral Agent, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Lender, the Administrative Agent or the Collateral Agent in the event the Lender, the Administrative Agent or the Collateral Agent is required to repay such refund to such Governmental Authority. A Lender, the Administrative Agent or the Collateral Agent shall claim any refund that it determines is available to it, unless it concludes in its sole discretion that it would be adversely affected by making such a claim. None of any Lender, the Administrative Agent or the Collateral Agent shall be obliged to disclose any information regarding its tax affairs or computations to any Credit Party in connection with this clause (f) or any other provision of this Section 5.4.

(g) If the Borrower determines that a reasonable basis exists for contesting a Tax, each Lender or Agent, as the case may be, shall use reasonable efforts to cooperate with the Borrower as the Borrower may reasonably request in challenging such Tax. Subject to the provisions of Section 2.12, each Lender and Agent agrees to use reasonable efforts to cooperate with the Borrower as the Borrower may reasonably request to minimize any amount payable by the Borrower or any Guarantor pursuant to this Section 5.4. The Borrower shall indemnify and hold each Lender and Agent harmless against any out-of-pocket expenses incurred by such Person in connection with any request made by the Borrower pursuant to this Section 5.4(g). Nothing in this Section 5.4(g) shall obligate any Lender or Agent to take any action that such Person, in its sole judgment, determines may result in a material detriment to such Person.

(h) Each Lender with respect to any Revolving Credit Loan made to the Borrower that is a United States person under Section 7701(a)(30) of the Code and Agent (each, a “**U.S. Lender**”) shall deliver to the Borrower and the Administrative Agent two United States Internal Revenue Service Forms W-9 (or substitute or successor form), properly completed and duly executed, certifying that such Lender or Agent is exempt from United States backup withholding (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before the date that such form expires or becomes obsolete, (iii) after the occurrence of a change in such Agent’s or Lender’s circumstances requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

(i) If a payment made to any Lender would be subject to U.S. federal withholding Tax imposed under FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such other documentation reasonably requested by the Administrative Agent and the Borrower as may be necessary for the Administrative Agent and the Borrower to comply with their obligations under FATCA, to determine whether such Lender has or has not complied with such Lender’s FATCA obligations and to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this subsection (i), “FATCA” shall include any amendments after the date of this Agreement.

(j) The agreements in this Section 5.4 shall survive the termination of this Agreement and the payment of the Revolving Credit Loans and all other amounts payable hereunder.

5.5. Computations of Interest and Fees. Except as provided in the next succeeding sentence, (x) interest on SOFR Loans and ABR Loans and (y) fees shall, in each case, be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans in respect of which the rate of interest is calculated on the basis of the rate of interest in effect for such day as publicly announced from time to time by the Wall Street Journal as the “U.S. prime rate” and interest on overdue interest shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

5.6. Limit on Rate of Interest.

(a) No Payment Shall Exceed Lawful Rate. Notwithstanding any other term of this Agreement, the Borrower shall not be obligated to pay any interest or other amounts under or in connection with this Agreement or otherwise in respect of the Obligations in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If the Borrower is not obliged to make a payment that it would otherwise be required to make, as a result of Section 5.6(a), the Borrower shall make such payment to the maximum extent permitted by or consistent with applicable laws, rules and regulations.

(c) Adjustment if Any Payment Exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate the Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate that would be prohibited by any Applicable Law, then notwithstanding such provision, such amount or rate shall be

deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by Applicable Law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by the Borrower to the affected Lender under Section 2.8.

(d) Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from the Borrower an amount in excess of the maximum permitted by any Applicable Law, then the Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to the Borrower.

SECTION 6. Conditions Precedent to Effectiveness.

The establishment of the Revolving Credit Commitments by the Revolving Credit Lenders on the Closing Date is subject to the satisfaction or waiver by the Revolving Credit Lenders of the following conditions precedent set forth in this Section 6.

6.1. Credit Documents. The Administrative Agent shall have received (a) this Agreement, executed and delivered by an Authorized Officer of each of Holdings and the Borrower as of the Closing Date, (b) the Guarantee, executed and delivered by an Authorized Officer of each Guarantor, (c) (i) an Additional Secured Debt Designation (as defined in the Collateral Trust Agreement) and (ii) a Collateral Trust Joinder (as defined in the Collateral Trust Agreement), in each case, executed and delivered by each of the parties thereto as of the Closing Date and (d) the Reaffirmation Agreement executed and delivered by each of the parties thereto as of the Closing Date.

6.2. Closing Date Borrowing Base Certificate. At least three (3) Business Days prior to the Closing Date, the Administrative Agent shall have received a Borrowing Base Certificate as of the Closing Date, duly completed and executed by an Authorized Officer of the Borrower.

6.3. Legal Opinions. The Administrative Agent shall have received the executed customary legal opinions of (a) Sidley Austin LLP and (b) Yuki Whitmire, General Counsel of the Credit Parties, in each case, dated as of the Closing Date, addressed to the Administrative Agent, the Collateral Agent and the Lenders and in form and substance reasonably satisfactory to the Administrative Agent. The Borrower hereby instructs such counsel to deliver such legal opinions.

6.4. Closing Certificates. The Administrative Agent shall have received a certificate (or certificates) of the Borrower, dated the Closing Date, in respect of the conditions set forth in Sections 6.7, 6.8 and 6.10, executed by an Authorized Officer of the Borrower, and attaching the documents referred to in Section 6.5.

6.5. Authorization of Proceedings of Each Credit Party. The Administrative Agent shall have received (a) a copy of the resolutions of the board of directors, other managers or general partner of each Credit Party (or a duly authorized committee thereof) authorizing (i) the execution, delivery and performance of the Credit Documents referred to in Section 6.1 (and any agreements relating thereto) to which it is a party and (ii) in the case of the Borrower, the extensions of credit contemplated hereunder, (b) true and complete copies of the Organizational Documents of each Credit Party and incumbency certification for each Credit Party, in each case, as of the Closing Date, and (c) good standing certificates (to the extent such concept exists in the relevant jurisdiction of organization) of the Borrower and the Guarantors.

6.6. Fees. All fees required to be paid on the Closing Date pursuant to this Agreement (or as separately agreed in writing with any Lender and/or Joint Lead Arranger) and all reasonable and documented out-of-pocket expenses required to be paid on the Closing Date pursuant to this Agreement, in the case of expenses, to the extent invoiced at least two (2) days prior to the Closing Date, shall have been paid on the Closing Date.

6.7. Representations and Warranties. All representations and warranties set forth in this Agreement and the other Credit Documents shall be true and correct in all material respects (or, if already qualified by materiality, in all respects) on the Closing Date (except to the extent any such representation or warranty is stated to relate solely to an earlier date, it shall be true and correct in all material respects (or, if already qualified by materiality, in all respects) as of such earlier date).

6.8. No Material Adverse Effect. No Material Adverse Effect shall have occurred since December 31, 2020.

6.9. Solvency Certificate. On the Closing Date, the Administrative Agent shall have received a customary solvency certificate from the chief financial officer of the Borrower in form and substance reasonably satisfactory to the Administrative Agent.

6.10. No Default or Event of Default. On the Closing Date (both immediately before and after giving effect to the Transactions), no Default or Event of Default shall have occurred and be continuing.

6.11. Patriot Act. The Administrative Agent and the Lenders shall have received (at least three Business Days prior to the Closing Date) all documentation and other information about the Borrower as has been reasonably requested in writing at least five Business Days prior to the Closing Date by the Administrative Agent or such Lender that is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the Patriot Act.

SECTION 7. Conditions Precedent to All Credit Events After the Closing Date.

The agreement of each Lender to make any Revolving Credit Loan requested to be made by it on any date is subject to the satisfaction or waiver of the conditions precedent set forth in the following Sections 7.1 and 7.2:

7.1. No Default; Representations and Warranties. At the time of each Credit Event and also after giving effect thereto (a) no Default or Event of Default shall have occurred and be continuing and (b) all representations and warranties made by any Credit Party contained herein or in the other Credit Documents shall be true and correct in all material respects (or, if already qualified by materiality, in all respects) with the same effect as though such representations and warranties had been made on and as of the date of such Credit Event (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects (or, if already qualified by materiality, in all respects) as of such earlier date).

7.2. Notice of Borrowing. Prior to the making of each Revolving Credit Loan, the Administrative Agent shall have received a Notice of Borrowing (whether in writing or by telephone) meeting the requirements of Section 2.3.

The acceptance of the benefits of each Credit Event shall constitute a representation and warranty by each Credit Party to each of the Lenders that all the applicable conditions specified in this Section 7 have been satisfied or waived as of that time to the extent required by this Section 7.

SECTION 8. Representations, Warranties and Agreements.

In order to induce the Lenders to enter into this Agreement, to make the Revolving Credit Loans as provided for herein, each of Holdings and the Borrower makes the following representations and warranties to, and agreements with, the Lenders, all of which shall survive the execution and delivery of this Agreement and the making of the Revolving Credit Loans:

8.1. Corporate Status; Compliance with Laws. Each of Holdings, the Borrower and each Material Subsidiary of the Borrower that is a Restricted Subsidiary (a) is a duly organized and validly existing corporation or other entity in good standing (as applicable) under the laws of the jurisdiction of its organization and has the corporate or other organizational power and authority to own its property and assets and to transact the business in which it is engaged, except as would not reasonably be expected to result in a Material Adverse Effect, (b) has duly qualified and is authorized to do business and is in good standing (if applicable) in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified would not reasonably be expected to result in a Material Adverse Effect and (c) is in compliance with all Applicable Laws, except to the extent that the failure to be in compliance would not reasonably be expected to result in a Material Adverse Effect.

8.2. Corporate Power and Authority. Each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Credit Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Credit Documents to which it is a party. Each Credit Party has duly executed and delivered each Credit Document to which it is a party and each such Credit Document constitutes the legal, valid and binding obligation of such Credit Party enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization and other similar laws relating to or affecting creditors' rights generally and general principles of equity (whether considered in a proceeding in equity or law) (provided that, with respect to the creation and perfection of security interests with respect to Indebtedness, Stock and Stock Equivalents of Foreign Subsidiaries, only to the extent the creation and perfection of such obligation is governed by the Uniform Commercial Code).

8.3. No Violation. Neither the execution, delivery or performance by any Credit Party of the Credit Documents to which it is a party nor the compliance with the terms and provisions thereof nor the consummation of the financing transactions contemplated hereby and thereby will (a) contravene any applicable provision of any material Applicable Law (including material Environmental Laws) other than any contravention which would not reasonably be expected to result in a Material Adverse Effect, (b) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any Lien upon any of the property or assets of Holdings, the Borrower or any Restricted Subsidiary (other than Liens created under the Credit Documents, Permitted Liens or Liens subject to an intercreditor agreement permitted hereby or the Collateral Trust Agreement) pursuant to the terms of any material indenture, loan agreement, lease agreement, mortgage, deed of trust or other material debt agreement or instrument to which Holdings, the Borrower or any Restricted Subsidiary is a party or by which it or any of its property or assets is bound (any such term, covenant, condition or provision, a "**Contractual Requirement**") other than any such breach, default or Lien that would not reasonably be expected to result in a Material Adverse Effect, or (c) violate any provision of the Organizational Documents of any Credit Party.

8.4. Litigation. Except as set forth on Schedule 8.4, there are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened in writing with respect to Holdings, the Borrower or any of the Restricted Subsidiaries that have a reasonable likelihood of adverse determination and such determination could reasonably be expected to result in a Material Adverse Effect.

8.5. Margin Regulations. Neither the making of any Revolving Credit Loan hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, U or X of the Board.

8.6. Governmental Approvals. The execution, delivery and performance of the Credit Documents does not require any consent or approval of, registration or filing with, or other action by, any Governmental Authority, except for (i) such as have been obtained or made and are in full force and effect, (ii) filings and recordings in respect of the Liens created pursuant to the Security Documents and (iii) such licenses, authorizations, consents, approvals, registrations, filings or other actions the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

8.7. Investment Company Act. None of the Credit Parties is required to be registered as an “investment company” under the Investment Company Act of 1940, as amended.

8.8. True and Complete Disclosure. None of the written factual information and written data (taken as a whole) heretofore or contemporaneously furnished by or on behalf of Holdings, the Borrower, any of the Subsidiaries of the Borrower or any of their respective authorized representatives to the Administrative Agent, any Joint Lead Arranger and/or any Lender on or before the Closing Date (including all such information and data contained in the Credit Documents) regarding Holdings, the Borrower and its Restricted Subsidiaries in connection with the Transactions for purposes of or in connection with this Agreement or any transaction contemplated herein contained any untrue statement of any material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not materially misleading at such time in light of the circumstances under which such information or data was furnished, it being understood and agreed that for purposes of this Section 8.8, such factual information and data shall not include projections or estimates (including financial estimates, forecasts and other forward-looking information) and information of a general economic or general industry nature.

8.9. No Material Adverse Effect. There has been no Material Adverse Effect since December 31, 2020.

8.10. Tax Matters. Except where the failure of which could not be reasonably expected to have a Material Adverse Effect, (a) each of Holdings, the Borrower and each of the Restricted Subsidiaries has filed all federal income Tax returns and all other Tax returns, domestic and foreign, required to be filed by it (after giving effect to all applicable extensions) and has paid all material Taxes payable by it that have become due (whether or not shown on such Tax return), other than those (i) not yet delinquent or (ii) contested in good faith as to which adequate reserves have been provided to the extent required by law and in accordance with GAAP, (b) each of Holdings, the Borrower and each of the Restricted Subsidiaries has provided adequate reserves in accordance with GAAP for the payment of, all federal, state, provincial and foreign Taxes not yet due and payable, and (c) each of Holdings, the Borrower and each of the Restricted Subsidiaries has satisfied all of its Tax withholding obligations.

8.11. Compliance with ERISA.

(a) Each Employee Benefit Plan is in compliance with ERISA, the Code and any Applicable Law; no Reportable Event has occurred (or is reasonably likely to occur) with respect to any Benefit Plan; no Multiemployer Plan is Insolvent or in reorganization (or is reasonably likely to be Insolvent or in reorganization), and no written notice of any such insolvency or reorganization has been given to the Borrower or any ERISA Affiliate; no Benefit Plan has an accumulated or waived funding deficiency (or is reasonably likely to have such a deficiency); on and after the effectiveness of the Pension Act, each Benefit Plan has satisfied the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Benefit Plan, and there has been no determination that any such Benefit Plan is, or is expected to be, in “at risk” status (within the meaning of Section 4010(d)(2) of ERISA); none of the Borrower or any ERISA Affiliate has incurred (or is reasonably likely to incur) any liability to or on account of a Benefit Plan pursuant to Section 409, 502(i), 502(l), 515, 4062, 4063, 4064, 4069, 4201 or 4204 of ERISA or Section 4971 or 4975 of the Code; no proceedings have been instituted (or are reasonably likely to be instituted) to terminate or to reorganize any Benefit Plan or to appoint a trustee to administer any Benefit Plan, and no written notice of any such proceedings has been given to the Borrower or any ERISA Affiliate; and no Lien imposed under the Code or ERISA on the assets of the Borrower or any ERISA Affiliate exists (or is reasonably likely to exist) nor has the Borrower or any ERISA Affiliate been notified in writing that such a Lien will be imposed on the assets of Holdings, the Borrower or any ERISA Affiliate on account of any Benefit Plan, except to the extent that a breach of any of the representations, warranties or agreements in this Section 8.11(a) would not result, individually or in the aggregate, in an amount of liability that would be reasonably likely to have a Material Adverse Effect. No Benefit Plan has an Unfunded Current Liability that would, individually or when taken together with any other liabilities referenced in this Section 8.11(a), be reasonably likely to have a Material Adverse Effect. With respect to Benefit Plans that are Multiemployer Plans, the representations and warranties in this Section 8.11(a), other than any made with respect to (i) liability under Section 4201 or 4204 of ERISA or (ii) liability for termination or reorganization of such Multiemployer Plans under ERISA, are made to the best knowledge of the Borrower.

(b) All Foreign Plans are in compliance with, and have been established, administered and operated in accordance with, the terms of such Foreign Plans and Applicable Law, except for any failure to so comply, establish, administer or operate the Foreign Plans as would not reasonably be expected to have a Material Adverse Effect. All contributions or other payments which are due with respect to each Foreign Plan have been made in full and there are no funding deficiencies thereunder, except to the extent any such events would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

8.12. Subsidiaries. Schedule 8.12 lists each Subsidiary of Holdings (and the direct and indirect ownership interest of Holdings therein), in each case existing on the Closing Date (after giving effect to the Transactions). Each Material Subsidiary as of the Closing Date has been so designated on Schedule 8.12.

8.13. Intellectual Property. Each of Holdings, the Borrower and the Restricted Subsidiaries has good and marketable title to, or a valid license or right to use, all patents, trademarks, servicemarks, trade names, copyrights and all applications therefor and licenses thereof, and all other intellectual property rights, free and clear of all Liens (other than Liens permitted by Section 10.2), that are necessary for the operation of their respective businesses as currently conducted, except where the failure to have any such title, license or rights could not reasonably be expected to have a Material Adverse Effect.

8.14. Environmental Laws. Except as could not reasonably be expected to have a Material Adverse Effect: (a) Holdings, the Borrower and the Restricted Subsidiaries and all Real Estate

are in compliance with all Environmental Laws; (b) Holdings, the Borrower and the Restricted Subsidiaries have, and have timely applied for renewal of, all permits under Environmental Law to construct and operate their facilities as currently constructed; (c) except as set forth on Schedule 8.14, neither Holdings, the Borrower nor any Restricted Subsidiary is subject to any pending or, to the knowledge of the Borrower, threatened Environmental Claim or any other liability under any Environmental Law, including any such Environmental Claim, or, to the knowledge of the Borrower, any other liability under Environmental Law related to, or resulting from the business or operations of any predecessor in interest of any of them; (d) none of Holdings, the Borrower or any Restricted Subsidiary is conducting or financing or, to the knowledge of the Borrower, is required to conduct or finance, any investigation, removal, remedial or other corrective action pursuant to any Environmental Law at any location; (e) to the knowledge of the Borrower, no Hazardous Materials have been released into the environment at, on or under any Real Estate currently owned or leased by Holdings, the Borrower or any Restricted Subsidiary and (f) neither Holdings, the Borrower nor any Restricted Subsidiary has treated, stored, transported, released, disposed or arranged for disposal or transport for disposal of Hazardous Materials at, on, under or from any currently or, to the knowledge of the Borrower, formerly owned or leased Real Estate or facility. Except as provided in this Section 8.14, the Borrower and the Restricted Subsidiaries make no other representations or warranties regarding Environmental Laws.

8.15. Properties. Except as set forth on Schedule 8.15, Holdings, the Borrower and the Restricted Subsidiaries have good title to or valid leasehold or easement interests or other license or use rights in all properties that are necessary for the operation of their respective businesses as currently conducted, free and clear of all Liens (other than any Liens permitted by this Agreement) and except where the failure to have such good title, leasehold or easement interests or other license or use rights could not reasonably be expected to have a Material Adverse Effect.

8.16. Solvency. On the Closing Date, after giving effect to the Transactions, immediately following the making of each Revolving Credit Loan on such date and after giving effect to the application of the proceeds of such Revolving Credit Loans, the Borrower on a consolidated basis with its Subsidiaries will be Solvent.

8.17. Security Interests. Subject to the terms, conditions and provisions of the Collateral Trust Agreement and any other applicable intercreditor agreement then in effect, with respect to each Credit Party, the Security Documents, taken as a whole, are effective to create in favor of the Collateral Representative, for the benefit of the applicable Secured Parties, a legal, valid and enforceable first priority security interest (subject to Liens permitted hereunder) in the Collateral described therein and proceeds thereof, in each case, to the extent required under the Security Documents, the enforceability of which is subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law. In the case of (i) the Stock described in the Pledge Agreement that is in the form of securities represented by stock certificates or otherwise constituting certificated securities within the meaning of Section 8-102(a)(15) of the New York UCC ("**Certificated Securities**"), when certificates representing such Stock are delivered to the Collateral Representative along with instruments of transfer in blank or endorsed to the Collateral Representative, and (ii) all other Collateral constituting Real Estate or personal property described in the Security Agreement, when financing statements and other required filings, recordings, agreements and actions in appropriate form are executed and delivered, performed, recorded or filed in the appropriate offices, as the case may be, the Collateral Representative, for the benefit of the applicable Secured Parties, shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Credit Parties in all Collateral that may be perfected by filing, recording or registering a financing statement or analogous document and the proceeds thereof (to the extent such Liens may be perfected by possession of the Certificated Securities by the Collateral Representative or such filings, agreements or other actions or

perfection is otherwise required by the terms of any Credit Document), in each case, to the extent required under the Security Documents, as security for the Obligations, in each case prior and superior in right to any other Lien (except, in the case of Liens permitted hereunder).

8.18. Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against Holdings, the Borrower or any Restricted Subsidiary pending or, to the knowledge of the Borrower, threatened in writing; and (b) hours worked by and payment made for such work to employees of Holdings, the Borrower and each Restricted Subsidiary have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters.

8.19. Sanctioned Persons; Anti-Corruption Laws; Patriot Act; Beneficial Ownership. None of Holdings, the Borrower or any of its Subsidiaries or any of their respective directors or officers is subject to any economic embargoes or similar sanctions administered or enforced by the U.S. Department of State or the U.S. Department of Treasury (including the Office of Foreign Assets Control) or any other applicable sanctions authority (collectively, “**Sanctions**”, and the associated laws, rules, regulations and orders, collectively, “**Sanctions Laws**”). Each of Holdings, the Borrower and its Subsidiaries and their respective officers and directors is in compliance, in all material respects, with (i) all Sanctions Laws, (ii) the United States Foreign Corrupt Practices Act of 1977, as amended, and any other applicable anti-bribery or anti-corruption laws, rules, regulations and orders (collectively, “**Anti-Corruption Laws**”) and (iii) the Patriot Act and any other applicable anti-terrorism and anti-money laundering laws, rules, regulations and orders. No part of the proceeds of the Revolving Credit Loans will be used, directly or indirectly, (A) for the purpose of financing any activities or business of or with any Person or in any country or territory that at such time is the subject of any Sanctions or (B) for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation in any material respect of any Anti-Corruption Law. The Borrower falls under an express exclusion from the “legal entity customer” definition under 31 C.F.R. § 1010.230(e)(2) and the applicable exclusion is 31 C.F.R. § 1020.315(b)(5).

8.20. Use of Proceeds. The Borrower will use the proceeds of the Revolving Credit Loans in accordance with Section 9.13 of this Agreement.

8.21. Borrowing Base Certificate. The information set forth in each Borrowing Base Certificate is true and correct in all material respects as of the date such Borrowing Base Certificate is reporting as of.

SECTION 9. Affirmative Covenants.

The Borrower hereby covenants and agrees that on the Closing Date (immediately after giving effect to the Transactions) and thereafter, until the Revolving Credit Commitments have terminated and the Revolving Credit Loans, together with all interest, fees and all other Obligations (other than Contingent Obligations), are paid in full:

9.1. Information Covenants. The Borrower will furnish to the Administrative Agent (which shall promptly make such information available to the Lenders in accordance with its customary practice):

(a) Annual Financial Statements. On or before the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) (or, if

such financial statements are not required to be filed with the SEC, no later than concurrently with delivery of the same to the lenders under the Senior Secured Credit Agreement pursuant to the terms thereof) the financial statements and related deliverables required to be delivered to the lenders under the Senior Secured Credit Agreement pursuant to Section 9.1(a) thereof.

(b) Quarterly Financial Statements. On or before the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) with respect to each of the first three quarterly accounting periods in each Fiscal Year of the Borrower (or, if such financial statements are not required to be filed with the SEC, no later than concurrently with delivery of the same to the lenders under the Senior Secured Credit Agreement pursuant to the terms thereof) the financial statements and related deliverables required to be delivered to the lenders under the Senior Secured Credit Agreement pursuant to Section 9.1(b) thereof.

(c) Officer's Certificates. Within five Business Days of the delivery of the financial statements provided for in Section 9.1(a) and 9.1(b), a certificate of an Authorized Officer of the Borrower to the effect that no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof, which certificate shall set forth (i) the calculations required to establish whether the Borrower and its Restricted Subsidiaries were in compliance with the provisions of Section 10.9 as at the end of such Fiscal Year or quarter (solely to the extent such covenant is required to be tested at the end of such Fiscal Year or quarter), as the case may be, and (ii) a specification of any change in the identity of the Restricted Subsidiaries, Unrestricted Subsidiaries and Excluded Project Subsidiaries as at the end of such Fiscal Year or quarter, as the case may be, from the Restricted Subsidiaries, Unrestricted Subsidiaries and Excluded Project Subsidiaries, respectively, most recently provided to the Lenders.

(d) Notice of Default; Litigation; ERISA Event. Promptly after an Authorized Officer of the Borrower or any Restricted Subsidiary obtains knowledge thereof, notice of (i) the occurrence of any event that constitutes a Default or Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) any litigation, regulatory or governmental proceeding pending against the Borrower or any Restricted Subsidiary that has a reasonable likelihood of adverse determination and such determination could reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect and (iii) the occurrence of any ERISA Event that would reasonably be expected to result in a Material Adverse Effect.

(e) Other Information. Promptly upon filing thereof, copies of any filings (including on Form 10-K, 10-Q or 8-K) or registration statements with, and reports to, the SEC or any analogous Governmental Authority in any relevant jurisdiction by Holdings, the Borrower or any Restricted Subsidiary (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statements on Form S-8) and copies of all financial statements, proxy statements, notices and reports that Holdings, the Borrower or any Restricted Subsidiary shall send to the holders of any publicly issued debt with a principal amount in excess of \$300,000,000 of Holdings, the Borrower and/or any Restricted Subsidiary in their capacity as such holders (in each case to the extent not theretofore delivered to the Administrative Agent pursuant to this Agreement).

(f) Requested Information. With reasonable promptness, following the reasonable request of the Administrative Agent, such other information (financial or otherwise) as the Administrative Agent on its own behalf or on behalf of any Lender (acting through the Administrative Agent) may reasonably request in writing from time to time; provided that, notwithstanding anything to

the contrary in this Section 9.1(f), none of Holdings, the Borrower or any of its Restricted Subsidiaries will be required to provide any such other information pursuant to this Section 9.1(f) to the extent that (i) the provision thereof would violate any attorney client privilege (as reasonably determined by counsel (internal or external) to the Credit Parties), law, rule or regulation, or any contractual obligation of confidentiality binding on the Credit Parties or their respective affiliates (so long as not entered into in contemplation hereof) or (ii) such information constitutes attorney work product (as reasonably determined by counsel (internal or external) to the Credit Parties).

(g) Projections. Within 90 days after the commencement of each Fiscal Year of the Borrower, a copy of the projections (collectively, the “**Projections**”) required to be delivered to the lenders under Section 9.1(g) of the Senior Secured Credit Agreement; it being understood that such Projections and assumptions as to future events are not to be viewed as facts or a guarantee of performance, are subject to significant uncertainties and contingencies, many of which are beyond the control of the Borrower and its Subsidiaries, and that actual results may vary from such Projections and such differences may be material.

(h) Reconciliations. Simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 9.1(a) and (b) above, a copy of the reconciliations required to be delivered to the lenders under Section 9.1(h) of the Senior Secured Credit Agreement.

(i) Borrowing Base Certificates. No later than 2:00 p.m. on each Calculation Date, the Borrower will furnish to the Administrative Agent a certificate substantially in the form of Exhibit F (each, a “**Borrowing Base Certificate**”) showing the calculation of the Borrowing Base and each Borrowing Base Certificate shall be certified as true and correct in all material respects on behalf of the Borrower by an Authorized Officer of the Borrower.

Notwithstanding the foregoing, the obligations in clauses (a), (b) and (e) of this Section 9.1 may be satisfied with respect to financial information of the Borrower and the Restricted Subsidiaries by furnishing (A) the applicable financial statements of Holdings or any direct or indirect parent of Holdings or (B) the Borrower’s (or Holdings’ or any direct or indirect parent thereof), as applicable, Form 8-K, 10-K or 10-Q, as applicable, filed with the SEC; provided that, with respect to each of subclauses (A) and (B) of this paragraph, to the extent such information relates to Holdings or a direct or indirect parent of Holdings, such information is accompanied by consolidating or other information that explains in reasonable detail the differences between the information relating to Holdings or such parent, on the one hand, and the information relating to the Borrower and its consolidated Restricted Subsidiaries on a standalone basis, on the other hand (provided, however, that the Borrower shall be under no obligation to deliver such consolidating or other explanatory information if the Consolidated Total Assets and the Consolidated EBITDA of the Borrower and its consolidated Restricted Subsidiaries do not differ from the Consolidated Total Assets and the Consolidated EBITDA, respectively, of Holdings or any direct or indirect parent of Borrower and its consolidated Subsidiaries by more than 2.5%). Documents required to be delivered pursuant to clauses (a), (b) and (e) of this Section 9.1 (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 Borrower posts such documents, or provides a link thereto on the Borrower’s website as notified to the Administrative Agent; or (ii) on which such documents are posted on the Borrower’s behalf on an Internet or intranet website, if any, or filed with the SEC, and available in EDGAR (or any successor) to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent).

Notwithstanding anything to the contrary herein, it is understood and agreed that, so long each Lender is also a lender and/or a letter of credit issuer under the Senior Secured Credit Agreement,

other than with respect to Sections 9.1(c) and 9.1(i), delivery of any of the items required to be delivered pursuant to this Section 9.1 shall not be required so long as such items have been delivered pursuant to the Senior Secured Credit Agreement.

9.2. Books, Records and Inspections.

(a) The Borrower will, and will cause each Restricted Subsidiary to, permit officers and designated representatives of the Administrative Agent or the Required Lenders (as accompanied by the Administrative Agent) to visit and inspect any of the properties or assets of the Borrower or such Restricted Subsidiary in whomsoever's possession to the extent that it is within such party's control to permit such inspection (and shall use commercially reasonable efforts to cause such inspection to be permitted to the extent that it is not within such party's control to permit such inspection), and to examine the books and records of the Borrower and any such Restricted Subsidiary (including, for the avoidance of doubt, the Borrower's practice in the computation of the Borrowing Base and the assets included in the Borrowing Base) and discuss the affairs, finances and accounts of the Borrower and of any such Restricted Subsidiary with, and be advised as to the same by, its and their officers and independent accountants, all at such reasonable times and intervals and to such reasonable extent as the Administrative Agent or Required Lenders may desire (and subject, in the case of any such meetings or advice from such independent accountants, to such accountants' customary policies and procedures); provided that, excluding any such visits and inspections during the continuation of an Event of Default (a) only the Administrative Agent, whether on its own or in conjunction with the Required Lenders, may exercise rights of the Administrative Agent and the Lenders under this Section 9.2, (b) the Administrative Agent shall not exercise such rights more than one time in any calendar year and (c) only one such visit shall be at the Borrower's expense; provided further that when an Event of Default exists, the Administrative Agent (or any of its representatives or independent contractors) or any representative of any Lender may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Required Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. Notwithstanding anything to the contrary in this Section 9.2, neither the Borrower nor any Restricted Subsidiary will be required under this Section 9.2 to disclose or permit the inspection or discussion of any document, information or other matter to the extent that such action would violate any attorney-client privilege (as reasonably determined by counsel (internal or external) to the Credit Parties), law, rule or regulation, or any contractual obligation of confidentiality (not created in contemplation thereof) binding on the Credit Parties or their respective affiliates or constituting attorney work product (as reasonably determined by counsel (internal or external) to the Credit Parties).

(b) The Borrower will, and will cause each Restricted Subsidiary to, maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity, in all material respects, with GAAP shall be made of all material financial transactions and matters involving the assets of the business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that any Restricted Subsidiary may maintain its individual books and records in conformity with local standards or customs and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder).

9.3. Maintenance of Insurance. The Borrower will, and will cause each Material Subsidiary that is a Restricted Subsidiary to, maintain insurance coverages as and to the extent required by Section 9.3 of the Senior Secured Credit Agreement.

9.4. Payment of Taxes. The Borrower 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, prior to the date on which penalties attach thereto, and all lawful claims in respect of any Taxes imposed, assessed or levied that, if unpaid, could reasonably be expected to become a material Lien upon any properties of the Borrower or any Restricted Subsidiary of the Borrower; provided that neither the Borrower nor any such Restricted Subsidiary shall be required to pay any such tax, assessment, charge, levy or claim (i) that is being contested in good faith and by proper proceedings if it has maintained adequate reserves (in the good faith judgment of management of the Borrower) with respect thereto in accordance with GAAP or (ii) with respect to which the failure to pay could not reasonably be expected to result in a Material Adverse Effect.

9.5. Consolidated Corporate Franchises. The Borrower will do, and will cause each Material Subsidiary that is a Restricted Subsidiary to do, or cause to be done, all things necessary to preserve and keep in full force and effect its existence, corporate rights and authority, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect; provided, however, that the Borrower and the Restricted Subsidiaries may consummate any transaction otherwise permitted hereby, including under Section 10.2, 10.3, 10.4 or 10.5.

9.6. Compliance with Statutes, Regulations, Etc. The Borrower will, and will cause each Restricted Subsidiary to, comply with all Applicable Laws applicable to it or its property, including all governmental approvals or authorizations required to conduct its business, and to maintain all such governmental approvals or authorizations in full force and effect, in each case except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

9.7. Lender Calls. At the reasonable request of the Administrative Agent, the Borrower shall conduct a conference call that Lenders may attend to discuss the financial condition and results of operations of the Borrower and its Restricted Subsidiaries for the most recently ended measurement period for which financial statements have been delivered pursuant to Section 9.1(a) or 9.1(b) (beginning with the fiscal period of the Borrower ending March 31, 2022), at a date and time to be determined by the Borrower with reasonable advance notice to the Administrative Agent, limited to one conference call per fiscal quarter. Notwithstanding anything to the contrary herein, it is understood and agreed that, so long as the Administrative Agent and each Lender is also a lender or a letter of credit issuer under the Senior Secured Credit Agreement, the conference call(s) described in this Section 9.7 shall not be required so long as such conference call(s) have been conducted pursuant to the Senior Secured Credit Agreement.

9.8. Maintenance of Properties. The Borrower will, and will cause the Restricted Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition (ordinary wear and tear, casualty and condemnation excepted), except to the extent that the failure to do so could reasonably be expected to have a Material Adverse Effect.

9.9. Transactions with Affiliates. The Borrower will conduct, and cause the Restricted Subsidiaries to conduct, all transactions with any of its or their respective Affiliates as and to the extent required by Section 9.9 of the Senior Secured Credit Agreement. End of Fiscal Years. The Borrower will, for financial reporting purposes, cause each of its, and the Restricted Subsidiaries' fiscal years to end on December 31 of each year (each a "**Fiscal Year**"); provided, however, that the Borrower may, upon written notice to the Administrative Agent change the Fiscal Year with the prior written consent of the Administrative Agent (not to be unreasonably withheld, conditioned, delayed or denied), in which case the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders

to, make any adjustments to this Agreement that are necessary in order to reflect such change in financial reporting.

9.11. Additional Guarantors and Grantors. Subject to any applicable limitations set forth in the Guarantee, the Security Documents, the Collateral Trust Agreement or any applicable intercreditor agreement and this Agreement (including Section 9.14), the Borrower will cause each direct or indirect Wholly-Owned Domestic Subsidiary of the Borrower (excluding any Excluded Subsidiary) formed or otherwise purchased or acquired after the Closing Date and each other Domestic Subsidiary of the Borrower that ceases to constitute an Excluded Subsidiary to, within 60 days from the date of such formation, acquisition or cessation (which in the case of any Excluded Subsidiary shall commence on the date of delivery of the certificate required by Section 9.1(c)), as applicable (or such longer period as the Administrative Agent may agree in its reasonable discretion; provided that, notwithstanding anything to the contrary herein, if the Administrative Agent (as defined in the Senior Secured Credit Agreement) agrees to an extension of such time period under Section 9.11 of the Senior Secured Credit Agreement, such extension shall be deemed to be automatically granted by the Administrative Agent hereunder), execute (A) a supplement to each of the Guarantee, the Pledge Agreement and the Security Agreement in order to become a Guarantor under such Guarantee, a pledgor under the Pledge Agreement and a grantor under such Security Agreement, respectively, (B) a joinder to the Intercompany Subordinated Note and (C) a joinder to the Collateral Trust Agreement.

9.12. Pledge of Additional Stock and Evidence of Indebtedness. Subject to any applicable limitations set forth in the Security Documents, the Collateral Trust Agreement and any applicable intercreditor agreement, and other than as otherwise contemplated by the Senior Secured Credit Agreement, the Borrower will comply, and will cause the other Credit Parties to comply, with the requirements of Section 9.12 of the Senior Secured Credit Agreement (and which Section 9.12 of the Senior Secured Credit Agreement is, as described in Section 1.2(m), deemed incorporated herein, *mutatis mutandis*).

9.13. Use of Proceeds. The Borrower will use the proceeds of the Revolving Credit Loans on or after the Closing Date, for working capital and general corporate purposes, in each case, to the extent not prohibited by this Agreement (including, without limitation, Permitted Acquisitions, permitted Investments, and permitted Dividends).

9.14. Further Assurances. The Borrower will comply, and will cause the other Credit Parties to comply, with the requirements of Section 9.14 of the Senior Secured Credit Agreement (which Section 9.14 of the Senior Secured Credit Agreement is, as described in Section 1.2(m), hereby incorporated herein, *mutatis mutandis*). In addition, it is understood and agreed that, in the event that the Collateral Trust Agreement is terminated, the Credit Parties will enter into arrangements reasonably requested by the Administrative Agent with the Administrative Agent and any other applicable Persons simultaneously with such termination such that the Obligations remain secured by the Collateral with the same priority as immediately prior to such termination.

9.15. Changes in Business. The Borrower and the Restricted Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Borrower and the Restricted Subsidiaries, taken as a whole, on the Closing Date and other business activities which are extensions thereof or otherwise similar, incidental, complementary, synergistic, reasonably related or ancillary to any of the foregoing (and non-core incidental businesses acquired in connection with any Permitted Acquisition or permitted Investment), in each case as determined by the Borrower in good faith.

SECTION 10. Negative Covenants.

The Borrower hereby covenants and agrees that on the Closing Date (immediately after giving effect to the Transactions) and thereafter, until the Revolving Credit Commitments have terminated and the Revolving Credit Loans, together with all interest, fees and all other Obligations (other than Contingent Obligations), are paid in full:

10.1. Limitation on Indebtedness. The Borrower will not, and will not permit the Restricted Subsidiaries to, create, incur, assume or suffer to exist any Indebtedness, except for Indebtedness permitted pursuant to Section 10.1 of the Senior Secured Credit Agreement.

10.2. Limitation on Liens. The Borrower will not, and will not permit the Restricted Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of the Borrower or such Restricted Subsidiary, whether now owned or hereafter acquired, except for Liens permitted pursuant to Section 10.2 of the Senior Secured Credit Agreement.

10.3. Limitation on Fundamental Changes. Except as permitted by Section 10.5 of the Senior Secured Credit Agreement, (a) the Borrower will not, and will not permit the Restricted Subsidiaries to, consummate any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution) and (b) the Borrower will not, and will not permit the Restricted Subsidiaries to, convey, sell, lease, assign, transfer or otherwise consummate the disposition of, all or substantially all of the business units, assets or other properties of the Borrower and its Restricted Subsidiaries, taken as a whole, except (in each case) as permitted pursuant to Section 10.3 of the Senior Secured Credit Agreement.

10.4. Limitation on Sale of Assets. The Borrower will not, and will not permit the Restricted Subsidiaries to, (a) convey, sell, lease, assign, transfer or otherwise consummate the disposition of any of its property, business or assets (including receivables and leasehold interests), whether now owned or hereafter acquired or (b) consummate the sale to any Person (other than to the Borrower or a Subsidiary Guarantor) any shares owned by it of the Borrower's or any Restricted Subsidiary's Stock and Stock Equivalents, except (in each case) as permitted pursuant to Section 10.4 of the Senior Secured Credit Agreement.

10.5. Limitation on Investments. The Borrower will not, and will not permit the Restricted Subsidiaries, to make any Investment, except for Investments permitted pursuant to Section 10.5 of the Senior Secured Credit Agreement.

10.6. Limitation on Dividends. The Borrower will not declare or pay any dividends or return any capital to its stockholders or make any other distribution, payment or delivery of property or cash to its stockholders on account of such Stock and Stock Equivalents, or redeem, retire, purchase or otherwise acquire, directly or indirectly, for consideration, any shares of any class of its Stock or Stock Equivalents or set aside any funds for any of the foregoing purposes, (other than dividends payable solely in its Stock or Stock Equivalents (other than Disqualified Stock) (all of the foregoing, "**dividends**")), except for dividends permitted pursuant to Section 10.6 of the Senior Secured Credit Agreement.

10.7. Limitations on Debt Payments and Amendments.

(a) The Borrower will not, and will not permit the Restricted Subsidiaries to, voluntarily prepay, repurchase or redeem or otherwise defease any Junior Indebtedness, except for any

such prepayment, repurchase, redemption or defeasement permitted pursuant to Section 10.7(a) of the Senior Secured Credit Agreement.

(b) The Borrower will not, and will not permit to the Restricted Subsidiaries to waive, amend, or modify any Indebtedness with a principal amount in excess of \$300,000,000 that is subordinated in right of payment to the Obligations, in each case, that to the extent that any such waiver, amendment or modification, taken as a whole, would be adverse to the Lenders in any material respect other than in connection with (i) a refinancing or replacement of such Indebtedness permitted hereunder or (ii) in a manner expressly permitted by, or not prohibited under, the applicable intercreditor or subordination terms or agreement(s) governing the relationship between the Lenders, on the one hand, and the lenders or purchasers of the applicable subordinated Indebtedness, on the other hand.

(c) The Borrower and its Restricted Subsidiaries may make AHYDO Catch-Up Payments relating to Indebtedness of the Borrower and its Restricted Subsidiaries.

10.8. Limitations on Sale Leasebacks. The Borrower will not, and will not permit the Restricted Subsidiaries to, enter into or effect any Sale Leasebacks after the Closing Date, except for Permitted Sale Leasebacks.

10.9. Consolidated First Lien Net Leverage Ratio. The Borrower will not permit the Consolidated First Lien Net Leverage Ratio, calculated as of the last day of the most recent fiscal quarter of the Borrower for which financial statements were required to have been furnished to the Administrative Agent pursuant to Section 9.1(a) or (b) (commencing with the fiscal quarter ending March 31, 2022), solely during any Compliance Quarter, to exceed 4.25 to 1.00.

10.10. Limitation on Subsidiary Distributions. The Borrower will not, and will not permit any Restricted Subsidiary that is not a Guarantor to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any such Restricted Subsidiary to (x) (i) pay dividends or make any other distributions to the Borrower or any Restricted Subsidiary that is a Guarantor on its Stock or Stock Equivalents or with respect to any other interest or participation in, or measured by, its profits or (ii) pay any Indebtedness owed to the Borrower or any Restricted Subsidiary that is a Guarantor, (y) make loans or advances to the Borrower or any Restricted Subsidiary that is Guarantor or (z) sell, lease or transfer any of its properties or assets to the Borrower or any Restricted Subsidiary that is a Guarantor, except (in each case) for such encumbrances or restrictions permitted pursuant to Section 10.10 of the Senior Secured Credit Agreement.

10.11. Amendment of Organizational Documents. The Borrower will not, nor will the Borrower permit any Credit Party to, amend or otherwise modify any of its Organizational Documents in a manner that is materially adverse to the Lenders, except as required by Applicable Laws.

10.12. Permitted Activities. Holdings will not engage in any material operating or business activities, except as permitted pursuant to Section 10.12 of the Senior Secured Credit Agreement.

SECTION 11. Events of Default.

