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

FORM 8-K

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

Date of Report (Date of earliest event reported): January 11, 2024

CHESAPEAKE ENERGY CORPORATION

(Exact name of Registrant as specified in its Charter)

Oklahoma	**1-13726**	**73-1395733**
(State or other jurisdiction of incorporation)	(Commission File No.)	(IRS Employer Identification No.)

6100 North Western Avenue	**Oklahoma City**	**OK**	**73118**
(Address of principal executive offices)			(Zip Code)

(405) 848-8000
(Registrant's telephone number, including area code)

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

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

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, $0.01 par value per share	CHK	The Nasdaq Stock Market LLC
Class A Warrants to purchase Common Stock	CHKEW	The Nasdaq Stock Market LLC
Class B Warrants to purchase Common Stock	CHKEZ	The Nasdaq Stock Market LLC
Class C Warrants to purchase Common Stock	CHKEL	The Nasdaq Stock Market LLC

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

Emerging growth company ☐

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

Item 1.01 Entry into a Material Definitive Agreement.

Merger Agreement

On January 10, 2024, Chesapeake Energy Corporation ("Chesapeake") entered into an Agreement and Plan of Merger (the "Merger Agreement") with Southwestern Energy Company ("Southwestern"), Hulk Merger Sub, Inc., a newly formed, wholly owned subsidiary of the Chesapeake ("Merger Sub Inc"), and Hulk LLC Sub, LLC, a newly formed, wholly owned subsidiary of Chesapeake ("Merger Sub LLC").

Subject to the terms and conditions of the Merger Agreement, Merger Sub Inc will be merged with and into Southwestern (the "Merger"), with Southwestern surviving as a wholly owned subsidiary of Chesapeake (the "Surviving Corporation"). At the effective time of the Merger (the "Effective Time"), each share of Southwestern common stock, par value $0.01 per share ("Southwestern Common Stock"), issued and outstanding immediately prior to the Effective Time (excluding certain excluded shares held by Southwestern as treasury shares, or by Chesapeake or Merger Sub Inc or Merger Sub LLC, and certain equity awards of Southwestern) will convert into the right to receive 0.0867 (the "Exchange Ratio") of a share of Chesapeake common stock, par value $0.01 per share ("Chesapeake Common Stock") (the "Merger Consideration"). No fractional shares of Chesapeake Common Stock will be issued in the Merger, and holders of shares of Southwestern Common Stock will receive cash in lieu of fractional shares of Chesapeake Common Stock, if any, in accordance with the terms of the Merger Agreement.

Immediately following the Effective Time, the Surviving Corporation will be merged with and into Merger Sub LLC, with Merger Sub LLC continuing as the surviving entity and as a wholly owned subsidiary of Chesapeake. On January 10, 2024, the board of directors of Chesapeake, the board of directors of Southwestern, the managing member of LLC Sub and the board of directors of Merger Sub approved the Merger Agreement.

The Merger Agreement also specifies the treatment of outstanding Southwestern equity awards in connection with the Merger, which shall be treated as follows at the Effective Time:

- each outstanding and unexercised option award of Southwestern as of immediately prior to the Effective Time will cease to represent a right to acquire shares of Southwestern Common Stock and will be automatically canceled and terminated without consideration payable or owed;
- each outstanding restricted stock award of Southwestern will automatically become fully vested and each such restricted stock award will be converted into the right to receive a number of shares of Chesapeake Common Stock equal to (i) the Exchange Ratio, multiplied by (ii) the total number of shares of Southwestern Common Stock attributable to such Southwestern Restricted Stock Award;
- each outstanding restricted stock unit award of Southwestern under Southwestern's Nonemployee Director Deferred Compensation Plan will automatically be fully vested, canceled, and converted into the right to receive a number of shares of Chesapeake Common Stock equal to (i) the Exchange Ratio, multiplied by (ii) the total number of shares of Southwestern Common Stock subject to such restricted stock unit award, together with accrued dividend equivalent payments in each case issuable and payable at the times specified in Southwestern's Nonemployee Director Deferred Compensation Plan and in accordance with such director's deferral elections as set forth in the applicable Deferred Compensation Agreement;
- each outstanding restricted stock unit award of Southwestern that (i) was granted pursuant to Southwestern's 2013 Incentive Plan, or (ii) was granted prior to the date of the Merger Agreement and is held by an employee of Southwestern or its Subsidiaries (as defined in the Merger Agreement) that is terminated upon or immediately after the Effective Time, and is subject only to time-based vesting conditions, will be fully vested, canceled and converted into the right to receive a number of shares of Chesapeake Common Stock equal to (A) the Exchange Ratio, multiplied by (B) the total number of shares of Southwestern Common Stock subject to each such restricted stock unit award, together with accrued dividend equivalent payments, in each case issuable and payable in accordance with the terms of the applicable award agreement;
- each outstanding restricted stock unit award that was granted pursuant to Southwestern's 2022 Incentive Plan (and not described in the immediately foregoing bullet point) and that is subject only to time-based vesting conditions will be canceled and converted into an award of restricted stock units in respect of shares of Chesapeake Common Stock (rounded to the nearest whole share) equal to the product of (i) the total number of shares of Southwestern Common Stock subject to such restricted stock unit award immediately prior to the Effective Time multiplied by (ii) the Exchange Ratio. Such restricted stock unit award of Chesapeake shall vest and be payable on the same terms and conditions (including "double-trigger" vesting provisions) as are set forth in the corresponding award agreement (except that such award will be payable in Chesapeake Common Stock);
- each outstanding performance unit award that (i) was granted pursuant to the Southwestern's 2013 Incentive Plan, or (ii) was granted prior to the date of the Merger Agreement and was held by an employee of Southwestern or its Subsidiaries (as defined in the Merger Agreement) that was terminated upon or immediately after the Effective Time will be (A) automatically fully vested and become payable at the greater of (1) the level based on actual performance determined as of immediately prior to the Effective Time in accordance with the terms of the applicable award agreement and (2) the target level (the number of shares of Southwestern Common Stock payable pursuant to the foregoing, the "Earned Company Performance Shares"), and (B) canceled and converted into the right to receive a number of shares Chesapeake Common Stock equal to (1) the Exchange Ratio, multiplied by (2) the number of Earned Company Performance Shares (as defined in the Merger Agreement), together with accrued dividend equivalent payments, in each case issuable and payable in accordance with the terms of the applicable award agreement;

- each outstanding performance unit award of Southwestern that was granted pursuant to Southwestern's 2022 Incentive Plan (and not described the immediately foregoing bullet point) will be deemed to correspond to a number of Earned Company Performance Shares, and will be canceled and converted into a Parent RSU Award (as defined in the Merger Agreement) in respect of that number of shares of Chesapeake Common Stock (rounded to the nearest whole share) equal to (i) the number of Earned Company Performance Shares with respect to such performance unit award multiplied by (ii) the Exchange Ratio. Such Parent RSU Award shall vest at the end of the original performance period associated with the corresponding performance unit award and shall otherwise be subject to and payable on the same terms and conditions (including "double-trigger" vesting provisions) as are set forth in the corresponding award agreement (except that such award will be payable in shares of Chesapeake Common Stock);

- each outstanding performance cash unit award of Southwestern that (i) was granted pursuant to Southwestern's 2013 Incentive Plan, or (ii) was granted prior to the date of Merger Agreement and was held by an employee of Southwestern or its Subsidiaries (as defined in the Merger Agreement) that was terminated upon or immediately after the Effective Time will be automatically fully vested and payable in cash in an amount equal to $1.00 multiplied by the greater of (A) the percentage earned based on actual performance determined as of immediately prior to the Effective Time in accordance with the terms of the applicable award agreement and (B) 100%; and

- each outstanding performance cash unit award of Southwestern that was granted pursuant to Southwestern's 2022 Incentive Plan (other than those described in the immediately foregoing bullet point) will be deemed earned at a level equal to $1.00 multiplied by the greater of (i) the percentage earned based on actual performance determined as of immediately prior to the Effective Time in accordance with the terms of the applicable award agreement and (ii) 100%. Such amount shall vest and be payable in cash at the end of the original performance period associated with the corresponding performance cash unit award of Southwestern and shall otherwise be subject to and payable on the same terms and conditions (including "double-trigger" vesting provisions) as are set forth in the corresponding award agreement.