Upon the occurrence of any of the following specified events (each an “**Event of Default**”):

11.1. Payments. The Borrower shall (a) default in the payment when due of any principal of the Revolving Credit Loans, (b) default, and such default shall continue for more than five Business Days, in the payment when due of any interest on the Revolving Credit Loans or (c) default, and such default shall continue for more than ten Business Days, in the payment when due of any Fees or any other amounts owing hereunder or under any other Credit Document; or

11.2. Representations, Etc. Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or any certificate delivered or required to be delivered pursuant hereto or thereto shall prove to be materially untrue on the date as of which made or deemed made, and, to the extent capable of being cured, such incorrect representation and warranty shall remain incorrect in any material respect for a period of thirty days after written notice thereof from the Administrative Agent to the Borrower; or

11.3. Covenants. Any Credit Party shall:

(a) default in the due performance or observance by it of any term, covenant or agreement contained in Section 9.1(d) (i) (provided that notice of such default at any time shall timely cure the failure to provide such notice), Section 9.1(i) (and such default shall have continued unremedied for a period of at least one (1) Business Day after the applicable Borrowing Base Certificate was required to be delivered), Section 9.5 (solely with respect to the Borrower) or Section 10 (but, with respect to Section 10.9, subject to the terms of Section 11.13); or

(b) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in Section 11.1 or 11.2 or clause (a) of this Section 11.3) contained in this Agreement or any other Credit Document and such default shall continue unremedied for a period of at least 30 calendar days after receipt of written notice by the Borrower from the Administrative Agent or the Required Lenders; or

11.4. Default Under Other Agreements. (a) The Borrower or any Restricted Subsidiary shall (i) default in any payment with respect to any Indebtedness (other than any Indebtedness described in Section 11.1, Hedging Obligations or Indebtedness under any Permitted Receivables Financing) in excess of \$300,000,000 in the aggregate for the Borrower and such Restricted Subsidiaries beyond the period of grace or cure and following all required notices, if any, provided in the instrument or agreement under which such Indebtedness was created or (ii) default in the observance or performance of any agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist (other than any agreement or condition relating to, or provided in any instrument or agreement, under which such Hedging Obligations or such Permitted Receivables Financing was created) beyond the period of grace or cure and following all required notices, if any, provided in the instrument or agreement under which such Indebtedness was created, if the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, any such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; or (b) without limiting the provisions of clause (a) above, any such Indebtedness shall be declared to be due and payable, or required to be prepaid other than by a regularly scheduled required prepayment (other than any Hedging Obligations or Indebtedness under any Permitted Receivables Financing) or as a mandatory prepayment, prior to the stated maturity thereof; provided that clauses (a) and (b) above shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; provided, further, that this Section 11.4 shall not apply to (i) any Indebtedness if the sole remedy of the

holder thereof following such event or condition is to elect to convert such Indebtedness into Stock or Stock Equivalents (other than Disqualified Stock) and cash in lieu of fractional shares or (ii) any such default that is remedied by or waived (including in the form of amendment) by the requisite holders of the applicable item of Indebtedness or contested in good faith by the Borrower or the applicable Restricted Subsidiary in either case, prior to acceleration of all the Revolving Credit Loans pursuant to this Section 11; or

11.5. Bankruptcy. Except as otherwise permitted under Section 10.3, (i) the Borrower or any Material Subsidiary shall commence a voluntary case, proceeding or action concerning itself under (a) Title 11 of the United States Code entitled “Bankruptcy,” or (b) in the case of any Foreign Subsidiary that is a Material Subsidiary, any domestic or foreign law relating to bankruptcy, judicial management, insolvency, reorganization, administration or relief of debtors in effect in its jurisdiction of incorporation, in each case as now or hereafter in effect, or any successor thereto (collectively, the “**Bankruptcy Code**”); (ii) an involuntary case, proceeding or action is commenced against the Borrower or any Material Subsidiary and the petition is not controverted within 60 days after commencement of the case, proceeding or action; (iii) an involuntary case, proceeding or action is commenced against the Borrower or any Material Subsidiary and the petition is not dismissed or stayed within 60 consecutive days after commencement of the case, proceeding or action; (iv) a custodian (as defined in the Bankruptcy Code), judicial manager, receiver, receiver manager, trustee, administrator or similar person is appointed for, or takes charge of, all or substantially all of the property of the Borrower or any Material Subsidiary; (v) the Borrower or any Material Subsidiary commences any other voluntary proceeding or action under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency, administration or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to the Borrower or any Material Subsidiary; (vi) there is commenced against the Borrower or any Material Subsidiary any such proceeding or action that remains undismissed or unstayed for a period of 60 consecutive days; (vii) the Borrower or any Material Subsidiary is adjudicated insolvent or bankrupt; (viii) any order of relief or other order approving any such case or proceeding or action is entered; (ix) the Borrower or any Material Subsidiary suffers any appointment of any custodian, receiver, receiver manager, trustee, administrator or the like for it or any substantial part of its property to continue undischarged or unstayed for a period of 60 consecutive days; (x) the Borrower or any Material Subsidiary makes a general assignment for the benefit of creditors; or (xi) any corporate action is taken by the Borrower or any Material Subsidiary for the purpose of authorizing any of the foregoing; or

11.6. ERISA. (a) The occurrence of any ERISA Event, (b) any Plan shall fail to satisfy the minimum funding standard required for any plan year or part thereof or a waiver of such standard or extension of any amortization period is sought or granted under Section 412 of the Code; any Plan is or shall have been terminated or is the subject of termination proceedings under ERISA (including the giving of written notice thereof); an event shall have occurred or a condition shall exist in either case entitling the PBGC to terminate any Plan or to appoint a trustee to administer any Plan (including the giving of written notice thereof); any Plan shall have an accumulated funding deficiency (whether or not waived); the Borrower or any ERISA Affiliate has incurred or is likely to incur a liability to or on account of a Plan under Section 409, 502(i), 502(l), 515, 4062, 4063, 4064, 4069, 4201 or 4204 of ERISA or Section 4971 or 4975 of the Code (including the giving of written notice thereof); (c) there could result from any event or events set forth in clause (b) of this Section 11.6 the imposition of a Lien, the granting of a security interest, or a liability, or the reasonable likelihood of incurring a Lien, security interest or liability; and (d) such ERISA Event, Lien, security interest or liability will or would be reasonably likely to have a Material Adverse Effect; or

11.7. Guarantee. Any Guarantee provided by Holdings, the Borrower or any Material Subsidiary or any material provision thereof shall cease to be in full force or effect (other than pursuant

to the terms hereof or thereof) or any such Guarantor thereunder or any other Credit Party shall deny or disaffirm in writing any such Guarantor's obligations under the Guarantee; or

11.8. Pledge Agreement. Any Pledge Agreement pursuant to which the Stock or Stock Equivalents of the Borrower or any Material Subsidiary of the Borrower is pledged or any material provision thereof shall cease to be in full force or effect (other than pursuant to the terms hereof or thereof or due to any defect arising as a result of acts or omissions of the Collateral Agent, the Collateral Trustee or any Lender which do not result from a material breach by a Credit Party of its obligations under the Credit Documents) or any pledgor thereunder or any other Credit Party shall deny or disaffirm in writing such pledgor's obligations under any Pledge Agreement; or

11.9. Security Agreement. The Security Agreement or any other material Security Document pursuant to which the assets of any Credit Party are pledged as Collateral or any material provision thereof shall cease to be in full force or effect in respect of Collateral with an individual fair market value in excess of \$100,000,000 at any time or \$300,000,000 in the aggregate (other than pursuant to the terms hereof or thereof or any defect arising as a result of acts or omissions of the Collateral Agent, the Collateral Trustee or any Lender which do not result from a material breach by a Credit Party of its obligations under the Credit Documents) or any grantor thereunder or any other Credit Party shall deny or disaffirm in writing such grantor's obligations under the Security Agreement or any other such Security Document; or

11.10. Judgments. One or more final judgments or decrees shall be entered against the Borrower or any Restricted Subsidiary involving a liability requiring the payment of \$300,000,000 or more in the aggregate for all such final judgments and decrees for the Borrower and the Restricted Subsidiaries (to the extent not paid or covered by indemnity or insurance provided by a carrier that has not denied coverage) and any such final judgments or decrees shall not have been satisfied, vacated, discharged or stayed or bonded pending appeal within 60 consecutive days after the entry thereof; or

11.11. Change of Control. A Change of Control shall occur:

(a) then, and in any such event, and at any time thereafter, if any Event of Default shall then be continuing, subject to the terms of the Collateral Trust Agreement and any other applicable intercreditor agreement, the Administrative Agent and/or Collateral Agent, as applicable, shall, at the written request of the Required Lenders, by written notice to the Borrower, take any or all of the following actions, without prejudice to the rights of the Administrative Agent or any Lender to enforce its claims against the Borrower, except as otherwise specifically provided for in this Agreement (provided that, if an Event of Default specified in Section 11.5 shall occur with respect to the Borrower, the result that would occur upon the giving of written notice by the Administrative Agent as specified in clauses (i), (ii), (iv) and (v) below shall occur automatically without the giving of any such notice): (i) declare the Total Revolving Credit Commitment terminated, whereupon the Revolving Credit Commitment, if any, of each Lender shall forthwith terminate immediately and any Fees theretofore accrued shall forthwith become due and payable without any other notice of any kind; (ii) declare the principal of and any accrued interest and Fees in respect of any or all Revolving Credit Loans and any or all Obligations owing hereunder and under any other Credit Document to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; (iii) [reserved]; (iv) direct the Collateral Representative to enforce any and all Liens and security interests created pursuant to the Security Documents (or direct the Collateral Agent to cause the Collateral Trustee to enforce any and all Liens and security interests created pursuant to the Security Documents, as applicable); and/or (v) enforce any and all of the Administrative Agent's rights under the Guarantee.

(b) Notwithstanding anything to the contrary contained herein, any Event of Default under this Agreement or similarly defined term under any other Credit Document, other than any Event of Default which cannot be waived without the written consent of each Lender directly and adversely affected thereby, shall be deemed not to be “continuing” if the events, act or condition that gave rise to such Event of Default have been remedied or cured (including by payment, notice, taking of any action or omitting to take any action) or have ceased to exist and the Borrower is in compliance with this Agreement and/or such other Credit Document.

11.12. Application of Proceeds.

(a) Subject to clauses (b) and (c) below, any amount received by the Administrative Agent, the Collateral Trustee or the Collateral Agent from any Credit Party (or from proceeds of any Collateral) following any acceleration of the Obligations under this Agreement or any Event of Default with respect to the Borrower under Section 11.5 shall be applied in accordance with the Collateral Trust Agreement and any other applicable intercreditor agreement.

(b) In the event that either (x) the Collateral Trust Agreement or any applicable intercreditor agreement directs the application with respect to any Collateral be made with reference to this Agreement or the other Credit Documents or (y) the Collateral Trust Agreement has been terminated and no intercreditor agreement is then in effect, any amount received by the Administrative Agent, the Collateral Trustee or the Collateral Agent from any Credit Party (or from proceeds of any Collateral) (and all amounts deposited therein or credited thereto), in each case, following any acceleration of the Obligations under this Agreement or any Event of Default with respect to the Borrower under Section 11.5 shall be applied:

(i) First, to the payment of all reasonable costs and expenses, fees, commissions and taxes of such sale, collection or other realization including compensation to the Administrative Agent, Collateral Agent and their agents and counsel, and all expenses, liabilities and advances made or incurred by the Administrative Agent and Collateral Agent in connection therewith and all amounts for which the Administrative Agent and Collateral Agent is entitled to indemnification pursuant to the provisions of any Credit Document, together with interest on each such amount at the highest rate then in effect under this Agreement from and after the date such amount is due, owing or unpaid until paid in full;

(ii) Second, to the payment of all other reasonable costs and expenses of such sale, collection or other realization including all costs, liabilities and advances made or incurred by the other Secured Parties in connection therewith, together with interest on each such amount at the highest rate then in effect under this Agreement from and after the date such amount is due, owing or unpaid until paid in full;

(iii) Third, without duplication of amounts applied pursuant to clauses (i) and (ii) above, to the indefeasible payment in full in cash, pro rata, of interest and other amounts constituting Obligations, in each case equally and ratably in accordance with the respective amounts thereof then due and owing;

(iv) Fourth, to the payment in full in cash, pro rata, of principal amount of the Obligations and any premium thereon; and

(iv) Fifth, the balance, if any, to the person lawfully entitled thereto (including the applicable Credit Party or its successors or assigns) or as a court of competent jurisdiction may direct.

11.13. Right to Cure.

(a) Notwithstanding anything to the contrary contained in Section 11.3(a), in the event that the Borrower fails to comply with the requirement of the covenant set forth in Section 10.9, until the expiration of the fifteenth Business Day after the date on which Section 9.1 Financials with respect to the Test Period in which the covenant set forth in such Section is being measured are required to be delivered pursuant to Section 9.1 (the “**Cure Period**”), Holdings or any other Person shall have the right to make a direct or indirect equity investment (in the form of cash common equity or otherwise in a form reasonably acceptable to the Administrative Agent) in the Borrower (the “**Cure Right**”), and upon receipt by the Borrower of the net cash proceeds pursuant to the exercise of the Cure Right (including through the capital contribution of any such net cash proceeds to the Borrower, the “**Cure Amount**”), the covenant set forth in such Section shall be recalculated, giving effect to the pro forma increase to Consolidated EBITDA for such Test Period in an amount equal to such Cure Amount; provided that (i) such pro forma adjustment to Consolidated EBITDA shall be given solely for the purpose of calculating the covenant set forth in such Section with respect to any Test Period that includes the fiscal quarter for which such Cure Right was exercised and not for any other purpose under any Credit Document, (ii) unless actually applied to Indebtedness, there shall be no pro forma reduction in Indebtedness with the proceeds of any Cure Right for determining compliance with Section 10.9 for the fiscal quarter in respect of which such Cure Right is exercised (either directly through prepayment or indirectly as a result of the netting of Unrestricted Cash for purposes of the definitions of Consolidated Total Debt) and (iii) subject to clause (ii), no other adjustment under any other financial definition shall be made as a result of the exercise of any Cure Right.

(b) If, after the exercise of the Cure Right and the recalculations pursuant to clause (a) above, the Borrower shall then be in compliance with the requirements of the covenant set forth in Section 10.9 during such Test Period (including for the purposes of Section 7), the Borrower shall be deemed to have satisfied the requirements of such covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable Default or Event of Default under Section 11.3 that had occurred shall be deemed cured for purposes of this Agreement; provided that (i) no more than one Cure Right may be exercised during the term of this Agreement and (ii) with respect to any exercise of the Cure Right, the Cure Amount shall be no greater than the amount required to cause the Borrower to be in compliance with the covenant set forth in Section 10.9.

(c) Neither the Administrative Agent nor any Lender shall exercise the right to accelerate the Revolving Credit Loans or terminate the Revolving Credit Commitments and none of the Administrative Agent, any Lender or any other Secured Bank Party shall exercise any right to foreclose on or take possession of the Collateral or exercise any other remedy prior to the expiration of the Cure Period solely on the basis of an Event of Default having occurred and being continuing with respect to a failure to comply with the requirement of the covenant set forth in Section 10.9 (it being understood that no Revolving Credit Lender shall be required to fund Revolving Credit Loans during any such Cure Period).

(d) Notwithstanding anything to the contrary herein, if the Borrower fails to comply with the covenants set forth in Section 10.9 of this Agreement and Section 10.9 of the Senior Secured Credit Agreement for any Compliance Quarter, any exercise of a Cure Right (as defined in the Senior Secured Credit Agreement) pursuant to Section 11.13 thereof shall automatically be deemed to

be an exercise of a Cure Right hereunder (which exercise shall be subject to this Section 11.13 in all respects).

SECTION 12. The Agents.

12.1. Appointment.

(a) Each Secured Bank Party (other than the Administrative Agent) hereby irrevocably designates and appoints the Administrative Agent as the agent of such Secured Bank Party under this Agreement and the other Credit Documents and irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents 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 Credit Documents, together with such other powers as are reasonably incidental thereto. The provisions of this Section 12 (other than this Section 12.1 and Sections 12.9 and 12.12 with respect to the Borrower) are solely for the benefit of the Agents and the other Secured Bank Parties, and the Borrower shall not have any rights as a third party beneficiary of such provision. Notwithstanding any provision to the contrary elsewhere in this Agreement, no Agent shall have any duties or responsibilities, except those expressly set forth herein or in any other Credit Document, any fiduciary relationship with any other Secured Bank Party or any agency or trust obligations with respect to any Credit Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against such Agent.

(b) The Secured Bank Parties hereby irrevocably designate and appoint the Collateral Representative as the agent with respect to the Collateral, and each of the Secured Bank Parties hereby irrevocably authorizes the Collateral Representative, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Representative by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. In addition, the Secured Bank Parties hereby irrevocably designate and appoint the Collateral Agent as an additional agent with respect to the Collateral, and each Secured Bank Party hereby irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Collateral Agent shall have no duties or responsibilities except those expressly set forth herein or in any other Credit Document, any fiduciary relationship with any of the other Secured Bank Parties or any agency or trust obligations with respect to any Credit Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.

(c) Each of the Joint Lead Arrangers, in its capacity as such, shall not have any obligations, duties or responsibilities under this Agreement but shall be entitled to all benefits of this Section 12.

12.2. Delegation of Duties. The Administrative Agent and the Collateral Agent may each execute any of its duties under this Agreement and the other Credit Documents by or through agents, sub-agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Neither the Administrative Agent nor the Collateral Agent shall be responsible for the negligence or misconduct of any agents, sub-agents or attorneys-in-fact selected by it

in the absence of gross negligence or willful misconduct (as determined in the final non-appealable judgment of a court of competent jurisdiction).

12.3. Exculpatory Provisions.

(a) No Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by any of them under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct, as determined in the final non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein) or (b) responsible in any manner to any of the Lenders or any participant for any recitals, statements, representations or warranties made by any of Holdings, the Borrower, any other Guarantor, any other Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by such Agent under or in connection with, this Agreement or any other Credit Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for any failure of Holdings, the Borrower, any other Guarantor or any other Credit Party to perform its obligations hereunder or thereunder. No Agent shall be under any obligation to any other Secured Bank Party 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 Credit Document, or to inspect the properties, books or records of any Credit Party or any Affiliate thereof.

(b) Each Lender confirms to the Administrative Agent, the Collateral Agent, each other Lender and each of their respective Related Parties that it (i) possesses (individually or through its Related Parties) such knowledge and experience in financial and business matters that it is capable, without reliance on the Administrative Agent, the Collateral Agent, any other Lender or any of their respective Related Parties, of evaluating the merits and risks (including tax, legal, regulatory, credit, accounting and other financial matters) of (x) entering into this Agreement, (y) making Revolving Credit Loans and other extensions of credit hereunder and under the other Credit Documents and (z) in taking or not taking actions hereunder and thereunder, (ii) is financially able to bear such risks and (iii) has determined that entering into this Agreement and making Revolving Credit Loans and other extensions of credit hereunder and under the other Credit Documents is suitable and appropriate for it.

(c) Each Lender acknowledges that (i) it is solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with this Agreement and the other Credit Documents, (ii) that it has, independently and without reliance upon the Administrative Agent, the Collateral Agent, any other Lender or any of their respective Related Parties, made its own appraisal and investigation of all risks associated with, and its own credit analysis and decision to enter into, this Agreement based on such documents and information, as it has deemed appropriate and (iii) it will, independently and without reliance upon the Administrative Agent, the Collateral Agent, any other Lender or any of their respective Related Parties, continue to be solely responsible for making its own appraisal and investigation of all risks arising under or in connection with, and its own credit analysis and decision to take or not take action under, this Agreement and the other Credit Documents based on such documents and information as it shall from time to time deem appropriate, which may include, in each case:

(i) the financial condition, status and capitalization of the Borrower and each other Credit Party;

(ii) the legality, validity, effectiveness, adequacy or enforceability of this Agreement and each other Credit Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Credit Document;

(iii) determining compliance or non-compliance with any condition hereunder to the making of a Revolving Credit Loan and the form and substance of all evidence delivered in connection with establishing the satisfaction of each such condition; and

(iv) the adequacy, accuracy and/or completeness of any information delivered by the Administrative Agent, the Collateral Agent, any other Lender or by any of their respective Related Parties under or in connection with this Agreement or any other Credit Document, the transactions contemplated hereby and thereby or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Credit Document.

12.4. Reliance by Agents. The Administrative Agent and the Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex, electronic mail, or teletype message, statement, order or other document or instruction believed by it in good faith 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 Holdings and/or the Borrower), independent accountants and other experts selected by the Administrative Agent or the Collateral Agent. The Administrative Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder 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 and the Collateral Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required 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 and the Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required 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 Revolving Credit Loans; provided that none of the Administrative Agent or the Collateral Agent shall be required to take any action that, in its opinion or in the opinion of its counsel, may expose it to liability or that is contrary to any Credit Document or Applicable Law. For purposes of determining compliance with the conditions specified in Sections 6 and 7 on the Closing Date, each Lender that has signed or authorized the signing of this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

12.5. Notice of Default. Neither the Administrative Agent nor the Collateral Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent or the Collateral Agent, as applicable, has received notice from a Lender, Holdings or the Borrower 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 or the Collateral Agent receives such a notice, it shall give notice thereof to the Lenders, the Collateral Representative and either the Administrative Agent or the Collateral Agent, as applicable. The Administrative Agent, the Collateral Agent and the Collateral Trustee shall take such action with respect

to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Administrative Agent, the Collateral Agent or the Collateral Trustee, as applicable, shall have received such directions, the Administrative Agent, the Collateral Agent or the Collateral Trustee, as applicable, 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 is within its authority to take under this Agreement and otherwise as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable.

12.6. Non-Reliance on Administrative Agent, Collateral Agent and Other Lenders. Each Lender expressly acknowledges that none of the Administrative Agent, the Collateral Agent or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Administrative Agent or the Collateral Agent hereinafter taken, including any review of the affairs of Holdings, the Borrower, any other Guarantor or any other Credit Party, shall be deemed to constitute any representation or warranty by the Administrative Agent or the Collateral Agent to any Lender. Each Lender represents to Administrative Agent and the Collateral Agent that it has, independently and without reliance upon the Administrative Agent, Collateral 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 Holdings, the Borrower, each other Guarantor and each other Credit Party and made its own decision to make its Revolving Credit Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Administrative Agent, Collateral 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 Credit 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 Holdings, the Borrower, each other Guarantor and each other Credit Party. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, none of the Administrative Agent or the Collateral Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of Holdings, the Borrower, any other Guarantor or any other Credit Party that may come into the possession of the Administrative Agent, the Collateral Agent or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

12.7. Indemnification. The Lenders agree to indemnify each Agent, each in its capacity as such (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective portions of the Revolving Credit Exposure in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Revolving Credit Commitments shall have terminated and the Revolving Credit Loans shall have been paid in full, ratably in accordance with their respective portions of the Revolving Credit Exposure in effect 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 whatsoever that may at any time occur (including at any time following the payment of the Revolving Credit Loans) be imposed on, incurred by or asserted against such Agent, including all fees, disbursements and other charges of counsel to the extent required to be reimbursed by the Credit Parties pursuant to Section 13.5, in any way relating to or arising out of the Revolving Credit Commitments, this Agreement, any of the other Credit 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 under or in connection with any of the foregoing **(SUBJECT TO THE PROVISIO BELOW, WHETHER OR NOT CAUSED BY OR ARISING IN WHOLE OR IN PART, OUT OF THE**

COMPARATIVE, CONTRIBUTORY OR SOLE ORDINARY NEGLIGENCE OF THE INDEMNIFIED PERSON); provided that no Lender shall be liable to any Agent for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction; provided, further, that no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 12.7. In the case of any investigation, litigation or proceeding giving rise to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time occur, be imposed upon, incurred by or asserted against the Administrative Agent or the Collateral Agent in any way relating to or arising out of the Revolving Credit Commitments, this Agreement, any of the other Credit 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 under or in connection with any of the foregoing (including at any time following the payment of the Revolving Credit Loans), this Section 12.7 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse such Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorneys' fees) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice rendered in respect of rights or responsibilities under, this Agreement, any other Credit Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Borrower; provided that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto. If any indemnity furnished to any Agent for any purpose shall, in the opinion of such Agent, be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided in no event shall this sentence require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's *pro rata* portion thereof; and provided further, this sentence shall not be deemed to require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement resulting from such Agent's gross negligence or willful misconduct (as determined by a final non-appealable judgment of court of competent jurisdiction). The agreements in this Section 12.7 shall survive the payment of the Revolving Credit Loans and all other amounts payable hereunder.

12.8. Agents in their Individual Capacities. Each Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with Holdings, the Borrower, any other Guarantor, and any other Credit Party as though such Agent were not an Agent hereunder and under the other Credit Documents. With respect to the Revolving Credit Loans made by it, each Agent shall have the same rights and powers under this Agreement and the other Credit 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.

12.9. Successor Agents. (a) Each of the Administrative Agent and Collateral Agent may resign at any time by notifying the other Agent, the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower (not to be unreasonably withheld or delayed), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above

(including receipt of the Borrower's consent); provided that if such Agent shall notify the Borrower and the Lenders that no qualifying Person (including as a result of the absence of consent of the Borrower) has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (x) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Secured Parties under any of the Credit Documents, the retiring Collateral Agent shall continue to hold such collateral security until such time as a successor Collateral Agent is appointed) and (y) all payments, communications and determinations provided to be made by, to or through such Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders with (except after the occurrence and during the continuation of an Event of Default under Section 11.1 or 11.5) the consent of the Borrower (not to be unreasonably withheld) appoint successor Agents as provided for above in this paragraph. Upon the acceptance of a successor's appointment as the Administrative Agent or Collateral Agent, as the case may be, hereunder, and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted by the Security Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower (following the effectiveness of such appointment) to such Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Credit Documents, the provisions of this Section 12 (including Section 12.7) and Section 13.5 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as an Agent.

12.10. Withholding Tax. To the extent required by any Applicable Law, the Administrative Agent may withhold from any interest payment to any Lender an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent or of a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective, or for any other reason), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Borrower (solely to the extent required by this Agreement) and without limiting the obligation of the Borrower to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses.

12.11. Trust Indenture Act. In the event that Citibank, N.A. or any of its Affiliates shall be or become an indenture trustee under the Trust Indenture Act of 1939 (as amended, the "**Trust Indenture Act**") in respect of any securities issued or guaranteed by any Credit Party, each Credit Party and each Lender agrees that any payment or property received in satisfaction of or in respect of any Obligation of such Credit Party hereunder or under any other Credit Document by or on behalf of Citibank, N.A., in its capacity as the Administrative Agent or the Collateral Agent for the benefit of any Lender or Secured Party under any Credit Document (other than Citibank, N.A. or an Affiliate of Citibank, N.A.) and which is applied in accordance with the Credit Documents shall be deemed to be

exempt from the requirements of Section 311 of the Trust Indenture Act pursuant to Section 311(b)(3) of the Trust Indenture Act.

12.12. Collateral Trust Agreement; Intercreditor Agreements; Security Documents; Guarantee. Each Secured Bank Party hereby irrevocably designates and appoints the Collateral Representative as the agent with respect to the Collateral, each Secured Bank Party hereby irrevocably authorizes the Collateral Representative, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Representative by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Each of the Administrative Agent, the Collateral Agent and the Collateral Trustee is hereby authorized to enter into the Collateral Trust Agreement (and any applicable joinder thereto) and any other intercreditor agreement contemplated hereby, and the parties hereto acknowledge that the Collateral Trust Agreement (and any applicable joinder thereto) and any other intercreditor agreement to which the Collateral Agent, the Collateral Trustee and/or the Administrative Agent is a party are each binding upon them. Each Secured Bank Party (a) hereby agrees that it will be bound by and will take no actions contrary to the provisions of the Collateral Trust Agreement (and any applicable joinder thereto) and any such other intercreditor agreement and (b) hereby authorizes and instructs the Collateral Agent, the Collateral Trustee and the Administrative Agent to enter into any First Lien Intercreditor Agreement and any Junior Lien Intercreditor Agreement and to subject the Liens on the Collateral securing the Obligations to the provisions thereof. In addition, each Secured Bank Party hereby authorizes the Collateral Agent, the Collateral Trustee and the Administrative Agent to enter into (i) any amendments, supplements and joinders to the Collateral Trust Agreement and (ii) any other intercreditor arrangements, in the case of clauses (i) and (ii) to the extent required to give effect to the establishment of intercreditor rights and privileges as contemplated and required by Section 10.2 of this Agreement. The terms of Section 12.13(a) of the Senior Secured Credit Agreement are hereby incorporated herein, *mutatis mutandis*.

12.13. Erroneous Payments.

(a) If the Administrative Agent (x) notifies a Lender or Secured Bank Party, or any Person who has received funds on behalf of a Lender or Secured Bank Party (any such Lender, Secured Bank Party or other recipient other than a Credit Party (and each of their respective successors and assigns), a “**Payment Recipient**”) that the Administrative Agent has determined in its reasonable discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds (as set forth in such notice from the Administrative Agent) received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Secured Bank Party or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “**Erroneous Payment**”) and (y) demands in writing the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent pending its return or repayment as contemplated below in this Section 12.13 and held in trust for the benefit of the Administrative Agent, and such Lender or Secured Bank Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter (or such later date as the Administrative Agent may, in its sole discretion, specify in writing), return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by the Administrative Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in

same day funds at the greater of the Overnight Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a), shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender, Secured Bank Party or any Person who has received funds on behalf of a Lender or Secured Bank Party (and each of their respective successors and assigns), agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender or Secured Bank Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:

(i) it acknowledges and agrees that (A) in the case of immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error and mistake has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender or Secured Bank Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of the occurrence of any of the circumstances described in immediately preceding clauses (x), (y) and (z)) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 12.13(b).

For the avoidance of doubt, the failure to deliver a notice to the Administrative Agent pursuant to this Section 12.13(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 12.13(a) or on whether or not an Erroneous Payment has been made.

(c) Each Lender or Secured Bank Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender or Secured Bank Party under any Credit Document, or otherwise payable or distributable by the Administrative Agent to such Lender or Secured Bank Party under any Credit Document with respect to any payment of principal, interest, fees or other amounts, against any amount that the Administrative Agent has demanded to be returned under immediately preceding clause (a).

(d) (i) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor in accordance with immediately preceding clause (a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "**Erroneous Payment Return Deficiency**"), upon the Administrative Agent's notice to such Lender at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (A) such Lender shall be deemed to

have assigned its Revolving Credit Loans (but not its Revolving Credit Commitments) with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Class**”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Revolving Credit Loans (but not Revolving Credit Commitments) of the Erroneous Payment Impacted Class, the “**Erroneous Payment Deficiency Assignment**”) (on a cashless basis and such amount calculated at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance)), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Acceptance (or, to the extent applicable, an agreement incorporating an Assignment and Acceptance by reference pursuant to a Platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender shall deliver any promissory notes evidencing such Revolving Credit Loans to the Borrower or the Administrative Agent (but the failure of such Person to deliver any such promissory notes shall not affect the effectiveness of the foregoing assignment), (B) the Administrative Agent as the assignee Lender shall be deemed to have acquired the Erroneous Payment Deficiency Assignment, (C) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Revolving Credit Commitments which shall survive as to such assigning Lender, (D) the Administrative Agent and the Borrower shall each be deemed to have waived any consents required under this Agreement to any such Erroneous Payment Deficiency Assignment, and (E) the Administrative Agent will reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Revolving Credit Commitments of any Lender and such Revolving Credit Commitments shall remain available in accordance with the terms of this Agreement.

(ii) Subject to Section 13.6 (but excluding, in all events, any assignment consent or approval requirements (whether from the Borrower or otherwise)), the Administrative Agent may, in its discretion, sell any Revolving Credit Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Revolving Credit Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Lender (x) shall be reduced by the proceeds of prepayments or repayments of principal and interest, or other distribution in respect of principal and interest, received by the Administrative Agent on or with respect to any such Revolving Credit Loans acquired from such Lender pursuant to an Erroneous Payment Deficiency Assignment (to the extent that any such Revolving Credit Loans are then owned by the Administrative Agent) and (y) may, in the sole discretion of the Administrative Agent, be reduced by any amount specified by the Administrative Agent in writing to the applicable Lender from time to time.

(e) The parties hereto agree that (x) irrespective of whether the Administrative Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Lender or Secured Bank Party, to the rights and interests of such Lender or Secured Bank Party, as the case may be) under the Credit Documents with respect to such amount (the “**Erroneous Payment Subrogation Rights**”) (provided that the Credit Parties’ Obligations under the Credit Documents in

respect of the Erroneous Payment Subrogation Rights shall not be duplicative of such Obligations in respect of Revolving Credit Loans that have been assigned to the Administrative Agent under an Erroneous Payment Deficiency Assignment) and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Credit Party; provided that this Section 12.13(e) shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrower relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent; provided, further, that for the avoidance of doubt, immediately preceding clauses (x) and (y) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including, without limitation, any defense based on “discharge for value” or any similar doctrine.

(g) Each party’s obligations, agreements and waivers under this Section 12.13 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Credit Document.

SECTION 13. Miscellaneous.

13.1. Amendments, Waivers and Releases. Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof, may be amended, supplemented or modified except in accordance with the provisions of this Section 13.1. The Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent and/or the Collateral Agent may, from time to time, (a) enter into with the relevant Credit Party or Credit Parties written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Credit Parties hereunder or thereunder or (b) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent and/or Collateral Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that each such waiver and each such amendment, supplement or modification shall be effective only in the specific instance and for the specific purpose for which given; and provided, further, that no such waiver and no such amendment, supplement or modification shall:

(i) forgive or reduce any portion of any Revolving Credit Loan or extend the final scheduled maturity date of any Revolving Credit Loan or reduce the stated rate, or forgive any portion, or extend the date for the payment, of any interest or Fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or extend the final expiration date of any Lender’s Revolving Credit Commitment, or increase the aggregate amount of the Revolving Credit Commitments of any Lender, in each case without the written consent of each Lender directly and adversely affected thereby; provided that, in each case for purposes of this clause (i), a waiver of any condition precedent in Section 6 or Section 7 of this Agreement, the waiver of any Default, Event of Default, default interest, mandatory

prepayment or reductions, any modification, waiver or amendment to the financial definitions or financial ratios or any component thereof or the waiver of any other covenant shall not constitute an increase of any Revolving Credit Commitment of a Lender, a reduction or forgiveness of any portion of any Revolving Credit Loan or in the interest rates or the fees or premiums or a postponement of any date scheduled for the payment of principal or interest or an extension of the final maturity of any Revolving Credit Loan, or the scheduled termination date of any Revolving Credit Commitment; or

(ii) amend, modify or waive any provision of this Section 13.1 or reduce the percentages specified in the definition of the term “Required Lenders”, consent to the assignment or transfer by Holdings or the Borrower of their respective rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Section 10.3) or Section 11.12 or Section 3.4 of the Collateral Trust Agreement, in each case without the written consent of each Lender directly and adversely affected thereby, or

(iii) amend, modify or waive any provision of Section 12 without the written consent of the then-current Administrative Agent and Collateral Agent or any other former or current Agent to whom Section 12 then applies in a manner that directly and adversely affects such Person, or

(iv) amend, modify or waive the definition of the term “Borrowing Base” or any component definition used therein (including, for the avoidance of doubt, any change to the Deemed Hedge Portfolio) if, as a result thereof, the amounts available to be borrowed by the Borrower would be changed without the written consent of each Lender, or

(v) release all or substantially all of the value of the Guarantors under the Guarantee (except as expressly permitted by the Guarantee or this Agreement) or, subject to the Collateral Trust Agreement, release all or substantially all of the Collateral under the Security Documents (except as expressly permitted by the Security Documents or this Agreement), in either case without the prior written consent of each Lender.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon Holdings, the Borrower, the applicable Credit Parties, such Lenders, the Administrative Agent and all future holders of the affected Revolving Credit Loans.

In the case of any waiver, Holdings, the Borrower, the applicable Credit Parties, the Lenders, the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. In connection with the foregoing provisions, the Administrative Agent may, but shall have no obligations to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender.

Notwithstanding anything to the contrary herein, it is understood and agreed that, so long as each Lender is also a lender under the Senior Secured Credit Agreement and each Lender has agreed to an amendment to the Senior Secured Credit Agreement pursuant to Section 9.1 thereof, such amendment shall automatically be deemed to apply to this Agreement, *mutatis mutandis*.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, modification, supplement, waiver or consent hereunder,

except that the Revolving Credit Commitment of such Lender may not be increased or extended without the consent of such Lender (it being understood that any Revolving Credit Commitments or Revolving Credit Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders, except as expressly provided for by this Agreement).

The Lenders hereby irrevocably agree that the Liens granted to the Collateral Representative by the Credit Parties on any Collateral shall be automatically released (and the Collateral Agent shall instruct the Collateral Representative to release), subject to the Collateral Trust Agreement, (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (other than Contingent Obligations), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Credit Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with this Section 13.1), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the Guarantee (in accordance with the following sentence), (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Representative pursuant to the Security Documents and (vii) if such assets constitute Excluded Collateral. Any such release shall not in any manner discharge, affect or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that the Subsidiary Guarantors shall be automatically released from the Guarantee upon consummation of any transaction resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary or upon becoming an Excluded Subsidiary; provided that the release of any Guarantor from its obligations under this Agreement if such Guarantor becomes an Excluded Subsidiary of the type described in clause (b) of the definition thereof shall only be permitted if at the time such Guarantor becomes an Excluded Subsidiary of such type after giving pro forma effect to such release and the consummation of the transaction that causes such Person to be an Excluded Subsidiary of such type, the Borrower is deemed to have made a new Investment in such Person for purposes of Section 10.5 (as if such Person were then newly acquired) and such Investment is permitted pursuant to Section 10.5 (other than Section 10.5(d) of the Senior Secured Credit Agreement) at such time. The Lenders hereby authorize the Administrative Agent, the Collateral Agent and the Collateral Trustee, as applicable, and the Administrative Agent and the Collateral Agent agree to (and agree to instruct the Collateral Trustee to), execute and deliver any instruments, documents, and agreements necessary or desirable or reasonably requested by the Borrower to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender.

Notwithstanding anything herein to the contrary, the Credit Documents may be amended to (i) add syndication or documentation agents and make customary changes and references related thereto and (ii) if applicable, add or modify "parallel debt" language in any jurisdiction in favor of the Collateral Agent or Collateral Trustee or add Collateral Agents, in each case under clauses (i) and (ii), with the consent of only the Borrower and the Administrative Agent, and in the case of clause (ii), the Collateral Agent.

Notwithstanding anything in this Agreement (including, without limitation, this Section 13.1) or any other Credit Document to the contrary, (i) this Agreement and the other Credit Documents may be amended by the Administrative Agent as set forth in Section 2.10 (including to implement any Benchmark Replacement Conforming Changes) without the consent of any other Person; (ii) no Lender consent is required to effect any amendment or supplement to the Collateral Trust Agreement (and the Administrative Agent shall instruct the Collateral Representative to effect such amendment or supplement) or other intercreditor agreement permitted under this Agreement that is for the purpose of adding the holders of any Indebtedness as expressly contemplated by the terms of the Collateral Trust Agreement or such other intercreditor agreement permitted under this Agreement, as applicable (it being understood that any such amendment or supplement may make such other changes to the Collateral Trust Agreement or applicable intercreditor agreement as, in the good faith determination of the Administrative Agent in consultation with the Borrower, are required to effectuate the foregoing; provided that such other changes are not adverse, in any material respect, to the interests of the Lenders taken as a whole); provided, further, that no such agreement shall amend, modify or otherwise directly and adversely affect the rights or duties of the Administrative Agent or the Collateral Agent hereunder or under any other Credit Document without the prior written consent of the Administrative Agent or Collateral Agent, as applicable; (iii) any provision of this Agreement or any other Credit Document (including, for the avoidance of doubt, any exhibit, schedule or other attachment to any Credit Document) may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent (or, if applicable, the Collateral Representative, at the direction of the Administrative Agent) to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrower) and (y) effect administrative changes of a technical or immaterial nature (as reasonably determined by the Administrative Agent and the Borrower); (iv) guarantees, collateral documents and related documents executed by the Credit Parties in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with any other Credit Document, entered into, amended, supplemented or waived, without the consent of any other Person, by the applicable Credit Party or Credit Parties and the Administrative Agent or the Collateral Agent in its or their respective sole discretion if applicable (or the Collateral Representative, at the direction of the Administrative Agent), (A) 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 Bank Parties, (B) as required by local law or advice of counsel to give effect to, or protect any security interest for the benefit of the Secured Bank Parties, in any property or so that the security interests therein comply with applicable requirements of law, (C) to cure ambiguities, omissions, mistakes or defects (as reasonably determined by the Administrative Agent and the Borrower) or to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Credit Documents or (D) to provide for the termination of the Collateral Trust Agreement and related arrangements (including the continuation of the Liens securing the Obligations); and (v) the Credit Parties, the Collateral Agent and Collateral Representative, without the consent of any other Secured Bank Party, shall be permitted to enter into amendments and/or supplements to the Collateral Trust Agreement and any Security Documents in order to (i) include customary provisions permitting the Collateral Representative to appoint sub-collateral agents or representatives to act with respect to Collateral matters thereunder in its stead and (ii) expand the indemnification provisions contained therein to provide that holders of Additional First Lien Debt (as defined in the Collateral Trust Agreement) indemnify the Collateral Agent, in its capacity as Controlling Priority Lien Representative (as defined in the Collateral Trust Agreement), if applicable, and/or the Collateral Trustee, on a pro rata basis with the Lenders.

Notwithstanding anything in this Agreement or any Security Document to the contrary, the Administrative Agent may, in its sole discretion, grant extensions of time (and direct the Collateral Representative to grant such extensions) for the satisfaction of any of the requirements under Sections 9.11, 9.12 and 9.14 or any Security Documents in respect of any particular Collateral or any

particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of Holdings, the Borrower and the Restricted Subsidiaries by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Security Document.

13.2. Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile or other electronic transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to Holdings, the Borrower, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to Holdings, the Borrower, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9, 4.2 and 5.1 shall not be effective until received.

13.3. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent, the Collateral Trustee or any Lender, any right, remedy, power or privilege hereunder or under the other Credit 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.

13.4. Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit 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 Revolving Credit Loans hereunder.

13.5. Payment of Expenses; Indemnification. The Borrower agrees, within thirty (30) days after written demand therefor (including documentation reasonably supporting such request), or, in the case of expenses of the type described in clause (a), below incurred prior to the Closing Date, on the Closing Date, (a) to pay or reimburse the Agents and the Joint Lead Arrangers for all their reasonable and documented out-of-pocket costs and expenses incurred (i) in connection with the syndication, preparation, execution, delivery, negotiation and administration of this Agreement and the other Credit 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 fees, disbursements and other charges of White & Case LLP, and (ii) upon the occurrence and during the continuation of an Event of Default, in connection with the enforcement or preservation of any rights under this Agreement, the other Credit Documents and any such other documents, including the reasonable and documented out-of-pocket fees, disbursements and other charges of Advisors (limited, in the case of Advisors, as set forth in the definition thereof), (b) to pay, indemnify, and hold harmless each Lender and each Agent from, any and all recording and filing fees and to pay, indemnify, and hold harmless each Lender and each Agent and their respective Affiliates, directors, officers, partners, employees and agents (other than, in each case, Excluded Affiliates) from and against any and all other liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (whether or not any Agent, any Lender or any other such indemnified Person is a party to any action or proceeding out of which any such expenses arise or such matter is initiated by a third party or by the Borrower or any Affiliate thereof), including reasonable and documented out-of-pocket fees, disbursements and other charges of Advisors related to the Transactions or, with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Credit Documents and any such other documents, including, any of the foregoing relating to the violation of, noncompliance with or liability under, any Environmental Law (other than by such indemnified person or any of its Related Parties (other than trustees and advisors)) or to any actual or alleged presence, release or threatened release into the environment of Hazardous Materials attributable to the operations of Holdings, the Borrower, any of the Borrower's Subsidiaries or any of the Real Estate (all the foregoing in this clause (c), collectively, the "indemnified liabilities") (SUBJECT TO THE PROVISIO BELOW, WHETHER OR NOT CAUSED BY OR ARISING IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE ORDINARY NEGLIGENCE OF THE INDEMNIFIED PERSON); provided that neither the Borrower nor any other Credit Party shall have any obligation hereunder to any Agent or any Lender or any of their respective Related Parties with respect to indemnified liabilities to the extent they result from (A) the gross negligence, bad faith or willful misconduct of such indemnified Person or any of its Related Parties as determined by a final non-appealable judgment of a court of competent jurisdiction, (B) a material breach of the obligations of such indemnified Person or any of its Related Parties under the Credit Documents as determined by a final non-appealable judgment of a court of competent jurisdiction, (C) disputes not involving an act or omission of Holdings, the Borrower or any other Credit Party and that is brought by an indemnified Person against any other indemnified Person, other than any claims against any indemnified Person in its capacity or in fulfilling its role as an Agent or any similar role under the Credit Documents, (D) such indemnified Person's capacity as a financial advisor of Holdings, the Borrower or its Subsidiaries in connection with the Transactions, (E) such indemnified Person's capacity as a co-investor in any potential acquisition of the Holdings, the Borrower or its Subsidiaries or (F) any settlement effected without the Borrower's prior written consent, but if settled with the Borrower's prior written consent (not to be unreasonably withheld, delayed, conditioned or denied) or if there is a final non-appealable judgment against an indemnified Person in any such proceeding, the Borrower will indemnify and hold harmless such indemnified Person from and against any and all losses, claims, damages, liabilities and expenses by reason of such settlement or judgment in accordance with this Section 13.5. All amounts payable under this Section 13.5 shall be paid within 30 days of receipt by the Borrower of an invoice relating thereto setting forth such expense in reasonable detail. The agreements in this Section 13.5 shall survive repayment of the Revolving Credit Loans and all other amounts payable hereunder.

No Credit Party nor any indemnified Person shall have any liability for any special, punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (except, in the case of the Borrower's obligation hereunder to indemnify and hold harmless the indemnified Person, to the extent any indemnified Person is found liable for special, punitive, indirect or consequential damages to a third party). No indemnified Persons shall be liable for any damages

arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any indemnified Person or any of its Related Parties (as determined by a final non-appealable judgment of a court of competent jurisdiction). This Section 13.5 shall not apply to Taxes.

Each indemnified Person, by its acceptance of the benefits of this Section 13.5, agrees to refund and return any and all amounts paid by the Borrower (or on its behalf) to it if, pursuant to limitations on indemnification set forth in this Section 13.5, such indemnified Person was not entitled to receipt of such amounts.

13.6. 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, except that (i) except as expressly permitted by Section 10.3, neither Holdings nor the 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 Holdings or the 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 13.6. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in clause (c) of this Section 13.6), to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Collateral Agent and the Lenders and each other Person entitled to indemnification under Section 12.7) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in clause (b)(ii) and (h) below, any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Credit Commitments and the Revolving Credit Loans at the time owing to it) with the prior written consent (such consent not be unreasonably withheld or delayed; it being understood that, without limitation, the Borrower shall have the right to withhold or delay its consent to any assignment if in order for such assignment to comply with Applicable Law, the Borrower would be required to obtain the consent of, or make any filing or registration with, any Governmental Authority) of:

(A) the Borrower (which consent shall not be unreasonably withheld or delayed); provided that no consent of the Borrower shall be required for an assignment (1) to a Revolving Credit Lender or to an Affiliate of a Revolving Credit Lender so long as such Affiliate has a combined capital and surplus of not less than the greater of (x) \$100,000,000 and (y) an amount equal to twice the amount of Revolving Credit Commitments to be held by such assignee after giving effect to such assignment, (2) if a Specified Default has occurred and is continuing with respect to the Borrower, to any other assignee or (3) to the Administrative Agent in accordance with the terms of Section 12.13; and

(B) the Administrative Agent (which consent shall not be unreasonably withheld or delayed).

Notwithstanding the foregoing, no such assignment shall be made to (x) a natural person or (y) a Disqualified Institution, and any attempted assignment to a Disqualified Institution after the applicable Person became a Disqualified Institution shall be null and void. For the avoidance of doubt, (i) the Administrative Agent shall have no obligation with respect to, and shall bear no responsibility or liability for, the monitoring or enforcing of the list of Persons who are Disqualified Institutions (or any provisions relating thereto) at any time and (ii) the Administrative Agent may share a list of Persons who are Disqualified Institutions with any Lender upon request.

(ii) Assignments shall be subject to the following additional conditions:

(A) except (i) in the case of an assignment to a Revolving Credit Lender, an Affiliate of a Revolving Credit Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Revolving Credit Lender's Revolving Credit Commitment or Revolving Credit Loans or (ii) an assignment to a Federal Reserve Bank or any central bank, the amount of the Revolving Credit Commitment or Revolving Credit Loans of the assigning Revolving Credit Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent), shall not be less than, \$5,000,000, unless each of the Borrower and the Administrative Agent otherwise consents (which consents shall not be unreasonably withheld or delayed); provided that no such consent of the Borrower shall be required if a Specified Default has occurred and is continuing with respect to Holdings or the Borrower; provided, further, that contemporaneous assignments to a single assignee made by Affiliates of Lenders and related Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance, together with a processing and recordation fee in the amount of \$3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "**Administrative Questionnaire**").

(iii) Subject to acceptance and recording thereof pursuant to clause (b)(iv) of this Section 13.6, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, 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 Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance 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 2.10, 2.11, 5.4 and 13.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this

Section 13.6 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 clause (c) of this Section 13.6 (other than attempted assignments or transfers to Disqualified Institutions, which shall be null and void as provided above).

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolving Credit Commitments of, and principal amount of the Revolving Credit Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). Further, each Register shall contain the name and address of the Administrative Agent and the lending office through which each such Person acts under this Agreement. The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Collateral Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Holdings, the Borrower, the Collateral Agent and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance 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 clause (b) of this Section 13.6 (unless waived) and any written consent to such assignment required by clause (b) of this Section 13.6, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register.

(c) (i) Any Lender may, without the consent of (or notice to) Holdings, the Borrower or the Administrative Agent, sell participations to one or more banks or other entities that are not Disqualified Institutions (each, a "**Participant**") (and any such attempted sales to Disqualified Institutions after such Person became a Disqualified Institution shall be null and void) in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Revolving Credit Commitments and the Revolving Credit Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) Holdings, the Borrower, the Administrative Agent 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. For the avoidance of doubt, the Administrative Agent shall have no obligation with respect to, and shall bear no responsibility or liability for, the monitoring or enforcing of the list of Disqualified Institutions Lenders with respect to the sales of participations at any time. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Credit Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any consent, amendment, modification, supplement or waiver described in clauses (i) or (vii) of the second proviso of the first paragraph of Section 13.1 that directly and adversely affects such Participant. Subject to clause (c)(ii) of this Section 13.6, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11 and 5.4 to the same extent as if it were a Lender, and provided that such Participant agrees to be subject to the requirements of those Sections as though it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6. To the extent permitted by Applicable Law, each Participant also shall be entitled to the benefits of Section 13.8(b) as though it

were a Lender; provided such Participant agrees to be subject to Section 13.8(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10, 2.11, or 5.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent (which consent shall not be unreasonably withheld or delayed).

(iii) Each Lender that sells a participation shall, acting for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each participant and the principal amounts of each participant's interest in the Revolving Credit Loans (or other rights or obligations) held by it (the "**Participant Register**"). 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 Revolving Credit Loan or other obligation hereunder as the owner thereof for all purposes of this Agreement notwithstanding any notice to the contrary. No Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans or its other obligations under any Credit Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. This Section shall be construed so that the Revolving Credit Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code.

(d) Any Lender may, without the consent of (or notice to) Holdings, the Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank, and this Section 13.6 shall not apply to any such pledge or assignment of a security interest; 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. In order to facilitate such pledge or assignment or for any other reason, the Borrower hereby agrees that, promptly following the reasonable request of any Lender at any time and from time to time after any Borrower has made its initial borrowing hereunder, the Borrower shall provide to such Lender, at the Borrower's own expense, a promissory note, substantially in the form of Exhibit D, evidencing the Revolving Credit Loans owing to such Lender.

(e) Subject to Section 13.16, the Borrower authorizes each Lender to disclose (other than to any Disqualified Institutions) to any Participant, secured creditor of such Lender or assignee (each, a "**Transferee**"), any prospective Transferee and any prospective direct or indirect contractual counterparties to any swap or derivative transactions to be entered into in connection with or relating to Revolving Credit Loans made hereunder any and all financial information in such Lender's possession concerning the Borrower and its Affiliates that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates pursuant to this Agreement or that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates in connection with such Lender's credit evaluation of the Borrower and its Affiliates prior to becoming a party to this Agreement.

(f) The words "execution," "signed," "signature," and words of like import in any Assignment and Acceptance shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a

manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(g) SPV Lender. Notwithstanding anything to the contrary contained herein, any Lender (a “**Granting Lender**”) may grant to a special purpose funding vehicle (a “**SPV**”), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Revolving Credit Loan that such Granting Lender would otherwise be obligated to make the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPV to make any Revolving Credit Loan and (ii) if an SPV elects not to exercise such option or otherwise fails to provide all or any part of such Revolving Credit Loan, the Granting Lender shall be obligated to make such Revolving Credit Loan pursuant to the terms hereof. The making of a Revolving Credit Loan by an SPV hereunder shall utilize the Revolving Credit Commitment of the Granting Lender to the same extent, and as if, such Revolving Credit Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPV, it shall not institute against, or join any other person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 13.6, any SPV may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Revolving Credit Loans to the Granting Lender or to any financial institutions (consented to by the Borrower and Administrative Agent) providing liquidity and/or credit support to or for the account of such SPV to support the funding or maintenance of Revolving Credit Loans and (ii) disclose on a confidential basis any non-public information relating to its Revolving Credit Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPV. This Section 13.6(g) may not be amended without the written consent of the SPV. Notwithstanding anything to the contrary in this Agreement, (x) no SPV shall be entitled to any greater rights under Sections 2.10, 2.11, and 5.4 than its Granting Lender would have been entitled to absent the use of such SPV and (y) each SPV agrees to be subject to the requirements of Sections 2.10, 2.11, and 5.4 as though it were a Lender and has acquired its interest by assignment pursuant to clause (b) of this Section 13.6.

13.7. Replacements of Lenders under Certain Circumstances.

(a) The Borrower shall be permitted to (x) to replace any Lender with a replacement bank or other financial institution or (y) terminate the Revolving Credit Commitment of such Lender, and repay all Obligations of the Borrower due and owing to such Lender relating to the Revolving Credit Loans and participations held by such Lender as of such termination date, in each case, that (a) requests reimbursement for amounts owing pursuant to Section 2.10 or 5.4, (b) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken or (c) becomes a Defaulting Lender; provided that, solely in the case of the foregoing clause (x), (i) no Specified Default shall have occurred and be continuing at the time of such replacement, (ii) the Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Revolving Credit Loans and other amounts (other than any disputed amounts), pursuant to Section 2.10, 2.11 or 5.4, as the case may be) owing to such replaced Lender prior to the

date of replacement, (iii) the replacement bank or institution, if not already a Lender, and the terms and conditions of such replacement, shall be reasonably satisfactory to the Administrative Agent (solely to the extent such consent would be required under Section 13.6), (iv) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.6 (provided that the Borrower shall be obligated to pay the registration and processing fee referred to therein unless otherwise agreed) and (v) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

(b) If any Lender (such Lender, a “**Non-Consenting Lender**”) has failed to consent to a proposed amendment, modification, supplement, waiver, discharge or termination that pursuant to the terms of Section 13.1 requires the consent of either (i) all of the Revolving Credit Lenders directly and adversely affected or (ii) all of the Revolving Credit Lenders, and, in each case, with respect to which the Required Lenders or a majority (in principal amount) of the directly and adversely affected Revolving Credit Lenders shall, in each such case, have granted their consent, then provided no Event of Default then exists, the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) to (x) replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its Revolving Credit Loans and its Revolving Credit Commitments hereunder to one or more assignees reasonably acceptable to the Administrative Agent (to the extent such consent would be required under Section 13.6) or (y) terminate the Revolving Credit Commitment of such Lender, and repay all Obligations of the Borrower due and owing to such Lender relating to the Revolving Credit Loans and participations held by such Lender as of such termination date; provided that: (a) all Obligations of the Borrower owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, and (b) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon. In connection with any such assignment, the Borrower, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 13.6; provided, however, that if such Non-Consenting Lender does not execute and deliver to the Administrative Agent a duly completed Assignment and Acceptance reflecting such assignment, then (i) the failure of such Non-Consenting Lender to execute an Assignment and Acceptance shall not render such assignment invalid and such assignment shall be deemed effective upon satisfaction of the other applicable conditions of Section 13.6 and this Section 13.7(b), and (ii) the Administrative Agent shall be entitled (but not obligated) to execute and deliver such Assignment and Acceptance on behalf of such Non-Consenting Lender and may record such assignment in the Register. Each Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Lender’s attorney-in-fact, with full authority in the place and stead of such Lender and in the name of such Lender, to take any action and to execute any Assignment and Acceptance or other instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this Section 13.7(b).

(c) If any assignment or participation under Section 13.6 is made to any Disqualified Institution without the Borrower’s prior written consent, such assignment or participation shall be void. Nothing in this Section 13.7(c) shall be deemed to prejudice any right or remedy that Holdings or the Borrower may otherwise have at law or at equity.

13.8. Adjustments; Set-off.

(a) Except as contemplated in Section 13.6 or elsewhere herein or in any other Credit Document, if any Lender (a “**Benefited Lender**”) shall at any time receive any payment of all or part of its Revolving Credit Loans, or interest thereon, 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 11.5, or otherwise), in a greater proportion than any such payment to or Collateral received by any other Lender, if any, in respect of such other Lender's Revolving Credit Loans, or interest thereon, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Revolving Credit Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral or proceeds 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 Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) After the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by Applicable Law, each Lender shall have the right, without prior notice to Holdings, the Borrower, any such notice being expressly waived by Holdings, the Borrower to the extent permitted by Applicable Law but with the prior written consent of the Administrative Agent, upon any amount becoming due and payable by the Borrower hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final) (other than payroll, trust, tax, fiduciary, employee health and benefits, pension, 401(k) and petty cash accounts), 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 or any branch or agency thereof to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.9. Counterparts; Electronic Signatures. This Agreement and each other Credit Document may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by fax or other electronic transmission of an executed counterpart of a signature page to this Agreement and each other Credit Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Credit Document and the words "execution," "execute," "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement or any other Credit Document 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 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. The Administrative Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

13.10. 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.

13.11. INTEGRATION. THE ENGAGEMENT LETTER, ANY FEE LETTER, THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS (AND, SOLELY TO THE EXTENT INCORPORATED BY REFERENCE IN THIS AGREEMENT, THE SENIOR SECURED CREDIT AGREEMENT) REPRESENT THE FINAL AGREEMENT OF HOLDINGS, THE BORROWER, THE COLLATERAL AGENT, THE ADMINISTRATIVE AGENT AND THE LENDERS WITH RESPECT TO THE SUBJECT MATTER HEREOF, AND (1) THERE ARE NO PROMISES, UNDERTAKINGS, REPRESENTATIONS OR WARRANTIES BY HOLDINGS, THE BORROWER, THE ADMINISTRATIVE AGENT, THE COLLATERAL AGENT OR ANY LENDER RELATIVE TO SUBJECT MATTER HEREOF NOT EXPRESSLY SET FORTH OR REFERRED TO HEREIN OR IN THE OTHER CREDIT DOCUMENTS, (2) THE ENGAGEMENT LETTER, ANY FEE LETTER, THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES AND (3) THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

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

13.13. Submission to Jurisdiction; Waivers. Each party hereto irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America 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 such Person at its address set forth on Schedule 13.2 at such other address of which the Administrative Agent shall have been notified pursuant to Section 13.2;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction;

(e) subject to the last paragraph of Section 13.5, waives, to the maximum extent not prohibited by Applicable Law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 13.13 any special, exemplary, punitive or consequential damages; and

(f) agrees that a final judgment in any action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Applicable Law.

13.14. Acknowledgments. Each of Holdings and the Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Credit Documents;

(b) (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between Holdings and the Borrower, on the one hand, and the Administrative Agent, the Lenders and the other Agents on the other hand, and Holdings, the Borrower and the other Credit Parties are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each of the Administrative Agent and the other Agents, is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary for any of Holdings, the Borrower, any other Credit Parties or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (iii) neither the Administrative Agent nor any other Agent has assumed or will assume an advisory, agency or fiduciary responsibility in favor of Holdings, the Borrower or any other Credit Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent or any other Agent has advised or is currently advising Holdings, the Borrower, the other Credit Parties or their respective Affiliates on other matters) and neither the Administrative Agent or other Agent has any obligation to Holdings, the Borrower, the other Credit Parties or their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; (iv) the Administrative Agent, each other Agent and each Affiliate of the foregoing may be engaged in a broad range of transactions that involve interests that differ from those of Holdings, the Borrower and their respective Affiliates, and neither the Administrative Agent nor any other Agent has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) neither the Administrative Agent nor any other Agent has provided and none will provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Credit Document) and Holdings and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Holdings and the Borrower agree not to claim that the Administrative Agent or any other Agent has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to Holdings, the Borrower or any other Affiliates, in connection with the transactions contemplated hereby or the process leading hereto.

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among Holdings and the Borrower, on the one hand, and any Lender, on the other hand.

13.15. WAIVERS OF JURY TRIAL. HOLDINGS, THE BORROWER, EACH AGENT AND EACH LENDER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION

OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

13.16. Confidentiality. The Administrative Agent, each other Agent and each Lender shall hold all non-public information furnished by or on behalf of Holdings, the Borrower or any Subsidiary of the Borrower in connection with such Lender's evaluation of whether to become a Lender hereunder or obtained by such Lender, the Administrative Agent or such other Agent pursuant to the requirements of this Agreement or in connection with any amendment, supplement, modification or waiver or proposed amendment, supplement, modification or waiver hereto or the other Credit Documents ("**Confidential Information**"), confidential; provided that the Administrative Agent, each other Agent and each Lender may make disclosure (a) as required by the order of any court or administrative agency or in any pending legal, judicial or administrative proceeding, or otherwise as required by Applicable Law, regulation or compulsory legal process (in which case such Lender, the Administrative Agent or such other Agent shall use commercially reasonable efforts to inform the Borrower promptly thereof to the extent lawfully permitted to do so (except with respect to any audit or examination conducted by bank accountants or any self-regulatory authority or governmental or regulatory authority exercising examination or regulatory authority)), (b) to such Lender's or the Administrative Agent's or such other Agent's attorneys, professional advisors, independent auditors, trustees or Affiliates involved in the Transactions (other than Excluded Affiliates) on a "need to know" basis and who are made aware of and agree to comply with the provisions of this Section 13.16, in each case on a confidential basis (with such Lender, the Administrative Agent or such other Agent responsible for such persons' compliance with this Section 13.16), (c) to any bona fide investor or prospective bona fide investor in a Securitization that agrees its access to information regarding the Credit Parties, the Revolving Credit Loans and the Credit Documents is solely for purposes of evaluating an investment in a Securitization and who agrees to treat such information as confidential in accordance with this Section 13.16, (d) on a confidential basis to any bona fide prospective Lender, prospective participant or swap counterparty (in each case, other than a Disqualified Institution or a Person who the Borrower has affirmatively denied assignment thereto in accordance with Section 13.6), (e) to the extent requested by any bank regulatory authority having jurisdiction over a Lender or its Affiliates (including in any audit or examination conducted by bank accountants or any self-regulatory authority or governmental or regulatory authority exercising examination or regulatory authority), (f) to a trustee, collateral manager, servicer, backup servicer, noteholder or secured party in connection with the administration, servicing and reporting on the assets serving as collateral for a Securitization and who agrees to treat such information as confidential, (g) to a nationally recognized ratings agency that requires access to information regarding the Credit Parties, the Revolving Credit Loans and Credit Documents in connection with ratings issued with respect to a Securitization, (h) as consented by the Borrower in writing, (i) to other parties to this Agreement, (j) solely to the extent necessary to allow the enforcement of remedies pursuant to the Credit Documents (k) to credit insurers in the ordinary course of business solely to the extent reasonably necessary for the provision of services from such credit insurers or (l) to market data collectors and/or the CUSIP bureau; provided that any information disclosed pursuant to this clause (l) shall be limited only to the terms and provisions of this Agreement and the identity of the parties thereto and solely to the extent reasonably necessary for such purposes and only in the ordinary course of business; for the avoidance of doubt in no event may operational information relating to the Borrower or Holdings be disclosed pursuant to this clause (l). Each Lender, the Administrative Agent and each other Agent agrees that it will not provide to prospective Transferees or to any pledgee referred to in Section 13.6 or to prospective direct or indirect contractual counterparties to any swap or derivative transactions to be entered into in connection with or relating to Revolving Credit Loans made hereunder any of the Confidential Information unless such Person is advised of and agrees to be bound by the provisions of this Section 13.16 or confidentiality provisions at least as restrictive as those set forth in this Section 13.16.

13.17. Direct Website Communications.

(a) Holdings and the Borrower may, at their option, provide to the Administrative Agent any information, documents and other materials that they are obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion of an existing, Borrowing or other extension of credit (including any election of an interest rate or Interest Period relating thereto), (B) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (C) provides notice of any Default or Event of Default under this Agreement, or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any Borrowing or other extension of credit thereunder (all such non-excluded communications being referred to herein collectively as “**Communications**”), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent at GIAgentOfficeOps@Citi.com; provided that: (i) upon written request by the Administrative Agent, Holdings or the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) Holdings or the Borrower 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. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents. Nothing in this Section 13.17 shall prejudice the right of Holdings, the Borrower, the Administrative Agent, any other Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

(b) The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender’s e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(c) Holdings and the Borrower further agree that the Agents may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the “**Platform**”), so long as the access to such Platform is limited (i) to the Agents, the Lenders or any bona fide potential Transferee and (ii) remains subject the confidentiality requirements set forth in Section 13.16.

(d) THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE”. THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE

COMMUNICATIONS OR THE PLATFORM. In no event shall any Agent or their Related Parties (collectively, the “**Agent Parties**” and each an “**Agent Party**”) have any liability to Holdings, the Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of Holdings’, the Borrower’s or any Agent’s transmission of Communications through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party’s (or any of its Related Parties’ (other than trustees or advisors)) gross negligence, bad faith or willful misconduct or material breach of the Credit Documents (as determined in a final non-appealable judgment of a court of competent jurisdiction).

(e) The Borrower and each Lender acknowledge that certain of the Lenders may be “public-side” Lenders (Lenders that do not wish to receive material non-public information with respect to Holdings, the Borrower, the Subsidiaries of the Borrower or their securities) and, if documents or notices required to be delivered pursuant to the Credit Documents or otherwise are being distributed through the Platform, any document or notice that Holdings or the Borrower has indicated contains only publicly available information with respect to Holdings, the Borrower and the Subsidiaries of the Borrower and their securities may be posted on that portion of the Platform designated for such public-side Lenders. If Holdings or the Borrower has not indicated whether a document or notice delivered contains only publicly available information, the Administrative Agent shall post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material nonpublic information with respect to Holdings, the Borrower, the Subsidiaries of the Borrower and their securities. Notwithstanding the foregoing, Holdings and the Borrower shall use commercially reasonable efforts to indicate whether any document or notice contains only publicly available information.

13.18. USA PATRIOT Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (as amended, the “**Patriot Act**”), it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender to identify each Credit Party in accordance with the Patriot Act.

13.19. Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect.

13.20. Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Credit 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 party hereto 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 Credit 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.

SECOND AMENDMENT TO CREDIT AGREEMENT

This SECOND AMENDMENT TO CREDIT AGREEMENT, dated as of May 26, 2022 (including the annexes, schedules, exhibits and other attachments hereto, this “Second Amendment”), by and among Vistra Operations Company LLC, a Delaware limited liability company (the “Borrower”), Vistra Intermediate Company LLC, a Delaware limited liability company (“Holdings”), the other Credit Parties (as defined in the Credit Agreement referred to below) party hereto, the financial institutions providing 2022-B New Revolving Credit Commitments (as defined below) (each, a “2022-B New Revolving Loan Lender”) and Citibank, N.A., as Administrative Agent and as Collateral Agent. Capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Credit Agreement (as defined below) as modified hereby.

RECITALS:

WHEREAS, reference is hereby made to the Credit Agreement, dated as of February 4, 2022 (as amended by the First Amendment to Credit Agreement, dated as of May 5, 2022 (the “First Amendment”) and as further amended, restated, amended and restated, supplemented and/or otherwise modified from time to time prior to the Second Amendment Effective Date referred to below, the “Credit Agreement”), among Holdings, the Borrower, the Lenders party thereto, the Administrative Agent, the Collateral Agent and the other parties named therein;

WHEREAS, the Borrower intends to amend the Credit Agreement to establish additional Revolving Credit Commitments (which establishment was approved by the Required Lenders in the First Amendment) by, among other things, entering into this Second Amendment with the Administrative Agent and the 2022-B New Revolving Loan Lenders as set forth herein, subject to the terms and conditions hereof and the Credit Agreement (as modified hereby);

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

A. Amendments to Credit Agreement.

1. Amendments to the Credit Agreement. Effective as of the Second Amendment Effective Date, and subject to the terms and conditions set forth herein, the Credit Agreement is hereby amended as follows:

(a) Section 1.1 of the Credit Agreement is hereby amended by adding the following definitions in appropriate alphabetical order:

“**Second Amendment**” means that certain Second Amendment, dated as of Second Amendment Effective Date, among Holdings, the Borrower, the other Credit Parties, the Administrative Agent, the Collateral Agent, the Lenders party thereto and the various other parties party thereto.

“**Second Amendment Effective Date**” shall have the meaning provided in the Second Amendment.

(b) The definition of “**Joint Lead Arrangers**” appearing in Section 1.1 of the Credit Agreement is hereby amended by deleting said definition in its entirety and inserting the following new definition in lieu thereof:

“**Joint Lead Arrangers**” shall mean (a) Citibank, N.A., Barclays Bank PLC, BMO Capital Markets Corp., BNP Paribas Securities Corp., Credit Agricole Corporate and Investment Bank, Credit Suisse Loan Funding LLC, Goldman Sachs Bank USA, JPMorgan Chase Bank, N.A., Mizuho Bank, Ltd., Morgan Stanley Senior Funding, Inc., MUFG Bank, Ltd., Natixis, New York Branch and Royal Bank of Canada, as joint lead arrangers and joint bookrunners for the Lenders under this Agreement and the other Credit Documents,

(b) Citibank, N.A., as lead arranger and bookrunner with respect to the First Amendment and the transactions contemplated thereby and

(c) Citibank, N.A., as lead arranger and

bookrunner with respect to the Second Amendment and the transactions contemplated thereby.

- (c) The definition of “**Revolving Credit Commitment**” appearing in Section 1.1 of the Credit Agreement is hereby amended by deleting said definition in its entirety and inserting the following new definition in lieu thereof:

“**Revolving Credit Commitment**” shall mean, (a) with respect to each Lender on the Second Amendment Effective Date, the amount set forth opposite such Lender’s name on Schedule 1.1(a), (as amended by the Second Amendment) as such Lender’s “Revolving Credit Commitment” and (b) in the case of any Lender that becomes a Lender after the Second Amendment Effective Date, the amount specified as such Lender’s “Revolving Credit Commitment” in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total Revolving Credit Commitment, in each case as such Revolving Credit Commitment may be changed from time to time pursuant to the terms hereof, the terms of the First Amendment or the terms of the Second Amendment. On the Closing Date and prior to the First Amendment Effective Date, the aggregate amount of the Revolving Credit Commitments of all Lenders was \$1,000,000,000. On the First Amendment Effective Date and prior to the Second Amendment Effective Date, the aggregate amount of the Revolving Credit Commitments of all Lenders was \$2,000,000,000. On the Second Amendment Effective Date, the aggregate amount of the Revolving Credit Commitments of all Lenders is \$2,200,000,000.

- (d) Section 2.11 of the Credit Agreement is hereby amended by inserting the following new sentence at the end thereof:

For the avoidance of doubt, the reallocation of SOFR Loans on the Second Amendment Effective Date as contemplated by the Second Amendment shall not require the payment of any compensation under this Section 2.11.

B. Special Provisions Applicable to Revolving Credit Commitments.

1. Each 2022-B New Revolving Loan Lender acknowledges and agrees that upon its execution of this Second Amendment and the provision of its 2022-B New Revolving Credit Commitment that such 2022-B New Revolving Loan Lender shall be (or become) a “Revolving Credit Lender” and a “Lender” with respect to 2022-B New Revolving Credit Commitments (as defined below) under, and for all purposes of, the Credit Agreement and the other Credit Documents (in each case, as modified hereby), and shall be subject to and bound by the terms thereof, and shall perform all the obligations of and shall have all rights of a Revolving Credit Lender and a Lender thereunder.

2. Each 2022-B New Revolving Loan Lender hereby agrees to provide additional Revolving Credit Commitments (and make Revolving Credit Loans) in the aggregate principal amount set forth opposite such 2022-B New Revolving Loan Lender’s name on Schedule I annexed hereto (such additional Revolving Credit Commitments, the “2022-B New Revolving Credit Commitments”), on the terms and subject to the conditions set forth below and in the Credit Agreement (as modified hereby) (the “2022-B Revolving Commitment Increase”), which shall constitute an increase to the existing Revolving Credit Commitments.

3. Each 2022-B New Revolving Loan Lender (i) confirms that it has received a copy of the Credit Agreement and the other Credit Documents and the schedules and exhibits thereto (in each case, as modified hereby), together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Second Amendment; (ii) agrees 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 decisions in taking or not taking action under the Credit Agreement (as modified hereby); (iii) appoints and authorizes each Agent to take such action as agent on its behalf and to exercise such powers under the Credit Agreement and the other Credit Documents (in each case, as modified hereby) as are delegated to such Agent by the terms thereof, together with such powers as are reasonably incidental thereto; and (iv) agrees that it will perform in accordance with their

terms all of the obligations which by the terms of the Credit Agreement (as modified hereby) are required to be performed by it as a Revolving Credit Lender.

4. The parties hereto hereby agree that, on the Second Amendment Effective Date, (i) the Total Revolving Credit Commitment shall increase by the aggregate amount of the 2022-B New Revolving Credit Commitments of the 2022-B New Revolving Loan Lenders provided hereunder and

(ii) the Borrower and the Administrative Agent, as the case may be, shall be permitted to take all actions that are, in their reasonable discretion, necessary or advisable to consummate the transactions contemplated by this Second Amendment (including any prepayments and reborrowings (or deemed prepayments and reborrowings) of Revolving Credit Loans requested by the Administrative Agent after giving effect to the 2022-B Revolving Commitment Increase). For the avoidance of doubt, each of the Revolving Credit Lenders with an existing Revolving Credit Commitment on the Second Amendment Effective Date prior to giving effect to this Second Amendment shall automatically and without further act be deemed to have assigned to each 2022-B New Revolving Loan Lender with a 2022-B New Revolving Credit Commitment, and each of such 2022-B New Revolving Loan Lenders shall automatically and without further act be deemed to have purchased and assumed, at the principal amount thereof, such interests in the Revolving Credit Loans on the Second Amendment Effective Date as shall be necessary in order that, after giving effect to all such assignments and assumptions, the Revolving Credit Loans will be held by all Revolving Credit Lenders (including the 2022-B New Revolving Loan Lenders) ratably in accordance with their respective Revolving Credit Commitments after giving effect to the 2022-B Revolving Commitment Increase (and the Administrative Agent and the Lenders party hereto hereby agree that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to this clause (a)).

5. Substantially simultaneously with the effectiveness of the 2022-B New Revolving Credit Commitments, Schedule 1.1(a) to the Credit Agreement shall be amended and restated in its entirety as follows:

Revolving Credit Commitments

<u>Revolving Credit Lender</u>	<u>Revolving Credit Commitment</u>
Citibank, N.A.	\$185,000,000
Bank of Montreal, Chicago Branch	\$184,000,000
Barclays Bank PLC	\$184,000,000
BNP Paribas	\$184,000,000
Credit Agricole Corporate and Investment Bank	\$184,000,000
Credit Suisse AG, New York Branch	\$184,000,000
Goldman Sachs Bank USA	\$184,000,000
JPMorgan Chase Bank, N.A.	\$84,000,000
Mizuho Bank, Ltd.	\$184,000,000
Morgan Stanley Senior Funding, Inc.	\$144,000,000
Morgan Stanley Bank, N.A.	\$40,000,000
MUFG Bank, Ltd.	\$125,000,000
Natixis, New York Branch	\$50,000,000
Royal Bank of Canada	\$184,000,000
Truist Bank	\$100,000,000
TOTAL:	\$2,200,000,000

6. The 2022-B New Revolving Credit Commitments shall (i) become a part of the existing class of Revolving Credit Commitments for all purposes of the Credit Agreement and the other Credit Documents (in each case, as modified hereby) and (ii) together with all related Revolving Credit Exposure, be subject to the same prepayment provisions, Revolving Credit Termination Date and other terms and conditions applicable to the existing Revolving Credit Commitments and Revolving Credit Loans under the Credit Agreement and the other Credit Documents (in each case, as modified hereby).

C. **Conditions Precedent.** This Second Amendment shall become effective as of the first date (the “Second Amendment Effective Date”) when each of the conditions set forth in this Section C shall have been satisfied:

1. The Administrative Agent shall have received duly executed counterparts hereof that, when taken together, bear the signatures of (a) the Borrower, (b) each of the other Credit Parties, (c) the Administrative Agent and the Collateral Agent and (d) each 2022-B New Revolving Loan Lender.

2. The Administrative Agent shall have received a customary legal opinion of (a) Sidley Austin LLP, counsel to the Credit Parties and (b) Yuki Whitmire, Associate General Counsel of Vistra Energy Corp., in each case, addressed to the Administrative Agent, the Collateral Agent and each Revolving Credit Lender party to the Credit Agreement (as modified hereby) as of the Second Amendment Effective Date, in each case, dated as of the Second Amendment Effective Date and in form and substance reasonably satisfactory to the Administrative Agent.

3. The Administrative Agent shall have received (w) a certificate from the Chief Financial Officer or Senior Vice President and Treasurer of the Borrower, dated the Second Amendment Effective Date, substantially in the form of the certificate provided pursuant to Section 6.9 of the Credit Agreement (with appropriate adjustments to reflect the 2022-B Revolving Commitment Increase) and certifying that, immediately after giving effect to this Second Amendment and the 2022-B Revolving Commitment Increase and the other transactions contemplated hereby, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent, (x) a certificate of good standing (or subsistence) with respect to each Credit Party from the Secretary of State (or similar official) of the State of such Credit Party’s organization, (y) a closing certificate executed by an Authorized Officer of the Borrower, dated the Second Amendment Effective Date, certifying as to the accuracy (with respect to clauses (a), (b) and (c) of Section D.2 of this Second Amendment, in all material respects) of the matters set forth in Section D.2 of this Second Amendment and (z) a certificate executed by an Authorized Officer of the Borrower, dated the Second Amendment Effective Date, certifying as to the incumbency and specimen signature of each officer of a Credit Party executing this Second Amendment or any other document delivered in connection herewith on behalf of any Credit Party and attaching (A) a true and complete copy of the certificate of incorporation (or other applicable charter document) of each Credit Party, including all amendments thereto, as in effect on the Second Amendment Effective Date, certified as of a recent date by the Secretary of State (or analogous official) of the jurisdiction of its organization, that has not been amended since the date of the last amendment thereto shown on the certificate of good standing furnished pursuant to clause (x) above, (B) a true and complete copy of the by-laws (or other applicable operating agreements) of each Credit Party as in effect on the Second Amendment Effective Date and (C) a true and complete copy of resolutions duly adopted or written consents duly executed by the board of directors (or equivalent governing body or any committee thereof) of each Credit Party authorizing the execution, delivery and performance of this Second Amendment, the performance of the Credit Agreement and the other Credit Documents (in each case, as modified hereby), the transactions contemplated by this Second Amendment and certifying that such resolutions or written consents have not been modified, rescinded or amended and are in full force and effect. Notwithstanding the foregoing, the conditions set forth in clauses (z)(A) and (z)(B) of the immediately preceding sentence may be satisfied by a certification of an Authorized Officer of the Borrower certifying that there have been no changes to the applicable Organizational Documents since the versions thereof previously delivered to the Administrative Agent.

4. No Default or Event of Default shall have occurred and be continuing (both immediately before and immediately after giving effect to this Second Amendment and the transactions contemplated hereby).

5. The Administrative Agent shall have received a certificate, dated as of the Second Amendment Effective Date and executed by an Authorized Officer of the Borrower, certifying that the condition in Section C.4 above has been satisfied on such date.

6. The Administrative Agent shall have received, at least two Business Days prior to the Second Amendment Effective Date, all documentation and other information with respect to the Credit Parties that is requested by the Administrative Agent or a Lender and is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, in each case to the extent reasonably requested in writing at least 5 Business Days prior to the Second Amendment Effective Date by the Administrative Agent or the Lenders.

7. The Borrower shall pay (i) all then-accrued and outstanding interest with respect to all outstanding Revolving Credit Loans immediately prior to such incurrence and (ii) all then-accrued and outstanding Revolving Credit Commitment Fees immediately prior to such incurrence, in each case, irrespective of whether such accrued amounts are otherwise then due and payable by the terms of the Credit Agreement.

8. The Borrower shall, to the extent invoiced prior to the Second Amendment Effective Date, reimburse or pay all reasonable and documented out-of-pocket expenses in connection with this Second Amendment and any other reasonable and documented out-of-pocket expenses of the Agents, excluding the reasonable fees, charges and disbursements of counsel for the Agents as required to be paid or reimbursed pursuant to the Credit Agreement, which shall be paid on a post-closing basis.

D. Other Terms.

1. **Credit Agreement Governs.** Except as expressly set forth in this Second Amendment, the 2022-B New Revolving Credit Commitments shall otherwise be subject to the provisions of the Credit Agreement and the other Credit Documents (in each case, as modified hereby).

2. **Credit Party Certifications.** By execution of this Second Amendment, each Credit Party hereby certifies, solely with respect to itself and on behalf of the applicable Credit Party and not in his/her individual capacity, that as of the Second Amendment Effective Date:

(a) such Credit Party has the corporate or other organizational power and authority to execute and deliver this Second Amendment and carry out the terms and provisions of this Second Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby) and has taken all necessary corporate or other organizational action to authorize the execution and delivery of this Second Amendment and performance of this Second Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby);

(b) such Credit Party has duly executed and delivered this Second Amendment and each of this Second Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby) constitutes the legal, valid and binding obligation of such Credit Party enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization and other similar laws relating to or affecting creditors’ rights generally and general principles of equity (whether considered in a proceeding in equity or law) (provided that, with respect to the creation and perfection of security interests with respect to Indebtedness, Stock and Stock Equivalents of Foreign Subsidiaries, only to the extent the creation and perfection of such obligation is governed by the Uniform Commercial Code);

(c) none of the execution and delivery by such Credit Party of this Second Amendment, the performance by such Credit Party of this Second Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby) or the compliance with the terms and provisions hereof or thereof or the consummation of the transactions contemplated hereby will (a) contravene any applicable provision of any material Applicable Law (including material Environmental Laws) other than any contravention which would not reasonably be expected to result in a Material Adverse Effect, (b) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any Lien upon any of the property or assets of Holdings, the Borrower or any Restricted Subsidiary (other than Liens created under the Credit Documents, Permitted Liens or Liens subject to an intercreditor agreement permitted hereby or the Collateral Trust Agreement) pursuant to the terms of any material indenture, loan agreement, lease agreement,

mortgage, deed of trust or other material debt agreement or instrument to which Holdings, the Borrower or any Restricted Subsidiary is a party or by which it or any of its property or assets is bound other than any such breach, default or Lien that would not reasonably be expected to result in a Material Adverse Effect, or (c) violate any provision of the Organizational Documents of such Credit Party;

(d) the representations and warranties of such Credit Party contained in the Credit Agreement and the other Credit Documents (in each case, as modified hereby) are true and correct in all material respects on and as of the Second Amendment Effective Date (both before and after giving effect thereto) to the same extent as though made on and as of the Second Amendment Effective Date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date;

(e) no Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated hereby; and

(f) the Borrower falls under an express exclusion from the “legal entity customer” definition under 31 C.F.R. §1010.230(e)(2) and the applicable exclusion is 31 C.F.R. §1020.315(b)(5).

3. Notice. For purposes of the Credit Agreement, the initial notice address of any new Revolving Credit Lender shall be as set forth in the Administrative Questionnaire provided to the Administrative Agent by such new Revolving Credit Lender.

4. Recordation of the New Commitments and Loans. On the Second Amendment Effective Date (promptly after giving effect thereto), the Administrative Agent will record the 2022-B New Revolving Credit Commitments provided by each 2022-B New Revolving Loan Lender (and related Revolving Credit Loans) (and the Administrative Agent will take into account and make an appropriate record of the amended and restated schedule of Revolving Credit Commitments set forth in Section B.5 of this Second Amendment), in each case, in the Register.

5. Amendment, Modification and Waiver. This Second Amendment may not be amended, modified or waived except by an instrument or instruments in writing signed and delivered in accordance with the provisions of Section 13.1 of the Credit Agreement.

6. Entire Agreement. This Second Amendment, the Credit Agreement (as modified hereby) and the other Credit Documents constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all other prior agreements and understandings, both written and verbal, among the parties or any of them with respect to the subject matter hereof.

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

8. Severability. Any term or provision of this Second Amendment which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Second Amendment or affecting the validity or enforceability of any of the terms or provisions of this Second Amendment in any other jurisdiction. If any provision of this Second Amendment is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as would be enforceable.

9. Counterparts. This Second Amendment may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by fax or other electronic transmission of an executed counterpart of a signature page to this Second Amendment shall be effective as delivery of an original executed counterpart of this Second Amendment and the words “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Second Amendment 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 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. The Administrative Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

10. Submission to Jurisdiction. Each party hereto irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Second Amendment and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America 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 such Person at such address of which the Administrative Agent shall have been notified pursuant to Section 13.2 of the Credit Agreement;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction;

(e) subject to the last paragraph of Section 13.5 of the Credit Agreement, waives, to the maximum extent not prohibited by Applicable Law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section D.10 any special, exemplary, punitive or consequential damages; and

(f) agrees that a final judgment in any action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Applicable Law.

11. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS SECOND AMENDMENT AND FOR ANY COUNTERCLAIM THEREIN.

12. Reaffirmation. By executing and delivering a counterpart hereof, (i) each Credit Party hereby agrees that, as of the Second Amendment Effective Date and after giving effect to this Second Amendment and the transactions contemplated hereby, all Obligations of the Borrower (including, without limitation, the Revolving Credit Exposure with respect to the 2022-B New Revolving Credit Commitments) shall be guaranteed pursuant to the Guarantee in accordance with the terms and provisions thereof and shall be secured pursuant to the Security Documents in accordance with the terms and provisions thereof; (ii) each Credit Party hereby (A) agrees that, notwithstanding the effectiveness of this Second Amendment, as of the Second Amendment Effective Date and after giving effect thereto, the Security Documents continue to be in full force and effect, (B) agrees that, as of the Second Amendment Effective Date and after giving effect to this Second Amendment and the transactions contemplated hereby, all of the Liens and security interests created and arising under each Security Document to which it is a party remain in full force and effect on a continuous basis, and the perfected status and priority of each such Lien and security interest continues in full force and effect on a continuous basis, unimpaired, uninterrupted and undischarged, as collateral security for its Obligations under the Credit Documents (as

modified hereby) to which it is a party, in each case, to the extent provided in, and subject to the limitations and qualifications set forth in, such Credit Documents (as modified hereby) and (C) affirms and confirms all of its obligations and liabilities under the Credit Agreement and each other Credit Document (as modified hereby) to which it is a party, in each case after giving effect to this Second Amendment and the transactions contemplated hereby, including its guarantee of the Obligations and the pledge of and/or grant of a security interest in its assets as Collateral pursuant to the Security Documents (as modified hereby) to which it is a party to secure such Obligations, all as provided in the Security Documents (as modified hereby), and acknowledges and agrees that, as of the Second Amendment Effective Date, such obligations, liabilities, guarantee, pledge and grant continue in full force and effect in respect of, and to secure, such Obligations under the Credit Agreement and the other Credit Documents, in each case after giving effect to this Second Amendment and the incurrence of the 2022-B Revolving Commitment Increase effected hereby and the other transactions contemplated hereby; and (iii) each Guarantor agrees that nothing in the Credit Agreement, this Second Amendment or any other Credit Document shall be deemed to require the consent of such Guarantor to any future amendment to the Credit Agreement. This Second Amendment shall not extinguish the obligations of the parties outstanding under the Security Documents or discharge, release or otherwise change the priority of any Lien on any Collateral pursuant to any of the Security Documents. Nothing herein contained shall be construed as a substitution or novation of the obligations, guarantees and liabilities outstanding under the Security Documents, and it is the intent of the parties hereto to confirm that all of the respective obligations of each of the Borrower and each other Credit Party under the Security Documents to which it is a party shall continue in full force and effect.

13. Miscellaneous. This Second Amendment shall constitute a Credit Document for all purposes of the Credit Agreement and the other Credit Documents (in each case, as modified hereby). The provisions of Section B of this Second Amendment are deemed incorporated as of the Second Amendment Effective Date into the Credit Agreement as if fully set forth therein. Except as specifically modified by this Second Amendment, (i) the Credit Agreement and the other Credit Documents shall remain in full force and effect and (ii) the execution, delivery and performance of this Second Amendment shall not constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of any Agent or Lender under, the Credit Agreement or any of the other Credit Documents.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, each of the undersigned has caused its duly authorized officer to execute and deliver this Second Amendment as of the date first set forth above.

CITIBANK, N.A., as Administrative Agent, Collateral Agent

By: /s/ Ashwani Khubani Name: Ashwani Khubani
Title: Managing Director / Authorized Signatory

BNP PARIBAS, as a 2022-B New Revolving Loan Lender

By: /s/ Denis O'Meara Name: Denis O'Meara
Title: Co-Head Power, Utilities and
Renewable Energy

By: /s/ Frank Delaney Name: Frank Delaney
Title: Co-Head Power, Utilities and
Renewable Energy

[Signature Page to Second Amendment]

TRUIST BANK, as a 2022-B New Revolving Loan Lender

By: /s/ Justin Lien Name: Justin Lien Title: Director

VISTRA OPERATIONS COMPANY LLC, as
Borrower

By: /s/ Kristopher E. Moldovan Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

VISTRA INTERMEDIATE COMPANY LLC, as
Holdings

By: /s/ Kristopher E. Moldovan Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

**AMBIT CALIFORNIA, LLC AMBIT ENERGY HOLDINGS, LLC
AMBIT HOLDINGS, LLC
AMBIT ILLINOIS, LLC AMBIT MARKETING, LLC AMBIT
MIDWEST, LLC AMBIT NEW YORK, LLC AMBIT
NORTHEAST, LLC AMBIT TEXAS, LLC ANGUS SOLAR, LLC
BELLINGHAM POWER GENERATION LLC BIG BROWN POWER COMPANY
LLC
BIG SKY GAS, LLC
BIG SKY GAS HOLDINGS, LLC BLACKSTONE POWER GENERATION LLC
BLUENET HOLDINGS, LLC
BRIGHTSIDE SOLAR, LLC CALUMET ENERGY TEAM, LLC
CASCO BAY ENERGY COMPANY, LLC CINCINNATI BELL ENERGY LLC
COFFEEN AND WESTERN RAILROAD
COMPANY
COLETO CREEK ENERGY STORAGE LLC COLETO CREEK POWER, LLC
COMANCHE PEAK POWER COMPANY LLC CORE SOLAR SPV I, LLC
CRIUS ENERGY CORPORATION CRIUS ENERGY, LLC
CRIUS SOLAR FULFILLMENT, LLC DALLAS POWER & LIGHT COMPANY,
INC. DICKS CREEK POWER COMPANY LLC DYNEGY COAL HOLDCO, LLC
DYNEGY COAL TRADING & TRANSPORTATION, L.L.C.
DYNEGY CONESVILLE, LLC
DYNEGY ENERGY SERVICES (EAST), LLC DYNEGY ENERGY SERVICES,
LLC DYNEGY KILLEN, LLC
DYNEGY MARKETING AND TRADE, LLC DYNEGY MIDWEST GENERATION,
LLC DYNEGY OPERATING COMPANY
DYNEGY POWER MARKETING, LLC DYNEGY RESOURCES GENERATING
HOLDCO, LLC
DYNEGY SOUTH BAY, LLC DYNEGY STUART, LLC**

EMERALD GROVE SOLAR, LLC ENERGY REWARDS, LLC ENNIS
POWER COMPANY, LLC
EQUIPOWER RESOURCES CORP. EVERYDAY ENERGY, LLC
EVERYDAY ENERGY NJ, LLC FAYETTE POWER COMPANY LLC
FOREST GROVE SOLAR LLC GENERATION SVC COMPANY
HALLMARK SOLAR, LLC
HANGING ROCK POWER COMPANY LLC HAYS ENERGY, LLC
HOPEWELL POWER GENERATION, LLC ILLINOIS POWER GENERATING
COMPANY ILLINOIS POWER MARKETING COMPANY ILLINOIS POWER
RESOURCES GENERATING,
LLC
ILLINOIS POWER RESOURCES, LLC ILLINOVA CORPORATION
IPH, LLC
KENDALL POWER COMPANY LLC KINCAID GENERATION, L.L.C.
LA FRONTERA HOLDINGS, LLC
LAKE ROAD GENERATING COMPANY, LLC LIBERTY ELECTRIC POWER, LLC
LONE STAR ENERGY COMPANY, INC. LONE STAR PIPELINE COMPANY,
INC. LUMINANT ADMINISTRATIVE SERVICES
COMPANY
LUMINANT COAL GENERATION LLC LUMINANT COMMERCIAL ASSET
MANAGEMENT LLC
LUMINANT ENERGY COMPANY LLC LUMINANT ENERGY TRADING
CALIFORNIA
COMPANY
LUMINANT ET SERVICES COMPANY LLC LUMINANT GAS IMPORTS LLC
LUMINANT GENERATION COMPANY LLC
LUMINANT MINING COMPANY LLC LUMINANT POWER GENERATION INC.
LUMINANT POWER LLC
MASSPOWER, LLC
MIAMI FORT POWER COMPANY LLC MIDLOTHIAN ENERGY, LLC
MILFORD POWER COMPANY, LLC

MORRO BAY ENERGY STORAGE 1, LLC MORRO BAY ENERGY STORAGE 2,
LLC MORRO BAY POWER COMPANY LLC MOSS LANDING ENERGY
STORAGE 1, LLC MOSS LANDING ENERGY STORAGE 2, LLC MOSS
LANDING ENERGY STORAGE 3, LLC MOSS LANDING ENERGY STORAGE 4,
LLC MOSS LANDING POWER COMPANY LLC
NCA RESOURCES DEVELOPMENT COMPANY LLC
NEPCO SERVICES COMPANY NORTHEASTERN POWER COMPANY
OAK GROVE MANAGEMENT COMPANY LLC OAK HILL SOLAR LLC
OAKLAND ENERGY STORAGE 1, LLC OAKLAND ENERGY STORAGE 2, LLC
OAKLAND ENERGY STORAGE 3, LLC OAKLAND POWER COMPANY LLC
ONTELAUNEE POWER OPERATING
COMPANY, LLC
PLEASANTS ENERGY, LLC
PUBLIC POWER, LLC, A CONNECTICUT LIMITED LIABILITY COMPANY
PUBLIC POWER, LLC, A PENNSYLVANIA LIMITED LIABILITY COMPANY
PUBLIC POWER & UTILITY OF MARYLAND, LLC
PUBLIC POWER & UTILITY OF NY, INC. REGIONAL ENERGY HOLDINGS,
INC. RICHLAND-STRYKER GENERATION LLC SANDOW POWER
COMPANY LLC SAYREVILLE POWER GENERATION LP SAYREVILLE
POWER GP INC. SAYREVILLE POWER HOLDINGS LLC SITHE ENERGIES,
INC. SITHE/INDEPENDENCE LLC
SOUTHWESTERN ELECTRIC SERVICE COMPANY, INC.
TEXAS ELECTRIC SERVICE COMPANY, INC. TEXAS ENERGY INDUSTRIES
COMPANY, INC. TEXAS POWER & LIGHT COMPANY, INC. TEXAS UTILITIES
COMPANY, INC.
TEXAS UTILITIES ELECTRIC COMPANY, INC. TRIEAGLE 1, LLC
TRIEAGLE 2, LLC TRIEAGLE ENERGY LP

**TRINIDAD POWER STORAGE LLC TXU ELECTRIC COMPANY, INC.
TXU ENERGY RETAIL COMPANY LLC TXU RETAIL SERVICES
COMPANY UPTON COUNTY SOLAR 2, LLC VALUE BASED BRANDS
LLC VIRIDIAN ENERGY, LLC
VIRIDIAN ENERGY NY, LLC VIRIDIAN ENERGY PA LLC
VIRIDIAN INTERNATIONAL MANAGEMENT LLC
VIRIDIAN NETWORK, LLC VISTRA ASSET COMPANY LLC
VISTRA CORPORATE SERVICES COMPANY VISTRA EP PROPERTIES
COMPANY VISTRA FINANCE CORP.
VISTRA INSURANCE SOLUTIONS LLC VISTRA PREFERRED INC.
VISTRA ZERO LLC
VOLT ASSET COMPANY, INC. WASHINGTON POWER GENERATION, LLC
WISE COUNTY POWER COMPANY, LLC WISE-FUELS PIPELINE, INC.
ZIMMER POWER COMPANY LLC, as Subsidiary Guarantors**

By: /s/ Kristopher E. Moldovan Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

SCHEDULE 1

2022-B New Revolving Loan Lender	Type of Commitment	Amount
BNP Paribas	2022-B New Revolving Credit Commitment	\$100,000,000.00
Truist Bank	2022-B New Revolving Credit Commitment	\$100,000,000.00
TOTAL:	N/A	\$200,000,000.00

THIRD AMENDMENT TO CREDIT AGREEMENT

This THIRD AMENDMENT TO CREDIT AGREEMENT, dated as of June 8, 2022 (including the annexes, schedules, exhibits and other attachments hereto, this “Third Amendment”), by and among Vistra Operations Company LLC, a Delaware limited liability company (the “Borrower”), Vistra Intermediate Company LLC, a Delaware limited liability company (“Holdings”), the other Credit Parties (as defined in the Credit Agreement referred to below) party hereto, the financial institutions providing 2022-C New Revolving Credit Commitments (as defined below) (each, a “2022-C New Revolving Loan Lender”) and Citibank, N.A., as Administrative Agent and as Collateral Agent. Capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Credit Agreement (as defined below) as modified hereby.