The completion of the Merger is subject to satisfaction or waiver of certain customary mutual closing conditions, including (a) the receipt of the required approvals from Chesapeake's and Southwestern's stockholders, (b) the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), (c) the absence of any governmental order or law that makes consummation of the transactions contemplated by the Merger Agreement illegal or otherwise prohibited, (d) the effectiveness of the registration statement on Form S-4 to be filed by Chesapeake pursuant to which the shares of Chesapeake Common Stock to be issued as Merger Consideration will be registered with the Securities and Exchange Commission (the "SEC") and (e) the authorization for listing of Chesapeake Common Stock to be issued in connection with the Merger on NASDAQ. The obligation of each party to consummate the Merger is also conditioned upon the other party's representations and warranties being true and correct (subject to certain materiality exceptions), and the receipt of an officer's certificate from the other party to such effect. Additionally, Southwestern's obligation to consummate the Merger is conditioned on its receipt from legal counsel that the Merger will qualify as a "reorganization" within Section 368(a) of the Tax Code.

The Merger Agreement contains customary representations and warranties of Southwestern and Chesapeake relating to their respective businesses, financial statements and public filings, in each case generally subject to customary materiality qualifiers. Additionally, the Merger Agreement provides for customary pre-closing covenants of Southwestern and Chesapeake, including, subject to certain exceptions, covenants relating to conducting their respective businesses in the ordinary course consistent with past practice and refraining from taking certain actions, excepting in each case actions expressly permitted or required by the Merger Agreement, required by law or consented to by the other party in writing. Southwestern and Chesapeake also agreed to use their respective reasonable best efforts to cause the Merger to be consummated and to obtain expiration or termination of the waiting period under the HSR Act, subject to certain limitations set forth in the Merger Agreement.

The Merger Agreement provides that, during the period from the date of the Merger Agreement until the Effective Time, Southwestern and Chesapeake will be subject to certain restrictions on its ability to solicit alternative acquisition proposals from third parties, to provide non-public information to third parties and to engage in discussions with third parties regarding alternative acquisition proposals, subject to customary exceptions as set forth in the Merger Agreement. Southwestern and Chesapeake are required to call a meeting of their respective stockholders to approve the Merger Agreement and, subject to certain exceptions, to recommend that its stockholders approve the Merger Agreement.

The Merger Agreement contains termination rights for each of Southwestern and Chesapeake, including, among others, (a) if the consummation of the Merger does not occur on or before the date that is 12 months from the date of the Merger Agreement, which date would be automatically extended to 18 months from the date of the Merger Agreement for lack of antitrust clearance or other antitrust-related obstacles to closing (the "Outside Date"), (b) if either Chesapeake's or Southwestern's stockholders fail to approve a required proposal in connection with the Merger; (c) if a final and nonappealable governmental order or law permanently prohibits the Merger; (d) if the other party has breached its representations, warranties or covenants in the Merger Agreement, subject to certain conditions; (e) if the other party's board of directors has changed its recommendation in connection with the Merger ("Change of Recommendation"); (f) in order to enter into a Superior Proposal (as defined in the Merger Agreement); and (g) if the other party or its directors or executive officers willfully and materially breaches its non-solicitation obligations. Upon termination of the Merger Agreement under specified circumstances, Chesapeake or Southwestern, as applicable, would be required to pay the other party a termination fee. In addition, if the Merger Agreement is terminated due to a failure of Chesapeake's stockholders or Southwestern's stockholders to approve the applicable proposals in connection with the Merger, Chesapeake or Southwestern, as applicable, may be required to reimburse the other party for its expenses.

As of the Effective Time, Chesapeake will cause its name and NASDAQ ticker symbol to be changed to such name and ticker symbol determined in consultation in good faith with Southwestern. At the Effective Time, Chesapeake is required to take all necessary actions to cause four current members of the board of directors of Southwestern, who are selected by Southwestern's board of directors and are reasonably acceptable to Chesapeake, to be appointed to the board of directors of Chesapeake immediately following the Effective Time.

The foregoing description of the Merger Agreement and the transactions contemplated thereby does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement, a copy of which is attached as Exhibit 2.1 to this Current Report on Form 8-K and incorporated into this Item 1.01 by reference.