RECITALS:

WHEREAS, reference is hereby made to the Credit Agreement, dated as of February 4, 2022 (as amended by the First Amendment to Credit Agreement, dated as of May 5, 2022 (the “First Amendment”), as further amended by the Second Amendment to Credit Agreement, dated as of May 26, 2022 (the “Second Amendment”) and as further amended, restated, amended and restated, supplemented and/or otherwise modified from time to time prior to the Third Amendment Effective Date referred to below, the “Credit Agreement”), among Holdings, the Borrower, the Lenders party thereto, the Administrative Agent, the Collateral Agent and the other parties named therein;

WHEREAS, the Borrower intends to amend the Credit Agreement to establish additional Revolving Credit Commitments (which establishment was approved by the Required Lenders in the First Amendment) by, among other things, entering into this Third Amendment with the Administrative Agent and the 2022-C New Revolving Loan Lenders as set forth herein, subject to the terms and conditions hereof and the Credit Agreement (as modified hereby);

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

A. Amendments to Credit Agreement.

1. Amendments to the Credit Agreement. Effective as of the Third Amendment Effective Date, and subject to the terms and conditions set forth herein, the Credit Agreement is hereby amended as follows:

- (a) Section 1.1 of the Credit Agreement is hereby amended by adding the following definitions in appropriate alphabetical order:

“**Third Amendment**” means that certain Third Amendment, dated as of Third Amendment Effective Date, among Holdings, the Borrower, the other Credit Parties, the Administrative Agent, the Collateral Agent, the Lenders party thereto and the various other parties party thereto.

“**Third Amendment Effective Date**” shall have the meaning provided in the Third Amendment.

- (b) The definition of “**Joint Lead Arrangers**” appearing in Section 1.1 of the Credit Agreement is hereby amended by deleting said definition in its entirety and inserting the following new definition in lieu thereof:

“**Joint Lead Arrangers**” shall mean (a) Citibank, N.A., Barclays Bank PLC, BMO Capital Markets Corp., BNP Paribas Securities Corp., Credit Agricole Corporate and Investment Bank, Credit Suisse Loan Funding LLC, Goldman Sachs Bank USA, JPMorgan Chase Bank, N.A., Mizuho Bank, Ltd., Morgan Stanley Senior Funding, Inc., MUFG Bank, Ltd., Natixis, New York Branch and Royal Bank of Canada, as joint lead arrangers and joint bookrunners for the Lenders under this Agreement and the other Credit Documents, (b) Citibank, N.A., as lead arranger and bookrunner with respect to the First Amendment and the transactions contemplated thereby and (c) Citibank, N.A., as lead arranger and bookrunner

with respect to the Second Amendment and the Third Amendment and the transactions contemplated thereby.

- (c) The definition of “**Revolving Credit Commitment**” appearing in Section 1.1 of the Credit Agreement is hereby amended by deleting said definition in its entirety and inserting the following new definition in lieu thereof:

“**Revolving Credit Commitment**” shall mean, (a) with respect to each Lender on the Third Amendment Effective Date, the amount set forth opposite such Lender’s name on Schedule 1.1(a) (as amended by the Third Amendment) as such Lender’s “Revolving Credit Commitment” and (b) in the case of any Lender that becomes a Lender after the Third Amendment Effective Date, the amount specified as such Lender’s “Revolving Credit Commitment” in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total Revolving Credit Commitment, in each case as such Revolving Credit Commitment may be changed from time to time pursuant to the terms hereof, the terms of the First Amendment, the terms of the Second Amendment or the terms of the Third Amendment. On the Closing Date and prior to the First Amendment Effective Date, the aggregate amount of the Revolving Credit Commitments of all Lenders was \$1,000,000,000. On the First Amendment Effective Date and prior to the Second Amendment Effective Date, the aggregate amount of the Revolving Credit Commitments of all Lenders was \$2,000,000,000. On the Second Amendment Effective Date and prior to the Third Amendment Effective Date, the aggregate amount of the Revolving Credit Commitments of all Lenders was \$2,200,000,000. On the Third Amendment Effective Date, the aggregate amount of the Revolving Credit Commitments of all Lenders is \$2,250,000,000.

- (d) Section 2.11 of the Credit Agreement is hereby amended by deleting the last sentence thereof in its entirety and inserting the following new sentence in lieu thereof:

For the avoidance of doubt, the reallocation of SOFR Loans on the Second Amendment Effective Date and Third Amendment Effective Date as contemplated by the Second Amendment and Third Amendment, respectively, shall not require the payment of any compensation under this Section 2.11.

B. Special Provisions Applicable to Revolving Credit Commitments.

1. Each 2022-C New Revolving Loan Lender acknowledges and agrees that upon its execution of this Third Amendment and the provision of its 2022-C New Revolving Credit Commitment that such 2022-C New Revolving Loan Lender shall be (or become) a “Revolving Credit Lender” and a “Lender” with respect to 2022-C New Revolving Credit Commitments (as defined below) under, and for all purposes of, the Credit Agreement and the other Credit Documents (in each case, as modified hereby), and shall be subject to and bound by the terms thereof, and shall perform all the obligations of and shall have all rights of a Revolving Credit Lender and a Lender thereunder.

2. Each 2022-C New Revolving Loan Lender hereby agrees to provide additional Revolving Credit Commitments (and make Revolving Credit Loans) in the aggregate principal amount set forth opposite such 2022-C New Revolving Loan Lender’s name on Schedule I annexed hereto (such additional Revolving Credit Commitments, the “2022-C New Revolving Credit Commitments”), on the terms and subject to the conditions set forth below and in the Credit Agreement (as modified hereby) (the “2022-C Revolving Commitment Increase”), which shall constitute an increase to the existing Revolving Credit Commitments.

3. Each 2022-C New Revolving Loan Lender (i) confirms that it has received a copy of the Credit Agreement and the other Credit Documents and the schedules and exhibits thereto (in each case, as modified hereby), together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Third Amendment; (ii) agrees 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 decisions in taking or not taking action under the Credit Agreement (as modified hereby); (iii) appoints and authorizes each Agent to take such action as agent on its behalf and to exercise such powers under the Credit Agreement and the other Credit Documents (in each case, as modified hereby) as are delegated to such Agent by the terms thereof, together with such powers as are reasonably incidental thereto; and (iv) agrees that it will perform in accordance with their

terms all of the obligations which by the terms of the Credit Agreement (as modified hereby) are required to be performed by it as a Revolving Credit Lender.

4. The parties hereto hereby agree that, on the Third Amendment Effective Date, (i) the Total Revolving Credit Commitment shall increase by the aggregate amount of the 2022-C New Revolving Credit Commitments of the 2022-C New Revolving Loan Lenders provided hereunder and (ii) the Borrower and the Administrative Agent, as the case may be, shall be permitted to take all actions that are, in their reasonable discretion, necessary or advisable to consummate the transactions contemplated by this Third Amendment (including any prepayments and reborrowings (or deemed prepayments and reborrowings) of Revolving Credit Loans requested by the Administrative Agent after giving effect to the 2022-C Revolving Commitment Increase). For the avoidance of doubt, each of the Revolving Credit Lenders with an existing Revolving Credit Commitment on the Third Amendment Effective Date prior to giving effect to this Third Amendment shall automatically and without further act be deemed to have assigned to each 2022-C New Revolving Loan Lender with a 2022-C New Revolving Credit Commitment, and each of such 2022-C New Revolving Loan Lenders shall automatically and without further act be deemed to have purchased and assumed, at the principal amount thereof, such interests in the Revolving Credit Loans on the Third Amendment Effective Date as shall be necessary in order that, after giving effect to all such assignments and assumptions, the Revolving Credit Loans will be held by all Revolving Credit Lenders (including the 2022-C New Revolving Loan Lenders) ratably in accordance with their respective Revolving Credit Commitments after giving effect to the 2022-C Revolving Commitment Increase (and the Administrative Agent and the Lenders party hereto hereby agree that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to this clause (a)).

5. Substantially simultaneously with the effectiveness of the 2022-C New Revolving Credit Commitments, Schedule 1.1(a) to the Credit Agreement shall be amended and restated in its entirety as follows:

Revolving Credit Commitments

<u>Revolving Credit Lender</u>	<u>Revolving Credit Commitment</u>
Citibank, N.A.	\$185,000,000
Bank of Montreal, Chicago Branch	\$184,000,000
Barclays Bank PLC	\$184,000,000
BNP Paribas	\$184,000,000
Credit Agricole Corporate and Investment Bank	\$184,000,000
Credit Suisse AG, New York Branch	\$184,000,000
Goldman Sachs Bank USA	\$184,000,000
JPMorgan Chase Bank, N.A.	\$84,000,000
Mizuho Bank, Ltd.	\$184,000,000
Morgan Stanley Senior Funding, Inc.	\$144,000,000
Morgan Stanley Bank, N.A.	\$40,000,000
MUFG Bank, Ltd.	\$125,000,000
Natixis, New York Branch	\$100,000,000
Royal Bank of Canada	\$184,000,000
Truist Bank	\$100,000,000
TOTAL:	\$2,250,000,000

6. The 2022-C New Revolving Credit Commitments shall (i) become a part of the existing class of Revolving Credit Commitments for all purposes of the Credit Agreement and the other Credit Documents (in each case, as modified hereby) and (ii) together with all related Revolving Credit Exposure, be subject to the same prepayment provisions, Revolving Credit Termination Date and other

terms and conditions applicable to the existing Revolving Credit Commitments and Revolving Credit Loans under the Credit Agreement and the other Credit Documents (in each case, as modified hereby).

C. Conditions Precedent. This Third Amendment shall become effective as of the first date (the “Third Amendment Effective Date”) when each of the conditions set forth in this Section C shall have been satisfied:

1. The Administrative Agent shall have received duly executed counterparts hereof that, when taken together, bear the signatures of (a) the Borrower, (b) each of the other Credit Parties, (c) the Administrative Agent and the Collateral Agent and (d) each 2022-C New Revolving Loan Lender.

2. The Administrative Agent shall have received a customary legal opinion of (a) Sidley Austin LLP, counsel to the Credit Parties and (b) Yuki Whitmire, Associate General Counsel of Vistra Energy Corp., in each case, addressed to the Administrative Agent, the Collateral Agent and each Revolving Credit Lender party to the Credit Agreement (as modified hereby) as of the Third Amendment Effective Date, in each case, dated as of the Third Amendment Effective Date and in form and substance reasonably satisfactory to the Administrative Agent.

3. The Administrative Agent shall have received (w) a certificate from the Chief Financial Officer or Senior Vice President and Treasurer of the Borrower, dated the Third Amendment Effective Date, substantially in the form of the certificate provided pursuant to Section 6.9 of the Credit Agreement (with appropriate adjustments to reflect the 2022-C Revolving Commitment Increase) and certifying that, immediately after giving effect to this Third Amendment and the 2022-C Revolving Commitment Increase and the other transactions contemplated hereby, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent, (x) a certificate of good standing (or subsistence) with respect to each Credit Party from the Secretary of State (or similar official) of the State of such Credit Party’s organization, (y) a closing certificate executed by an Authorized Officer of the Borrower, dated the Third Amendment Effective Date, certifying as to the accuracy (with respect to clauses (a), (b) and (c) of Section D.2 of this Third Amendment, in all material respects) of the matters set forth in Section D.2 of this Third Amendment and (z) a certificate executed by an Authorized Officer of the Borrower, dated the Third Amendment Effective Date, certifying as to the incumbency and specimen signature of each officer of a Credit Party executing this Third Amendment or any other document delivered in connection herewith on behalf of any Credit Party and attaching (A) a true and complete copy of the certificate of incorporation (or other applicable charter document) of each Credit Party, including all amendments thereto, as in effect on the Third Amendment Effective Date, certified as of a recent date by the Secretary of State (or analogous official) of the jurisdiction of its organization, that has not been amended since the date of the last amendment thereto shown on the certificate of good standing furnished pursuant to clause (x) above, (B) a true and complete copy of the by-laws (or other applicable operating agreements) of each Credit Party as in effect on the Third Amendment Effective Date and (C) a true and complete copy of resolutions duly adopted or written consents duly executed by the board of directors (or equivalent governing body or any committee thereof) of each Credit Party authorizing the execution, delivery and performance of this Third Amendment, the performance of the Credit Agreement and the other Credit Documents (in each case, as modified hereby), the transactions contemplated by this Third Amendment and certifying that such resolutions or written consents have not been modified, rescinded or amended and are in full force and effect. Notwithstanding the foregoing, the conditions set forth in clauses (z)(A) and (z)(B) of the immediately preceding sentence may be satisfied by a certification of an Authorized Officer of the Borrower certifying that there have been no changes to the applicable Organizational Documents since the versions thereof previously delivered to the Administrative Agent.

4. No Default or Event of Default shall have occurred and be continuing (both immediately before and immediately after giving effect to this Third Amendment and the transactions contemplated hereby).

5. The Administrative Agent shall have received a certificate, dated as of the Third Amendment Effective Date and executed by an Authorized Officer of the Borrower, certifying that the condition in Section C.4 above has been satisfied on such date.

6. The Administrative Agent shall have received, at least two Business Days prior to the Third Amendment Effective Date, all documentation and other information with respect to the Credit Parties that is requested by the Administrative Agent or a Lender and is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the

Patriot Act, in each case to the extent reasonably requested in writing at least 5 Business Days prior to the Third Amendment Effective Date by the Administrative Agent or the Lenders.

7. The Borrower shall pay (i) all then-accrued and outstanding interest with respect to all outstanding Revolving Credit Loans immediately prior to such incurrence and (ii) all then-accrued and outstanding Revolving Credit Commitment Fees immediately prior to such incurrence, in each case, irrespective of whether such accrued amounts are otherwise then due and payable by the terms of the Credit Agreement.

8. The Borrower shall, to the extent invoiced prior to the Third Amendment Effective Date, reimburse or pay all reasonable and documented out-of-pocket expenses in connection with this Third Amendment and any other reasonable and documented out-of-pocket expenses of the Agents, excluding the reasonable fees, charges and disbursements of counsel for the Agents as required to be paid or reimbursed pursuant to the Credit Agreement, which shall be paid on a post-closing basis.

D. Other Terms.

1. **Credit Agreement Governs.** Except as expressly set forth in this Third Amendment, the 2022-C New Revolving Credit Commitments shall otherwise be subject to the provisions of the Credit Agreement and the other Credit Documents (in each case, as modified hereby).

2. **Credit Party Certifications.** By execution of this Third Amendment, each Credit Party hereby certifies, solely with respect to itself and on behalf of the applicable Credit Party and not in his/her individual capacity, that as of the Third Amendment Effective Date:

(a) such Credit Party has the corporate or other organizational power and authority to execute and deliver this Third Amendment and carry out the terms and provisions of this Third Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby) and has taken all necessary corporate or other organizational action to authorize the execution and delivery of this Third Amendment and performance of this Third Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby);

(b) such Credit Party has duly executed and delivered this Third Amendment and each of this Third Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby) constitutes the legal, valid and binding obligation of such Credit Party enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization and other similar laws relating to or affecting creditors' rights generally and general principles of equity (whether considered in a proceeding in equity or law) (provided that, with respect to the creation and perfection of security interests with respect to Indebtedness, Stock and Stock Equivalents of Foreign Subsidiaries, only to the extent the creation and perfection of such obligation is governed by the Uniform Commercial Code);

(c) none of the execution and delivery by such Credit Party of this Third Amendment, the performance by such Credit Party of this Third Amendment and the Credit Agreement and the other Credit Documents (in each case, as modified hereby) or the compliance with the terms and provisions hereof or thereof or the consummation of the transactions contemplated hereby will (a) contravene any applicable provision of any material Applicable Law (including material Environmental Laws) other than any contravention which would not reasonably be expected to result in a Material Adverse Effect, (b) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any Lien upon any of the property or assets of Holdings, the Borrower or any Restricted Subsidiary (other than Liens created under the Credit Documents, Permitted Liens or Liens subject to an intercreditor agreement permitted hereby or the Collateral Trust Agreement) pursuant to the terms of any material indenture, loan agreement, lease agreement, mortgage, deed of trust or other material debt agreement or instrument to which Holdings, the Borrower or any Restricted Subsidiary is a party or by which it or any of its property or assets is bound other than any such breach, default or Lien that would not reasonably be expected to result in a Material Adverse Effect, or (c) violate any provision of the Organizational Documents of such Credit Party;

(d) the representations and warranties of such Credit Party contained in the Credit Agreement and the other Credit Documents (in each case, as modified hereby) are true and

correct in all material respects on and as of the Third Amendment Effective Date (both before and after giving effect thereto) to the same extent as though made on and as of the Third Amendment Effective Date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date;

(e) no Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated hereby; and

(f) the Borrower falls under an express exclusion from the “legal entity customer” definition under 31 C.F.R. §1010.230(e)(2) and the applicable exclusion is 31 C.F.R. §1020.315(b)(5).

3. Notice. For purposes of the Credit Agreement, the initial notice address of any new Revolving Credit Lender shall be as set forth in the Administrative Questionnaire provided to the Administrative Agent by such new Revolving Credit Lender.

4. Recordation of the New Commitments and Loans. On the Third Amendment Effective Date (promptly after giving effect thereto), the Administrative Agent will record the 2022-C New Revolving Credit Commitments provided by each 2022-C New Revolving Loan Lender (and related Revolving Credit Loans) (and the Administrative Agent will take into account and make an appropriate record of the amended and restated schedule of Revolving Credit Commitments set forth in Section B.5 of this Third Amendment), in each case, in the Register.

5. Amendment, Modification and Waiver. This Third Amendment may not be amended, modified or waived except by an instrument or instruments in writing signed and delivered in accordance with the provisions of Section 13.1 of the Credit Agreement.

6. Entire Agreement. This Third Amendment, the Credit Agreement (as modified hereby) and the other Credit Documents constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all other prior agreements and understandings, both written and verbal, among the parties or any of them with respect to the subject matter hereof.

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

8. Severability. Any term or provision of this Third Amendment which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Third Amendment or affecting the validity or enforceability of any of the terms or provisions of this Third Amendment in any other jurisdiction. If any provision of this Third Amendment is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as would be enforceable.

9. Counterparts. This Third Amendment may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by fax or other electronic transmission of an executed counterpart of a signature page to this Third Amendment shall be effective as delivery of an original executed counterpart of this Third Amendment and the words “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Third Amendment 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 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. The Administrative Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit

the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

10. Submission to Jurisdiction. Each party hereto irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Third Amendment and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America 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 such Person at such address of which the Administrative Agent shall have been notified pursuant to Section 13.2 of the Credit Agreement;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction;

(e) subject to the last paragraph of Section 13.5 of the Credit Agreement, waives, to the maximum extent not prohibited by Applicable Law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section D.10 any special, exemplary, punitive or consequential damages; and

(f) agrees that a final judgment in any action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Applicable Law.

11. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS THIRD AMENDMENT AND FOR ANY COUNTERCLAIM THEREIN.

12. Reaffirmation. By executing and delivering a counterpart hereof, (i) each Credit Party hereby agrees that, as of the Third Amendment Effective Date and after giving effect to this Third Amendment and the transactions contemplated hereby, all Obligations of the Borrower (including, without limitation, the Revolving Credit Exposure with respect to the 2022-C New Revolving Credit Commitments) shall be guaranteed pursuant to the Guarantee in accordance with the terms and provisions thereof and shall be secured pursuant to the Security Documents in accordance with the terms and provisions thereof; (ii) each Credit Party hereby (A) agrees that, notwithstanding the effectiveness of this Third Amendment, as of the Third Amendment Effective Date and after giving effect thereto, the Security Documents continue to be in full force and effect, (B) agrees that, as of the Third Amendment Effective Date and after giving effect to this Third Amendment and the transactions contemplated hereby, all of the Liens and security interests created and arising under each Security Document to which it is a party remain in full force and effect on a continuous basis, and the perfected status and priority of each such Lien and security interest continues in full force and effect on a continuous basis, unimpaired, uninterrupted and undischarged, as collateral security for its Obligations under the Credit Documents (as modified hereby) to which it is a party, in each case, to the extent provided in, and subject to the limitations and qualifications set forth in, such Credit Documents (as modified hereby) and (C) affirms and confirms all of its obligations and liabilities under the Credit Agreement and each other Credit Document (as modified hereby) to which it is a party, in each case after giving effect to this Third Amendment and the transactions contemplated hereby, including its guarantee of the Obligations and the pledge of and/or grant of a security interest in its assets as Collateral pursuant to the Security Documents (as modified hereby) to which it is a party to secure such Obligations, all as provided in the Security Documents (as modified hereby), and acknowledges and agrees that, as of the Third Amendment Effective Date, such obligations, liabilities, guarantee, pledge and grant continue in full force and effect in respect of, and to secure, such Obligations under the Credit Agreement and the other Credit Documents,

in each case after giving effect to this Third Amendment and the incurrence of the 2022-C Revolving Commitment Increase effected hereby and the other transactions contemplated hereby; and (iii) each Guarantor agrees that nothing in the Credit Agreement, this Third Amendment or any other Credit Document shall be deemed to require the consent of such Guarantor to any future amendment to the Credit Agreement. This Third Amendment shall not extinguish the obligations of the parties outstanding under the Security Documents or discharge, release or otherwise change the priority of any Lien on any Collateral pursuant to any of the Security Documents. Nothing herein contained shall be construed as a substitution or novation of the obligations, guarantees and liabilities outstanding under the Security Documents, and it is the intent of the parties hereto to confirm that all of the respective obligations of each of the Borrower and each other Credit Party under the Security Documents to which it is a party shall continue in full force and effect.

13. Miscellaneous. This Third Amendment shall constitute a Credit Document for all purposes of the Credit Agreement and the other Credit Documents (in each case, as modified hereby). The provisions of Section B of this Third Amendment are deemed incorporated as of the Third Amendment Effective Date into the Credit Agreement as if fully set forth therein. Except as specifically modified by this Third Amendment, (i) the Credit Agreement and the other Credit Documents shall remain in full force and effect and (ii) the execution, delivery and performance of this Third Amendment shall not constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of any Agent or Lender under, the Credit Agreement or any of the other Credit Documents.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, each of the undersigned has caused its duly authorized officer to execute and deliver this Third Amendment as of the date first set forth above.

CITIBANK, N.A., as Administrative Agent, Collateral Agent

By: /s/ Ashwani Khubani Name: Ashwani Khubani
Title: Managing Director / Authorized Signatory

[Signature Page to Third Amendment]

NATIXIS, NEW YORK BRANCH, as a 2022-C
New Revolving Loan Lender

By: /s/ Marilyn Zamuz
Name: Marilyn Zamuz Title: Director

By: /s/ Elizabeth West Name: Elizabeth West Title: Vice
President

VISTRA OPERATIONS COMPANY LLC, as
Borrower

By: /s/ Kristopher E. Moldovan Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

VISTRA INTERMEDIATE COMPANY LLC, as
Holdings

By: /s/ Kristopher E. Moldovan Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

AMBIT CALIFORNIA, LLC AMBIT ENERGY HOLDINGS, LLC
AMBIT HOLDINGS, LLC
AMBIT ILLINOIS, LLC AMBIT MARKETING, LLC AMBIT
MIDWEST, LLC AMBIT NEW YORK, LLC AMBIT
NORTHEAST, LLC AMBIT TEXAS, LLC ANGUS SOLAR, LLC
BELLINGHAM POWER GENERATION LLC BIG BROWN POWER COMPANY
LLC
BIG SKY GAS, LLC
BIG SKY GAS HOLDINGS, LLC BLACKSTONE POWER GENERATION LLC
BLUENET HOLDINGS, LLC
BRIGHTSIDE SOLAR, LLC CALUMET ENERGY TEAM, LLC
CASCO BAY ENERGY COMPANY, LLC CINCINNATI BELL ENERGY LLC
COFFEEN AND WESTERN RAILROAD
COMPANY
COLETO CREEK ENERGY STORAGE LLC COLETO CREEK POWER, LLC
COMANCHE PEAK POWER COMPANY LLC CORE SOLAR SPV I, LLC
CRIUS ENERGY CORPORATION CRIUS ENERGY, LLC
CRIUS SOLAR FULFILLMENT, LLC DALLAS POWER & LIGHT COMPANY,
INC. DICKS CREEK POWER COMPANY LLC DYNEGY COAL HOLDCO, LLC
DYNEGY COAL TRADING & TRANSPORTATION, L.L.C.
DYNEGY CONESVILLE, LLC
DYNEGY ENERGY SERVICES (EAST), LLC DYNEGY ENERGY SERVICES,
LLC DYNEGY KILLEN, LLC
DYNEGY MARKETING AND TRADE, LLC DYNEGY MIDWEST GENERATION,
LLC DYNEGY OPERATING COMPANY
DYNEGY POWER MARKETING, LLC DYNEGY RESOURCES GENERATING
HOLDCO, LLC
DYNEGY SOUTH BAY, LLC DYNEGY STUART, LLC EMERALD
GROVE SOLAR, LLC ENERGY REWARDS, LLC ENNIS POWER
COMPANY, LLC

**EQUIPOWER RESOURCES CORP. EVERYDAY ENERGY, LLC
EVERYDAY ENERGY NJ, LLC FAYETTE POWER COMPANY LLC
FOREST GROVE SOLAR LLC GENERATION SVC COMPANY
HALLMARK SOLAR, LLC
HANGING ROCK POWER COMPANY LLC HAYS ENERGY, LLC
HOPEWELL POWER GENERATION, LLC ILLINOIS POWER GENERATING
COMPANY ILLINOIS POWER MARKETING COMPANY ILLINOIS POWER
RESOURCES GENERATING,
LLC
ILLINOIS POWER RESOURCES, LLC ILLINOVA CORPORATION
IPH, LLC
KENDALL POWER COMPANY LLC KINCAID GENERATION, L.L.C.
LA FRONTERA HOLDINGS, LLC
LAKE ROAD GENERATING COMPANY, LLC LIBERTY ELECTRIC POWER, LLC
LONE STAR ENERGY COMPANY, INC. LONE STAR PIPELINE COMPANY,
INC. LUMINANT ADMINISTRATIVE SERVICES
COMPANY
LUMINANT COAL GENERATION LLC LUMINANT COMMERCIAL ASSET
MANAGEMENT LLC
LUMINANT ENERGY COMPANY LLC LUMINANT ENERGY TRADING
CALIFORNIA
COMPANY
LUMINANT ET SERVICES COMPANY LLC LUMINANT GAS IMPORTS LLC
LUMINANT GENERATION COMPANY LLC
LUMINANT MINING COMPANY LLC LUMINANT POWER GENERATION
INC. LUMINANT POWER LLC
MASSPOWER, LLC
MIAMI FORT POWER COMPANY LLC MIDLOTHIAN ENERGY, LLC
MILFORD POWER COMPANY, LLC
MORRO BAY ENERGY STORAGE 1, LLC MORRO BAY ENERGY STORAGE 2,
LLC MORRO BAY POWER COMPANY LLC MOSS LANDING ENERGY
STORAGE 1, LLC MOSS LANDING ENERGY STORAGE 2, LLC MOSS
LANDING ENERGY STORAGE 3, LLC**

MOSS LANDING ENERGY STORAGE 4, LLC MOSS LANDING POWER
COMPANY LLC
NCA RESOURCES DEVELOPMENT COMPANY LLC
NEPCO SERVICES COMPANY NORTHEASTERN POWER COMPANY
OAK GROVE MANAGEMENT COMPANY LLC OAK HILL SOLAR LLC
OAKLAND ENERGY STORAGE 1, LLC OAKLAND ENERGY STORAGE 2, LLC
OAKLAND ENERGY STORAGE 3, LLC OAKLAND POWER COMPANY LLC
ONTELAUNEE POWER OPERATING
COMPANY, LLC
PLEASANTS ENERGY, LLC
PUBLIC POWER, LLC, A CONNECTICUT LIMITED LIABILITY COMPANY
PUBLIC POWER, LLC, A PENNSYLVANIA LIMITED LIABILITY COMPANY
PUBLIC POWER & UTILITY OF MARYLAND, LLC
PUBLIC POWER & UTILITY OF NY, INC. REGIONAL ENERGY HOLDINGS,
INC. RICHLAND-STRYKER GENERATION LLC SANDOW POWER
COMPANY LLC SAYREVILLE POWER GENERATION LP SAYREVILLE
POWER GP INC. SAYREVILLE POWER HOLDINGS LLC SITHE ENERGIES,
INC. SITHE/INDEPENDENCE LLC
SOUTHWESTERN ELECTRIC SERVICE COMPANY, INC.
TEXAS ELECTRIC SERVICE COMPANY, INC. TEXAS ENERGY INDUSTRIES
COMPANY, INC. TEXAS POWER & LIGHT COMPANY, INC. TEXAS UTILITIES
COMPANY, INC.
TEXAS UTILITIES ELECTRIC COMPANY, INC. TRIEAGLE 1, LLC
TRIEAGLE 2, LLC TRIEAGLE ENERGY LP
TRINIDAD POWER STORAGE LLC TXU ELECTRIC COMPANY, INC.
TXU ENERGY RETAIL COMPANY LLC TXU RETAIL SERVICES
COMPANY UPTON COUNTY SOLAR 2, LLC VALUE BASED BRANDS
LLC VIRIDIAN ENERGY, LLC
VIRIDIAN ENERGY NY, LLC VIRIDIAN ENERGY PA LLC

VIRIDIAN INTERNATIONAL MANAGEMENT LLC
VIRIDIAN NETWORK, LLC VISTRA ASSET COMPANY LLC
VISTRA CORPORATE SERVICES COMPANY VISTRA EP PROPERTIES
COMPANY VISTRA FINANCE CORP.
VISTRA INSURANCE SOLUTIONS LLC VISTRA PREFERRED INC.
VISTRA ZERO LLC
VOLT ASSET COMPANY, INC. WASHINGTON POWER GENERATION, LLC
WISE COUNTY POWER COMPANY, LLC WISE-FUELS PIPELINE, INC.
ZIMMER POWER COMPANY LLC, as Subsidiary Guarantors

/s/ Kristopher E. Moldovan
Name: Kristopher E. Moldovan
Title: Senior Vice President and Treasurer

SCHEDULE 1

2022-C New Revolving Loan Lender	Type of Commitment	Amount
Natixis, New York Branch	2022-C New Revolving Credit Commitment	\$50,000,000.00
TOTAL:	N/A	\$50,000,000.00

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “Agreement”), dated as of May 5, 2022 (the “Effective Date”), is between Vistra Corp., Vistra Corporate Services Company (together, the “Company”), and Stephanie Zapata Moore (“Executive”).

Recitals:

WHEREAS, the Company and Executive previously entered into an employment agreement originally effective as of October 4, 2016 (the “Original Effective Date”); and

WHEREAS, the Company and Executive desire to amend and restate the employment agreement to reflect the terms upon which Executive shall continue to provide services to the Company.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and intending to be legally bound hereby, the parties to this Agreement hereby agree as follows:

1. Term.

(a) The term of Executive’s employment under this Agreement shall be effective as of the Effective Date, and shall continue until the three (3)-year anniversary of the Effective Date (the “Initial Expiration Date”); provided that on the Initial Expiration Date and each subsequent anniversary of the Initial Expiration Date, the term of Executive’s employment under this Agreement shall be extended for one (1) additional year unless either party provides written notice to the other party at least sixty (60) days prior to the Initial Expiration Date (or any such anniversary, as applicable) that Executive’s employment shall not be so extended (in which case, Executive’s employment shall terminate on the Initial Expiration Date or any such anniversary, as applicable); provided, however, that Executive’s employment under this Agreement may be terminated at any earlier time pursuant to the provisions of Section 5. The period of time from the Effective Date through the termination of this Agreement and Executive’s employment hereunder pursuant to its terms is herein referred to as the “Term”; and the date on which the Term is scheduled to expire (i.e., the Initial Expiration Date or the scheduled expiration of the extended term, if applicable) is herein referred to as the “Expiration Date.”

(b) Executive agrees and acknowledges that the Company has no obligation to extend the Term or to continue Executive’s employment following the Expiration Date, and Executive expressly acknowledges that no promises or understandings to the contrary have been made or reached.

2. Definitions. For purposes of this Agreement, the following terms, as used herein, shall have the definitions set forth below.

(a) “Affiliate” means, with respect to any specified Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such specified Person.

(b) “Change in Control” shall be deemed to occur upon any of the following events:

(i) the acquisition by any Person or related “group” (as such term is used in Sections 13(d) and 14(d) of the U.S. Securities Exchange Act of 1934, as amended, and any successor thereto (the “Exchange Act”)) of Beneficial Ownership (as defined in Rule 13d-3 promulgated under Section 13 of the Exchange Act) of 30% or more (on a fully diluted basis) of either (A) the then-outstanding shares of the common stock of the Company (the “Common Stock”), including Common Stock issuable upon the exercise of options or warrants, the conversion of convertible stock or debt, and the exercise of any similar right to acquire such Common Stock (the “Outstanding Company Common Stock”); or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote in the election of directors (the “Outstanding Company Voting Securities”); but excluding any acquisition by the Company or any of its Affiliates or by any employee benefit plan sponsored or maintained by the Company or any of its Affiliates;

(ii) a change in the composition of the Board such that members of the Board during any consecutive twelve (12)-month period (the “Incumbent Directors”) cease to constitute a majority of the Board. Any person becoming a director through election or nomination for election approved by a valid vote of at least two thirds of the Incumbent Directors shall be deemed an Incumbent Director; provided, however, that no individual becoming a director as a result of an actual or threatened election contest, as such terms are used in Rule 14a-12 of Regulation 14A promulgated under the Exchange Act, or as a result of any other actual or threatened solicitation of proxies or consents by or on behalf of any person other than the Board shall be deemed an Incumbent Director;

(iii) the approval by the shareholders of the Company of a plan of complete dissolution or liquidation of the Company; or

(iv) the consummation of a reorganization, recapitalization, merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company (a “Business Combination”), or sale, transfer or other disposition of all or substantially all of the business or assets of the Company to an entity that is not an Affiliate of the Company (a “Sale”), unless immediately following such Business Combination or Sale: (A) more than 50% of the total voting power of the entity resulting from such Business Combination or the entity that acquired all or substantially all of the business or assets of the Company in such Sale (in either case, the “Surviving Company”), or the ultimate parent entity that has Beneficial Ownership of sufficient voting power to elect a majority of the board of directors (or analogous governing body) of the Surviving Company (the “Parent Company”), is represented by the Outstanding Company Voting Securities that were outstanding immediately prior to such Business

Combination or Sale (or, if applicable, is represented by shares into which the Outstanding Company Voting Securities were converted pursuant to such Business Combination or Sale), and such voting power among the holders thereof is in substantially the same proportion as the voting power of the Outstanding Company Voting Securities among the holders thereof immediately prior to the Business Combination or Sale, (B) no Person or related group of Persons (other than any employee benefit plan sponsored or maintained by the Surviving Company or the Parent Company) is or becomes the beneficial owner, directly or indirectly, of 50% or more of the total voting power of the outstanding voting securities eligible to elect members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Surviving Company) and (C) at least a majority of the members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Surviving Company) following the consummation of the Business Combination or Sale were Board members at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination or Sale.

(c) "Cause" means (i) Executive's willful and continued failure to perform Executive's duties with the Company; (ii) Executive's willful and continued failure to follow and comply with the written policies of the Company as in effect from time to time; (iii) Executive's willful commission of an act of fraud or dishonesty resulting in economic or financial injury to the Company; (iv) Executive's willful engagement in illegal conduct or gross misconduct; (v) Executive's willful breach of this Agreement; or (vi) Executive's indictment for, conviction of, or a plea of guilty or nolo contendere to any felony or other crime involving moral turpitude. No act or failure to act will be treated as willful if it is done, or omitted to be done, by Executive in good faith and with a good faith belief that such act or omission was in the best interests of the Company.

(d) "Control" (including, with correlative meanings, the terms "Controlled by" and "under common Control with"), as used with respect to any Person, means the direct or indirect possession of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or by contract.

(e) "Disability," means Executive would be entitled to long-term disability benefits under the Company's long-term disability plan as in effect from time to time, without regard to any waiting or elimination period under such plan and assuming for the purpose of such determination that Executive is actually participating in such plan at such time. If the Company does not maintain a long-term disability plan, "Disability," means Executive's inability to perform Executive's duties and responsibilities hereunder on a full-time basis for a consecutive period of one hundred eighty (180) days due to physical or mental illness or incapacity that is determined to be total and permanent by a physician selected by the Company or its insurers and reasonably acceptable to Executive or Executive's legal representative.

(f) "Good Reason" means the occurrence, without the consent of Executive, of either of the following events: (i) any material diminution of, or modification to,

Executive's title, duties, responsibilities, authorities, or terms of employment set forth in Section 3 or (ii) any breach by the Company of any of its material obligations to Executive. Prior to resigning for Good Reason, Executive shall give written notice to the Company of the facts and circumstances claimed to provide a basis for such resignation not more than sixty (60) days following Executive's knowledge of such facts and circumstances, and the Company shall have ten (10) business days after receipt of such notice to cure (and if so cured, Executive shall not be permitted to resign for Good Reason in respect thereof) and Executive shall resign within ten (10) business days following the Company's failure to cure.

(g) "Person" means any individual, firm, corporation, partnership, limited liability company, trust, joint venture, association, unincorporated entity, or other entity.

3. Duties and Responsibilities. The Company employs Executive, and Executive accepts employment, subject to the terms and conditions contained herein, during the Term, as the Executive Vice President, General Counsel, and Chief Compliance Officer. During the Term, Executive agrees to be employed by and devote all of Executive's business time and attention to the Company and the promotion of its interests and to use Executive's best efforts to faithfully and diligently serve the Company; provided, however, that, to the extent that such activities do not significantly interfere with the performance of Executive's duties, services, and responsibilities under this Agreement, Executive shall be permitted to (a) manage Executive's personal, financial, and legal affairs, (b) serve on civic or charitable boards and committees of such boards and (c) to the extent approved by the Board of Directors of the Company (the "Board") pursuant to a duly authorized resolution of the Board, serve on corporate boards and committees of such boards. Executive will report to the Chief Executive Officer. Executive will perform such lawful duties and responsibilities as are commensurate with Executive's title and position, and such other duties and responsibilities commensurate with Executive's title and position as may be reasonably requested by the Chief Executive Officer and the Board from time to time. Executive will have the authority customarily exercised by an individual serving as an Executive Vice President of a corporation of the size and nature of the Company. Executive's place of employment will be in Irving, Texas.

4. Compensation and Related Matters. (a) Base Salary. During the Term, Executive shall receive an aggregate annual base salary ("Base Salary") at an initial rate of \$551,250.00, payable in accordance with the Company's applicable payroll practices. Base Salary shall be reviewed annually by the Board and increased (but not decreased) in the Board's sole discretion. References in this Agreement to Base Salary shall be deemed to refer to the most recently effective annual base salary rate.

(b) Annual Bonus. During the Term, Executive shall be eligible to receive a cash bonus (the "Annual Bonus") for each year (or portion thereof), provided that, except as otherwise provided herein, Executive has remained employed by the Company as of the applicable payment date. Executive's target bonus opportunity for any particular year (the "Target Bonus") shall be 75% of Base Salary, and Executive's maximum bonus opportunity shall be 200% of the Target Bonus. The Annual Bonus shall be subject to performance metrics approved by the Board based on key short-term objectives and shall be at the full discretion of

the Board. Any Annual Bonus shall be paid in the fiscal year following the fiscal year to which such Annual Bonus relates, at the same as annual bonuses are paid to all other senior executives.

(c) Equity Compensation. Executive shall be entitled to receive equity compensation awards as described in Exhibit A.

(d) Benefits and Perquisites. During the Term, Executive shall be entitled to participate in the benefit plans and programs and receive perquisites that are provided by the Company from time to time for its senior executives generally, subject to the terms and conditions of such plans and programs, as they may be amended from time to time, and commensurate with Executive's position. During the Term, Executive shall be entitled to up to \$15,000 per year for tax and financial planning.

(e) Business Expense Reimbursements. During the Term, the Company shall promptly reimburse Executive for Executive's reasonable and necessary business expenses in accordance with the Company's then-prevailing policies and procedures for expense reimbursement (which shall include appropriate itemization and substantiation of expenses incurred).

(f) Indemnification. The Company shall indemnify and hold harmless Executive, to the fullest extent permitted by law and the Company's governing documents, against all claims, expenses, damages, liabilities, and losses incurred by Executive (whether before or after the Original Effective Date) by reason of the fact that Executive is or was, or had agreed to become, a consultant, director, officer, employee, agent, or fiduciary of the Company or any of its subsidiaries or Affiliates or predecessors of any of the foregoing, or any benefit plan of any of the foregoing, or is or was serving at the request of the Company as a consultant, director, officer, partner, venturer, proprietor, trustee, employee, agent, fiduciary, or similar functionary of another corporation, partnership, joint venture, business, person, trust, employee benefit plan, or other entity. The Company shall provide Executive with customary directors' and officers' liability insurance coverage both during and after the Term with regard to matters occurring during employment or while otherwise providing services to, or serving at the request of, the Company or any of its subsidiaries or Affiliates, or any benefit plan of any of the foregoing, which coverage shall be at a level at least equal to the greatest level being maintained at such time for any current officer or director and shall continue until such time as suits can no longer be brought against Executive as a matter of law. Executive will be entitled to advancement of expenses in connection with any claim in the same manner and to the same extent to which any other officer or director of the Company is entitled. Notwithstanding the foregoing, the Company shall not be required to indemnify or advance expenses to Executive in connection with (i) any dispute in connection with this Agreement or Executive's employment hereunder; (ii) any action, claim, or proceeding initiated by Executive against the Company unless such action, claim, or proceeding is approved in advance by the Board in writing; or (iii) any liabilities, damages, claims or expenses incurred that are attributable to Executive's fraud, bad faith, willful misconduct, or gross negligence.

5. Termination of Employment. (a) Executive's employment under this Agreement may be terminated by either party at any time and for any reason; provided, however,

that Executive shall be required to give the Company at least sixty (60) days' advance written notice of any voluntary resignation of Executive's employment hereunder (other than resignation for Good Reason) (and in such event the Company in its sole discretion may elect to accelerate Executive's date of termination of employment, it being understood that such termination shall still be treated as a voluntary resignation without Good Reason for purposes of this Agreement). Notwithstanding the foregoing, Executive's employment shall terminate automatically upon Executive's death.

(b) Following any termination of Executive's employment under this Agreement, except as provided under Sections 5(c), 5(d), and 5(e), the obligations of the Company to pay or provide Executive with compensation and benefits under Section 4 shall cease, and the Company shall have no further obligations to provide compensation or benefits to Executive hereunder, except (i) for payment of any accrued but unpaid Base Salary and any accrued but unused vacation and for payment of any unreimbursed business expenses under Section 4(e), in each case accrued or incurred through the date of termination of employment, payable as soon as practicable and in all events within thirty (30) days following the date of termination of employment, (ii) as explicitly set forth in any other benefit plans, programs, or arrangements applicable to terminated employees in which Executive participates (including, without limitation, equity award agreements), other than severance plans or policies (including severance benefits following a Change in Control), and (iii) as otherwise expressly required by applicable law. For the avoidance of doubt, except as otherwise provided below, any Unpaid Annual Bonus (as defined below) is forfeited if Executive's employment is terminated for any reason.