The Merger Agreement has been included to provide investors with information regarding its terms. It is not intended to provide any other factual information about Chesapeake. The representations, warranties and covenants contained in the Merger Agreement were made only for purposes of the Merger Agreement as of the specific dates therein, were solely for the benefit of the parties to the Merger Agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors are not third-party beneficiaries under the Merger Agreement and should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of the parties thereto or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of representations and warranties may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in Chesapeake's public disclosures.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Amendment to Chesapeake Energy Corporation Executive Severance Plan

On January 10, 2024, Chesapeake entered into a letter agreement with each of its named executive officers to modify the application of the Chesapeake Energy Corporation Executive Severance Plan (the "***Severance Plan***") in connection with and following the consummation of the transactions contemplated by the Merger Agreement (the "***Letter Agreement***"). The Letter Agreement provides that (i) the consummation of the Merger will be treated as a Change in Control for purposes of the Severance Plan and for all outstanding awards granted to each named executive officer under the Chesapeake Energy Corporation 2021 Long Term Incentive Plan (the "***LTIP***") prior to the closing of the Merger; and (ii) if such named executive officer's employment is terminated by Chesapeake without Cause or the named executive officer resigns for Good Reason (as such terms are defined in the Severance Plan), in each case, in calendar year 2024 and prior to the vesting of any outstanding awards previously granted under the LTIP that were scheduled to vest in calendar year 2024 (pursuant to their original terms), such awards will remain outstanding and be eligible to vest on the same basis as if the named executive officer had remained employed by Chesapeake through the applicable vesting date (with performance awards vesting based on actual performance, as determined in accordance with the applicable award agreement).

The foregoing description of the Letter Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Letter Agreement, a form of which is attached as Exhibit 10.1 to this Current Report on Form 8-K and incorporated into this Item 5.02 by reference.

Item 9.01 Exhibits.

(d) Exhibits.

Exhibit Number	Description
2.1	Agreement and Plan of Merger, dated as of January 10, 2024, by and among Chesapeake Energy Corporation, Hulk Merger Sub, Inc., Hulk LLC Sub, LLC, and Southwestern Energy Company.*
10.1	Form of Chesapeake Energy Corporation Executive Letter Agreement.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

***** Annexes, schedules and certain exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company hereby undertakes to furnish supplemental copies of any of the omitted annexes, schedules and exhibits upon request by the SEC.

CAUTIONARY STATEMENTS REGARDING FORWARD LOOKING STATEMENTS

This report contains "forward-looking statements" within the meaning of the federal securities laws. Forward-looking statements may be identified by words such as "anticipates," "believes," "cause," "continue," "could," "depend," "develop," "estimates," "expects," "forecasts," "goal," "guidance," "have," "impact," "implement," "increase," "intends," "lead," "maintain," "may," "might," "plans," "potential," "possible," "projected," "reduce," "remain," "result," "scheduled," "seek," "should," "will," "would" and other similar words or expressions. The absence of such words or expressions does not necessarily mean the statements are not forward-looking. Forward-looking statements are not statements of historical fact and reflect Chesapeake's and Southwestern's current views about future events. These forward-looking statements include, but are not limited to, statements regarding the proposed transaction between Chesapeake and Southwestern, the expected closing of the proposed transaction and the timing thereof and the proforma combined company and its operations, strategies and plans, integration, debt levels and leverage ratio, capital expenditures, cash flows and anticipated uses thereof, synergies, opportunities and anticipated future performance, expected accretion to earnings and free cash flow and anticipated dividends. Information adjusted for the proposed transaction should not be considered a forecast of future results. Although we believe our forward-looking statements are reasonable, statements made regarding future results are not guarantees of future performance and are subject to numerous assumptions, uncertainties and risks that are difficult to predict. Forward-looking statements are based on current expectations, estimates and assumptions that involve a number of risks and uncertainties that could cause actual results to differ materially from those projected.

Actual outcomes and results may differ materially from the results stated or implied in the forward-looking statements included in this report due to a number of factors, including, but not limited to: the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement; the possibility that our stockholders may not approve the issuance of Chesapeake's common stock in connection with the proposed transaction; the possibility that the stockholders of Southwestern may not approve the merger agreement; the risk that Chesapeake or Southwestern may be unable to obtain governmental and regulatory approvals required for the proposed transaction, or required governmental and regulatory approvals may delay the merger or result in the imposition of conditions that could cause the parties to abandon the merger; the risk that the parties may not be able to satisfy the conditions to the proposed transaction in a timely manner or at all; risks related to disruption of management time from ongoing business operations due to the proposed transaction; the risk that any announcements relating to the proposed transaction could have adverse effects on the market price of Chesapeake's common stock or Southwestern's common stock; the risk of any unexpected costs or expenses resulting from the proposed transaction; the risk of any litigation relating to the proposed transaction; the risk that the proposed transaction and its announcement could have an adverse effect on the ability of Chesapeake and Southwestern to retain and hire key personnel, on the ability of Chesapeake to attract third-party customers and maintain its relationships with derivatives counterparties and on Chesapeake's operating results and businesses generally; the risk that problems may arise in successfully integrating the businesses of the companies, which may result in the combined company not operating as effectively and efficiently as expected; the risk that the combined company may be unable to achieve synergies or other anticipated benefits of the proposed transaction or it may take longer than expected to achieve those synergies or benefits and other important factors that could cause actual results to differ materially from those projected; the volatility in commodity prices for crude oil and natural gas, the presence or recoverability of estimated reserves; the ability to replace reserves; environmental risks, drilling and operating risks, including the potential liability for remedial actions or assessments under existing or future environmental regulations and litigation; exploration and development risks; the effect of future regulatory or legislative actions on the companies or the industry in which they operate, including the risk of new restrictions with respect to oil and natural gas development activities; the risk that the credit ratings of the combined business may be different from what the companies expect; the ability of management to execute its plans to meet its goals and other risks inherent in Chesapeake's and Southwestern's businesses; public health crises, such as pandemics and epidemics, and any related government policies and actions; the potential disruption or interruption of Chesapeake's or Southwestern's operations due to war, accidents, political events, civil unrest, severe weather, cyber threats, terrorist acts, or other natural or human causes beyond the Chesapeake's or Southwestern's control; and the combined company's ability to identify and mitigate the risks and hazards inherent in operating in the global energy industry. Other unpredictable or unknown factors not discussed in this report could also have material adverse effects on forward-looking statements.

All such factors are difficult to predict and are beyond Chesapeake's or Southwestern's control, including those detailed in Chesapeake's annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K that are available on its website at http://investors.chk.com/ and on the SEC's website at http://www.sec.gov, and those detailed in Southwestern's annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K that are available on Southwestern's website at www.swn.com under the "Investors" tab and on the SEC's website at http://www.sec.gov**.** Forward-looking statements are based on the estimates and opinions of management at the time the statements are made. Chesapeake and Southwestern undertake no obligation to publicly correct or update the forward-looking statements in this report, in other documents, or on their respective websites to reflect new information, future events or otherwise, except as required by applicable law. All such statements are expressly qualified by this cautionary statement. Readers are cautioned not to place undue reliance on these forward-looking statements that speak only as of the date hereof.

IMPORTANT INFORMATION FOR INVESTORS AND STOCKHOLDERS;
ADDITIONAL INFORMATION AND WHERE TO FIND IT

In connection with the proposed transaction between Chesapeake and Southwestern, Chesapeake intends to file with the U.S. Securities and Exchange Commission (the "SEC") a registration statement on Form S-4 (the "registration statement") to register the shares of Chesapeake's common stock to be issued in connection with the proposed transaction. The registration statement will include a joint proxy statement of Chesapeake and Southwestern and will also constitute a prospectus of Chesapeake (the "joint proxy statement/prospectus"). Each of Chesapeake and Southwestern may also file other documents regarding the proposed transaction with the SEC. This document is not a substitute for the joint proxy statement/prospectus or the registration statement or any other document that Chesapeake or Southwestern may file with the SEC. **BEFORE MAKING ANY VOTING DECISION, INVESTORS ARE URGED TO CAREFULLY READ THE REGISTRATION STATEMENT, THE JOINT PROXY STATEMENT/PROSPECTUS AND ALL OTHER RELEVANT DOCUMENTS FILED OR THAT MAY BE FILED WITH THE SEC IN CONNECTION WITH THE PROPOSED TRANSACTION, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THOSE DOCUMENTS, AS THEY BECOME AVAILABLE BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION ABOUT CHESAPEAKE, SOUTHWESTERN, THE PROPOSED TRANSACTION, THE RISKS RELATED THERETO AND RELATED MATTERS.**

After the registration statement has been declared effective, a definitive joint proxy statement/prospectus will be mailed to the stockholders of Chesapeake and Southwestern. Investors will be able to obtain free copies of the registration statement and joint proxy statement/prospectus and other relevant documents containing important information about Chesapeake, Southwestern and the proposed transaction, once such documents are filed with the SEC through the website maintained by the SEC at www.sec.gov. Copies of the documents filed with the SEC by Chesapeake may be obtained free of charge on Chesapeake's website at http://investors.chk.com/. Copies of the documents filed with the SEC by Southwestern may be obtained free of charge on Southwestern's website at www.swn.com under the "Investors" tab.