(c) If Executive's employment under this Agreement is terminated (i) by the Company without Cause (other than due to death or Disability), (ii) by Executive for Good Reason, or (iii) due to expiration of the Term on the Expiration Date as a result of the Company delivering a notice of non-renewal as contemplated by Section 1, in addition to the payments and benefits specified in Section 5(b), Executive shall be entitled to receive: (i) severance pay in an aggregate amount (the "Severance Pay") equal to, two times (2x) the sum of (A) Base Salary plus (B) Target Bonus; (ii) a prorated Annual Bonus in respect of the fiscal year of termination equal to the product of (x) the amount of Annual Bonus that would have been payable to Executive had Executive's employment not so terminated based on actual performance measured through the fiscal year of termination, and (y) a fraction, the numerator of which is the number of days elapsed in the Company's fiscal year in which the termination occurs through such termination and the denominator of which is the number of days in such fiscal year (the "Prorated Bonus"); (iii) any accrued but unpaid Annual Bonus in respect of the fiscal year prior to the fiscal year of termination (the "Unpaid Annual Bonus"); and (iv) continued health insurance benefits under the terms of the applicable Company benefit plans for twenty-four (24) months, subject to Executive's payment of the cost of such benefits to the same extent that active employees of the Company are required to pay for such benefits from time to time; provided, however, that, such continuation coverage shall end earlier upon Executive's becoming eligible for comparable coverage under another employer's benefit plans; and provided, further, that, to the extent that the provision of such continuation coverage is not permitted under the terms of the Company benefit plans or would result in an adverse tax

consequence to the Company, the Company may alternatively provide Executive with a monthly cash payment in an amount equal to the applicable COBRA premium that Executive would otherwise be required to pay to obtain COBRA continuation coverage for such benefits for twenty-four (24) months (assuming that COBRA continuation coverage were available for such period) (minus the cost of such benefits to the same extent that active employees of the Company are required to pay for such benefits from time to time) (the “Healthcare Severance Benefits”), commencing as provided in Section 23(c). The Severance Pay shall be paid in equal installments during the twenty-four (24)-month period following Executive’s termination in accordance with the Company’s regular payroll practices, but no less frequently than monthly, and commencing as provided in Section 23(c) below. The Unpaid Annual Bonus shall be paid on the date bonuses are paid to other executives during the fiscal year of Executive’s termination and the Prorated Bonus shall be paid on the date bonuses are paid to other executives of the Company in the year following the fiscal year of Executive’s termination.

(d) Notwithstanding anything herein to the contrary, if at any time within eighteen (18) months following a Change in Control, Executive’s employment under this Agreement is terminated (i) by the Company without Cause (other than due to death or Disability), (ii) by Executive for Good Reason, or (iii) due to expiration of the Term on the Expiration Date as a result of the Company delivering a notice of non-renewal as contemplated by Section 1, then Executive, in lieu of any of the amounts and benefits described in Section 5(c) and in addition to the payments and benefits specified in Section 5(b), shall be entitled to receive (i) the Unpaid Annual Bonus, (ii) 2.99 times the sum of (A) Base Salary plus (B) Target Bonus (the “CIC Severance Pay”), (iii) the product of (x) the Target Bonus, and (y) a fraction, the numerator of which is the number of days elapsed in the Company’s fiscal year in which the termination occurs through such termination and the denominator of which is the number of days in such fiscal year (the “Prorated CIC Bonus”), and (iv) the Healthcare Severance Benefits for twenty-four (24) months (as described above and commencing as provided in Section 23(c)). The CIC Severance Pay and the Prorated CIC Bonus shall be paid in cash in a lump sum on the first payroll following the satisfaction of the Release Condition, subject to Section 23(c); provided, however, if the Change in Control does not constitute a “change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation” within the meaning of Section 409A(a)(2)(A)(v) of the Internal Revenue Code of 1986, as amended (the “Code”), the portion of the CIC Severance Pay that is not in excess of the Severance Pay that would have been payable upon such termination if Section 5(c) applied shall be paid to Executive in equal monthly installments during the twenty-four (24)-month period following Executive’s termination in accordance with the Company’s regular payroll practices, but no less frequently than monthly, and commencing as provided in Section 23(c) below, and the portion of the CIC Severance Pay in excess of such amount shall be paid to Executive in a lump sum sixty (60) days after the consummation of the Change in Control. The Unpaid Annual Bonus shall be paid on the date bonuses are paid to other executives during the fiscal year of Executive’s termination.

(e) If Executive’s employment under this Agreement is terminated due to death or Disability, in addition to the payments and benefits specified in Section 5(b), Executive shall be entitled to receive (i) the Prorated Bonus, paid on the date bonuses are paid to

other executives of the Company in the year following the fiscal year of Executive's termination, and (ii) the Unpaid Annual Bonus, paid on the date bonuses are paid to other executives of the Company in the fiscal year of Executive's termination.

(f) Executive's entitlement to the payments and benefits set forth in Sections 5(c) and 5(d) shall be conditioned upon Executive's having provided an irrevocable waiver and release of claims in favor of the Company, its Affiliates, their respective predecessors and successors, and all of the respective current or former directors, officers, employees, shareholders, partners, members, agents, or representatives of any of the foregoing (collectively, the "Released Parties"), substantially in the form attached hereto as Exhibit B (the "Release"), that has become effective in accordance with its terms within sixty (60) days following Executive's termination of employment (the "Release Condition"), and Executive's continued compliance with Sections 6 and 7 hereof.

(g) Upon termination of Executive's employment for any reason, and regardless of whether Executive continues as a consultant to the Company, upon the Company's request Executive agrees to resign, as of the date of such termination of employment or such other date requested, from the Board and any committees thereof, and, if applicable, from the board of directors (and any committees thereof) of any Affiliate of the Company to the extent Executive is then serving thereon. The Company's obligations to make the payments provided for in this Agreement are subject to set-off for any undisputed amounts owed by Executive, to the extent permitted by Section 409A (as defined below) and any Company clawback policy.

(h) The payment of any amounts accrued under any benefit plan, program, or arrangement in which Executive participates shall be subject to the terms of the applicable plan, program, or arrangement, and any elections Executive has made thereunder.

(i) Following any termination of Executive's employment, Executive shall have no obligation to seek other employment or take any other action by way of mitigation of the amounts payable to Executive under any of the provisions of this Agreement. There shall be no offset against amounts due Executive under this Agreement on account of any remuneration attributable to later employment, consultancy, or other remunerative activity of Executive.

6. Confidential Information.

(a) Executive acknowledges that the Company and its Affiliates continually develop Confidential Information (as defined below), that Executive may develop Confidential Information for the Company or its Affiliates and that Executive may learn of Confidential Information during the course of Executive's employment. Executive will comply with the policies and procedures of the Company and its Affiliates for protecting Confidential Information and shall not disclose to any Person or use, other than as required by applicable law or for the proper performance of Executive's duties and responsibilities to the Company and its Affiliates, any Confidential Information obtained by Executive incident to Executive's employment or other association with the Company or any of its Affiliates. Executive

understands that this restriction shall continue to apply after Executive's employment terminates, regardless of the reason for such termination.

(b) All documents, records, tapes, and other media of every kind and description relating to the business, present or otherwise, of the Company or its Affiliates and any copies, in whole or in part, thereof (the "Documents"), whether or not prepared by Executive, shall be the sole and exclusive property of the Company and its Affiliates. Executive shall safeguard all Documents and shall surrender to the Company at the time Executive's employment terminates, or at such earlier time or times as the Company may specify, all Documents then in Executive's possession or control. Executive shall immediately return such Documents and other property to the Company upon the termination of Executive's employment and, in any event, at the Company's request. Executive further agrees that any property situated on the premises of, and owned by, the Company or its Affiliates, including disks and other storage media, filing cabinets, or other work areas, is subject to inspection by the Company's personnel at any time with or without notice.

(c) Executive understands that, notwithstanding anything to the contrary contained herein, no provision of this Agreement will be interpreted so as to impede Executive (or any other individual) from (i) making any disclosure of relevant and necessary information or documents in any action, investigation, or proceeding relating to this Agreement, or as required by law or legal process, including with respect to possible violations of law, (ii) participating, cooperating, or testifying in any action, investigation, or proceeding with, or providing information to, any governmental agency, legislative body or any self-regulatory organization, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, (iii) accepting any U.S. Securities and Exchange Commission Awards, or (iv) making other disclosures under the whistleblower provisions of federal law or regulation. In addition, nothing in this Agreement or any other agreement or Company policy prohibits or restricts Executive from initiating communications with, or responding to any inquiry from, any administrative, governmental, regulatory or supervisory authority regarding any good faith concerns about possible violations of law or regulation. Executive does not need the prior authorization of the Company to make any such reports or disclosures and Executive will not be required to notify the Company that such reports or disclosures have been made.

(d) "Confidential Information" means any and all information of the Company and its Affiliates that is not generally known by others with whom they compete or do business, or with whom any of them plans to compete or do business and any and all information, publicly known in whole or in part or not, which, if disclosed by the Company or its Affiliates would assist in competition against them. Confidential Information includes, without limitation, such information relating to (i) the development, research, testing, manufacturing, marketing and financial activities of the Company and its Affiliates, (ii) all products planned, researched, developed, tested, manufactured, sold, licensed, leased or otherwise distributed or put into use by the Company and its Affiliates, together with all services provided or planned by the Company or any of its Affiliates, during Executive's employment, (iii) the costs, sources of supply, financial performance and strategic plans of the Company and its Affiliates, (iv) the

identity and special needs of the customers of the Company and its Affiliates and (v) the people and organizations with whom the Company and its Affiliates have business relationships and those relationships. Confidential Information also includes any information that the Company or any of its Affiliates have received, or may receive hereafter, belonging to customers or others with any understanding, express or implied, that the information would not be disclosed.

7. Restricted Activities. Executive agrees that some restrictions on Executive's activities during and after Executive's employment are necessary to protect the goodwill, Confidential Information, and other legitimate interests of the Company and its Affiliates. Following the Effective Date, the Company will provide Executive with access to and knowledge of Confidential Information and trade secrets and will place Executive in a position of trust and confidence with the Company, and Executive will benefit from the Company's goodwill. The restrictive covenants below are necessary to protect the Company's legitimate business interests in its Confidential Information, trade secrets and goodwill. Executive further understands and acknowledges that the Company's ability to reserve these for the exclusive knowledge and use of the Company is of great competitive importance and commercial value to the Company and that the Company would be irreparably harmed if Executive violates the restrictive covenants below. In recognition of the consideration provided to Executive as well as the imparting to Executive of Confidential Information, including trade secrets, and for other good and valuable consideration, Executive hereby agrees as follows:

(a) While Executive is employed by the Company and for twenty-four (24) months after Executive's employment terminates for any reason, whether before or after the Expiration Date (in the aggregate, the "Non-Competition Period"), Executive shall not, directly or indirectly, whether as owner, partner, investor (other than a passive investor of less than 5% in a publicly traded company), consultant, agent, employee, co-venturer, or otherwise, (i) compete with the business of the Company or any of its subsidiaries in any location where the Company or its subsidiaries conducts business (a "Competitive Business") or (ii) undertake any planning for any Competitive Business. With respect to the portion of the Non-Competition Period that follows Executive's termination of employment, the determination of whether a business is a Competitive Business shall be made based on the scope and location of the businesses conducted or planned to be conducted by the Company and its subsidiaries as of the date of such termination.

(b) Executive agrees that, during Executive's employment with the Company, Executive will not undertake any outside activity, whether or not competitive with the business of the Company or its Affiliates, that would reasonably give rise to a conflict of interest or otherwise interfere with Executive's duties and obligations to the Company or any of its Affiliates.

(c) Executive further agrees that, during the Non-Competition Period, Executive will not solicit, hire, or attempt to solicit or hire any employee of the Company or any of its Affiliates (or any individual who was employed by the Company or any of its Affiliates during the one (1)-year period prior to Executive's termination), assist in such hiring by any Person, encourage any such employee to terminate his or her relationship with the

Company or any of its Affiliates, or solicit or encourage any customer, client, or vendor of the Company or any of its Affiliates to terminate or diminish its relationship with them, or, in the case of a customer, to conduct with any Person any business or activity which such customer conducts with the Company or any of its Affiliates.

(d) Executive shall not, whether in writing or orally, malign, denigrate, or disparage the Company or its Affiliates, or their respective predecessors and successors, or any of the current or former directors, officers, employees, shareholders, partners, members, agents, or representatives of any of the foregoing, with respect to any of their respective past or present activities, or otherwise publish (whether in writing or orally) statements that tend to portray any of the aforementioned parties in an unfavorable light. The Company shall direct its directors and officers not to, whether in writing or orally, malign, denigrate, or disparage Executive with respect to any of Executive's past or present activities, or otherwise publish (whether in writing or orally) statements that are intended to portray Executive in an unfavorable light.

(e) Executive's and the Company's obligations under this Section 7, as applicable, shall continue beyond the termination of Executive's employment with the Company.

8. Notification Requirement. Through and up to the conclusion of the Non-Competition Period, Executive shall give notice to the Company of each new business activity he plans to undertake, at least seven (7) days prior to beginning any such activity. Such notice shall state the name and address of the Person for whom such activity is undertaken and the nature of Executive's business relationship(s) and position(s) with such Person.

9. Intellectual Property Rights. (a) Executive agrees that the results and proceeds of Executive's services for the Company (including, but not limited to, any trade secrets, products, services, processes, know-how, designs, developments, innovations, analyses, drawings, reports, techniques, formulas, methods, developmental or experimental work, improvements, discoveries, inventions, ideas, source and object codes, programs, writing and other works of authorship) resulting from services performed while an employee of the Company and any works in progress, whether or not patentable or registrable under copyright or similar statutes, that were made, developed, conceived, or reduced to practice or learned by Executive, either alone or jointly with others (collectively, "Inventions"), shall be works-made-for-hire and the Company shall be deemed the sole owner throughout the universe of any and all trade secret, patent, copyright, and other intellectual property rights (collectively, "Proprietary Rights") of whatsoever nature therein, whether or not now or hereafter known, existing, contemplated, recognized, or developed, with the right to use the same in perpetuity in any manner the Company determines in its sole discretion, without any further payment to Executive whatsoever. If, for any reason, any of such results and proceeds shall not legally be a work-made-for-hire and/or there are any Proprietary Rights which do not accrue to the Company under the immediately preceding sentence, then Executive hereby irrevocably assigns and agrees to assign any and all of Executive's right, title, and interest thereto, including any and all Proprietary Rights of whatsoever nature therein, whether or not now or hereafter known,

existing, contemplated, recognized, or developed, to the Company, and the Company shall have the right to use the same in perpetuity throughout the universe in any manner determined by the Company without any further payment to Executive whatsoever. As to any Invention that Executive is required to assign, Executive shall promptly and fully disclose to the Company all information known to Executive concerning such Invention.

(b) Executive agrees that, from time to time, as may be requested by the Company and at the Company's sole cost and expense, Executive shall do any and all things that the Company may reasonably deem useful or desirable to establish or document the Company's exclusive ownership throughout the United States of America or any other country of any and all Proprietary Rights in any such Inventions, including the execution of appropriate copyright and patent applications or assignments. To the extent that Executive has any Proprietary Rights in the Inventions that cannot be assigned in the manner described above, Executive unconditionally and irrevocably waives the enforcement of such Proprietary Rights. This Section 9(b) is subject to and shall not be deemed to limit, restrict, or constitute any waiver by the Company of any Proprietary Rights of ownership to which the Company may be entitled by operation of law by virtue of the Company's being Executive's employer. Executive shall execute, verify, and deliver such documents and perform such other acts (including appearances as a witness) as the Company may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining, and enforcing such Proprietary Rights and the assignment thereof. In addition, Executive shall execute, verify, and deliver assignments of such Proprietary Rights to the Company or its designees. Executive's obligations under this Section 9 shall continue beyond the termination of Executive's employment with the Company.

(c) 18 U.S.C. § 1833(b) provides: "An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that—(i) is made—(A) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (B) solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b). Accordingly, the parties to this Agreement have the right to disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law. The parties also have the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure.

(d) Executive hereby waives and quitclaims to the Company any and all claims, of any nature whatsoever, that Executive now or may hereafter have for infringement of any Proprietary Rights assigned hereunder to the Company.

10. Remedies and Injunctive Relief. Executive acknowledges that a violation by Executive of any of the covenants contained in Sections 6, 7, 8, or 9 would cause irreparable damage to the Company in an amount that would be material but not readily ascertainable, and that any remedy at law (including the payment of damages) would be

inadequate. Accordingly, Executive agrees that, notwithstanding any provision of this Agreement to the contrary, the Company shall be entitled (without the necessity of showing economic loss or other actual damage) to injunctive relief (including temporary restraining orders, preliminary injunctions, and permanent injunctions) in any court of competent jurisdiction for any actual or threatened breach of any of the covenants set forth in Sections 6, 7, 8, or 9 in addition to any other legal or equitable remedies it may have. The preceding sentence shall not be construed as a waiver of the rights that the Company may have for damages under this Agreement or otherwise, and all of the Company's rights shall be unrestricted.

11. Representations; Advice of Counsel. (a) Executive represents, warrants, and covenants that as of the date hereof: (i) Executive has the full right, authority, and capacity to enter into this Agreement and perform Executive's obligations hereunder, (ii) Executive is not bound by any agreement that conflicts with or prevents or restricts the full performance of Executive's duties and obligations to the Company hereunder during or after the Term, and (iii) the execution and delivery of this Agreement shall not result in any breach or violation of, or a default under, any existing obligation, commitment, or agreement to which Executive is subject.

(b) Prior to execution of this Agreement, Executive was advised by the Company of Executive's right to seek independent advice from an attorney of Executive's own selection regarding this Agreement. Executive acknowledges that Executive has entered into this Agreement knowingly and voluntarily and with full knowledge and understanding of the provisions of this Agreement after being given the opportunity to consult with counsel. Executive further represents that in entering into this Agreement, Executive is not relying on any statements or representations made by any of the Company's directors, officers, employees, or agents that are not expressly set forth herein, and that Executive is relying only upon Executive's own judgment and any advice provided by Executive's attorney.

(c) The Company represents, warrants, and covenants that as of the date hereof: (i) the Company has the full right, authority, and capacity to enter into this Agreement and perform the Company's obligations hereunder, (ii) the Company is not bound by any agreement that conflicts with or prevents or restricts the full performance of the Company's obligations to Executive hereunder during or after the Term, and (iii) the execution and delivery of this Agreement shall not result in any breach or violation of, or a default under, any existing obligation, commitment, or agreement to which the Company is subject.

12. Cooperation. Executive agrees that, upon reasonable notice and without the necessity of the Company's obtaining a subpoena or court order, Executive shall provide reasonable cooperation in connection with any suit, action, or proceeding (or any appeal from any suit, action, or proceeding), and any investigation or defense of any claims asserted against the Company or its Affiliates, that relates to events occurring during Executive's employment with the Company and its Affiliates as to which Executive may have relevant information (including but not limited to furnishing relevant information and materials to the Company or its designee and providing testimony at depositions and at trial); provided that with respect to such cooperation occurring following termination of employment, the Company shall reimburse Executive for expenses reasonably incurred in connection therewith.

13. Withholding. The Company may deduct and withhold from any amounts payable under this Agreement such federal, state, local, non-U.S., and other taxes as are required to be withheld pursuant to any applicable law or regulation.

14. Assignment. Neither the Company nor Executive may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other party; provided, that the Company may assign its rights under this Agreement without the consent of Executive to a successor to substantially all of the business of the Company in the event that the Company shall effect a reorganization, consolidate with or merge into any other corporation, partnership, organization, or other entity, or transfer all or substantially all of its properties or assets to any other corporation, partnership, organization, or other entity. This Agreement shall inure to the benefit of and be binding upon the Company and Executive, and their respective successors, executors, administrators, heirs, and permitted assigns.

15. Governing Law; No Construction Against Drafter. This Agreement shall be deemed made in the State of Delaware, and the validity, interpretation, construction, and performance of this Agreement in all respects shall be governed by the laws of the State of Delaware without regard to its principles of conflicts of law. No provision of this Agreement or any related document will be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party's having or being deemed to have structured or drafted such provision.

16. Consent to Jurisdiction; Waiver of Jury Trial. (a) Except as otherwise specifically provided herein, Executive and the Company each hereby irrevocably submit to the exclusive jurisdiction of the federal courts located within the State of Delaware (or, if subject matter jurisdiction in such courts are not available, in any state court located within the State of Delaware) over any dispute arising out of or relating to this Agreement. Except as otherwise specifically provided in this Agreement, the parties undertake not to commence any suit, action or proceeding arising out of or relating to this Agreement in a forum other than a forum described in this Section 16(a); provided, however, that nothing herein shall preclude either party from bringing any suit, action, or proceeding in any other court for the purpose of enforcing the provisions of this Section 16 or enforcing any judgment obtained by either party.

(b) The agreement of the parties to the forum described in Section 16(a) is independent of the law that may be applied in any suit, action, or proceeding, and the parties agree to such forum even if such forum may under applicable law choose to apply non-forum law. The parties hereby waive, to the fullest extent permitted by applicable law, any objection which they now or hereafter have to personal jurisdiction or to the laying of venue of any such suit, action, or proceeding brought in an applicable court described in Section 16(a), and the parties agree that they shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court. The parties agree that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any suit, action, or proceeding brought in any applicable court described in Section 16(a) shall be conclusive and binding upon the parties and may be enforced in any other jurisdiction.

(c) The parties hereto irrevocably consent to the service of any and all process in any suit, action, or proceeding arising out of or relating to this Agreement by the mailing of copies of such process to such party at such party's address specified in Section 20.

(d) Each party hereto hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action, or proceeding arising out of or relating to this Agreement. Each party hereto (i) certifies that no representative, agent, or attorney of any other party has represented, expressly or otherwise, that such party would not, in the event of any action, suit, or proceeding, seek to enforce the foregoing waiver, and (ii) acknowledges that it and the other party hereto has been induced to enter into this Agreement by, among other things, the mutual waiver and certifications in this Section 16(d).

(e) Each party shall bear his or her or its own costs and expenses (including reasonable attorneys' fees and expenses) incurred in connection with any dispute arising out of or relating to this Agreement.

17. Amendment; No Waiver; Severability. (a) No provisions of this Agreement may be amended, modified, waived, or discharged except by a written document signed by Executive and a duly authorized officer of the Company (other than Executive). The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No failure or delay by either party in exercising any right or power hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right or power, or any abandonment of any steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

(b) If any term or provision of this Agreement is invalid, illegal, or incapable of being enforced by any applicable law or public policy, all other conditions and provisions of this Agreement shall nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party; provided that in the event that any court of competent jurisdiction shall finally hold in a non-appealable judicial determination that any provision of Sections 6 through 10 (whether in whole or in part) is void or constitutes an unreasonable restriction against Executive, such provision shall not be rendered void but shall be deemed modified to the minimum extent necessary to make such provision enforceable for the longest duration and the greatest scope as such court may determine constitutes a reasonable restriction under the circumstances. Subject to the foregoing, upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

18. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Company and Executive with respect to the subject matter hereof and

supersedes all prior agreements and understandings (whether written or oral), between Executive and the Company, relating to such subject matter. None of the parties shall be liable or bound to any other party in any manner by any representations and warranties or covenants relating to such subject matter except as specifically set forth herein.

19. Survival. The rights and obligations of the parties under the provisions of this Agreement shall survive, and remain binding and enforceable, notwithstanding the expiration of the Term, the termination of this Agreement, the termination of Executive's employment hereunder or any settlement of the financial rights and obligations arising from Executive's employment hereunder, to the extent necessary to preserve the intended benefits of such provisions.

20. Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by facsimile or sent, postage prepaid, by registered, certified, or express mail or overnight courier service and shall be deemed given when so delivered by hand or facsimile, or if mailed, three days after mailing (one (1) business day in the case of express mail or overnight courier service) to the parties at the following addresses or facsimiles (or at such other address for a party as shall be specified by like notice):

If to the Company: Vistra Corp.

Attn: Corporate Secretary
6555 Sierra Drive
Irving, TX 75039

If to Executive: At the most recent address on file in the Company's records.

Notices delivered by facsimile shall have the same legal effect as if such notice had been delivered in person.

21. Headings and References. The headings of this Agreement are inserted for convenience only, and neither constitute a part of this Agreement nor affect in any way the meaning or interpretation of this Agreement. When a reference in this Agreement is made to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated.

22. Counterparts. This Agreement may be executed in one or more counterparts (including via electronic image scan (.pdf)), each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

23. Section 409A. (a) For purposes of this Agreement, "Section 409A" means Section 409A of the Code, and the Treasury Regulations promulgated thereunder (and such other Treasury or Internal Revenue Service guidance) as in effect from time to time. The parties intend that any amounts payable hereunder that could constitute "deferred compensation"

within the meaning of Section 409A will be compliant with Section 409A or exempt from Section 409A.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a “specified employee” within the meaning of Code Section 409A(a)(2)(B)(i) (as determined in accordance with the methodology established by the Company as in effect on the date of Executive’s “separation from service” (within the meaning of Treasury Regulations § 1.409A-1(h)), (ii) amounts or benefits under this Agreement or any other program, plan, or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of separation from service, and (iii) Executive is employed by a public company or a controlled group affiliate thereof: payments hereunder that are “deferred compensation” subject to Section 409A that would be made to Executive prior to the date that is six (6) months after the date of Executive’s separation from service shall be made within ten (10) business days after such six (6)-month date or, if earlier, ten (10) days following the date of Executive’s death; following any applicable delay, all such delayed payments, without interest will be paid in a single lump sum on the earliest permissible payment date.

(c) Except to the extent required to be delayed pursuant to Section 23(b), any payment or benefit due or payable on account of Executive’s separation from service to which this Section 23(c) applies shall be paid or commence, as applicable, upon the first scheduled payroll date immediately after the date the Release Condition is satisfied (the “Release Effective Date”); provided that, to the extent that such payment or benefit represents a “deferral of compensation” within the meaning of Section 409A and the sixty (60) day period following Executive’s separation from service spans two (2) taxable years, payment shall not be made or commence prior to January 1 of the second taxable year. The first such cash payment shall include payment of all amounts that otherwise would have been due prior to the Release Effective Date under the terms of this Agreement applied as though such payments commenced immediately upon Executive’s termination of employment, and any payments made thereafter shall continue as provided herein. The delayed benefits shall in any event expire at the time such benefits would have expired had such benefits commenced immediately following Executive’s termination of employment.

(d) Each payment made under this Agreement (including each separate installment payment in the case of a series of installment payments) shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a “deferral of compensation” subject to Section 409A to the extent provided in the exceptions in Treasury Regulations §§ 1.409A-1(b)(4) (“short-term deferrals”) and (b)(9) (“separation pay plans,” including the exception under subparagraph (iii)) and other applicable provisions of Section 409A, and shall be paid under any such exception to the maximum extent permitted. For purposes of this Agreement, with respect to payments of any amounts that are considered to be “deferred compensation” subject to Section 409A, references to “termination of employment,” “termination,” or words and phrases of similar import, shall be deemed to refer to Executive’s “separation from service” as defined in Section 409A, and shall be interpreted and applied in a manner that is consistent with the requirements of Section 409A.

In no event may Executive, directly or indirectly, designate the calendar year of any payment under this Agreement.

(e) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is eligible for exemption from Section 409A pursuant to Treasury Regulation § 1.409A-1(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs; and provided that such expenses are reimbursed no later than the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs. To the extent that any indemnification payment, expense reimbursement, or provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement, or the provision of any in-kind benefit, in one (1) calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation applicable to medical expenses to the extent permitted by Section 409A), such indemnification, reimbursement, or in-kind benefits shall be provided for the period set forth in this Agreement, or if no such period is set forth, during Executive's lifetime, in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the date first written above.

Vistra Corp. and Vistra Corporate Services Company

By: /s/ Carrie Lee Kirby
Name: Carrie Lee Kirby
Title: Executive Vice President and Chief Administrative Officer

STEPHANIE ZAPATA MOORE

/s/ Stephanie Zapata Moore

Exhibit A

OIP:	Equity awards to be subject to the terms of the Company's Omnibus Incentive Plan.
Annual Equity Awards:	Executive will be granted annual equity awards in an amount determined by the Board. Such awards may be in the form of options, restricted stock units, performance shares, or any other form as approved by the Board.
Involuntary Termination Without Cause / Resignation for Good Reason / Non-Renewal of Term by the Company:	Subject to delivery (and non-revocation) of the Release and continued compliance with Sections 6 and 7 of this Agreement, accelerated vesting of the portion of Executive's outstanding equity awards that would have vested in the 12 months following termination had Executive remained employed (fully vested options to remain exercisable for 90 days following termination or, if Executive is subject Section 16 of the Exchange Act as of such Termination, 180 days from the date of such termination (or until the option's regular expiration date, if shorter)).
Termination with Cause / Resignation Without Good Reason / Non-Renewal of the Term by Executive	All options and other outstanding awards (unvested and vested) are forfeited upon a termination for Cause. On any other termination, Executive will retain all vested awards (forfeits unvested), and vested options remain exercisable for 30 days following termination or, if Executive is subject Section 16 of the Exchange Act as of such Termination, 180 days from the date of such termination (or until the option's regular expiration date, if shorter).
Death / Disability	Accelerated vesting of the portion of Executive's equity awards that would have vested in the 12 months following termination had he remained employed (fully vested options to remain exercisable for one year following termination (or until the option's regular expiration date, if shorter)).
Involuntary Termination Without Cause / Resignation for Good Reason / Non-Renewal of Term by the Company Following a Change in Control:	All equity awards that were outstanding at the time of the Change in Control will vest upon such termination.

Exhibit B
Release of Claims

As used in this Release of Claims (this “Release”), the term “claims” will include all claims, covenants, warranties, promises, undertakings, actions, suits, causes of action, proceedings, obligations, debts, accounts, attorneys’ fees, judgments, losses, and liabilities, of whatsoever kind or nature, in law, in equity, or otherwise. Capitalized terms used but not defined in this Release will have the meanings given to them in the employment agreement dated May __, 2022, between Vistra Corp., Vistra Corporate Services Company (together, the “Company”) and Stephanie Zapata Moore (my “Agreement”).

For and in consideration of the severance payments and benefits, and other good and valuable consideration, I, for and on behalf of myself and my executors, heirs, administrators, representatives, and assigns, hereby agree to release and forever discharge the Company and each of its direct and indirect parent and subsidiary entities, and all of their respective predecessors, successors, and past, current, and future parent entities, affiliates, subsidiary entities, investors, directors, shareholders, members, officers, general or limited partners, employees, attorneys, agents, and representatives, and the employee benefit plans in which I am or have been a participant by virtue of my employment with or service to the Company (collectively, the “Company Releasees”), from any and all claims that I have or may have had against the Company Releasees based on any events or circumstances arising or occurring on or prior to the date hereof and arising directly or indirectly out of, relating to, or in any other way involving in any manner whatsoever my employment by or service to the Company or the termination thereof, including without limitation any and all claims arising under federal, state, or local laws relating to employment, including without limitation claims of wrongful discharge, breach of express or implied contract, fraud, misrepresentation, defamation, intentional infliction of emotional distress, whistleblowing, or liability in tort, and claims of any kind that may be brought in any court or administrative agency, and any related claims for attorneys’ fees and costs, including, without limitation, claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000, et seq.; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq.; the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et seq.; the Civil Rights Act of 1866, and the Civil Rights Act of 1991; 42 U.S.C. Section 1981, et seq.; the Age Discrimination in Employment Act, as amended, 29 U.S.C. Section 621, et seq. (the “ADEA”); the Equal Pay Act, as amended, 29 U.S.C. Section 206(d); regulations of the Office of Federal Contract Compliance, 41 C.F.R. Section 60, et seq.; the Family and Medical Leave Act, as amended, 29 U.S.C. § 2601 et seq.; the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et seq.; the Employee Retirement Income Security Act, as amended, 29 U.S.C. § 1001 et seq.; and any similar state or local law. I agree further that this Release may be pleaded as a full defense to any action, suit, arbitration, or other proceeding covered by the terms hereof that is or may be initiated, prosecuted, or maintained by me or my descendants, dependents, heirs, executors, administrators, or assigns. By signing this Release, I acknowledge that I intend to waive and release all rights known or unknown that I may have against the Company Releasees under these and any other laws.

I acknowledge and agree that as of the date I execute this Release, I have no knowledge of any facts or circumstances that give rise or could give rise to any claims under any of the laws

listed in the preceding paragraph and that I have not filed any claim against any of the Releasees before any local, state, federal, or foreign agency, court, arbitrator, mediator, arbitration or mediation panel, or other body (each individually a “Proceeding”). I (i) acknowledge that I will not initiate or cause to be initiated on my behalf any Proceeding and will not participate in any Proceeding, in each case, except as required by law or to the extent such Proceeding relates to a claim not waived hereunder; and (ii) waive any right that I may have to benefit in any manner from any relief (whether monetary or otherwise) arising out of any Proceeding, including any Proceeding conducted by the Equal Employment Opportunity Commission (“EEOC”), except in each case to the extent such Proceeding relates to a claim not waived hereunder. Further, I understand that, by executing this Release, I will be limiting the availability of certain remedies that I may have against the Company and limiting also my ability to pursue certain claims against the Company Releasees.

By executing this Release, I specifically release all claims relating to my employment and its termination under ADEA, a federal statute that, among other things, prohibits discrimination on the basis of age in employment and employee benefit plans.

Notwithstanding the generality of the foregoing, I do not release (i) claims to receive my severance payments and benefits in accordance with the terms of the Agreement, (ii) claims with respect to benefits to which I am entitled under the employee benefit and compensation plans of the Company and its affiliates, including any rights to equity, (iii) claims to indemnification, or (iv) claims that cannot be waived by law. Further, nothing in this Release shall prevent me from (i) initiating or causing to be initiated on my behalf any claim against the Company before any local, state, or federal agency, court, or other body challenging the validity of the waiver of my claims under the ADEA (but no other portion of such waiver); or (ii) initiating or participating in an investigation or proceeding conducted by the EEOC.

I acknowledge that I have been given at least [21]/[45]¹ days in which to consider this Release. I acknowledge further that the Company has advised me to consult with an attorney of my choice before signing this Release, and I have had sufficient time to consider the terms of this Release. I represent and acknowledge that if I execute this Release before [21]/[45] days have elapsed, I do so knowingly, voluntarily, and upon the advice and with the approval of my legal counsel (if any), and that I voluntarily waive any remaining consideration period.

I understand that after executing this Release, I have the right to revoke it within seven days after its execution. I understand that this Release will not become effective and enforceable unless the seven-day revocation period passes and I do not revoke the Release in writing. I understand that this Release may not be revoked after the seven (7)-day revocation period has passed. I understand also that any revocation of this Release must be made in writing and delivered to the Company at its principal place of business within the seven (7)-day period.

¹ NTD: To be selected based on whether applicable termination was “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967).

This Release will become effective, irrevocable, and binding on the eighth day after its execution, so long as I have not timely revoked it as set forth above. I understand and acknowledge that I will not be entitled to the severance payments and benefits unless this Release is effective on or before the date that is sixty (60) days following the date of my termination of employment.

I hereby agree to waive any and all claims to re-employment with the Company or any of its affiliates and affirmatively agree not to seek further employment with the Company or any of its affiliates.

The provisions of this Release will be binding upon my heirs, executors, administrators, legal representatives, and assigns. If any provision of this Release will be held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision will be of no force or effect. The illegality or unenforceability of such provision, however, will have no effect upon and will not impair the enforceability of any other provision of this Release.

This Release will be governed in accordance with the laws of the State of Delaware, without reference to the principles of conflicts of law. Any dispute or claim arising out of or relating to this Release or claim of breach hereof will be brought exclusively in the federal and state courts located within Delaware. By execution of this Release, I am waiving any right to trial by jury in connection with any suit, action, or proceeding under or in connection with this Release.

Stephanie Zapata Moore

DATE

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “Agreement”), dated as of May 5, 2022 (the “Effective Date”), is between Vistra Corp., Vistra Corporate Services Company (together, the “Company”), and Carrie Lee Kirby (“Executive”).

Recitals:

WHEREAS, the Company and Executive previously entered into an employment agreement originally effective as of October 4, 2016 (the “Original Effective Date”); and

WHEREAS, the Company and Executive desire to amend and restate the employment agreement to reflect the terms upon which Executive shall continue to provide services to the Company.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and intending to be legally bound hereby, the parties to this Agreement hereby agree as follows:

1. Term.

(a) The term of Executive’s employment under this Agreement shall be effective as of the Effective Date, and shall continue until the three (3)-year anniversary of the Effective Date (the “Initial Expiration Date”); provided that on the Initial Expiration Date and each subsequent anniversary of the Initial Expiration Date, the term of Executive’s employment under this Agreement shall be extended for one (1) additional year unless either party provides written notice to the other party at least sixty (60) days prior to the Initial Expiration Date (or any such anniversary, as applicable) that Executive’s employment shall not be so extended (in which case, Executive’s employment shall terminate on the Initial Expiration Date or any such anniversary, as applicable); provided, however, that Executive’s employment under this Agreement may be terminated at any earlier time pursuant to the provisions of Section 5. The period of time from the Effective Date through the termination of this Agreement and Executive’s employment hereunder pursuant to its terms is herein referred to as the “Term”; and the date on which the Term is scheduled to expire (i.e., the Initial Expiration Date or the scheduled expiration of the extended term, if applicable) is herein referred to as the “Expiration Date.”

(b) Executive agrees and acknowledges that the Company has no obligation to extend the Term or to continue Executive’s employment following the Expiration Date, and Executive expressly acknowledges that no promises or understandings to the contrary have been made or reached.

2. Definitions. For purposes of this Agreement, the following terms, as used herein, shall have the definitions set forth below.

(a) “Affiliate” means, with respect to any specified Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such specified Person.

(b) “Change in Control” shall be deemed to occur upon any of the following events:

(i) the acquisition by any Person or related “group” (as such term is used in Sections 13(d) and 14(d) of the U.S. Securities Exchange Act of 1934, as amended, and any successor thereto (the “Exchange Act”)) of Beneficial Ownership (as defined in Rule 13d-3 promulgated under Section 13 of the Exchange Act) of 30% or more (on a fully diluted basis) of either (A) the then-outstanding shares of the common stock of the Company (the “Common Stock”), including Common Stock issuable upon the exercise of options or warrants, the conversion of convertible stock or debt, and the exercise of any similar right to acquire such Common Stock (the “Outstanding Company Common Stock”); or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote in the election of directors (the “Outstanding Company Voting Securities”); but excluding any acquisition by the Company or any of its Affiliates or by any employee benefit plan sponsored or maintained by the Company or any of its Affiliates;

(ii) a change in the composition of the Board such that members of the Board during any consecutive twelve (12)-month period (the “Incumbent Directors”) cease to constitute a majority of the Board. Any person becoming a director through election or nomination for election approved by a valid vote of at least two thirds of the Incumbent Directors shall be deemed an Incumbent Director; provided, however, that no individual becoming a director as a result of an actual or threatened election contest, as such terms are used in Rule 14a-12 of Regulation 14A promulgated under the Exchange Act, or as a result of any other actual or threatened solicitation of proxies or consents by or on behalf of any person other than the Board shall be deemed an Incumbent Director;

(iii) the approval by the shareholders of the Company of a plan of complete dissolution or liquidation of the Company; or

(iv) the consummation of a reorganization, recapitalization, merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company (a “Business Combination”), or sale, transfer or other disposition of all or substantially all of the business or assets of the Company to an entity that is not an Affiliate of the Company (a “Sale”), unless immediately following such Business Combination or Sale: (A) more than 50% of the total voting power of the entity resulting from such Business Combination or the entity that acquired all or substantially all of the business or assets of the Company in such Sale (in either case, the “Surviving Company”), or the ultimate parent entity that has Beneficial Ownership of sufficient voting power to elect a majority of the board of directors (or analogous governing body) of the Surviving Company (the “Parent Company”), is represented by the Outstanding Company Voting Securities that were outstanding immediately prior to such Business

Combination or Sale (or, if applicable, is represented by shares into which the Outstanding Company Voting Securities were converted pursuant to such Business Combination or Sale), and such voting power among the holders thereof is in substantially the same proportion as the voting power of the Outstanding Company Voting Securities among the holders thereof immediately prior to the Business Combination or Sale, (B) no Person or related group of Persons (other than any employee benefit plan sponsored or maintained by the Surviving Company or the Parent Company) is or becomes the beneficial owner, directly or indirectly, of 50% or more of the total voting power of the outstanding voting securities eligible to elect members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Surviving Company) and (C) at least a majority of the members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Surviving Company) following the consummation of the Business Combination or Sale were Board members at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination or Sale.

(c) “Cause” means (i) Executive's willful and continued failure to perform Executive's duties with the Company; (ii) Executive's willful and continued failure to follow and comply with the written policies of the Company as in effect from time to time; (iii) Executive's willful commission of an act of fraud or dishonesty resulting in economic or financial injury to the Company; (iv) Executive's willful engagement in illegal conduct or gross misconduct; (v) Executive's willful breach of this Agreement; or (vi) Executive's indictment for, conviction of, or a plea of guilty or nolo contendere to any felony or other crime involving moral turpitude. No act or failure to act will be treated as willful if it is done, or omitted to be done, by Executive in good faith and with a good faith belief that such act or omission was in the best interests of the Company.

(d) “Control” (including, with correlative meanings, the terms “Controlled by” and “under common Control with”), as used with respect to any Person, means the direct or indirect possession of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or by contract.

(e) “Disability” means Executive would be entitled to long-term disability benefits under the Company's long-term disability plan as in effect from time to time, without regard to any waiting or elimination period under such plan and assuming for the purpose of such determination that Executive is actually participating in such plan at such time. If the Company does not maintain a long-term disability plan, “Disability” means Executive's inability to perform Executive's duties and responsibilities hereunder on a full-time basis for a consecutive period of one hundred eighty (180) days due to physical or mental illness or incapacity that is determined to be total and permanent by a physician selected by the Company or its insurers and reasonably acceptable to Executive or Executive's legal representative.

(f) “Good Reason” means the occurrence, without the consent of Executive, of either of the following events: (i) any material diminution of, or modification to,

Executive's title, duties, responsibilities, authorities, or terms of employment set forth in Section 3 or (ii) any breach by the Company of any of its material obligations to Executive. Prior to resigning for Good Reason, Executive shall give written notice to the Company of the facts and circumstances claimed to provide a basis for such resignation not more than sixty (60) days following Executive's knowledge of such facts and circumstances, and the Company shall have ten (10) business days after receipt of such notice to cure (and if so cured, Executive shall not be permitted to resign for Good Reason in respect thereof) and Executive shall resign within ten (10) business days following the Company's failure to cure.

(g) "Person" means any individual, firm, corporation, partnership, limited liability company, trust, joint venture, association, unincorporated entity, or other entity.

3. Duties and Responsibilities. The Company employs Executive, and Executive accepts employment, subject to the terms and conditions contained herein, during the Term, as the Executive Vice President and Chief Administrative Officer. During the Term, Executive agrees to be employed by and devote all of Executive's business time and attention to the Company and the promotion of its interests and to use Executive's best efforts to faithfully and diligently serve the Company; provided, however, that, to the extent that such activities do not significantly interfere with the performance of Executive's duties, services, and responsibilities under this Agreement, Executive shall be permitted to (a) manage Executive's personal, financial, and legal affairs, (b) serve on civic or charitable boards and committees of such boards and (c) to the extent approved by the Board of Directors of the Company (the "Board") pursuant to a duly authorized resolution of the Board, serve on corporate boards and committees of such boards. Executive will report to the Chief Executive Officer. Executive will perform such lawful duties and responsibilities as are commensurate with Executive's title and position, and such other duties and responsibilities commensurate with Executive's title and position as may be reasonably requested by the Chief Executive Officer and the Board from time to time. Executive will have the authority customarily exercised by an individual serving as an Executive Vice President of a corporation of the size and nature of the Company. Executive's place of employment will be in Irving, Texas.

4. Compensation and Related Matters. (a) Base Salary. During the Term, Executive shall receive an aggregate annual base salary ("Base Salary") at an initial rate of \$519,750.00, payable in accordance with the Company's applicable payroll practices. Base Salary shall be reviewed annually by the Board and increased (but not decreased) in the Board's sole discretion. References in this Agreement to Base Salary shall be deemed to refer to the most recently effective annual base salary rate.

(b) Annual Bonus. During the Term, Executive shall be eligible to receive a cash bonus (the "Annual Bonus") for each year (or portion thereof), provided that, except as otherwise provided herein, Executive has remained employed by the Company as of the applicable payment date. Executive's target bonus opportunity for any particular year (the "Target Bonus") shall be 75% of Base Salary, and Executive's maximum bonus opportunity shall be 200% of the Target Bonus. The Annual Bonus shall be subject to performance metrics approved by the Board based on key short-term objectives and shall be at the full discretion of

the Board. Any Annual Bonus shall be paid in the fiscal year following the fiscal year to which such Annual Bonus relates, at the same as annual bonuses are paid to all other senior executives.

(c) Equity Compensation. Executive shall be entitled to receive equity compensation awards as described in Exhibit A.

(d) Benefits and Perquisites. During the Term, Executive shall be entitled to participate in the benefit plans and programs and receive perquisites that are provided by the Company from time to time for its senior executives generally, subject to the terms and conditions of such plans and programs, as they may be amended from time to time, and commensurate with Executive's position. During the Term, Executive shall be entitled to up to \$15,000 per year for tax and financial planning.

(e) Business Expense Reimbursements. During the Term, the Company shall promptly reimburse Executive for Executive's reasonable and necessary business expenses in accordance with the Company's then-prevailing policies and procedures for expense reimbursement (which shall include appropriate itemization and substantiation of expenses incurred).

(f) Indemnification. The Company shall indemnify and hold harmless Executive, to the fullest extent permitted by law and the Company's governing documents, against all claims, expenses, damages, liabilities, and losses incurred by Executive (whether before or after the Original Effective Date) by reason of the fact that Executive is or was, or had agreed to become, a consultant, director, officer, employee, agent, or fiduciary of the Company or any of its subsidiaries or Affiliates or predecessors of any of the foregoing, or any benefit plan of any of the foregoing, or is or was serving at the request of the Company as a consultant, director, officer, partner, venturer, proprietor, trustee, employee, agent, fiduciary, or similar functionary of another corporation, partnership, joint venture, business, person, trust, employee benefit plan, or other entity. The Company shall provide Executive with customary directors' and officers' liability insurance coverage both during and after the Term with regard to matters occurring during employment or while otherwise providing services to, or serving at the request of, the Company or any of its subsidiaries or Affiliates, or any benefit plan of any of the foregoing, which coverage shall be at a level at least equal to the greatest level being maintained at such time for any current officer or director and shall continue until such time as suits can no longer be brought against Executive as a matter of law. Executive will be entitled to advancement of expenses in connection with any claim in the same manner and to the same extent to which any other officer or director of the Company is entitled. Notwithstanding the foregoing, the Company shall not be required to indemnify or advance expenses to Executive in connection with (i) any dispute in connection with this Agreement or Executive's employment hereunder; (ii) any action, claim, or proceeding initiated by Executive against the Company unless such action, claim, or proceeding is approved in advance by the Board in writing; or (iii) any liabilities, damages, claims or expenses incurred that are attributable to Executive's fraud, bad faith, willful misconduct, or gross negligence.

5. Termination of Employment. (a) Executive's employment under this Agreement may be terminated by either party at any time and for any reason; provided, however,

that Executive shall be required to give the Company at least sixty (60) days' advance written notice of any voluntary resignation of Executive's employment hereunder (other than resignation for Good Reason) (and in such event the Company in its sole discretion may elect to accelerate Executive's date of termination of employment, it being understood that such termination shall still be treated as a voluntary resignation without Good Reason for purposes of this Agreement). Notwithstanding the foregoing, Executive's employment shall terminate automatically upon Executive's death.

(b) Following any termination of Executive's employment under this Agreement, except as provided under Sections 5(c), 5(d), and 5(e), the obligations of the Company to pay or provide Executive with compensation and benefits under Section 4 shall cease, and the Company shall have no further obligations to provide compensation or benefits to Executive hereunder, except (i) for payment of any accrued but unpaid Base Salary and any accrued but unused vacation and for payment of any unreimbursed business expenses under Section 4(e), in each case accrued or incurred through the date of termination of employment, payable as soon as practicable and in all events within thirty (30) days following the date of termination of employment, (ii) as explicitly set forth in any other benefit plans, programs, or arrangements applicable to terminated employees in which Executive participates (including, without limitation, equity award agreements), other than severance plans or policies (including severance benefits following a Change in Control), and (iii) as otherwise expressly required by applicable law. For the avoidance of doubt, except as otherwise provided below, any Unpaid Annual Bonus (as defined below) is forfeited if Executive's employment is terminated for any reason.

(c) If Executive's employment under this Agreement is terminated (i) by the Company without Cause (other than due to death or Disability), (ii) by Executive for Good Reason, or (iii) due to expiration of the Term on the Expiration Date as a result of the Company delivering a notice of non-renewal as contemplated by Section 1, in addition to the payments and benefits specified in Section 5(b), Executive shall be entitled to receive: (i) severance pay in an aggregate amount (the "Severance Pay") equal to, two times (2x) the sum of (A) Base Salary plus (B) Target Bonus; (ii) a prorated Annual Bonus in respect of the fiscal year of termination equal to the product of (x) the amount of Annual Bonus that would have been payable to Executive had Executive's employment not so terminated based on actual performance measured through the fiscal year of termination, and (y) a fraction, the numerator of which is the number of days elapsed in the Company's fiscal year in which the termination occurs through such termination and the denominator of which is the number of days in such fiscal year (the "Prorated Bonus"); (iii) any accrued but unpaid Annual Bonus in respect of the fiscal year prior to the fiscal year of termination (the "Unpaid Annual Bonus"); and (iv) continued health insurance benefits under the terms of the applicable Company benefit plans for twenty-four (24) months, subject to Executive's payment of the cost of such benefits to the same extent that active employees of the Company are required to pay for such benefits from time to time; provided, however, that, such continuation coverage shall end earlier upon Executive's becoming eligible for comparable coverage under another employer's benefit plans; and provided, further, that, to the extent that the provision of such continuation coverage is not permitted under the terms of the Company benefit plans or would result in an adverse tax

consequence to the Company, the Company may alternatively provide Executive with a monthly cash payment in an amount equal to the applicable COBRA premium that Executive would otherwise be required to pay to obtain COBRA continuation coverage for such benefits for twenty-four (24) months (assuming that COBRA continuation coverage were available for such period) (minus the cost of such benefits to the same extent that active employees of the Company are required to pay for such benefits from time to time) (the “Healthcare Severance Benefits”), commencing as provided in Section 23(c). The Severance Pay shall be paid in equal installments during the twenty-four (24)-month period following Executive’s termination in accordance with the Company’s regular payroll practices, but no less frequently than monthly, and commencing as provided in Section 23(c) below. The Unpaid Annual Bonus shall be paid on the date bonuses are paid to other executives during the fiscal year of Executive’s termination and the Prorated Bonus shall be paid on the date bonuses are paid to other executives of the Company in the year following the fiscal year of Executive’s termination.

(d) Notwithstanding anything herein to the contrary, if at any time within eighteen (18) months following a Change in Control, Executive’s employment under this Agreement is terminated (i) by the Company without Cause (other than due to death or Disability), (ii) by Executive for Good Reason, or (iii) due to expiration of the Term on the Expiration Date as a result of the Company delivering a notice of non-renewal as contemplated by Section 1, then Executive, in lieu of any of the amounts and benefits described in Section 5(c) and in addition to the payments and benefits specified in Section 5(b), shall be entitled to receive (i) the Unpaid Annual Bonus, (ii) 2.99 times the sum of (A) Base Salary plus (B) Target Bonus (the “CIC Severance Pay”), (iii) the product of (x) the Target Bonus, and (y) a fraction, the numerator of which is the number of days elapsed in the Company’s fiscal year in which the termination occurs through such termination and the denominator of which is the number of days in such fiscal year (the “Prorated CIC Bonus”), and (iv) the Healthcare Severance Benefits for twenty-four (24) months (as described above and commencing as provided in Section 23(c)). The CIC Severance Pay and the Prorated CIC Bonus shall be paid in cash in a lump sum on the first payroll following the satisfaction of the Release Condition, subject to Section 23(c); provided, however, if the Change in Control does not constitute a “change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation” within the meaning of Section 409A(a)(2)(A)(v) of the Internal Revenue Code of 1986, as amended (the “Code”), the portion of the CIC Severance Pay that is not in excess of the Severance Pay that would have been payable upon such termination if Section 5(c) applied shall be paid to Executive in equal monthly installments during the twenty-four (24)-month period following Executive’s termination in accordance with the Company’s regular payroll practices, but no less frequently than monthly, and commencing as provided in Section 23(c) below, and the portion of the CIC Severance Pay in excess of such amount shall be paid to Executive in a lump sum sixty (60) days after the consummation of the Change in Control. The Unpaid Annual Bonus shall be paid on the date bonuses are paid to other executives during the fiscal year of Executive’s termination.

(e) If Executive’s employment under this Agreement is terminated due to death or Disability, in addition to the payments and benefits specified in Section 5(b), Executive shall be entitled to receive (i) the Prorated Bonus, paid on the date bonuses are paid to

other executives of the Company in the year following the fiscal year of Executive's termination, and (ii) the Unpaid Annual Bonus, paid on the date bonuses are paid to other executives of the Company in the fiscal year of Executive's termination.

(f) Executive's entitlement to the payments and benefits set forth in Sections 5(c) and 5(d) shall be conditioned upon Executive's having provided an irrevocable waiver and release of claims in favor of the Company, its Affiliates, their respective predecessors and successors, and all of the respective current or former directors, officers, employees, shareholders, partners, members, agents, or representatives of any of the foregoing (collectively, the "Released Parties"), substantially in the form attached hereto as Exhibit B (the "Release"), that has become effective in accordance with its terms within sixty (60) days following Executive's termination of employment (the "Release Condition"), and Executive's continued compliance with Sections 6 and 7 hereof.

(g) Upon termination of Executive's employment for any reason, and regardless of whether Executive continues as a consultant to the Company, upon the Company's request Executive agrees to resign, as of the date of such termination of employment or such other date requested, from the Board and any committees thereof, and, if applicable, from the board of directors (and any committees thereof) of any Affiliate of the Company to the extent Executive is then serving thereon. The Company's obligations to make the payments provided for in this Agreement are subject to set-off for any undisputed amounts owed by Executive, to the extent permitted by Section 409A (as defined below) and any Company clawback policy.

(h) The payment of any amounts accrued under any benefit plan, program, or arrangement in which Executive participates shall be subject to the terms of the applicable plan, program, or arrangement, and any elections Executive has made thereunder.

(i) Following any termination of Executive's employment, Executive shall have no obligation to seek other employment or take any other action by way of mitigation of the amounts payable to Executive under any of the provisions of this Agreement. There shall be no offset against amounts due Executive under this Agreement on account of any remuneration attributable to later employment, consultancy, or other remunerative activity of Executive.

6. Confidential Information.

(a) Executive acknowledges that the Company and its Affiliates continually develop Confidential Information (as defined below), that Executive may develop Confidential Information for the Company or its Affiliates and that Executive may learn of Confidential Information during the course of Executive's employment. Executive will comply with the policies and procedures of the Company and its Affiliates for protecting Confidential Information and shall not disclose to any Person or use, other than as required by applicable law or for the proper performance of Executive's duties and responsibilities to the Company and its Affiliates, any Confidential Information obtained by Executive incident to Executive's employment or other association with the Company or any of its Affiliates. Executive

understands that this restriction shall continue to apply after Executive's employment terminates, regardless of the reason for such termination.

(b) All documents, records, tapes, and other media of every kind and description relating to the business, present or otherwise, of the Company or its Affiliates and any copies, in whole or in part, thereof (the "Documents"), whether or not prepared by Executive, shall be the sole and exclusive property of the Company and its Affiliates. Executive shall safeguard all Documents and shall surrender to the Company at the time Executive's employment terminates, or at such earlier time or times as the Company may specify, all Documents then in Executive's possession or control. Executive shall immediately return such Documents and other property to the Company upon the termination of Executive's employment and, in any event, at the Company's request. Executive further agrees that any property situated on the premises of, and owned by, the Company or its Affiliates, including disks and other storage media, filing cabinets, or other work areas, is subject to inspection by the Company's personnel at any time with or without notice.

(c) Executive understands that, notwithstanding anything to the contrary contained herein, no provision of this Agreement will be interpreted so as to impede Executive (or any other individual) from (i) making any disclosure of relevant and necessary information or documents in any action, investigation, or proceeding relating to this Agreement, or as required by law or legal process, including with respect to possible violations of law, (ii) participating, cooperating, or testifying in any action, investigation, or proceeding with, or providing information to, any governmental agency, legislative body or any self-regulatory organization, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, (iii) accepting any U.S. Securities and Exchange Commission Awards, or (iv) making other disclosures under the whistleblower provisions of federal law or regulation. In addition, nothing in this Agreement or any other agreement or Company policy prohibits or restricts Executive from initiating communications with, or responding to any inquiry from, any administrative, governmental, regulatory or supervisory authority regarding any good faith concerns about possible violations of law or regulation. Executive does not need the prior authorization of the Company to make any such reports or disclosures and Executive will not be required to notify the Company that such reports or disclosures have been made.

(d) "Confidential Information" means any and all information of the Company and its Affiliates that is not generally known by others with whom they compete or do business, or with whom any of them plans to compete or do business and any and all information, publicly known in whole or in part or not, which, if disclosed by the Company or its Affiliates would assist in competition against them. Confidential Information includes, without limitation, such information relating to (i) the development, research, testing, manufacturing, marketing and financial activities of the Company and its Affiliates, (ii) all products planned, researched, developed, tested, manufactured, sold, licensed, leased or otherwise distributed or put into use by the Company and its Affiliates, together with all services provided or planned by the Company or any of its Affiliates, during Executive's employment, (iii) the costs, sources of supply, financial performance and strategic plans of the Company and its Affiliates, (iv) the

identity and special needs of the customers of the Company and its Affiliates and (v) the people and organizations with whom the Company and its Affiliates have business relationships and those relationships. Confidential Information also includes any information that the Company or any of its Affiliates have received, or may receive hereafter, belonging to customers or others with any understanding, express or implied, that the information would not be disclosed.

7. Restricted Activities. Executive agrees that some restrictions on Executive's activities during and after Executive's employment are necessary to protect the goodwill, Confidential Information, and other legitimate interests of the Company and its Affiliates. Following the Effective Date, the Company will provide Executive with access to and knowledge of Confidential Information and trade secrets and will place Executive in a position of trust and confidence with the Company, and Executive will benefit from the Company's goodwill. The restrictive covenants below are necessary to protect the Company's legitimate business interests in its Confidential Information, trade secrets and goodwill. Executive further understands and acknowledges that the Company's ability to reserve these for the exclusive knowledge and use of the Company is of great competitive importance and commercial value to the Company and that the Company would be irreparably harmed if Executive violates the restrictive covenants below. In recognition of the consideration provided to Executive as well as the imparting to Executive of Confidential Information, including trade secrets, and for other good and valuable consideration, Executive hereby agrees as follows:

(a) While Executive is employed by the Company and for twenty-four (24) months after Executive's employment terminates for any reason, whether before or after the Expiration Date (in the aggregate, the "Non-Competition Period"), Executive shall not, directly or indirectly, whether as owner, partner, investor (other than a passive investor of less than 5% in a publicly traded company), consultant, agent, employee, co-venturer, or otherwise, (i) compete with the business of the Company or any of its subsidiaries in any location where the Company or its subsidiaries conducts business (a "Competitive Business") or (ii) undertake any planning for any Competitive Business. With respect to the portion of the Non-Competition Period that follows Executive's termination of employment, the determination of whether a business is a Competitive Business shall be made based on the scope and location of the businesses conducted or planned to be conducted by the Company and its subsidiaries as of the date of such termination.

(b) Executive agrees that, during Executive's employment with the Company, Executive will not undertake any outside activity, whether or not competitive with the business of the Company or its Affiliates, that would reasonably give rise to a conflict of interest or otherwise interfere with Executive's duties and obligations to the Company or any of its Affiliates.

(c) Executive further agrees that, during the Non-Competition Period, Executive will not solicit, hire, or attempt to solicit or hire any employee of the Company or any of its Affiliates (or any individual who was employed by the Company or any of its Affiliates during the one (1)-year period prior to Executive's termination), assist in such hiring by any Person, encourage any such employee to terminate his or her relationship with the

Company or any of its Affiliates, or solicit or encourage any customer, client, or vendor of the Company or any of its Affiliates to terminate or diminish its relationship with them, or, in the case of a customer, to conduct with any Person any business or activity which such customer conducts with the Company or any of its Affiliates.

(d) Executive shall not, whether in writing or orally, malign, denigrate, or disparage the Company or its Affiliates, or their respective predecessors and successors, or any of the current or former directors, officers, employees, shareholders, partners, members, agents, or representatives of any of the foregoing, with respect to any of their respective past or present activities, or otherwise publish (whether in writing or orally) statements that tend to portray any of the aforementioned parties in an unfavorable light. The Company shall direct its directors and officers not to, whether in writing or orally, malign, denigrate, or disparage Executive with respect to any of Executive's past or present activities, or otherwise publish (whether in writing or orally) statements that are intended to portray Executive in an unfavorable light.

(e) Executive's and the Company's obligations under this Section 7, as applicable, shall continue beyond the termination of Executive's employment with the Company.

8. Notification Requirement. Through and up to the conclusion of the Non-Competition Period, Executive shall give notice to the Company of each new business activity he plans to undertake, at least seven (7) days prior to beginning any such activity. Such notice shall state the name and address of the Person for whom such activity is undertaken and the nature of Executive's business relationship(s) and position(s) with such Person.

9. Intellectual Property Rights. (a) Executive agrees that the results and proceeds of Executive's services for the Company (including, but not limited to, any trade secrets, products, services, processes, know-how, designs, developments, innovations, analyses, drawings, reports, techniques, formulas, methods, developmental or experimental work, improvements, discoveries, inventions, ideas, source and object codes, programs, writing and other works of authorship) resulting from services performed while an employee of the Company and any works in progress, whether or not patentable or registrable under copyright or similar statutes, that were made, developed, conceived, or reduced to practice or learned by Executive, either alone or jointly with others (collectively, "Inventions"), shall be works-made-for-hire and the Company shall be deemed the sole owner throughout the universe of any and all trade secret, patent, copyright, and other intellectual property rights (collectively, "Proprietary Rights") of whatsoever nature therein, whether or not now or hereafter known, existing, contemplated, recognized, or developed, with the right to use the same in perpetuity in any manner the Company determines in its sole discretion, without any further payment to Executive whatsoever. If, for any reason, any of such results and proceeds shall not legally be a work-made-for-hire and/or there are any Proprietary Rights which do not accrue to the Company under the immediately preceding sentence, then Executive hereby irrevocably assigns and agrees to assign any and all of Executive's right, title, and interest thereto, including any and all Proprietary Rights of whatsoever nature therein, whether or not now or hereafter known,

existing, contemplated, recognized, or developed, to the Company, and the Company shall have the right to use the same in perpetuity throughout the universe in any manner determined by the Company without any further payment to Executive whatsoever. As to any Invention that Executive is required to assign, Executive shall promptly and fully disclose to the Company all information known to Executive concerning such Invention.

(b) Executive agrees that, from time to time, as may be requested by the Company and at the Company's sole cost and expense, Executive shall do any and all things that the Company may reasonably deem useful or desirable to establish or document the Company's exclusive ownership throughout the United States of America or any other country of any and all Proprietary Rights in any such Inventions, including the execution of appropriate copyright and patent applications or assignments. To the extent that Executive has any Proprietary Rights in the Inventions that cannot be assigned in the manner described above, Executive unconditionally and irrevocably waives the enforcement of such Proprietary Rights. This Section 9(b) is subject to and shall not be deemed to limit, restrict, or constitute any waiver by the Company of any Proprietary Rights of ownership to which the Company may be entitled by operation of law by virtue of the Company's being Executive's employer. Executive shall execute, verify, and deliver such documents and perform such other acts (including appearances as a witness) as the Company may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining, and enforcing such Proprietary Rights and the assignment thereof. In addition, Executive shall execute, verify, and deliver assignments of such Proprietary Rights to the Company or its designees. Executive's obligations under this Section 9 shall continue beyond the termination of Executive's employment with the Company.

(c) 18 U.S.C. § 1833(b) provides: "An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that—(i) is made—(A) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (B) solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b). Accordingly, the parties to this Agreement have the right to disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law. The parties also have the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure.

(d) Executive hereby waives and quitclaims to the Company any and all claims, of any nature whatsoever, that Executive now or may hereafter have for infringement of any Proprietary Rights assigned hereunder to the Company.

10. Remedies and Injunctive Relief. Executive acknowledges that a violation by Executive of any of the covenants contained in Sections 6, 7, 8, or 9 would cause irreparable damage to the Company in an amount that would be material but not readily ascertainable, and that any remedy at law (including the payment of damages) would be

inadequate. Accordingly, Executive agrees that, notwithstanding any provision of this Agreement to the contrary, the Company shall be entitled (without the necessity of showing economic loss or other actual damage) to injunctive relief (including temporary restraining orders, preliminary injunctions, and permanent injunctions) in any court of competent jurisdiction for any actual or threatened breach of any of the covenants set forth in Sections 6, 7, 8, or 9 in addition to any other legal or equitable remedies it may have. The preceding sentence shall not be construed as a waiver of the rights that the Company may have for damages under this Agreement or otherwise, and all of the Company's rights shall be unrestricted.

11. Representations; Advice of Counsel. (a) Executive represents, warrants, and covenants that as of the date hereof: (i) Executive has the full right, authority, and capacity to enter into this Agreement and perform Executive's obligations hereunder, (ii) Executive is not bound by any agreement that conflicts with or prevents or restricts the full performance of Executive's duties and obligations to the Company hereunder during or after the Term, and (iii) the execution and delivery of this Agreement shall not result in any breach or violation of, or a default under, any existing obligation, commitment, or agreement to which Executive is subject.

(b) Prior to execution of this Agreement, Executive was advised by the Company of Executive's right to seek independent advice from an attorney of Executive's own selection regarding this Agreement. Executive acknowledges that Executive has entered into this Agreement knowingly and voluntarily and with full knowledge and understanding of the provisions of this Agreement after being given the opportunity to consult with counsel. Executive further represents that in entering into this Agreement, Executive is not relying on any statements or representations made by any of the Company's directors, officers, employees, or agents that are not expressly set forth herein, and that Executive is relying only upon Executive's own judgment and any advice provided by Executive's attorney.

(c) The Company represents, warrants, and covenants that as of the date hereof: (i) the Company has the full right, authority, and capacity to enter into this Agreement and perform the Company's obligations hereunder, (ii) the Company is not bound by any agreement that conflicts with or prevents or restricts the full performance of the Company's obligations to Executive hereunder during or after the Term, and (iii) the execution and delivery of this Agreement shall not result in any breach or violation of, or a default under, any existing obligation, commitment, or agreement to which the Company is subject.

12. Cooperation. Executive agrees that, upon reasonable notice and without the necessity of the Company's obtaining a subpoena or court order, Executive shall provide reasonable cooperation in connection with any suit, action, or proceeding (or any appeal from any suit, action, or proceeding), and any investigation or defense of any claims asserted against the Company or its Affiliates, that relates to events occurring during Executive's employment with the Company and its Affiliates as to which Executive may have relevant information (including but not limited to furnishing relevant information and materials to the Company or its designee and providing testimony at depositions and at trial); provided that with respect to such cooperation occurring following termination of employment, the Company shall reimburse Executive for expenses reasonably incurred in connection therewith.

13. Withholding. The Company may deduct and withhold from any amounts payable under this Agreement such federal, state, local, non-U.S., and other taxes as are required to be withheld pursuant to any applicable law or regulation.

14. Assignment. Neither the Company nor Executive may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other party; provided, that the Company may assign its rights under this Agreement without the consent of Executive to a successor to substantially all of the business of the Company in the event that the Company shall effect a reorganization, consolidate with or merge into any other corporation, partnership, organization, or other entity, or transfer all or substantially all of its properties or assets to any other corporation, partnership, organization, or other entity. This Agreement shall inure to the benefit of and be binding upon the Company and Executive, and their respective successors, executors, administrators, heirs, and permitted assigns.

15. Governing Law; No Construction Against Drafter. This Agreement shall be deemed made in the State of Delaware, and the validity, interpretation, construction, and performance of this Agreement in all respects shall be governed by the laws of the State of Delaware without regard to its principles of conflicts of law. No provision of this Agreement or any related document will be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party's having or being deemed to have structured or drafted such provision.

16. Consent to Jurisdiction; Waiver of Jury Trial. (a) Except as otherwise specifically provided herein, Executive and the Company each hereby irrevocably submit to the exclusive jurisdiction of the federal courts located within the State of Delaware (or, if subject matter jurisdiction in such courts are not available, in any state court located within the State of Delaware) over any dispute arising out of or relating to this Agreement. Except as otherwise specifically provided in this Agreement, the parties undertake not to commence any suit, action or proceeding arising out of or relating to this Agreement in a forum other than a forum described in this Section 16(a); provided, however, that nothing herein shall preclude either party from bringing any suit, action, or proceeding in any other court for the purpose of enforcing the provisions of this Section 16 or enforcing any judgment obtained by either party.

(b) The agreement of the parties to the forum described in Section 16(a) is independent of the law that may be applied in any suit, action, or proceeding, and the parties agree to such forum even if such forum may under applicable law choose to apply non-forum law. The parties hereby waive, to the fullest extent permitted by applicable law, any objection which they now or hereafter have to personal jurisdiction or to the laying of venue of any such suit, action, or proceeding brought in an applicable court described in Section 16(a), and the parties agree that they shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court. The parties agree that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any suit, action, or proceeding brought in any applicable court described in Section 16(a) shall be conclusive and binding upon the parties and may be enforced in any other jurisdiction.

(c) The parties hereto irrevocably consent to the service of any and all process in any suit, action, or proceeding arising out of or relating to this Agreement by the mailing of copies of such process to such party at such party's address specified in Section 20.

(d) Each party hereto hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action, or proceeding arising out of or relating to this Agreement. Each party hereto (i) certifies that no representative, agent, or attorney of any other party has represented, expressly or otherwise, that such party would not, in the event of any action, suit, or proceeding, seek to enforce the foregoing waiver, and (ii) acknowledges that it and the other party hereto has been induced to enter into this Agreement by, among other things, the mutual waiver and certifications in this Section 16(d).

(e) Each party shall bear his or her or its own costs and expenses (including reasonable attorneys' fees and expenses) incurred in connection with any dispute arising out of or relating to this Agreement.

17. Amendment; No Waiver; Severability. (a) No provisions of this Agreement may be amended, modified, waived, or discharged except by a written document signed by Executive and a duly authorized officer of the Company (other than Executive). The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No failure or delay by either party in exercising any right or power hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right or power, or any abandonment of any steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

(b) term or provision of this Agreement is invalid, illegal, or incapable of being enforced by any applicable law or public policy, all other conditions and provisions of this Agreement shall nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party; provided that in the event that any court of competent jurisdiction shall finally hold in a non-appealable judicial determination that any provision of Sections 6 through 10 (whether in whole or in part) is void or constitutes an unreasonable restriction against Executive, such provision shall not be rendered void but shall be deemed modified to the minimum extent necessary to make such provision enforceable for the longest duration and the greatest scope as such court may determine constitutes a reasonable restriction under the circumstances. Subject to the foregoing, upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

18. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Company and Executive with respect to the subject matter hereof and

supersedes all prior agreements and understandings (whether written or oral), between Executive and the Company, relating to such subject matter. None of the parties shall be liable or bound to any other party in any manner by any representations and warranties or covenants relating to such subject matter except as specifically set forth herein.

19. Survival. The rights and obligations of the parties under the provisions of this Agreement shall survive, and remain binding and enforceable, notwithstanding the expiration of the Term, the termination of this Agreement, the termination of Executive's employment hereunder or any settlement of the financial rights and obligations arising from Executive's employment hereunder, to the extent necessary to preserve the intended benefits of such provisions.

20. Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by facsimile or sent, postage prepaid, by registered, certified, or express mail or overnight courier service and shall be deemed given when so delivered by hand or facsimile, or if mailed, three days after mailing (one (1) business day in the case of express mail or overnight courier service) to the parties at the following addresses or facsimiles (or at such other address for a party as shall be specified by like notice):

If to the Company: Vistra Corp.

Attn: Corporate Secretary
6555 Sierra Drive
Irving, TX 75039

If to Executive: At the most recent address on file in the Company's records.

Notices delivered by facsimile shall have the same legal effect as if such notice had been delivered in person.

21. Headings and References. The headings of this Agreement are inserted for convenience only, and neither constitute a part of this Agreement nor affect in any way the meaning or interpretation of this Agreement. When a reference in this Agreement is made to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated.

22. Counterparts. This Agreement may be executed in one or more counterparts (including via electronic image scan (.pdf)), each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

23. Section 409A. (a) For purposes of this Agreement, "Section 409A" means Section 409A of the Code, and the Treasury Regulations promulgated thereunder (and such other Treasury or Internal Revenue Service guidance) as in effect from time to time. The parties intend that any amounts payable hereunder that could constitute "deferred compensation"

within the meaning of Section 409A will be compliant with Section 409A or exempt from Section 409A.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a “specified employee” within the meaning of Code Section 409A(a)(2)(B)(i) (as determined in accordance with the methodology established by the Company as in effect on the date of Executive’s “separation from service” (within the meaning of Treasury Regulations § 1.409A-1(h)), (ii) amounts or benefits under this Agreement or any other program, plan, or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of separation from service, and (iii) Executive is employed by a public company or a controlled group affiliate thereof: payments hereunder that are “deferred compensation” subject to Section 409A that would be made to Executive prior to the date that is six (6) months after the date of Executive’s separation from service shall be made within ten (10) business days after such six (6)-month date or, if earlier, ten (10) days following the date of Executive’s death; following any applicable delay, all such delayed payments, without interest will be paid in a single lump sum on the earliest permissible payment date.

(c) Except to the extent required to be delayed pursuant to Section 23(b), any payment or benefit due or payable on account of Executive’s separation from service to which this Section 23(c) applies shall be paid or commence, as applicable, upon the first scheduled payroll date immediately after the date the Release Condition is satisfied (the “Release Effective Date”); provided that, to the extent that such payment or benefit represents a “deferral of compensation” within the meaning of Section 409A and the sixty (60) day period following Executive’s separation from service spans two (2) taxable years, payment shall not be made or commence prior to January 1 of the second taxable year. The first such cash payment shall include payment of all amounts that otherwise would have been due prior to the Release Effective Date under the terms of this Agreement applied as though such payments commenced immediately upon Executive’s termination of employment, and any payments made thereafter shall continue as provided herein. The delayed benefits shall in any event expire at the time such benefits would have expired had such benefits commenced immediately following Executive’s termination of employment.

(d) Each payment made under this Agreement (including each separate installment payment in the case of a series of installment payments) shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a “deferral of compensation” subject to Section 409A to the extent provided in the exceptions in Treasury Regulations §§ 1.409A-1(b)(4) (“short-term deferrals”) and (b)(9) (“separation pay plans,” including the exception under subparagraph (iii)) and other applicable provisions of Section 409A, and shall be paid under any such exception to the maximum extent permitted. For purposes of this Agreement, with respect to payments of any amounts that are considered to be “deferred compensation” subject to Section 409A, references to “termination of employment,” “termination,” or words and phrases of similar import, shall be deemed to refer to Executive’s “separation from service” as defined in Section 409A, and shall be interpreted and applied in a manner that is consistent with the requirements of Section 409A.

In no event may Executive, directly or indirectly, designate the calendar year of any payment under this Agreement.

(e) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is eligible for exemption from Section 409A pursuant to Treasury Regulation § 1.409A-1(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs; and provided that such expenses are reimbursed no later than the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs. To the extent that any indemnification payment, expense reimbursement, or provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement, or the provision of any in-kind benefit, in one (1) calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation applicable to medical expenses to the extent permitted by Section 409A), such indemnification, reimbursement, or in-kind benefits shall be provided for the period set forth in this Agreement, or if no such period is set forth, during Executive's lifetime, in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the date first written above.

Vistra Corp. and Vistra Corporate Services Company

By: /s/ Stephanie Zapata Moore

Name: Stephanie Zapata Moore

Title: Executive Vice President, General Counsel, and Chief Compliance Officer

CARRIE LEE KIRBY

/s/ Carrie Lee Kirby

Exhibit A

OIP:	Equity awards to be subject to the terms of the Company's Omnibus Incentive Plan.
Annual Equity Awards:	Executive will be granted annual equity awards in an amount determined by the Board. Such awards may be in the form of options, restricted stock units, performance shares, or any other form as approved by the Board.
Involuntary Termination Without Cause / Resignation for Good Reason / Non-Renewal of Term by the Company:	Subject to delivery (and non-revocation) of the Release and continued compliance with Sections 6 and 7 of this Agreement, accelerated vesting of the portion of Executive's outstanding equity awards that would have vested in the 12 months following termination had Executive remained employed (fully vested options to remain exercisable for 90 days following termination or, if Executive is subject Section 16 of the Exchange Act as of such Termination, 180 days from the date of such termination (or until the option's regular expiration date, if shorter)).
Termination with Cause / Resignation Without Good Reason / Non-Renewal of the Term by Executive	All options and other outstanding awards (unvested and vested) are forfeited upon a termination for Cause. On any other termination, Executive will retain all vested awards (forfeits unvested), and vested options remain exercisable for 30 days following termination or, if Executive is subject Section 16 of the Exchange Act as of such Termination, 180 days from the date of such termination (or until the option's regular expiration date, if shorter).
Death / Disability	Accelerated vesting of the portion of Executive's equity awards that would have vested in the 12 months following termination had he remained employed (fully vested options to remain exercisable for one year following termination (or until the option's regular expiration date, if shorter)).
Involuntary Termination Without Cause / Resignation for Good Reason / Non-Renewal of Term by the Company Following a Change in Control:	All equity awards that were outstanding at the time of the Change in Control will vest upon such termination.

Exhibit B
Release of Claims

As used in this Release of Claims (this “Release”), the term “claims” will include all claims, covenants, warranties, promises, undertakings, actions, suits, causes of action, proceedings, obligations, debts, accounts, attorneys’ fees, judgments, losses, and liabilities, of whatsoever kind or nature, in law, in equity, or otherwise. Capitalized terms used but not defined in this Release will have the meanings given to them in the employment agreement dated May __, 2022, between Vistra Corp., Vistra Corporate Services Company (together, the “Company”) and Carrie Lee Kirby (my “Agreement”).

For and in consideration of the severance payments and benefits, and other good and valuable consideration, I, for and on behalf of myself and my executors, heirs, administrators, representatives, and assigns, hereby agree to release and forever discharge the Company and each of its direct and indirect parent and subsidiary entities, and all of their respective predecessors, successors, and past, current, and future parent entities, affiliates, subsidiary entities, investors, directors, shareholders, members, officers, general or limited partners, employees, attorneys, agents, and representatives, and the employee benefit plans in which I am or have been a participant by virtue of my employment with or service to the Company (collectively, the “Company Releasees”), from any and all claims that I have or may have had against the Company Releasees based on any events or circumstances arising or occurring on or prior to the date hereof and arising directly or indirectly out of, relating to, or in any other way involving in any manner whatsoever my employment by or service to the Company or the termination thereof, including without limitation any and all claims arising under federal, state, or local laws relating to employment, including without limitation claims of wrongful discharge, breach of express or implied contract, fraud, misrepresentation, defamation, intentional infliction of emotional distress, whistleblowing, or liability in tort, and claims of any kind that may be brought in any court or administrative agency, and any related claims for attorneys’ fees and costs, including, without limitation, claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000, et seq.; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq.; the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et seq.; the Civil Rights Act of 1866, and the Civil Rights Act of 1991; 42 U.S.C. Section 1981, et seq.; the Age Discrimination in Employment Act, as amended, 29 U.S.C. Section 621, et seq. (the “ADEA”); the Equal Pay Act, as amended, 29 U.S.C. Section 206(d); regulations of the Office of Federal Contract Compliance, 41 C.F.R. Section 60, et seq.; the Family and Medical Leave Act, as amended, 29 U.S.C. § 2601 et seq.; the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et seq.; the Employee Retirement Income Security Act, as amended, 29 U.S.C. § 1001 et seq.; and any similar state or local law. I agree further that this Release may be pleaded as a full defense to any action, suit, arbitration, or other proceeding covered by the terms hereof that is or may be initiated, prosecuted, or maintained by me or my descendants, dependents, heirs, executors, administrators, or assigns. By signing this Release, I acknowledge that I intend to waive and release all rights known or unknown that I may have against the Company Releasees under these and any other laws.

I acknowledge and agree that as of the date I execute this Release, I have no knowledge of any facts or circumstances that give rise or could give rise to any claims under any of the laws

listed in the preceding paragraph and that I have not filed any claim against any of the Releasees before any local, state, federal, or foreign agency, court, arbitrator, mediator, arbitration or mediation panel, or other body (each individually a “Proceeding”). I (i) acknowledge that I will not initiate or cause to be initiated on my behalf any Proceeding and will not participate in any Proceeding, in each case, except as required by law or to the extent such Proceeding relates to a claim not waived hereunder; and (ii) waive any right that I may have to benefit in any manner from any relief (whether monetary or otherwise) arising out of any Proceeding, including any Proceeding conducted by the Equal Employment Opportunity Commission (“EEOC”), except in each case to the extent such Proceeding relates to a claim not waived hereunder. Further, I understand that, by executing this Release, I will be limiting the availability of certain remedies that I may have against the Company and limiting also my ability to pursue certain claims against the Company Releasees.

By executing this Release, I specifically release all claims relating to my employment and its termination under ADEA, a federal statute that, among other things, prohibits discrimination on the basis of age in employment and employee benefit plans.

Notwithstanding the generality of the foregoing, I do not release (i) claims to receive my severance payments and benefits in accordance with the terms of the Agreement, (ii) claims with respect to benefits to which I am entitled under the employee benefit and compensation plans of the Company and its affiliates, including any rights to equity, (iii) claims to indemnification, or (iv) claims that cannot be waived by law. Further, nothing in this Release shall prevent me from (i) initiating or causing to be initiated on my behalf any claim against the Company before any local, state, or federal agency, court, or other body challenging the validity of the waiver of my claims under the ADEA (but no other portion of such waiver); or (ii) initiating or participating in an investigation or proceeding conducted by the EEOC.

I acknowledge that I have been given at least [21]/[45]¹ days in which to consider this Release. I acknowledge further that the Company has advised me to consult with an attorney of my choice before signing this Release, and I have had sufficient time to consider the terms of this Release. I represent and acknowledge that if I execute this Release before [21]/[45] days have elapsed, I do so knowingly, voluntarily, and upon the advice and with the approval of my legal counsel (if any), and that I voluntarily waive any remaining consideration period.

I understand that after executing this Release, I have the right to revoke it within seven days after its execution. I understand that this Release will not become effective and enforceable unless the seven-day revocation period passes and I do not revoke the Release in writing. I understand that this Release may not be revoked after the seven (7)-day revocation period has passed. I understand also that any revocation of this Release must be made in writing and delivered to the Company at its principal place of business within the seven (7)-day period.

This Release will become effective, irrevocable, and binding on the eighth day after its execution, so long as I have not timely revoked it as set forth above. I understand and

¹ NTD: To be selected based on whether applicable termination was “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967).

acknowledge that I will not be entitled to the severance payments and benefits unless this Release is effective on or before the date that is sixty (60) days following the date of my termination of employment.

I hereby agree to waive any and all claims to re-employment with the Company or any of its affiliates and affirmatively agree not to seek further employment with the Company or any of its affiliates.

The provisions of this Release will be binding upon my heirs, executors, administrators, legal representatives, and assigns. If any provision of this Release will be held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision will be of no force or effect. The illegality or unenforceability of such provision, however, will have no effect upon and will not impair the enforceability of any other provision of this Release.

This Release will be governed in accordance with the laws of the State of Delaware, without reference to the principles of conflicts of law. Any dispute or claim arising out of or relating to this Release or claim of breach hereof will be brought exclusively in the federal and state courts located within Delaware. By execution of this Release, I am waiving any right to trial by jury in connection with any suit, action, or proceeding under or in connection with this Release.

Carrie Lee Kirby

DATE

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “Agreement”), dated as of May 5, 2022 (the “Effective Date”), is between Vistra Corp., TXU Retail Services Company (together, the “Company”), and Scott A. Hudson (“Executive”).

Recitals:

WHEREAS, the Company and Executive previously entered into an agreement effective as of March 1, 2018 (the “Original Effective Date”);

WHEREAS, the Company and Executive subsequently entered into an amended and restated employment agreement (the “Prior Employment Agreement”) effective as of March 25, 2020 (the “Second Effective Date”); and

WHEREAS, the Company and Executive desire to amend and restate the Prior Employment Agreement to reflect the terms upon which Executive shall continue to provide services to the Company.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and intending to be legally bound hereby, the parties to this Agreement hereby agree as follows:

1. Term.

(a) The term of Executive’s employment under this Agreement shall be effective as of the Effective Date, and shall continue until the three (3)-year anniversary of the Effective Date (the “Initial Expiration Date”); provided that on the Initial Expiration Date and each subsequent anniversary of the Initial Expiration Date, the term of Executive’s employment under this Agreement shall be extended for one (1) additional year unless either party provides written notice to the other party at least sixty (60) days prior to the Initial Expiration Date (or any such anniversary, as applicable) that Executive’s employment shall not be so extended (in which case, Executive’s employment shall terminate on the Initial Expiration Date or any such anniversary, as applicable); provided, however, that Executive’s employment under this Agreement may be terminated at any earlier time pursuant to the provisions of Section 5. The period of time from the Effective Date through the termination of this Agreement and Executive’s employment hereunder pursuant to its terms is herein referred to as the “Term”; and the date on which the Term is scheduled to expire (i.e., the Initial Expiration Date or the scheduled expiration of the extended term, if applicable) is herein referred to as the “Expiration Date.”

(b) Executive agrees and acknowledges that the Company has no obligation to extend the Term or to continue Executive’s employment following the Expiration Date, and Executive expressly acknowledges that no promises or understandings to the contrary have been made or reached.

2. Definitions. For purposes of this Agreement, the following terms, as used herein, shall have the definitions set forth below.

(a) “Affiliate” means, with respect to any specified Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such specified Person.

(b) “Change in Control” shall be deemed to occur upon any of the following events:

(i) the acquisition by any Person or related “group” (as such term is used in Sections 13(d) and 14(d) of the U.S. Securities Exchange Act of 1934, as amended, and any successor thereto (the “Exchange Act”)) of Beneficial Ownership (as defined in Rule 13d-3 promulgated under Section 13 of the Exchange Act) of 30% or more (on a fully diluted basis) of either (A) the then-outstanding shares of the common stock of the Company (the “Common Stock”), including Common Stock issuable upon the exercise of options or warrants, the conversion of convertible stock or debt, and the exercise of any similar right to acquire such Common Stock (the “Outstanding Company Common Stock”); or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote in the election of directors (the “Outstanding Company Voting Securities”); but excluding any acquisition by the Company or any of its Affiliates or by any employee benefit plan sponsored or maintained by the Company or any of its Affiliates;

(ii) a change in the composition of the Board such that members of the Board during any consecutive twelve (12)-month period (the “Incumbent Directors”) cease to constitute a majority of the Board. Any person becoming a director through election or nomination for election approved by a valid vote of at least two thirds of the Incumbent Directors shall be deemed an Incumbent Director; provided, however, that no individual becoming a director as a result of an actual or threatened election contest, as such terms are used in Rule 14a-12 of Regulation 14A promulgated under the Exchange Act, or as a result of any other actual or threatened solicitation of proxies or consents by or on behalf of any person other than the Board shall be deemed an Incumbent Director;

(iii) the approval by the shareholders of the Company of a plan of complete dissolution or liquidation of the Company; or

(iv) the consummation of a reorganization, recapitalization, merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company (a “Business Combination”), or sale, transfer or other disposition of all or substantially all of the business or assets of the Company to an entity that is not an Affiliate of the Company (a “Sale”), unless immediately following such Business Combination or Sale: (A) more than 50% of the total voting power of the entity resulting from such Business Combination or the entity that acquired all or substantially all of the business or assets of the Company in such Sale (in either case, the “Surviving Company”), or the ultimate parent entity that has Beneficial Ownership of sufficient voting power to elect a majority of the board of directors (or analogous governing body) of the Surviving Company (the “Parent Company”), is represented by the Outstanding Company Voting Securities that were outstanding immediately prior to such Business Combination or Sale (or, if applicable, is represented by shares into which the Outstanding Company Voting Securities were converted pursuant to such Business Combination or Sale), and such voting power among the holders thereof is in substantially the same proportion as the voting power of the Outstanding Company Voting Securities among the holders thereof immediately prior to the Business Combination or Sale, (B) no Person or related group of Persons (other than any employee benefit plan sponsored or maintained by the Surviving Company or the Parent Company) is or becomes the beneficial owner, directly or indirectly, of 50% or more of the total voting power of the outstanding voting securities eligible to elect members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Surviving Company) and (C) at least a majority of the members of the board of directors (or the analogous governing body) of the Parent Company (or, if

there is no Parent Company, the Surviving Company) following the consummation of the Business Combination or Sale were Board members at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination or Sale.

(c) "Cause" means (i) Executive's willful and continued failure to perform Executive's duties with the Company; (ii) Executive's willful and continued failure to follow and comply with the written policies of the Company as in effect from time to time; (iii) Executive's willful commission of an act of fraud or dishonesty resulting in economic or financial injury to the Company; (iv) Executive's willful engagement in illegal conduct or gross misconduct; (v) Executive's willful breach of this Agreement; or (vi) Executive's indictment for, conviction of, or a plea of guilty or nolo contendere to any felony or other crime involving moral turpitude. No act or failure to act will be treated as willful if it is done, or omitted to be done, by Executive in good faith and with a good faith belief that such act or omission was in the best interests of the Company.

(d) "Control" (including, with correlative meanings, the terms "Controlled by" and "under common Control with"), as used with respect to any Person, means the direct or indirect possession of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or by contract.

(e) "Disability" means Executive would be entitled to long-term disability benefits under the Company's long-term disability plan as in effect from time to time, without regard to any waiting or elimination period under such plan and assuming for the purpose of such determination that Executive is actually participating in such plan at such time. If the Company does not maintain a long-term disability plan, "Disability" means Executive's inability to perform Executive's duties and responsibilities hereunder on a full-time basis for a consecutive period of one hundred eighty (180) days due to physical or mental illness or incapacity that is determined to be total and permanent by a physician selected by the Company or its insurers and reasonably acceptable to Executive or Executive's legal representative.

(f) "Good Reason" means the occurrence, without the consent of Executive, of either of the following events: (i) any material diminution of, or modification to, Executive's title, duties, responsibilities, authorities, or terms of employment set forth in Section 3 or (ii) any breach by the Company of any of its material obligations to Executive. Prior to resigning for Good Reason, Executive shall give written notice to the Company of the facts and circumstances claimed to provide a basis for such resignation not more than sixty (60) days following Executive's knowledge of such facts and circumstances, and the Company shall have ten (10) business days after receipt of such notice to cure (and if so cured, Executive shall not be permitted to resign for Good Reason in respect thereof) and Executive shall resign within ten (10) business days following the Company's failure to cure.

(g) "Person" means any individual, firm, corporation, partnership, limited liability company, trust, joint venture, association, unincorporated entity, or other entity.

3. Duties and Responsibilities. The Company employs Executive, and Executive accepts employment, subject to the terms and conditions contained herein, during the Term, as Executive Vice President and President of Vistra Retail. During the Term, Executive agrees to be employed by and devote all of Executive's business time and attention to the Company and the promotion of its interests and to use Executive's best efforts to faithfully and diligently serve the Company; provided, however, that, to the extent that such activities do not significantly interfere with the performance of Executive's duties, services, and responsibilities under this Agreement, Executive shall be permitted to (a) manage Executive's personal, financial, and legal affairs, (b) serve on civic or charitable boards and committees of such boards

and (c) to the extent approved by the Board of Directors of the Company (the “Board”) pursuant to a duly authorized resolution of the Board, serve on corporate boards and committees of such boards. Executive will report to the Chief Executive Officer. Executive will perform such lawful duties and responsibilities as are commensurate with Executive’s title and position, and such other duties and responsibilities commensurate with Executive’s title and position as may be reasonably requested by the Chief Executive Officer and the Board from time to time. Executive will have the authority customarily exercised by an individual serving as a President of a business unit of a corporation of the size and nature of the Company. Executive’s place of employment will be in Irving, Texas.

4. Compensation and Related Matters. (a) Base Salary. During the Term, Executive shall receive an aggregate annual base salary (“Base Salary”) at an initial rate of \$609,000.00, payable in accordance with the Company’s applicable payroll practices. Base Salary shall be reviewed annually by the Board and increased (but not decreased) in the Board’s sole discretion. References in this Agreement to Base Salary shall be deemed to refer to the most recently effective annual base salary rate.

(b) Annual Bonus. During the Term, Executive shall be eligible to receive a cash bonus (the “Annual Bonus”) for each year (or portion thereof), provided that, except as otherwise provided herein, Executive has remained employed by the Company as of the applicable payment date. Executive’s target bonus opportunity for any particular year (the “Target Bonus”) shall be 90% of Base Salary, and Executive’s maximum bonus opportunity shall be 200% of the Target Bonus. The Annual Bonus shall be subject to performance metrics approved by the Board based on key short-term objectives and shall be at the full discretion of the Board. Any Annual Bonus shall be paid in the fiscal year following the fiscal year to which such Annual Bonus relates, at the same as annual bonuses are paid to all other senior executives.

(c) Equity Compensation. Executive shall be entitled to receive equity compensation awards as described in Exhibit A.

(d) Benefits and Perquisites. During the Term, Executive shall be entitled to participate in the benefit plans and programs and receive perquisites that are provided by the Company from time to time for its senior executives generally, subject to the terms and conditions of such plans and programs, as they may be amended from time to time, and commensurate with Executive’s position. During the Term, Executive shall be entitled to up to \$15,000 per year for tax and financial planning.

(e) Business Expense Reimbursements. During the Term, the Company shall promptly reimburse Executive for Executive’s reasonable and necessary business expenses in accordance with the Company’s then-prevailing policies and procedures for expense reimbursement (which shall include appropriate itemization and substantiation of expenses incurred).

(f) Indemnification. The Company shall indemnify and hold harmless Executive, to the fullest extent permitted by law and the Company’s governing documents, against all claims, expenses, damages, liabilities, and losses incurred by Executive (whether before or after the Original Effective Date) by reason of the fact that Executive is or was, or had agreed to become, a consultant, director, officer, employee, agent, or fiduciary of the Company or any of its subsidiaries or Affiliates or predecessors of any of the foregoing, or any benefit plan of any of the foregoing, or is or was serving at the request of the Company as a consultant, director, officer, partner, venturer, proprietor, trustee, employee, agent, fiduciary, or similar functionary of another corporation, partnership, joint venture, business, person, trust, employee benefit plan, or other entity. The Company shall provide Executive with customary directors’ and officers’ liability insurance coverage both during and after the Term with regard to matters

occurring during employment or while otherwise providing services to, or serving at the request of, the Company or any of its subsidiaries or Affiliates, or any benefit plan of any of the foregoing, which coverage shall be at a level at least equal to the greatest level being maintained at such time for any current officer or director and shall continue until such time as suits can no longer be brought against Executive as a matter of law. Executive will be entitled to advancement of expenses in connection with any claim in the same manner and to the same extent to which any other officer or director of the Company is entitled. Notwithstanding the foregoing, the Company shall not be required to indemnify or advance expenses to Executive in connection with (i) any dispute in connection with this Agreement or Executive's employment hereunder; (ii) any action, claim, or proceeding initiated by Executive against the Company unless such action, claim, or proceeding is approved in advance by the Board in writing; or (iii) any liabilities, damages, claims or expenses incurred that are attributable to Executive's fraud, bad faith, willful misconduct, or gross negligence.

5. Termination of Employment. (a) Executive's employment under this Agreement may be terminated by either party at any time and for any reason; provided, however, that Executive shall be required to give the Company at least sixty (60) days' advance written notice of any voluntary resignation of Executive's employment hereunder (other than resignation for Good Reason) (and in such event the Company in its sole discretion may elect to accelerate Executive's date of termination of employment, it being understood that such termination shall still be treated as a voluntary resignation without Good Reason for purposes of this Agreement). Notwithstanding the foregoing, Executive's employment shall terminate automatically upon Executive's death.

(b) Following any termination of Executive's employment under this Agreement, except as provided under Sections 5(c), 5(d), and 5(e), the obligations of the Company to pay or provide Executive with compensation and benefits under Section 4 shall cease, and the Company shall have no further obligations to provide compensation or benefits to Executive hereunder, except (i) for payment of any accrued but unpaid Base Salary and any accrued but unused vacation and for payment of any unreimbursed business expenses under Section 4(e), in each case accrued or incurred through the date of termination of employment, payable as soon as practicable and in all events within thirty (30) days following the date of termination of employment, (ii) as explicitly set forth in any other benefit plans, programs, or arrangements applicable to terminated employees in which Executive participates (including, without limitation, equity award agreements), other than severance plans or policies (including severance benefits following a Change in Control), and (iii) as otherwise expressly required by applicable law. For the avoidance of doubt, except as otherwise provided below, any Unpaid Annual Bonus (as defined below) is forfeited if Executive's employment is terminated for any reason.

(c) If Executive's employment under this Agreement is terminated (i) by the Company without Cause (other than due to death or Disability), (ii) by Executive for Good Reason, or (iii) due to expiration of the Term on the Expiration Date as a result of the Company delivering a notice of non-renewal as contemplated by Section 1, in addition to the payments and benefits specified in Section 5(b), Executive shall be entitled to receive: (i) severance pay in an aggregate amount (the "Severance Pay") equal to, two times (2x) the sum of (A) Base Salary plus (B) Target Bonus; (ii) a prorated Annual Bonus in respect of the fiscal year of termination equal to the product of (x) the amount of Annual Bonus that would have been payable to Executive had Executive's employment not so terminated based on actual performance measured through the fiscal year of termination, and (y) a fraction, the numerator of which is the number of days elapsed in the Company's fiscal year in which the termination occurs through such termination and the denominator of which is the number of days in such fiscal year (the "Prorated Bonus"); (iii) any accrued but unpaid Annual Bonus in respect of the fiscal year prior to the fiscal year of termination (the "Unpaid Annual Bonus"); and (iv)

continued health insurance benefits under the terms of the applicable Company benefit plans for twenty-four (24) months, subject to Executive's payment of the cost of such benefits to the same extent that active employees of the Company are required to pay for such benefits from time to time; provided, however, that, such continuation coverage shall end earlier upon Executive's becoming eligible for comparable coverage under another employer's benefit plans; and provided, further, that, to the extent that the provision of such continuation coverage is not permitted under the terms of the Company benefit plans or would result in an adverse tax consequence to the Company, the Company may alternatively provide Executive with a monthly cash payment in an amount equal to the applicable COBRA premium that Executive would otherwise be required to pay to obtain COBRA continuation coverage for such benefits for twenty-four (24) months (assuming that COBRA continuation coverage were available for such period) (minus the cost of such benefits to the same extent that active employees of the Company are required to pay for such benefits from time to time) (the "Healthcare Severance Benefits"), commencing as provided in Section 23(c). The Severance Pay shall be paid in equal installments during the twenty-four (24)-month period following Executive's termination in accordance with the Company's regular payroll practices, but no less frequently than monthly, and commencing as provided in Section 23(c) below. The Unpaid Annual Bonus shall be paid on the date bonuses are paid to other executives during the fiscal year of Executive's termination and the Prorated Bonus shall be paid on the date bonuses are paid to other executives of the Company in the year following the fiscal year of Executive's termination.

(d) Notwithstanding anything herein to the contrary, if at any time within eighteen (18) months following a Change in Control, Executive's employment under this Agreement is terminated (i) by the Company without Cause (other than due to death or Disability), (ii) by Executive for Good Reason, or (iii) due to expiration of the Term on the Expiration Date as a result of the Company delivering a notice of non-renewal as contemplated by Section 1, then Executive, in lieu of any of the amounts and benefits described in Section 5(c) and in addition to the payments and benefits specified in Section 5(b), shall be entitled to receive (i) the Unpaid Annual Bonus, (ii) 2.99 times the sum of (A) Base Salary plus (B) Target Bonus (the "CIC Severance Pay"), (iii) the product of (x) the Target Bonus, and (y) a fraction, the numerator of which is the number of days elapsed in the Company's fiscal year in which the termination occurs through such termination and the denominator of which is the number of days in such fiscal year (the "Prorated CIC Bonus"), and (iv) the Healthcare Severance Benefits for twenty-four (24) months (as described above and commencing as provided in Section 23(c)). The CIC Severance Pay and the Prorated CIC Bonus shall be paid in cash in a lump sum on the first payroll following the satisfaction of the Release Condition, subject to Section 23(c); provided, however, if the Change in Control does not constitute a "change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation" within the meaning of Section 409A(a)(2)(A)(v) of the Internal Revenue Code of 1986, as amended (the "Code"), the portion of the CIC Severance Pay that is not in excess of the Severance Pay that would have been payable upon such termination if Section 5(c) applied shall be paid to Executive in equal monthly installments during the twenty-four (24)-month period following Executive's termination in accordance with the Company's regular payroll practices, but no less frequently than monthly, and commencing as provided in Section 23(c) below, and the portion of the CIC Severance Pay in excess of such amount shall be paid to Executive in a lump sum sixty (60) days after the consummation of the Change in Control. The Unpaid Annual Bonus shall be paid on the date bonuses are paid to other executives during the fiscal year of Executive's termination.

(e) If Executive's employment under this Agreement is terminated due to death or Disability, in addition to the payments and benefits specified in Section 5(b), Executive shall be entitled to receive (i) the Prorated Bonus, paid on the date bonuses are paid to other executives of the Company in the year following the fiscal year of Executive's termination,

and (ii) the Unpaid Annual Bonus, paid on the date bonuses are paid to other executives of the Company in the fiscal year of Executive's termination.

(f) Executive's entitlement to the payments and benefits set forth in Sections 5(c) and 5(d), shall be conditioned upon Executive's having provided an irrevocable waiver and release of claims in favor of the Company, its Affiliates, their respective predecessors and successors, and all of the respective current or former directors, officers, employees, shareholders, partners, members, agents, or representatives of any of the foregoing (collectively, the "Released Parties"), substantially in the form attached hereto as Exhibit B (the "Release"), that has become effective in accordance with its terms within sixty (60) days following Executive's termination of employment (the "Release Condition"), and Executive's continued compliance with Sections 6 and 7 hereof.

(g) Upon termination of Executive's employment for any reason, and regardless of whether Executive continues as a consultant to the Company, upon the Company's request Executive agrees to resign, as of the date of such termination of employment or such other date requested, from the Board and any committees thereof, and, if applicable, from the board of directors (and any committees thereof) of any Affiliate of the Company to the extent Executive is then serving thereon. The Company's obligations to make the payments provided for in this Agreement are subject to set-off for any undisputed amounts owed by Executive, to the extent permitted by Section 409A (as defined below) and any Company clawback policy.

(h) The payment of any amounts accrued under any benefit plan, program, or arrangement in which Executive participates shall be subject to the terms of the applicable plan, program, or arrangement, and any elections Executive has made thereunder.

(i) Following any termination of Executive's employment, Executive shall have no obligation to seek other employment or take any other action by way of mitigation of the amounts payable to Executive under any of the provisions of this Agreement. There shall be no offset against amounts due Executive under this Agreement on account of any remuneration attributable to later employment, consultancy, or other remunerative activity of Executive.

6. Confidential Information.

(a) Executive acknowledges that the Company and its Affiliates continually develop Confidential Information (as defined below), that Executive may develop Confidential Information for the Company or its Affiliates and that Executive may learn of Confidential Information during the course of Executive's employment. Executive will comply with the policies and procedures of the Company and its Affiliates for protecting Confidential Information and shall not disclose to any Person or use, other than as required by applicable law or for the proper performance of Executive's duties and responsibilities to the Company and its Affiliates, any Confidential Information obtained by Executive incident to Executive's employment or other association with the Company or any of its Affiliates. Executive understands that this restriction shall continue to apply after Executive's employment terminates, regardless of the reason for such termination.

(b) All documents, records, tapes, and other media of every kind and description relating to the business, present or otherwise, of the Company or its Affiliates and any copies, in whole or in part, thereof (the "Documents"), whether or not prepared by Executive, shall be the sole and exclusive property of the Company and its Affiliates. Executive shall safeguard all Documents and shall surrender to the Company at the time Executive's employment terminates, or at such earlier time or times as the Company may specify, all Documents then in Executive's possession or control. Executive shall immediately return such

Documents and other property to the Company upon the termination of Executive's employment and, in any event, at the Company's request. Executive further agrees that any property situated on the premises of, and owned by, the Company or its Affiliates, including disks and other storage media, filing cabinets, or other work areas, is subject to inspection by the Company's personnel at any time with or without notice.

(c) Executive understands that, notwithstanding anything to the contrary contained herein, no provision of this Agreement will be interpreted so as to impede Executive (or any other individual) from (i) making any disclosure of relevant and necessary information or documents in any action, investigation, or proceeding relating to this Agreement, or as required by law or legal process, including with respect to possible violations of law, (ii) participating, cooperating, or testifying in any action, investigation, or proceeding with, or providing information to, any governmental agency, legislative body or any self-regulatory organization, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, (iii) accepting any U.S. Securities and Exchange Commission Awards, or (iv) making other disclosures under the whistleblower provisions of federal law or regulation. In addition, nothing in this Agreement or any other agreement or Company policy prohibits or restricts Executive from initiating communications with, or responding to any inquiry from, any administrative, governmental, regulatory or supervisory authority regarding any good faith concerns about possible violations of law or regulation. Executive does not need the prior authorization of the Company to make any such reports or disclosures and Executive will not be required to notify the Company that such reports or disclosures have been made.

(d) "Confidential Information" means any and all information of the Company and its Affiliates that is not generally known by others with whom they compete or do business, or with whom any of them plans to compete or do business and any and all information, publicly known in whole or in part or not, which, if disclosed by the Company or its Affiliates would assist in competition against them. Confidential Information includes, without limitation, such information relating to (i) the development, research, testing, manufacturing, marketing and financial activities of the Company and its Affiliates, (ii) all products planned, researched, developed, tested, manufactured, sold, licensed, leased or otherwise distributed or put into use by the Company and its Affiliates, together with all services provided or planned by the Company or any of its Affiliates, during Executive's employment, (iii) the costs, sources of supply, financial performance and strategic plans of the Company and its Affiliates, (iv) the identity and special needs of the customers of the Company and its Affiliates and (v) the people and organizations with whom the Company and its Affiliates have business relationships and those relationships. Confidential Information also includes any information that the Company or any of its Affiliates have received, or may receive hereafter, belonging to customers or others with any understanding, express or implied, that the information would not be disclosed.

7. Restricted Activities. Executive agrees that some restrictions on Executive's activities during and after Executive's employment are necessary to protect the goodwill, Confidential Information, and other legitimate interests of the Company and its Affiliates. Following the Effective Date, the Company will provide Executive with access to and knowledge of Confidential Information and trade secrets and will place Executive in a position of trust and confidence with the Company, and Executive will benefit from the Company's goodwill. The restrictive covenants below are necessary to protect the Company's legitimate business interests in its Confidential Information, trade secrets and goodwill. Executive further understands and acknowledges that the Company's ability to reserve these for the exclusive knowledge and use of the Company is of great competitive importance and commercial value to the Company and that the Company would be irreparably harmed if Executive violates the restrictive covenants below. In recognition of the consideration provided to Executive as well as

the imparting to Executive of Confidential Information, including trade secrets, and for other good and valuable consideration, Executive hereby agrees as follows:

(a) While Executive is employed by the Company and for twenty-four (24) months after Executive's employment terminates for any reason, whether before or after the Expiration Date (in the aggregate, the "Non-Competition Period"), Executive shall not, directly or indirectly, whether as owner, partner, investor (other than a passive investor of less than 5% in a publicly traded company), consultant, agent, employee, co-venturer, or otherwise, (i) compete with the business of the Company or any of its subsidiaries in any location where the Company or its subsidiaries conducts business (a "Competitive Business") or (ii) undertake any planning for any Competitive Business. With respect to the portion of the Non-Competition Period that follows Executive's termination of employment, the determination of whether a business is a Competitive Business shall be made based on the scope and location of the businesses conducted or planned to be conducted by the Company and its subsidiaries as of the date of such termination.

(b) Executive agrees that, during Executive's employment with the Company, Executive will not undertake any outside activity, whether or not competitive with the business of the Company or its Affiliates, that would reasonably give rise to a conflict of interest or otherwise interfere with Executive's duties and obligations to the Company or any of its Affiliates.

(c) Executive further agrees that, during the Non-Competition Period, Executive will not solicit, hire, or attempt to solicit or hire any employee of the Company or any of its Affiliates (or any individual who was employed by the Company or any of its Affiliates during the one (1)-year period prior to Executive's termination), assist in such hiring by any Person, encourage any such employee to terminate his or her relationship with the Company or any of its Affiliates, or solicit or encourage any customer, client, or vendor of the Company or any of its Affiliates to terminate or diminish its relationship with them, or, in the case of a customer, to conduct with any Person any business or activity which such customer conducts with the Company or any of its Affiliates.

(d) Executive shall not, whether in writing or orally, malign, denigrate, or disparage the Company or its Affiliates, or their respective predecessors and successors, or any of the current or former directors, officers, employees, shareholders, partners, members, agents, or representatives of any of the foregoing, with respect to any of their respective past or present activities, or otherwise publish (whether in writing or orally) statements that tend to portray any of the aforementioned parties in an unfavorable light. The Company shall direct its directors and officers not to, whether in writing or orally, malign, denigrate, or disparage Executive with respect to any of Executive's past or present activities, or otherwise publish (whether in writing or orally) statements that are intended to portray Executive in an unfavorable light.

(e) Executive's and the Company's obligations under this Section 7, as applicable, shall continue beyond the termination of Executive's employment with the Company.

8. Notification Requirement. Through and up to the conclusion of the Non-Competition Period, Executive shall give notice to the Company of each new business activity he plans to undertake, at least seven (7) days prior to beginning any such activity. Such notice shall state the name and address of the Person for whom such activity is undertaken and the nature of Executive's business relationship(s) and position(s) with such Person.

9. Intellectual Property Rights. (a) Executive agrees that the results and proceeds of Executive's services for the Company (including, but not limited to, any trade

secrets, products, services, processes, know-how, designs, developments, innovations, analyses, drawings, reports, techniques, formulas, methods, developmental or experimental work, improvements, discoveries, inventions, ideas, source and object codes, programs, writing and other works of authorship) resulting from services performed while an employee of the Company and any works in progress, whether or not patentable or registrable under copyright or similar statutes, that were made, developed, conceived, or reduced to practice or learned by Executive, either alone or jointly with others (collectively, "Inventions"), shall be works-made-for-hire and the Company shall be deemed the sole owner throughout the universe of any and all trade secret, patent, copyright, and other intellectual property rights (collectively, "Proprietary Rights") of whatsoever nature therein, whether or not now or hereafter known, existing, contemplated, recognized, or developed, with the right to use the same in perpetuity in any manner the Company determines in its sole discretion, without any further payment to Executive whatsoever. If, for any reason, any of such results and proceeds shall not legally be a work-made-for-hire and/or there are any Proprietary Rights which do not accrue to the Company under the immediately preceding sentence, then Executive hereby irrevocably assigns and agrees to assign any and all of Executive's right, title, and interest thereto, including any and all Proprietary Rights of whatsoever nature therein, whether or not now or hereafter known, existing, contemplated, recognized, or developed, to the Company, and the Company shall have the right to use the same in perpetuity throughout the universe in any manner determined by the Company without any further payment to Executive whatsoever. As to any Invention that Executive is required to assign, Executive shall promptly and fully disclose to the Company all information known to Executive concerning such Invention.

(b) Executive agrees that, from time to time, as may be requested by the Company and at the Company's sole cost and expense, Executive shall do any and all things that the Company may reasonably deem useful or desirable to establish or document the Company's exclusive ownership throughout the United States of America or any other country of any and all Proprietary Rights in any such Inventions, including the execution of appropriate copyright and patent applications or assignments. To the extent that Executive has any Proprietary Rights in the Inventions that cannot be assigned in the manner described above, Executive unconditionally and irrevocably waives the enforcement of such Proprietary Rights. This Section 9(b) is subject to and shall not be deemed to limit, restrict, or constitute any waiver by the Company of any Proprietary Rights of ownership to which the Company may be entitled by operation of law by virtue of the Company's being Executive's employer. Executive shall execute, verify, and deliver such documents and perform such other acts (including appearances as a witness) as the Company may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining, and enforcing such Proprietary Rights and the assignment thereof. In addition, Executive shall execute, verify, and deliver assignments of such Proprietary Rights to the Company or its designees. Executive's obligations under this Section 9 shall continue beyond the termination of Executive's employment with the Company.

(c) 18 U.S.C. § 1833(b) provides: "An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that—(i) is made—(A) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (B) solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b). Accordingly, the parties to this Agreement have the right to disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law. The parties also have the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure.

(d) Executive hereby waives and quitclaims to the Company any and all claims, of any nature whatsoever, that Executive now or may hereafter have for infringement of any Proprietary Rights assigned hereunder to the Company.

10. Remedies and Injunctive Relief. Executive acknowledges that a violation by Executive of any of the covenants contained in Sections 6, 7, 8, or 9 would cause irreparable damage to the Company in an amount that would be material but not readily ascertainable, and that any remedy at law (including the payment of damages) would be inadequate. Accordingly, Executive agrees that, notwithstanding any provision of this Agreement to the contrary, the Company shall be entitled (without the necessity of showing economic loss or other actual damage) to injunctive relief (including temporary restraining orders, preliminary injunctions, and permanent injunctions) in any court of competent jurisdiction for any actual or threatened breach of any of the covenants set forth in Sections 6, 7, 8, or 9 in addition to any other legal or equitable remedies it may have. The preceding sentence shall not be construed as a waiver of the rights that the Company may have for damages under this Agreement or otherwise, and all of the Company's rights shall be unrestricted.

11. Representations; Advice of Counsel. (a) Executive represents, warrants, and covenants that as of the date hereof: (i) Executive has the full right, authority, and capacity to enter into this Agreement and perform Executive's obligations hereunder, (ii) Executive is not bound by any agreement that conflicts with or prevents or restricts the full performance of Executive's duties and obligations to the Company hereunder during or after the Term, and (iii) the execution and delivery of this Agreement shall not result in any breach or violation of, or a default under, any existing obligation, commitment, or agreement to which Executive is subject.

(b) Prior to execution of this Agreement, Executive was advised by the Company of Executive's right to seek independent advice from an attorney of Executive's own selection regarding this Agreement. Executive acknowledges that Executive has entered into this Agreement knowingly and voluntarily and with full knowledge and understanding of the provisions of this Agreement after being given the opportunity to consult with counsel. Executive further represents that in entering into this Agreement, Executive is not relying on any statements or representations made by any of the Company's directors, officers, employees, or agents that are not expressly set forth herein, and that Executive is relying only upon Executive's own judgment and any advice provided by Executive's attorney.

(c) The Company represents, warrants, and covenants that as of the date hereof: (i) the Company has the full right, authority, and capacity to enter into this Agreement and perform the Company's obligations hereunder, (ii) the Company is not bound by any agreement that conflicts with or prevents or restricts the full performance of the Company's obligations to Executive hereunder during or after the Term, and (iii) the execution and delivery of this Agreement shall not result in any breach or violation of, or a default under, any existing obligation, commitment, or agreement to which the Company is subject.

12. Cooperation. Executive agrees that, upon reasonable notice and without the necessity of the Company's obtaining a subpoena or court order, Executive shall provide reasonable cooperation in connection with any suit, action, or proceeding (or any appeal from any suit, action, or proceeding), and any investigation or defense of any claims asserted against the Company or its Affiliates, that relates to events occurring during Executive's employment with the Company and its Affiliates as to which Executive may have relevant information (including but not limited to furnishing relevant information and materials to the Company or its designee and providing testimony at depositions and at trial); provided that with respect to such cooperation occurring following termination of employment, the Company shall reimburse Executive for expenses reasonably incurred in connection therewith.

13. Withholding. The Company may deduct and withhold from any amounts payable under this Agreement such federal, state, local, non-U.S., and other taxes as are required to be withheld pursuant to any applicable law or regulation.

14. Assignment. Neither the Company nor Executive may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other party; provided, that the Company may assign its rights under this Agreement without the consent of Executive to a successor to substantially all of the business of the Company in the event that the Company shall effect a reorganization, consolidate with or merge into any other corporation, partnership, organization, or other entity, or transfer all or substantially all of its properties or assets to any other corporation, partnership, organization, or other entity. This Agreement shall inure to the benefit of and be binding upon the Company and Executive, and their respective successors, executors, administrators, heirs, and permitted assigns.

15. Governing Law; No Construction Against Drafter. This Agreement shall be deemed made in the State of Delaware, and the validity, interpretation, construction, and performance of this Agreement in all respects shall be governed by the laws of the State of Delaware without regard to its principles of conflicts of law. No provision of this Agreement or any related document will be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party's having or being deemed to have structured or drafted such provision.

16. Consent to Jurisdiction; Waiver of Jury Trial. (a) Except as otherwise specifically provided herein, Executive and the Company each hereby irrevocably submit to the exclusive jurisdiction of the federal courts located within the State of Delaware (or, if subject matter jurisdiction in such courts are not available, in any state court located within the State of Delaware) over any dispute arising out of or relating to this Agreement. Except as otherwise specifically provided in this Agreement, the parties undertake not to commence any suit, action or proceeding arising out of or relating to this Agreement in a forum other than a forum described in this Section 16(a); provided, however, that nothing herein shall preclude either party from bringing any suit, action, or proceeding in any other court for the purpose of enforcing the provisions of this Section 16 or enforcing any judgment obtained by either party.

(b) The agreement of the parties to the forum described in Section 16(a) is independent of the law that may be applied in any suit, action, or proceeding, and the parties agree to such forum even if such forum may under applicable law choose to apply non-forum law. The parties hereby waive, to the fullest extent permitted by applicable law, any objection which they now or hereafter have to personal jurisdiction or to the laying of venue of any such suit, action, or proceeding brought in an applicable court described in Section 16(a), and the parties agree that they shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court. The parties agree that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any suit, action, or proceeding brought in any applicable court described in Section 16(a) shall be conclusive and binding upon the parties and may be enforced in any other jurisdiction.

(c) The parties hereto irrevocably consent to the service of any and all process in any suit, action, or proceeding arising out of or relating to this Agreement by the mailing of copies of such process to such party at such party's address specified in Section 20.

(d) Each party hereto hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action, or proceeding arising out of or relating to this Agreement. Each party hereto (i) certifies that no representative, agent, or attorney of any other party has represented, expressly or otherwise, that

such party would not, in the event of any action, suit, or proceeding, seek to enforce the foregoing waiver, and (ii) acknowledges that it and the other party hereto has been induced to enter into this Agreement by, among other things, the mutual waiver and certifications in this Section 16(d).

(e) Each party shall bear his or her or its own costs and expenses (including reasonable attorneys' fees and expenses) incurred in connection with any dispute arising out of or relating to this Agreement.

17. Amendment; No Waiver; Severability. (a) No provisions of this Agreement may be amended, modified, waived, or discharged except by a written document signed by Executive and a duly authorized officer of the Company (other than Executive). The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No failure or delay by either party in exercising any right or power hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right or power, or any abandonment of any steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

(b) If any term or provision of this Agreement is invalid, illegal, or incapable of being enforced by any applicable law or public policy, all other conditions and provisions of this Agreement shall nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party; provided that in the event that any court of competent jurisdiction shall finally hold in a non-appealable judicial determination that any provision of Sections 6 through 10 (whether in whole or in part) is void or constitutes an unreasonable restriction against Executive, such provision shall not be rendered void but shall be deemed modified to the minimum extent necessary to make such provision enforceable for the longest duration and the greatest scope as such court may determine constitutes a reasonable restriction under the circumstances. Subject to the foregoing, upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

18. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Company and Executive with respect to the subject matter hereof and supersedes all prior agreements and understandings (whether written or oral), between Executive and the Company, relating to such subject matter. None of the parties shall be liable or bound to any other party in any manner by any representations and warranties or covenants relating to such subject matter except as specifically set forth herein.

19. Survival. The rights and obligations of the parties under the provisions of this Agreement shall survive, and remain binding and enforceable, notwithstanding the expiration of the Term, the termination of this Agreement, the termination of Executive's employment hereunder or any settlement of the financial rights and obligations arising from Executive's employment hereunder, to the extent necessary to preserve the intended benefits of such provisions.

20. Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by facsimile or sent, postage prepaid, by registered, certified, or express mail or overnight courier service and shall be deemed given when so delivered by hand or facsimile, or if mailed, three days after mailing (one

(1) business day in the case of express mail or overnight courier service) to the parties at the following addresses or facsimiles (or at such other address for a party as shall be specified by like notice):

If to the Company: Vistra Corp.

Attn: Corporate Secretary
6555 Sierra Drive
Irving, TX 75039

If to Executive: At the most recent address on file in the Company's records.

Notices delivered by facsimile shall have the same legal effect as if such notice had been delivered in person.

21. Headings and References. The headings of this Agreement are inserted for convenience only, and neither constitute a part of this Agreement nor affect in any way the meaning or interpretation of this Agreement. When a reference in this Agreement is made to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated.

22. Counterparts. This Agreement may be executed in one or more counterparts (including via electronic image scan (.pdf)), each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

23. Section 409A. (a) For purposes of this Agreement, "Section 409A" means Section 409A of the Code, and the Treasury Regulations promulgated thereunder (and such other Treasury or Internal Revenue Service guidance) as in effect from time to time. The parties intend that any amounts payable hereunder that could constitute "deferred compensation" within the meaning of Section 409A will be compliant with Section 409A or exempt from Section 409A.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a "specified employee" within the meaning of Code Section 409A(a)(2)(B)(i) (as determined in accordance with the methodology established by the Company as in effect on the date of Executive's "separation from service" (within the meaning of Treasury Regulations § 1.409A-1(h)), (ii) amounts or benefits under this Agreement or any other program, plan, or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of separation from service, and (iii) Executive is employed by a public company or a controlled group affiliate thereof: payments hereunder that are "deferred compensation" subject to Section 409A that would be made to Executive prior to the date that is six (6) months after the date of Executive's separation from service shall be made within ten (10) business days after such six (6)-month date or, if earlier, ten (10) days following the date of Executive's death; following any applicable delay, all such delayed payments, without interest will be paid in a single lump sum on the earliest permissible payment date.

(c) Except to the extent required to be delayed pursuant to Section 23(b), any payment or benefit due or payable on account of Executive's separation from service to which this Section 23(c) applies shall be paid or commence, as applicable, upon the first scheduled payroll date immediately after the date the Release Condition is satisfied (the "Release Effective Date"); provided that, to the extent that such payment or benefit represents a "deferral of compensation" within the meaning of Section 409A and the sixty (60) day period

following Executive's separation from service spans two (2) taxable years, payment shall not be made or commence prior to January 1 of the second taxable year. The first such cash payment shall include payment of all amounts that otherwise would have been due prior to the Release Effective Date under the terms of this Agreement applied as though such payments commenced immediately upon Executive's termination of employment, and any payments made thereafter shall continue as provided herein. The delayed benefits shall in any event expire at the time such benefits would have expired had such benefits commenced immediately following Executive's termination of employment.

(d) Each payment made under this Agreement (including each separate installment payment in the case of a series of installment payments) shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a "deferral of compensation" subject to Section 409A to the extent provided in the exceptions in Treasury Regulations §§ 1.409A-1(b)(4) ("short-term deferrals") and (b)(9) ("separation pay plans," including the exception under subparagraph (iii)) and other applicable provisions of Section 409A, and shall be paid under any such exception to the maximum extent permitted. For purposes of this Agreement, with respect to payments of any amounts that are considered to be "deferred compensation" subject to Section 409A, references to "termination of employment," "termination," or words and phrases of similar import, shall be deemed to refer to Executive's "separation from service" as defined in Section 409A, and shall be interpreted and applied in a manner that is consistent with the requirements of Section 409A. In no event may Executive, directly or indirectly, designate the calendar year of any payment under this Agreement.

(e) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is eligible for exemption from Section 409A pursuant to Treasury Regulation § 1.409A-1(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs; and provided that such expenses are reimbursed no later than the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs. To the extent that any indemnification payment, expense reimbursement, or provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement, or the provision of any in-kind benefit, in one (1) calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation applicable to medical expenses to the extent permitted by Section 409A), such indemnification, reimbursement, or in-kind benefits shall be provided for the period set forth in this Agreement, or if no such period is set forth, during Executive's lifetime, in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the date first written above.

Vistra Corp. and TXU Retail Services Company

By: /s/ Carrie Lee Kirby

Name: Carrie Lee Kirby

Title: Executive Vice President and Chief Administrative Officer

SCOTT A. HUDSON

/s/ Scott A. Hudson

Exhibit A

OIP:	Equity awards to be subject to the terms of the Company's Omnibus Incentive Plan.
Annual Equity Awards:	Executive will be granted annual equity awards in an amount determined by the Board. Such awards may be in the form of options, restricted stock units, performance shares, or any other form as approved by the Board.
Involuntary Termination Without Cause / Resignation for Good Reason / Non-Renewal of Term by the Company:	Subject to delivery (and non-revocation) of the Release and continued compliance with Sections 6 and 7 of this Agreement, accelerated vesting of the portion of Executive's outstanding equity awards that would have vested in the 12 months following termination had Executive remained employed (fully vested options to remain exercisable for 90 days following termination or, if Executive is subject Section 16 of the Exchange Act as of such Termination, 180 days from the date of such termination (or until the option's regular expiration date, if shorter)).
Termination with Cause / Resignation Without Good Reason / Non-Renewal of the Term by Executive	All options and other outstanding awards (unvested and vested) are forfeited upon a termination for Cause. On any other termination, Executive will retain all vested awards (forfeits unvested), and vested options remain exercisable for 30 days following termination or, if Executive is subject Section 16 of the Exchange Act as of such Termination, 180 days from the date of such termination (or until the option's regular expiration date, if shorter).
Death / Disability	Accelerated vesting of the portion of Executive's equity awards that would have vested in the 12 months following termination had he remained employed (fully vested options to remain exercisable for one year following termination (or until the option's regular expiration date, if shorter)).
Involuntary Termination Without Cause / Resignation for Good Reason / Non-Renewal of Term by the Company Following a Change in Control:	All equity awards that were outstanding at the time of the Change in Control will vest upon such termination.

Exhibit B
Release of Claims

As used in this Release of Claims (this “Release”), the term “claims” will include all claims, covenants, warranties, promises, undertakings, actions, suits, causes of action, proceedings, obligations, debts, accounts, attorneys’ fees, judgments, losses, and liabilities, of whatsoever kind or nature, in law, in equity, or otherwise. Capitalized terms used but not defined in this Release will have the meanings given to them in the employment agreement dated May __, 2022, between Vistra Corp., TXU Retail Services Company (together, the “Company”) and Scott A. Hudson (my “Agreement”).

For and in consideration of the severance payments and benefits, and other good and valuable consideration, I, for and on behalf of myself and my executors, heirs, administrators, representatives, and assigns, hereby agree to release and forever discharge the Company and each of its direct and indirect parent and subsidiary entities, and all of their respective predecessors, successors, and past, current, and future parent entities, affiliates, subsidiary entities, investors, directors, shareholders, members, officers, general or limited partners, employees, attorneys, agents, and representatives, and the employee benefit plans in which I am or have been a participant by virtue of my employment with or service to the Company (collectively, the “Company Releasees”), from any and all claims that I have or may have had against the Company Releasees based on any events or circumstances arising or occurring on or prior to the date hereof and arising directly or indirectly out of, relating to, or in any other way involving in any manner whatsoever my employment by or service to the Company or the termination thereof, including without limitation any and all claims arising under federal, state, or local laws relating to employment, including without limitation claims of wrongful discharge, breach of express or implied contract, fraud, misrepresentation, defamation, intentional infliction of emotional distress, whistleblowing, or liability in tort, and claims of any kind that may be brought in any court or administrative agency, and any related claims for attorneys’ fees and costs, including, without limitation, claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000, et seq.; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq.; the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et seq.; the Civil Rights Act of 1866, and the Civil Rights Act of 1991; 42 U.S.C. Section 1981, et seq.; the Age Discrimination in Employment Act, as amended, 29 U.S.C. Section 621, et seq. (the “ADEA”); the Equal Pay Act, as amended, 29 U.S.C. Section 206(d); regulations of the Office of Federal Contract Compliance, 41 C.F.R. Section 60, et seq.; the Family and Medical Leave Act, as amended, 29 U.S.C. § 2601 et seq.; the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et seq.; the Employee Retirement Income Security Act, as amended, 29 U.S.C. § 1001 et seq.; and any similar state or local law. I agree further that this Release may be pleaded as a full defense to any action, suit, arbitration, or other proceeding covered by the terms hereof that is or may be initiated, prosecuted, or maintained by me or my descendants, dependents, heirs, executors, administrators, or assigns. By signing this Release, I acknowledge that I intend to waive and release all rights known or unknown that I may have against the Company Releasees under these and any other laws.

I acknowledge and agree that as of the date I execute this Release, I have no knowledge of any facts or circumstances that give rise or could give rise to any claims under any of the laws listed in the preceding paragraph and that I have not filed any claim against any of the Releasees before any local, state, federal, or foreign agency, court, arbitrator, mediator, arbitration or mediation panel, or other body (each individually a “Proceeding”). I (i) acknowledge that I will not initiate or cause to be initiated on my behalf any Proceeding and will not participate in any Proceeding, in each case, except as required by law or to the extent such Proceeding relates to a claim not waived hereunder; and (ii) waive any right that I may have to benefit in any manner from any relief (whether monetary or otherwise) arising out of any Proceeding, including any Proceeding conducted by the Equal Employment Opportunity Commission (“EEOC”), except in

each case to the extent such Proceeding relates to a claim not waived hereunder. Further, I understand that, by executing this Release, I will be limiting the availability of certain remedies that I may have against the Company and limiting also my ability to pursue certain claims against the Company Releasees.

By executing this Release, I specifically release all claims relating to my employment and its termination under ADEA, a federal statute that, among other things, prohibits discrimination on the basis of age in employment and employee benefit plans.

Notwithstanding the generality of the foregoing, I do not release (i) claims to receive my severance payments and benefits in accordance with the terms of the Agreement, (ii) claims with respect to benefits to which I am entitled under the employee benefit and compensation plans of the Company and its affiliates, including any rights to equity, (iii) claims to indemnification, or (iv) claims that cannot be waived by law. Further, nothing in this Release shall prevent me from (i) initiating or causing to be initiated on my behalf any claim against the Company before any local, state, or federal agency, court, or other body challenging the validity of the waiver of my claims under the ADEA (but no other portion of such waiver); or (ii) initiating or participating in an investigation or proceeding conducted by the EEOC.

I acknowledge that I have been given at least [21]/[45]¹ days in which to consider this Release. I acknowledge further that the Company has advised me to consult with an attorney of my choice before signing this Release, and I have had sufficient time to consider the terms of this Release. I represent and acknowledge that if I execute this Release before [21]/[45] days have elapsed, I do so knowingly, voluntarily, and upon the advice and with the approval of my legal counsel (if any), and that I voluntarily waive any remaining consideration period.

I understand that after executing this Release, I have the right to revoke it within seven days after its execution. I understand that this Release will not become effective and enforceable unless the seven-day revocation period passes and I do not revoke the Release in writing. I understand that this Release may not be revoked after the seven (7)-day revocation period has passed. I understand also that any revocation of this Release must be made in writing and delivered to the Company at its principal place of business within the seven (7)-day period.

This Release will become effective, irrevocable, and binding on the eighth day after its execution, so long as I have not timely revoked it as set forth above. I understand and acknowledge that I will not be entitled to the severance payments and benefits unless this Release is effective on or before the date that is sixty (60) days following the date of my termination of employment.

I hereby agree to waive any and all claims to re-employment with the Company or any of its affiliates and affirmatively agree not to seek further employment with the Company or any of its affiliates.

The provisions of this Release will be binding upon my heirs, executors, administrators, legal representatives, and assigns. If any provision of this Release will be held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision will be of no force or effect. The illegality or unenforceability of such provision, however, will have no effect upon and will not impair the enforceability of any other provision of this Release.

¹ NTD: To be selected based on whether applicable termination was “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967).

This Release will be governed in accordance with the laws of the State of Delaware, without reference to the principles of conflicts of law. Any dispute or claim arising out of or relating to this Release or claim of breach hereof will be brought exclusively in the federal and state courts located within Delaware. By execution of this Release, I am waiving any right to trial by jury in connection with any suit, action, or proceeding under or in connection with this Release.

Scott A. Hudson

DATE

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “Agreement”), dated as of May 5, 2022 (the “Effective Date”), is between Vistra Corp., Luminant Energy Company LLC (together, the “Company”), and Stephen J. Muscato (“Executive”).

Recitals:

WHEREAS, the Company and Executive previously entered into an agreement effective as of March 9, 2018 (the “Original Effective Date”);

WHEREAS, the Company and Executive subsequently entered into an amended and restated employment agreement (the “Prior Employment Agreement”) effective as of February 25, 2020 (the “Second Effective Date”); and

WHEREAS, the Company and Executive desire to amend and restate the Prior Employment Agreement to reflect the terms upon which Executive shall continue to provide services to the Company.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and intending to be legally bound hereby, the parties to this Agreement hereby agree as follows:

1. Term.

(a) The term of Executive’s employment under this Agreement shall be effective as of the Effective Date, and shall continue until the three (3)-year anniversary of the Effective Date (the “Initial Expiration Date”); provided that on the Initial Expiration Date and each subsequent anniversary of the Initial Expiration Date, the term of Executive’s employment under this Agreement shall be extended for one (1) additional year unless either party provides written notice to the other party at least sixty (60) days prior to the Initial Expiration Date (or any such anniversary, as applicable) that Executive’s employment shall not be so extended (in which case, Executive’s employment shall terminate on the Initial Expiration Date or any such anniversary, as applicable); provided, however, that Executive’s employment under this Agreement may be terminated at any earlier time pursuant to the provisions of Section 5. The period of time from the Effective Date through the termination of this Agreement and Executive’s employment hereunder pursuant to its terms is herein referred to as the “Term”; and the date on which the Term is scheduled to expire (i.e., the Initial Expiration Date or the scheduled expiration of the extended term, if applicable) is herein referred to as the “Expiration Date.”

(b) Executive agrees and acknowledges that the Company has no obligation to extend the Term or to continue Executive’s employment following the Expiration Date, and Executive expressly acknowledges that no promises or understandings to the contrary have been made or reached.

2. Definitions. For purposes of this Agreement, the following terms, as used herein, shall have the definitions set forth below.

(a) “Affiliate” means, with respect to any specified Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such specified Person.

(b) “Change in Control” shall be deemed to occur upon any of the following events:

(i) the acquisition by any Person or related “group” (as such term is used in Sections 13(d) and 14(d) of the U.S. Securities Exchange Act of 1934, as amended, and any successor thereto (the “Exchange Act”)) of Beneficial Ownership (as defined in Rule 13d-3 promulgated under Section 13 of the Exchange Act) of 30% or more (on a fully diluted basis) of either (A) the then-outstanding shares of the common stock of the Company (the “Common Stock”), including Common Stock issuable upon the exercise of options or warrants, the conversion of convertible stock or debt, and the exercise of any similar right to acquire such Common Stock (the “Outstanding Company Common Stock”); or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote in the election of directors (the “Outstanding Company Voting Securities”); but excluding any acquisition by the Company or any of its Affiliates or by any employee benefit plan sponsored or maintained by the Company or any of its Affiliates;

(ii) a change in the composition of the Board such that members of the Board during any consecutive twelve (12)-month period (the “Incumbent Directors”) cease to constitute a majority of the Board. Any person becoming a director through election or nomination for election approved by a valid vote of at least two thirds of the Incumbent Directors shall be deemed an Incumbent Director; provided, however, that no individual becoming a director as a result of an actual or threatened election contest, as such terms are used in Rule 14a-12 of Regulation 14A promulgated under the Exchange Act, or as a result of any other actual or threatened solicitation of proxies or consents by or on behalf of any person other than the Board shall be deemed an Incumbent Director;

(iii) the approval by the shareholders of the Company of a plan of complete dissolution or liquidation of the Company; or

(iv) the consummation of a reorganization, recapitalization, merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company (a “Business Combination”), or sale, transfer or other disposition of all or substantially all of the business or assets of the Company to an entity that is not an Affiliate of the Company (a “Sale”), unless immediately following such Business Combination or Sale: (A) more than 50% of the total voting power of the entity resulting from such Business Combination or the entity that acquired all or substantially all of the business or assets of the Company in such Sale (in either case, the “Surviving Company”), or the ultimate parent entity that has Beneficial Ownership of sufficient voting power to elect a majority of the board of directors (or analogous governing body) of the Surviving Company (the “Parent Company”), is represented by the Outstanding Company Voting Securities that were outstanding immediately prior to such Business Combination or Sale (or, if applicable, is represented by shares into which the Outstanding Company Voting Securities were converted pursuant to such Business Combination or Sale), and such voting power among the holders thereof is in substantially the same proportion as the voting power of the Outstanding Company Voting Securities among the holders thereof immediately prior to the Business Combination or Sale, (B) no Person or related group of Persons (other than any employee benefit plan sponsored or maintained by the Surviving Company or the Parent Company) is or becomes the beneficial owner, directly or indirectly, of 50% or more of the total

voting power of the outstanding voting securities eligible to elect members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Surviving Company) and (C) at least a majority of the members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Surviving Company) following the consummation of the Business Combination or Sale were Board members at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination or Sale.

(c) "Cause" means (i) Executive's willful and continued failure to perform Executive's duties with the Company; (ii) Executive's willful and continued failure to follow and comply with the written policies of the Company as in effect from time to time; (iii) Executive's willful commission of an act of fraud or dishonesty resulting in economic or financial injury to the Company; (iv) Executive's willful engagement in illegal conduct or gross misconduct; (v) Executive's willful breach of this Agreement; or (vi) Executive's indictment for, conviction of, or a plea of guilty or nolo contendere to any felony or other crime involving moral turpitude. No act or failure to act will be treated as willful if it is done, or omitted to be done, by Executive in good faith and with a good faith belief that such act or omission was in the best interests of the Company.

(d) "Control" (including, with correlative meanings, the terms "Controlled by" and "under common Control with"), as used with respect to any Person, means the direct or indirect possession of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or by contract.

(e) "Disability" means Executive would be entitled to long-term disability benefits under the Company's long-term disability plan as in effect from time to time, without regard to any waiting or elimination period under such plan and assuming for the purpose of such determination that Executive is actually participating in such plan at such time. If the Company does not maintain a long-term disability plan, "Disability" means Executive's inability to perform Executive's duties and responsibilities hereunder on a full-time basis for a consecutive period of one hundred eighty (180) days due to physical or mental illness or incapacity that is determined to be total and permanent by a physician selected by the Company or its insurers and reasonably acceptable to Executive or Executive's legal representative.

(f) "Good Reason" means the occurrence, without the consent of Executive, of either of the following events: (i) any material diminution of, or modification to, Executive's title, duties, responsibilities, authorities, or terms of employment set forth in Section 3 or (ii) any breach by the Company of any of its material obligations to Executive. Prior to resigning for Good Reason, Executive shall give written notice to the Company of the facts and circumstances claimed to provide a basis for such resignation not more than sixty (60) days following Executive's knowledge of such facts and circumstances, and the Company shall have ten (10) business days after receipt of such notice to cure (and if so cured, Executive shall not be permitted to resign for Good Reason in respect thereof) and Executive shall resign within ten (10) business days following the Company's failure to cure.

(g) "Person" means any individual, firm, corporation, partnership, limited liability company, trust, joint venture, association, unincorporated entity, or other entity.

3. Duties and Responsibilities. The Company employs Executive, and Executive accepts employment, subject to the terms and conditions contained herein, during the Term, as the Executive Vice President and Chief Commercial Officer. During the Term, Executive agrees to be employed by and devote all of Executive's business time and attention to the Company and the promotion of its interests and to use Executive's best efforts to faithfully

and diligently serve the Company; provided, however, that, to the extent that such activities do not significantly interfere with the performance of Executive's duties, services, and responsibilities under this Agreement, Executive shall be permitted to (a) manage Executive's personal, financial, and legal affairs, (b) serve on civic or charitable boards and committees of such boards and (c) to the extent approved by the Board of Directors of the Company (the "Board") pursuant to a duly authorized resolution of the Board, serve on corporate boards and committees of such boards. Executive will report to the Chief Executive Officer. Executive will perform such lawful duties and responsibilities as are commensurate with Executive's title and position, and such other duties and responsibilities commensurate with Executive's title and position as may be reasonably requested by the Chief Executive Officer and the Board from time to time. Executive will have the authority customarily exercised by an individual serving as an Executive Vice President of a corporation of the size and nature of the Company. Executive's place of employment will be in Irving, Texas.

4. Compensation and Related Matters. (a) Base Salary. During the Term, Executive shall receive an aggregate annual base salary ("Base Salary") at an initial rate of \$634,400.00, payable in accordance with the Company's applicable payroll practices. Base Salary shall be reviewed annually by the Board and increased (but not decreased) in the Board's sole discretion. References in this Agreement to Base Salary shall be deemed to refer to the most recently effective annual base salary rate.

(b) Annual Bonus. During the Term, Executive shall be eligible to receive a cash bonus (the "Annual Bonus") for each year (or portion thereof), provided that, except as otherwise provided herein, Executive has remained employed by the Company as of the applicable payment date. Executive's target bonus opportunity for any particular year (the "Target Bonus") shall be 100% of Base Salary, and Executive's maximum bonus opportunity shall be 200% of the Target Bonus. The Annual Bonus shall be subject to performance metrics approved by the Board based on key short-term objectives and shall be at the full discretion of the Board. Any Annual Bonus shall be paid in the fiscal year following the fiscal year to which such Annual Bonus relates, at the same as annual bonuses are paid to all other senior executives.

(c) Equity Compensation. Executive shall be entitled to receive equity compensation awards as described in Exhibit A.

(d) Benefits and Perquisites. During the Term, Executive shall be entitled to participate in the benefit plans and programs and receive perquisites that are provided by the Company from time to time for its senior executives generally, subject to the terms and conditions of such plans and programs, as they may be amended from time to time, and commensurate with Executive's position. During the Term, Executive shall be entitled to up to \$15,000 per year for tax and financial planning.

(e) Business Expense Reimbursements. During the Term, the Company shall promptly reimburse Executive for Executive's reasonable and necessary business expenses in accordance with the Company's then-prevailing policies and procedures for expense reimbursement (which shall include appropriate itemization and substantiation of expenses incurred).

(f) Indemnification. The Company shall indemnify and hold harmless Executive, to the fullest extent permitted by law and the Company's governing documents, against all claims, expenses, damages, liabilities, and losses incurred by Executive (whether before or after the Original Effective Date) by reason of the fact that Executive is or was, or had agreed to become, a consultant, director, officer, employee, agent, or fiduciary of the Company or any of its subsidiaries or Affiliates or predecessors of any of the foregoing, or any benefit plan of any of the foregoing, or is or was serving at the request of the Company as a consultant, director, officer, partner, venturer, proprietor, trustee, employee, agent, fiduciary, or similar functionary of another corporation, partnership, joint venture, business, person, trust, employee benefit plan, or other entity. The Company shall provide Executive with customary directors' and officers' liability insurance coverage both during and after the Term with regard to matters occurring during employment or while otherwise providing services to, or serving at the request of, the Company or any of its subsidiaries or Affiliates, or any benefit plan of any of the foregoing, which coverage shall be at a level at least equal to the greatest level being maintained at such time for any current officer or director and shall continue until such time as suits can no longer be brought against Executive as a matter of law. Executive will be entitled to advancement of expenses in connection with any claim in the same manner and to the same extent to which any other officer or director of the Company is entitled. Notwithstanding the foregoing, the Company shall not be required to indemnify or advance expenses to Executive in connection with (i) any dispute in connection with this Agreement or Executive's employment hereunder; (ii) any action, claim, or proceeding initiated by Executive against the Company unless such action, claim, or proceeding is approved in advance by the Board in writing; or (iii) any liabilities, damages, claims or expenses incurred that are attributable to Executive's fraud, bad faith, willful misconduct, or gross negligence.

5. Termination of Employment. (a) Executive's employment under this Agreement may be terminated by either party at any time and for any reason; provided, however, that Executive shall be required to give the Company at least sixty (60) days' advance written notice of any voluntary resignation of Executive's employment hereunder (other than resignation for Good Reason) (and in such event the Company in its sole discretion may elect to accelerate Executive's date of termination of employment, it being understood that such termination shall still be treated as a voluntary resignation without Good Reason for purposes of this Agreement). Notwithstanding the foregoing, Executive's employment shall terminate automatically upon Executive's death.

(b) Following any termination of Executive's employment under this Agreement, except as provided under Sections 5(c), 5(d), and 5(e), the obligations of the Company to pay or provide Executive with compensation and benefits under Section 4 shall cease, and the Company shall have no further obligations to provide compensation or benefits to Executive hereunder, except (i) for payment of any accrued but unpaid Base Salary and any accrued but unused vacation and for payment of any unreimbursed business expenses under Section 4(e), in each case accrued or incurred through the date of termination of employment, payable as soon as practicable and in all events within thirty (30) days following the date of termination of employment, (ii) as explicitly set forth in any other benefit plans, programs, or arrangements applicable to terminated employees in which Executive participates (including, without limitation, equity award agreements), other than severance plans or policies (including severance benefits following a Change in Control), and (iii) as otherwise expressly required by applicable law. For the avoidance of doubt, except as otherwise provided below, any Unpaid

Annual Bonus (as defined below) is forfeited if Executive's employment is terminated for any reason.

(c) If Executive's employment under this Agreement is terminated (i) by the Company without Cause (other than due to death or Disability), (ii) by Executive for Good Reason, or (iii) due to expiration of the Term on the Expiration Date as a result of the Company delivering a notice of non-renewal as contemplated by Section 1, in addition to the payments and benefits specified in Section 5(b), Executive shall be entitled to receive: (i) severance pay in an aggregate amount (the "Severance Pay") equal to, two times (2x) the sum of (A) Base Salary plus (B) Target Bonus; (ii) a prorated Annual Bonus in respect of the fiscal year of termination equal to the product of (x) the amount of Annual Bonus that would have been payable to Executive had Executive's employment not so terminated based on actual performance measured through the fiscal year of termination, and (y) a fraction, the numerator of which is the number of days elapsed in the Company's fiscal year in which the termination occurs through such termination and the denominator of which is the number of days in such fiscal year (the "Prorated Bonus"); (iii) any accrued but unpaid Annual Bonus in respect of the fiscal year prior to the fiscal year of termination (the "Unpaid Annual Bonus"); and (iv) continued health insurance benefits under the terms of the applicable Company benefit plans for twenty-four (24) months, subject to Executive's payment of the cost of such benefits to the same extent that active employees of the Company are required to pay for such benefits from time to time; provided, however, that, such continuation coverage shall end earlier upon Executive's becoming eligible for comparable coverage under another employer's benefit plans; and provided, further, that, to the extent that the provision of such continuation coverage is not permitted under the terms of the Company benefit plans or would result in an adverse tax consequence to the Company, the Company may alternatively provide Executive with a monthly cash payment in an amount equal to the applicable COBRA premium that Executive would otherwise be required to pay to obtain COBRA continuation coverage for such benefits for twenty-four (24) months (assuming that COBRA continuation coverage were available for such period) (minus the cost of such benefits to the same extent that active employees of the Company are required to pay for such benefits from time to time) (the "Healthcare Severance Benefits"), commencing as provided in Section 23(c). The Severance Pay shall be paid in equal installments during the twenty-four (24)-month period following Executive's termination in accordance with the Company's regular payroll practices, but no less frequently than monthly, and commencing as provided in Section 23(c) below. The Unpaid Annual Bonus shall be paid on the date bonuses are paid to other executives during the fiscal year of Executive's termination and the Prorated Bonus shall be paid on the date bonuses are paid to other executives of the Company in the year following the fiscal year of Executive's termination.

(d) Notwithstanding anything herein to the contrary, if at any time within eighteen (18) months following a Change in Control, Executive's employment under this Agreement is terminated (i) by the Company without Cause (other than due to death or Disability), (ii) by Executive for Good Reason, or (iii) due to expiration of the Term on the Expiration Date as a result of the Company delivering a notice of non-renewal as contemplated by Section 1, then Executive, in lieu of any of the amounts and benefits described in Section 5(c) and in addition to the payments and benefits specified in Section 5(b), shall be entitled to receive (i) the Unpaid Annual Bonus, (ii) 2.99 times the sum of (A) Base Salary plus (B) Target Bonus (the "CIC Severance Pay"), (iii) the product of (x) the Target Bonus, and (y) a fraction, the numerator of which is the number of days elapsed in the Company's fiscal year in which the termination occurs through such termination and the denominator of which is the number of days in such fiscal year (the "Prorated CIC Bonus"), and (iv) the Healthcare Severance Benefits for twenty-four (24) months (as described above and commencing as provided in Section 23(c)). The CIC Severance Pay and the Prorated CIC Bonus shall be paid in cash in a lump sum on the first payroll following the satisfaction of the Release Condition, subject to Section 23(c); provided, however, if the Change in Control does not constitute a "change in the ownership or

effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation” within the meaning of Section 409A(a)(2)(A)(v) of the Internal Revenue Code of 1986, as amended (the “Code”), the portion of the CIC Severance Pay that is not in excess of the Severance Pay that would have been payable upon such termination if Section 5(c) applied shall be paid to Executive in equal monthly installments during the twenty-four (24)-month period following Executive’s termination in accordance with the Company’s regular payroll practices, but no less frequently than monthly, and commencing as provided in Section 23(c) below, and the portion of the CIC Severance Pay in excess of such amount shall be paid to Executive in a lump sum sixty (60) days after the consummation of the Change in Control. The Unpaid Annual Bonus shall be paid on the date bonuses are paid to other executives during the fiscal year of Executive’s termination.

(e) If Executive’s employment under this Agreement is terminated due to death or Disability, in addition to the payments and benefits specified in Section 5(b), Executive shall be entitled to receive (i) the Prorated Bonus, paid on the date bonuses are paid to other executives of the Company in the year following the fiscal year of Executive’s termination, and (ii) the Unpaid Annual Bonus, paid on the date bonuses are paid to other executives of the Company in the fiscal year of Executive’s termination.

(f) Executive’s entitlement to the payments and benefits set forth in Sections 5(c) and 5(d) shall be conditioned upon Executive’s having provided an irrevocable waiver and release of claims in favor of the Company, its Affiliates, their respective predecessors and successors, and all of the respective current or former directors, officers, employees, shareholders, partners, members, agents, or representatives of any of the foregoing (collectively, the “Released Parties”), substantially in the form attached hereto as Exhibit B (the “Release”), that has become effective in accordance with its terms within sixty (60) days following Executive’s termination of employment (the “Release Condition”), and Executive’s continued compliance with Sections 6 and 7 hereof.

(g) Upon termination of Executive’s employment for any reason, and regardless of whether Executive continues as a consultant to the Company, upon the Company’s request Executive agrees to resign, as of the date of such termination of employment or such other date requested, from the Board and any committees thereof, and, if applicable, from the board of directors (and any committees thereof) of any Affiliate of the Company to the extent Executive is then serving thereon. The Company’s obligations to make the payments provided for in this Agreement are subject to set-off for any undisputed amounts owed by Executive, to the extent permitted by Section 409A (as defined below) and any Company clawback policy.

(h) The payment of any amounts accrued under any benefit plan, program, or arrangement in which Executive participates shall be subject to the terms of the applicable plan, program, or arrangement, and any elections Executive has made thereunder.

(i) Following any termination of Executive’s employment, Executive shall have no obligation to seek other employment or take any other action by way of mitigation of the amounts payable to Executive under any of the provisions of this Agreement. There shall be no offset against amounts due Executive under this Agreement on account of any remuneration attributable to later employment, consultancy, or other remunerative activity of Executive.

6. Confidential Information.

(a) Executive acknowledges that the Company and its Affiliates continually develop Confidential Information (as defined below), that Executive may develop Confidential Information for the Company or its Affiliates and that Executive may learn of

Confidential Information during the course of Executive's employment. Executive will comply with the policies and procedures of the Company and its Affiliates for protecting Confidential Information and shall not disclose to any Person or use, other than as required by applicable law or for the proper performance of Executive's duties and responsibilities to the Company and its Affiliates, any Confidential Information obtained by Executive incident to Executive's employment or other association with the Company or any of its Affiliates. Executive understands that this restriction shall continue to apply after Executive's employment terminates, regardless of the reason for such termination.

(b) All documents, records, tapes, and other media of every kind and description relating to the business, present or otherwise, of the Company or its Affiliates and any copies, in whole or in part, thereof (the "Documents"), whether or not prepared by Executive, shall be the sole and exclusive property of the Company and its Affiliates. Executive shall safeguard all Documents and shall surrender to the Company at the time Executive's employment terminates, or at such earlier time or times as the Company may specify, all Documents then in Executive's possession or control. Executive shall immediately return such Documents and other property to the Company upon the termination of Executive's employment and, in any event, at the Company's request. Executive further agrees that any property situated on the premises of, and owned by, the Company or its Affiliates, including disks and other storage media, filing cabinets, or other work areas, is subject to inspection by the Company's personnel at any time with or without notice.

(c) Executive understands that, notwithstanding anything to the contrary contained herein, no provision of this Agreement will be interpreted so as to impede Executive (or any other individual) from (i) making any disclosure of relevant and necessary information or documents in any action, investigation, or proceeding relating to this Agreement, or as required by law or legal process, including with respect to possible violations of law, (ii) participating, cooperating, or testifying in any action, investigation, or proceeding with, or providing information to, any governmental agency, legislative body or any self-regulatory organization, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, (iii) accepting any U.S. Securities and Exchange Commission Awards, or (iv) making other disclosures under the whistleblower provisions of federal law or regulation. In addition, nothing in this Agreement or any other agreement or Company policy prohibits or restricts Executive from initiating communications with, or responding to any inquiry from, any administrative, governmental, regulatory or supervisory authority regarding any good faith concerns about possible violations of law or regulation. Executive does not need the prior authorization of the Company to make any such reports or disclosures and Executive will not be required to notify the Company that such reports or disclosures have been made.

(d) "Confidential Information" means any and all information of the Company and its Affiliates that is not generally known by others with whom they compete or do business, or with whom any of them plans to compete or do business and any and all information, publicly known in whole or in part or not, which, if disclosed by the Company or its Affiliates would assist in competition against them. Confidential Information includes, without limitation, such information relating to (i) the development, research, testing, manufacturing, marketing and financial activities of the Company and its Affiliates, (ii) all products planned, researched, developed, tested, manufactured, sold, licensed, leased or otherwise distributed or put into use by the Company and its Affiliates, together with all services provided or planned by the Company or any of its Affiliates, during Executive's employment, (iii) the costs, sources of supply, financial performance and strategic plans of the Company and its Affiliates, (iv) the identity and special needs of the customers of the Company and its Affiliates and (v) the people and organizations with whom the Company and its Affiliates have business relationships and those relationships. Confidential Information also includes any information that the Company or

any of its Affiliates have received, or may receive hereafter, belonging to customers or others with any understanding, express or implied, that the information would not be disclosed.

7. Restricted Activities. Executive agrees that some restrictions on Executive's activities during and after Executive's employment are necessary to protect the goodwill, Confidential Information, and other legitimate interests of the Company and its Affiliates. Following the Effective Date, the Company will provide Executive with access to and knowledge of Confidential Information and trade secrets and will place Executive in a position of trust and confidence with the Company, and Executive will benefit from the Company's goodwill. The restrictive covenants below are necessary to protect the Company's legitimate business interests in its Confidential Information, trade secrets and goodwill. Executive further understands and acknowledges that the Company's ability to reserve these for the exclusive knowledge and use of the Company is of great competitive importance and commercial value to the Company and that the Company would be irreparably harmed if Executive violates the restrictive covenants below. In recognition of the consideration provided to Executive as well as the imparting to Executive of Confidential Information, including trade secrets, and for other good and valuable consideration, Executive hereby agrees as follows:

(a) While Executive is employed by the Company and for twenty-four (24) months after Executive's employment terminates for any reason, whether before or after the Expiration Date (in the aggregate, the "Non-Competition Period"), Executive shall not, directly or indirectly, whether as owner, partner, investor (other than a passive investor of less than 5% in a publicly traded company), consultant, agent, employee, co-venturer, or otherwise, (i) compete with the business of the Company or any of its subsidiaries in any location where the Company or its subsidiaries conducts business (a "Competitive Business") or (ii) undertake any planning for any Competitive Business. With respect to the portion of the Non-Competition Period that follows Executive's termination of employment, the determination of whether a business is a Competitive Business shall be made based on the scope and location of the businesses conducted or planned to be conducted by the Company and its subsidiaries as of the date of such termination.

(b) Executive agrees that, during Executive's employment with the Company, Executive will not undertake any outside activity, whether or not competitive with the business of the Company or its Affiliates, that would reasonably give rise to a conflict of interest or otherwise interfere with Executive's duties and obligations to the Company or any of its Affiliates.

(c) Executive further agrees that, during the Non-Competition Period, Executive will not solicit, hire, or attempt to solicit or hire any employee of the Company or any of its Affiliates (or any individual who was employed by the Company or any of its Affiliates during the one (1)-year period prior to Executive's termination), assist in such hiring by any Person, encourage any such employee to terminate his or her relationship with the Company or any of its Affiliates, or solicit or encourage any customer, client, or vendor of the Company or any of its Affiliates to terminate or diminish its relationship with them, or, in the case of a customer, to conduct with any Person any business or activity which such customer conducts with the Company or any of its Affiliates.

(d) Executive shall not, whether in writing or orally, malign, denigrate, or disparage the Company or its Affiliates, or their respective predecessors and successors, or any of the current or former directors, officers, employees, shareholders, partners, members, agents, or representatives of any of the foregoing, with respect to any of their respective past or present activities, or otherwise publish (whether in writing or orally) statements that tend to portray any of the aforementioned parties in an unfavorable light. The Company shall direct its directors and officers not to, whether in writing or orally, malign, denigrate, or disparage

Executive with respect to any of Executive's past or present activities, or otherwise publish (whether in writing or orally) statements that are intended to portray Executive in an unfavorable light.

(e) Executive's and the Company's obligations under this Section 7, as applicable, shall continue beyond the termination of Executive's employment with the Company.

8. Notification Requirement. Through and up to the conclusion of the Non-Competition Period, Executive shall give notice to the Company of each new business activity he plans to undertake, at least seven (7) days prior to beginning any such activity. Such notice shall state the name and address of the Person for whom such activity is undertaken and the nature of Executive's business relationship(s) and position(s) with such Person.

9. Intellectual Property Rights. (a) Executive agrees that the results and proceeds of Executive's services for the Company (including, but not limited to, any trade secrets, products, services, processes, know-how, designs, developments, innovations, analyses, drawings, reports, techniques, formulas, methods, developmental or experimental work, improvements, discoveries, inventions, ideas, source and object codes, programs, writing and other works of authorship) resulting from services performed while an employee of the Company and any works in progress, whether or not patentable or registrable under copyright or similar statutes, that were made, developed, conceived, or reduced to practice or learned by Executive, either alone or jointly with others (collectively, "Inventions"), shall be works-made-for-hire and the Company shall be deemed the sole owner throughout the universe of any and all trade secret, patent, copyright, and other intellectual property rights (collectively, "Proprietary Rights") of whatsoever nature therein, whether or not now or hereafter known, existing, contemplated, recognized, or developed, with the right to use the same in perpetuity in any manner the Company determines in its sole discretion, without any further payment to Executive whatsoever. If, for any reason, any of such results and proceeds shall not legally be a work-made-for-hire and/or there are any Proprietary Rights which do not accrue to the Company under the immediately preceding sentence, then Executive hereby irrevocably assigns and agrees to assign any and all of Executive's right, title, and interest thereto, including any and all Proprietary Rights of whatsoever nature therein, whether or not now or hereafter known, existing, contemplated, recognized, or developed, to the Company, and the Company shall have the right to use the same in perpetuity throughout the universe in any manner determined by the Company without any further payment to Executive whatsoever. As to any Invention that Executive is required to assign, Executive shall promptly and fully disclose to the Company all information known to Executive concerning such Invention.

(b) Executive agrees that, from time to time, as may be requested by the Company and at the Company's sole cost and expense, Executive shall do any and all things that the Company may reasonably deem useful or desirable to establish or document the Company's exclusive ownership throughout the United States of America or any other country of any and all Proprietary Rights in any such Inventions, including the execution of appropriate copyright and patent applications or assignments. To the extent that Executive has any Proprietary Rights in the Inventions that cannot be assigned in the manner described above, Executive unconditionally and irrevocably waives the enforcement of such Proprietary Rights. This Section 9(b) is subject to and shall not be deemed to limit, restrict, or constitute any waiver by the Company of any Proprietary Rights of ownership to which the Company may be entitled by operation of law by virtue of the Company's being Executive's employer. Executive shall execute, verify, and deliver such documents and perform such other acts (including appearances as a witness) as the Company may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining, and enforcing such Proprietary Rights and the assignment thereof. In addition, Executive shall execute, verify, and deliver assignments of such Proprietary

Rights to the Company or its designees. Executive's obligations under this Section 9 shall continue beyond the termination of Executive's employment with the Company.

(c) 18 U.S.C. § 1833(b) provides: "An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that—(i) is made—(A) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (B) solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b). Accordingly, the parties to this Agreement have the right to disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law. The parties also have the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure.

(d) Executive hereby waives and quitclaims to the Company any and all claims, of any nature whatsoever, that Executive now or may hereafter have for infringement of any Proprietary Rights assigned hereunder to the Company.

10. Remedies and Injunctive Relief. Executive acknowledges that a violation by Executive of any of the covenants contained in Sections 6, 7, 8, or 9 would cause irreparable damage to the Company in an amount that would be material but not readily ascertainable, and that any remedy at law (including the payment of damages) would be inadequate. Accordingly, Executive agrees that, notwithstanding any provision of this Agreement to the contrary, the Company shall be entitled (without the necessity of showing economic loss or other actual damage) to injunctive relief (including temporary restraining orders, preliminary injunctions, and permanent injunctions) in any court of competent jurisdiction for any actual or threatened breach of any of the covenants set forth in Sections 6, 7, 8, or 9 in addition to any other legal or equitable remedies it may have. The preceding sentence shall not be construed as a waiver of the rights that the Company may have for damages under this Agreement or otherwise, and all of the Company's rights shall be unrestricted.

11. Representations; Advice of Counsel. (a) Executive represents, warrants, and covenants that as of the date hereof: (i) Executive has the full right, authority, and capacity to enter into this Agreement and perform Executive's obligations hereunder, (ii) Executive is not bound by any agreement that conflicts with or prevents or restricts the full performance of Executive's duties and obligations to the Company hereunder during or after the Term, and (iii) the execution and delivery of this Agreement shall not result in any breach or violation of, or a default under, any existing obligation, commitment, or agreement to which Executive is subject.

(b) Prior to execution of this Agreement, Executive was advised by the Company of Executive's right to seek independent advice from an attorney of Executive's own selection regarding this Agreement. Executive acknowledges that Executive has entered into this Agreement knowingly and voluntarily and with full knowledge and understanding of the provisions of this Agreement after being given the opportunity to consult with counsel. Executive further represents that in entering into this Agreement, Executive is not relying on any statements or representations made by any of the Company's directors, officers, employees, or agents that are not expressly set forth herein, and that Executive is relying only upon Executive's own judgment and any advice provided by Executive's attorney.

(c) The Company represents, warrants, and covenants that as of the date hereof: (i) the Company has the full right, authority, and capacity to enter into this Agreement and perform the Company's obligations hereunder, (ii) the Company is not bound by

any agreement that conflicts with or prevents or restricts the full performance of the Company's obligations to Executive hereunder during or after the Term, and (iii) the execution and delivery of this Agreement shall not result in any breach or violation of, or a default under, any existing obligation, commitment, or agreement to which the Company is subject.

12. Cooperation. Executive agrees that, upon reasonable notice and without the necessity of the Company's obtaining a subpoena or court order, Executive shall provide reasonable cooperation in connection with any suit, action, or proceeding (or any appeal from any suit, action, or proceeding), and any investigation or defense of any claims asserted against the Company or its Affiliates, that relates to events occurring during Executive's employment with the Company and its Affiliates as to which Executive may have relevant information (including but not limited to furnishing relevant information and materials to the Company or its designee and providing testimony at depositions and at trial); provided that with respect to such cooperation occurring following termination of employment, the Company shall reimburse Executive for expenses reasonably incurred in connection therewith.

13. Withholding. The Company may deduct and withhold from any amounts payable under this Agreement such federal, state, local, non-U.S., and other taxes as are required to be withheld pursuant to any applicable law or regulation.

14. Assignment. Neither the Company nor Executive may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other party; provided, that the Company may assign its rights under this Agreement without the consent of Executive to a successor to substantially all of the business of the Company in the event that the Company shall effect a reorganization, consolidate with or merge into any other corporation, partnership, organization, or other entity, or transfer all or substantially all of its properties or assets to any other corporation, partnership, organization, or other entity. This Agreement shall inure to the benefit of and be binding upon the Company and Executive, and their respective successors, executors, administrators, heirs, and permitted assigns.

15. Governing Law; No Construction Against Drafter. This Agreement shall be deemed made in the State of Delaware, and the validity, interpretation, construction, and performance of this Agreement in all respects shall be governed by the laws of the State of Delaware without regard to its principles of conflicts of law. No provision of this Agreement or any related document will be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party's having or being deemed to have structured or drafted such provision.

16. Consent to Jurisdiction; Waiver of Jury Trial. (a) Except as otherwise specifically provided herein, Executive and the Company each hereby irrevocably submit to the exclusive jurisdiction of the federal courts located within the State of Delaware (or, if subject matter jurisdiction in such courts are not available, in any state court located within the State of Delaware) over any dispute arising out of or relating to this Agreement. Except as otherwise specifically provided in this Agreement, the parties undertake not to commence any suit, action or proceeding arising out of or relating to this Agreement in a forum other than a forum described in this Section 16(a); provided, however, that nothing herein shall preclude either party from bringing any suit, action, or proceeding in any other court for the purpose of enforcing the provisions of this Section 16 or enforcing any judgment obtained by either party.

(b) The agreement of the parties to the forum described in Section 16(a) is independent of the law that may be applied in any suit, action, or proceeding, and the parties agree to such forum even if such forum may under applicable law choose to apply non-forum law. The parties hereby waive, to the fullest extent permitted by applicable law, any

objection which they now or hereafter have to personal jurisdiction or to the laying of venue of any such suit, action, or proceeding brought in an applicable court described in Section 16(a), and the parties agree that they shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court. The parties agree that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any suit, action, or proceeding brought in any applicable court described in Section 16(a), shall be conclusive and binding upon the parties and may be enforced in any other jurisdiction.

(c) The parties hereto irrevocably consent to the service of any and all process in any suit, action, or proceeding arising out of or relating to this Agreement by the mailing of copies of such process to such party at such party's address specified in Section 20.

(d) Each party hereto hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action, or proceeding arising out of or relating to this Agreement. Each party hereto (i) certifies that no representative, agent, or attorney of any other party has represented, expressly or otherwise, that such party would not, in the event of any action, suit, or proceeding, seek to enforce the foregoing waiver, and (ii) acknowledges that it and the other party hereto has been induced to enter into this Agreement by, among other things, the mutual waiver and certifications in this Section 16(d).

(e) Each party shall bear his or her or its own costs and expenses (including reasonable attorneys' fees and expenses) incurred in connection with any dispute arising out of or relating to this Agreement.

17. Amendment; No Waiver; Severability. (a) No provisions of this Agreement may be amended, modified, waived, or discharged except by a written document signed by Executive and a duly authorized officer of the Company (other than Executive). The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No failure or delay by either party in exercising any right or power hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right or power, or any abandonment of any steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

(b) If any term or provision of this Agreement is invalid, illegal, or incapable of being enforced by any applicable law or public policy, all other conditions and provisions of this Agreement shall nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party; provided that in the event that any court of competent jurisdiction shall finally hold in a non-appealable judicial determination that any provision of Sections 6 through 10 (whether in whole or in part) is void or constitutes an unreasonable restriction against Executive, such provision shall not be rendered void but shall be deemed modified to the minimum extent necessary to make such provision enforceable for the longest duration and the greatest scope as such court may determine constitutes a reasonable restriction under the circumstances. Subject to the foregoing, upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

18. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Company and Executive with respect to the subject matter hereof and

supersedes all prior agreements and understandings (whether written or oral), between Executive and the Company, relating to such subject matter. None of the parties shall be liable or bound to any other party in any manner by any representations and warranties or covenants relating to such subject matter except as specifically set forth herein.

19. Survival. The rights and obligations of the parties under the provisions of this Agreement shall survive, and remain binding and enforceable, notwithstanding the expiration of the Term, the termination of this Agreement, the termination of Executive's employment hereunder or any settlement of the financial rights and obligations arising from Executive's employment hereunder, to the extent necessary to preserve the intended benefits of such provisions.

20. Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by facsimile or sent, postage prepaid, by registered, certified, or express mail or overnight courier service and shall be deemed given when so delivered by hand or facsimile, or if mailed, three days after mailing (one (1) business day in the case of express mail or overnight courier service) to the parties at the following addresses or facsimiles (or at such other address for a party as shall be specified by like notice):

If to the Company: Vistra Corp.

Attn: Corporate Secretary
6555 Sierra Drive
Irving, TX 75039

If to Executive: At the most recent address on file in the Company's records.

Notices delivered by facsimile shall have the same legal effect as if such notice had been delivered in person.

21. Headings and References. The headings of this Agreement are inserted for convenience only, and neither constitute a part of this Agreement nor affect in any way the meaning or interpretation of this Agreement. When a reference in this Agreement is made to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated.

22. Counterparts. This Agreement may be executed in one or more counterparts (including via electronic image scan (.pdf)), each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

23. Section 409A. (a) For purposes of this Agreement, "Section 409A" means Section 409A of the Code, and the Treasury Regulations promulgated thereunder (and such other Treasury or Internal Revenue Service guidance) as in effect from time to time. The parties intend that any amounts payable hereunder that could constitute "deferred compensation" within the meaning of Section 409A will be compliant with Section 409A or exempt from Section 409A.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a "specified employee" within the meaning of Code Section 409A(a)(2)(B)(i) (as determined in accordance with the methodology established by the Company as in effect on the date of Executive's "separation from service" (within the meaning

of Treasury Regulations § 1.409A-1(h)), (ii) amounts or benefits under this Agreement or any other program, plan, or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of separation from service, and (iii) Executive is employed by a public company or a controlled group affiliate thereof: payments hereunder that are “deferred compensation” subject to Section 409A that would be made to Executive prior to the date that is six (6) months after the date of Executive’s separation from service shall be made within ten (10) business days after such six (6)-month date or, if earlier, ten (10) days following the date of Executive’s death; following any applicable delay, all such delayed payments, without interest will be paid in a single lump sum on the earliest permissible payment date.

(c) Except to the extent required to be delayed pursuant to Section 23(b), any payment or benefit due or payable on account of Executive’s separation from service to which this Section 23(c) applies shall be paid or commence, as applicable, upon the first scheduled payroll date immediately after the date the Release Condition is satisfied (the “Release Effective Date”); provided that, to the extent that such payment or benefit represents a “deferral of compensation” within the meaning of Section 409A and the sixty (60) day period following Executive’s separation from service spans two (2) taxable years, payment shall not be made or commence prior to January 1 of the second taxable year. The first such cash payment shall include payment of all amounts that otherwise would have been due prior to the Release Effective Date under the terms of this Agreement applied as though such payments commenced immediately upon Executive’s termination of employment, and any payments made thereafter shall continue as provided herein. The delayed benefits shall in any event expire at the time such benefits would have expired had such benefits commenced immediately following Executive’s termination of employment.

(d) Each payment made under this Agreement (including each separate installment payment in the case of a series of installment payments) shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a “deferral of compensation” subject to Section 409A to the extent provided in the exceptions in Treasury Regulations §§ 1.409A-1(b)(4) (“short-term deferrals”) and (b)(9) (“separation pay plans,” including the exception under subparagraph (iii)) and other applicable provisions of Section 409A, and shall be paid under any such exception to the maximum extent permitted. For purposes of this Agreement, with respect to payments of any amounts that are considered to be “deferred compensation” subject to Section 409A, references to “termination of employment,” “termination,” or words and phrases of similar import, shall be deemed to refer to Executive’s “separation from service” as defined in Section 409A, and shall be interpreted and applied in a manner that is consistent with the requirements of Section 409A. In no event may Executive, directly or indirectly, designate the calendar year of any payment under this Agreement.

(e) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is eligible for exemption from Section 409A pursuant to Treasury Regulation § 1.409A-1(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive’s “separation from service” occurs; and provided that such expenses are reimbursed no later than the last day of the second calendar year following the calendar year in which Executive’s “separation from service” occurs. To the extent that any indemnification payment, expense reimbursement, or provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement, or the provision of any in-kind benefit, in one (1) calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation

applicable to medical expenses to the extent permitted by Section 409A), such indemnification, reimbursement, or in-kind benefits shall be provided for the period set forth in this Agreement, or if no such period is set forth, during Executive's lifetime, in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the date first written above.

Vistra Corp. and Luminant Energy Company LLC

By: /s/ Carrie Lee Kirby
Name: Carrie Lee Kirby
Title: Executive Vice President and Chief Administrative Officer

STEPHEN J. MUSCATO

/s/ Stephen J. Muscato

Exhibit A

OIP:	Equity awards to be subject to the terms of the Company's Omnibus Incentive Plan.
Annual Equity Awards:	Executive will be granted annual equity awards in an amount determined by the Board. Such awards may be in the form of options, restricted stock units, performance shares, or any other form as approved by the Board.
Involuntary Termination Without Cause / Resignation for Good Reason / Non-Renewal of Term by the Company:	Subject to delivery (and non-revocation) of the Release and continued compliance with Sections 6 and 7 of this Agreement, accelerated vesting of the portion of Executive's outstanding equity awards that would have vested in the 12 months following termination had Executive remained employed (fully vested options to remain exercisable for 90 days following termination or, if Executive is subject Section 16 of the Exchange Act as of such Termination, 180 days from the date of such termination (or until the option's regular expiration date, if shorter)).
Termination with Cause / Resignation Without Good Reason / Non-Renewal of the Term by Executive	All options and other outstanding awards (unvested and vested) are forfeited upon a termination for Cause. On any other termination, Executive will retain all vested awards (forfeits unvested), and vested options remain exercisable for 30 days following termination or, if Executive is subject Section 16 of the Exchange Act as of such Termination, 180 days from the date of such termination (or until the option's regular expiration date, if shorter).
Death / Disability	Accelerated vesting of the portion of Executive's equity awards that would have vested in the 12 months following termination had he remained employed (fully vested options to remain exercisable for one year following termination (or until the option's regular expiration date, if shorter)).
Involuntary Termination Without Cause / Resignation for Good Reason / Non-Renewal of Term by the Company Following a Change in Control:	All equity awards that were outstanding at the time of the Change in Control will vest upon such termination.

Exhibit B
Release of Claims

As used in this Release of Claims (this “Release”), the term “claims” will include all claims, covenants, warranties, promises, undertakings, actions, suits, causes of action, proceedings, obligations, debts, accounts, attorneys’ fees, judgments, losses, and liabilities, of whatsoever kind or nature, in law, in equity, or otherwise. Capitalized terms used but not defined in this Release will have the meanings given to them in the employment agreement dated May __, 2022, between Vistra Corp., Luminant Energy Company LLC (together, the “Company”) and Stephen J. Muscato (my “Agreement”).

For and in consideration of the severance payments and benefits, and other good and valuable consideration, I, for and on behalf of myself and my executors, heirs, administrators, representatives, and assigns, hereby agree to release and forever discharge the Company and each of its direct and indirect parent and subsidiary entities, and all of their respective predecessors, successors, and past, current, and future parent entities, affiliates, subsidiary entities, investors, directors, shareholders, members, officers, general or limited partners, employees, attorneys, agents, and representatives, and the employee benefit plans in which I am or have been a participant by virtue of my employment with or service to the Company (collectively, the “Company Releasees”), from any and all claims that I have or may have had against the Company Releasees based on any events or circumstances arising or occurring on or prior to the date hereof and arising directly or indirectly out of, relating to, or in any other way involving in any manner whatsoever my employment by or service to the Company or the termination thereof, including without limitation any and all claims arising under federal, state, or local laws relating to employment, including without limitation claims of wrongful discharge, breach of express or implied contract, fraud, misrepresentation, defamation, intentional infliction of emotional distress, whistleblowing, or liability in tort, and claims of any kind that may be brought in any court or administrative agency, and any related claims for attorneys’ fees and costs, including, without limitation, claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000, et seq.; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq.; the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et seq.; the Civil Rights Act of 1866, and the Civil Rights Act of 1991; 42 U.S.C. Section 1981, et seq.; the Age Discrimination in Employment Act, as amended, 29 U.S.C. Section 621, et seq. (the “ADEA”); the Equal Pay Act, as amended, 29 U.S.C. Section 206(d); regulations of the Office of Federal Contract Compliance, 41 C.F.R. Section 60, et seq.; the Family and Medical Leave Act, as amended, 29 U.S.C. § 2601 et seq.; the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et seq.; the Employee Retirement Income Security Act, as amended, 29 U.S.C. § 1001 et seq.; and any similar state or local law. I agree further that this Release may be pleaded as a full defense to any action, suit, arbitration, or other proceeding covered by the terms hereof that is or may be initiated, prosecuted, or maintained by me or my descendants, dependents, heirs, executors, administrators, or assigns. By signing this Release, I acknowledge that I intend to waive and release all rights known or unknown that I may have against the Company Releasees under these and any other laws.

I acknowledge and agree that as of the date I execute this Release, I have no knowledge of any facts or circumstances that give rise or could give rise to any claims under any of the laws listed in the preceding paragraph and that I have not filed any claim against any of the Releasees before any local, state, federal, or foreign agency, court, arbitrator, mediator, arbitration or mediation panel, or other body (each individually a “Proceeding”). I (i) acknowledge that I will not initiate or cause to be initiated on my behalf any Proceeding and will not participate in any Proceeding, in each case, except as required by law or to the extent such Proceeding relates to a claim not waived hereunder; and (ii) waive any right that I may have to benefit in any manner from any relief (whether monetary or otherwise) arising out of any Proceeding, including any Proceeding conducted by the Equal Employment Opportunity Commission (“EEOC”), except in

each case to the extent such Proceeding relates to a claim not waived hereunder. Further, I understand that, by executing this Release, I will be limiting the availability of certain remedies that I may have against the Company and limiting also my ability to pursue certain claims against the Company Releasees.

By executing this Release, I specifically release all claims relating to my employment and its termination under ADEA, a federal statute that, among other things, prohibits discrimination on the basis of age in employment and employee benefit plans.

Notwithstanding the generality of the foregoing, I do not release (i) claims to receive my severance payments and benefits in accordance with the terms of the Agreement, (ii) claims with respect to benefits to which I am entitled under the employee benefit and compensation plans of the Company and its affiliates, including any rights to equity, (iii) claims to indemnification, or (iv) claims that cannot be waived by law. Further, nothing in this Release shall prevent me from (i) initiating or causing to be initiated on my behalf any claim against the Company before any local, state, or federal agency, court, or other body challenging the validity of the waiver of my claims under the ADEA (but no other portion of such waiver); or (ii) initiating or participating in an investigation or proceeding conducted by the EEOC.

I acknowledge that I have been given at least [21]/[45]¹ days in which to consider this Release. I acknowledge further that the Company has advised me to consult with an attorney of my choice before signing this Release, and I have had sufficient time to consider the terms of this Release. I represent and acknowledge that if I execute this Release before [21]/[45] days have elapsed, I do so knowingly, voluntarily, and upon the advice and with the approval of my legal counsel (if any), and that I voluntarily waive any remaining consideration period.

I understand that after executing this Release, I have the right to revoke it within seven days after its execution. I understand that this Release will not become effective and enforceable unless the seven-day revocation period passes and I do not revoke the Release in writing. I understand that this Release may not be revoked after the seven (7)-day revocation period has passed. I understand also that any revocation of this Release must be made in writing and delivered to the Company at its principal place of business within the seven (7)-day period.

This Release will become effective, irrevocable, and binding on the eighth day after its execution, so long as I have not timely revoked it as set forth above. I understand and acknowledge that I will not be entitled to the severance payments and benefits unless this Release is effective on or before the date that is sixty (60) days following the date of my termination of employment.

I hereby agree to waive any and all claims to re-employment with the Company or any of its affiliates and affirmatively agree not to seek further employment with the Company or any of its affiliates.

The provisions of this Release will be binding upon my heirs, executors, administrators, legal representatives, and assigns. If any provision of this Release will be held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision will be of no force or effect. The illegality or unenforceability of such provision, however, will have no effect upon and will not impair the enforceability of any other provision of this Release.

¹ NTD: To be selected based on whether applicable termination was “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967).

This Release will be governed in accordance with the laws of the State of Delaware, without reference to the principles of conflicts of law. Any dispute or claim arising out of or relating to this Release or claim of breach hereof will be brought exclusively in the federal and state courts located within Delaware. By execution of this Release, I am waiving any right to trial by jury in connection with any suit, action, or proceeding under or in connection with this Release.

Stephen J. Muscato

DATE

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO
EXCHANGE ACT RULES 13a-14(a) AND 15d-14(a),
AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, James A. Burke, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Vistra Corp.;
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 and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 5, 2022

/s/ James A. Burke

James A. Burke
President and Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO
EXCHANGE ACT RULES 13a-14(a) AND 15d-14(a),
AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Kristopher E. Moldovan, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Vistra Corp.;
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 and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 5, 2022

/s/ Kristopher E. Moldovan

Kristopher E. Moldovan
Chief Financial Officer
(Principal Financial Officer)

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Vistra Corp. (the “Company”) on Form 10-Q for the period ended June 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, James A. Burke, President and Chief Executive Officer of the Company, hereby certify as of the date hereof, solely for the purposes of Title 18, Chapter 63, Section 1350 of the United States Code, that to the best of my knowledge:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

Date: August 5, 2022

/s/ James A. Burke

James A. Burke

President and Chief Executive Officer

(Principal Executive Officer)

The foregoing certification is not deemed filed with the Securities and Exchange Commission for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (Exchange Act), and is not to be incorporated by reference into any filing of Vistra Corp. under Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date hereof, regardless of any general incorporation language of such filing.

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Vistra Corp. (the “Company”) on Form 10-Q for the period ended June 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Kristopher E. Moldovan, Chief Financial Officer of the Company, hereby certify as of the date hereof, solely for the purposes of Title 18, Chapter 63, Section 1350 of the United States Code, that to the best of my knowledge:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

Date: August 5, 2022

/s/ Kristopher E. Moldovan

Kristopher E. Moldovan
Chief Financial Officer
(Principal Financial Officer)

The foregoing certification is not deemed filed with the Securities and Exchange Commission for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (Exchange Act), and is not to be incorporated by reference into any filing of Vistra Corp. under Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date hereof, regardless of any general incorporation language of such filing.

Mine Safety Disclosures

Safety is a top priority in all our businesses, and accordingly, it is a key component of our focus on operational excellence, our employee performance reviews and employee compensation. Our health and safety program objectives are to prevent workplace accidents and ensure that all employees return home safely and comply with all regulations.

Vistra currently owns and operates, or is in the process of reclaiming, 12 surface lignite coal mines in Texas to provide fuel for its electricity generation facilities. Vistra also owns or leases, and is in the process of reclaiming, two waste-to-energy surface facilities in Pennsylvania. These mining operations are regulated by the U.S. Mine Safety and Health Administration (MSHA) under the Federal Mine Safety and Health Act of 1977, as amended (the Mine Act), as well as other regulatory agencies such as the RCT. The MSHA inspects U.S. mines, including Vistra's, on a regular basis and if it believes a violation of the Mine Act or any health or safety standard or other regulation has occurred, it may issue a citation or order, generally accompanied by a proposed fine or assessment. Such citations and orders can be contested and appealed to the Federal Mine Safety and Health Review Commission (FMSHRC), which often results in a reduction of the severity and amount of fines and assessments and sometimes results in dismissal. The number of citations, orders and proposed assessments vary depending on the size of the mine as well as other factors.

Disclosures related to specific mines pursuant to Section 1503 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Item 104 of Regulation S-K sourced from data documented at July 14, 2022 in the MSHA Data Retrieval System for the three months ended June 30, 2022 (except pending legal actions, which are at June 30, 2022), are as follows:

Mine (a)	Section 104 S and S Citations (b)	Section 104(b) Orders	Section 104(d) Citations and Orders	Section 110(b) (2) Violations	Section 107(a) Orders	Total Dollar Value of MSHA Assessments Proposed (c)	Total Number of Mining Related Fatalities	Received Notice of Pattern of Violations Under Section 104(e)	Received Notice of Potential to Have Pattern Under Section 104(e)	Legal Actions Pending at Last Day of Period (d)	Legal Actions Initiated During Period	Legal Actions Resolved During Period
Beckville	—	—	—	—	—	—	—	—	—	—	—	—
Big Brown	—	—	—	—	—	—	—	—	—	—	—	—
Bremond	—	—	—	—	—	—	—	—	—	—	—	—
Honeybrook Refuse Operation	—	—	—	—	—	—	—	—	—	—	—	—
Kosse	6	—	—	—	—	3	—	—	—	—	—	—
Leesburg	—	—	—	—	—	—	—	—	—	—	—	—
Liberty	—	—	—	—	—	—	—	—	—	—	—	—
Northeastern Power Cogeneration Facility	—	—	—	—	—	—	—	—	—	—	—	—
Oak Hill	—	—	—	—	—	—	—	—	—	—	—	—
Sulphur Springs	—	—	—	—	—	—	—	—	—	—	—	—
Tatum	—	—	—	—	—	—	—	—	—	—	—	—
Three Oaks	—	—	—	—	—	—	—	—	—	—	—	—
Winfield North	—	—	—	—	—	—	—	—	—	—	—	—
Winfield South	—	—	—	—	—	—	—	—	—	—	—	—

(a) Excludes mines for which there were no applicable events.

(b) Includes MSHA citations for mandatory health or safety standards that could significantly and substantially contribute to a serious injury if left unabated.

(c) Total value in thousands of dollars for proposed assessments received from MSHA for all citations and orders issued in the three months ended June 30, 2022, including but not limited to Sections 104, 107 and 110 citations and orders that are not required to be reported.

(d) There were no pending actions before the FMSHRC involving a coal or other mine.