Participants in Solicitation

Chesapeake and Southwestern and certain of their respective directors, executive officers and other members of management and employees may be deemed to be participants in the solicitation of proxies in connection with the proposed transaction contemplated by the joint proxy statement/prospectus. Information regarding Chesapeake's directors and executive officers and their ownership of Chesapeake's securities is set forth in Chesapeake's filings with the SEC, including Chesapeake's Annual Report on Form 10-K for the fiscal year ended December 31, 2022, and its Proxy Statement on Schedule 14A, which was filed with the SEC on April 28, 2023. To the extent such person's ownership of Chesapeake's securities has changed since the filing of Chesapeake's proxy statement, such changes have been or will be reflected on Statements of Change in Ownership on Form 4 filed with the SEC thereafter. Information regarding Southwestern's directors and executive officers and their ownership of Southwestern's securities is set forth in Southwestern's filings with the SEC, including Southwestern's Annual Report on Form 10-K for the fiscal year ended December 31, 2022, and its Proxy Statement on Schedule 14A, which was filed with the SEC on April 5, 2023. To the extent such person's ownership of Southwestern's securities has changed since the filing of Southwestern's proxy statement, such changes have been or will be reflected on Statements of Change in Ownership on Form 4 filed with the SEC thereafter. Additional information regarding the interests of those persons and other persons who may be deemed participants in the proxy solicitations may be obtained by reading the joint proxy statement/prospectus and other relevant materials that will be filed with the SEC regarding the proposed transaction when such documents become available. You may obtain free copies of these documents as described in the preceding paragraph.

No Offer or Solicitation

This report relates to the proposed transaction between Chesapeake and Southwestern. This report is for informational purposes only and shall not constitute an offer to sell or exchange, or the solicitation of an offer to buy or exchange, any securities or a solicitation of any vote or approval, in any jurisdiction, pursuant to the proposed transaction or otherwise, nor shall there be any sale, issuance, exchange or transfer of the securities referred to in this document in any jurisdiction in contravention of applicable law. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

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 hereunto duly authorized.

CHESAPEAKE ENERGY CORPORATION

By: /s/ Domenic J. Dell'Osso, Jr.
Domenic J. Dell'Osso, Jr.
President and Chief Executive Officer

Date: January 11, 2024

Exhibit 2.1

Execution Version

AGREEMENT AND PLAN OF MERGER

among

CHESAPEAKE ENERGY CORPORATION,

HULK MERGER SUB, INC.,

HULK LLC SUB, LLC,

and

SOUTHWESTERN ENERGY COMPANY

Dated as of January 10, 2024

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AGREEMENT AND PLAN OF MERGER

This AGREEMENT AND PLAN OF MERGER, dated as of January 10, 2024 (this "Agreement"), is entered into by and among Chesapeake Energy Corporation, an Oklahoma corporation ("Parent"), Hulk Merger Sub, Inc., a Delaware corporation and a wholly owned Subsidiary of Parent ("Merger Sub"), Hulk LLC Sub, LLC, a Delaware limited liability company and a wholly owned Subsidiary of Parent ("LLC Sub"), and Southwestern Energy Company, a Delaware corporation (the "Company").

WHEREAS, the Board of Directors of the Company (the "Company Board"), at a meeting duly called and held, has (i) determined that this Agreement and the Transactions, including the merger of Merger Sub with and into the Company, with the Company continuing as the surviving entity following such merger (the "Merger"), are fair and reasonable to, and in the best interests of, the Company and the holders of the shares of common stock of the Company, par value $0.01 per share (the "Company Common Stock"), (ii) approved and declared advisable this Agreement and the Transactions and (iii) resolved to recommend that the holders of Company Common Stock approve and adopt this Agreement and the Transactions;

WHEREAS, the Board of Directors of Parent (the "Parent Board"), at a meeting duly called and held, has (i) determined that this Agreement and the Transactions, including the issuance of the shares of common stock of Parent, par value $0.01 per share ("Parent Common Stock"), pursuant to this Agreement (the "Parent Stock Issuance"), are fair and reasonable to, and in the best interests of, Parent and the holders of Parent Common Stock, (ii) approved and declared advisable this Agreement and the consummation of the Transactions, including the Parent Stock Issuance and (iii) resolved to recommend that the holders of Parent Common Stock approve the Parent Stock Issuance;

WHEREAS, the Board of Directors of Merger Sub (the "Merger Sub Board") has (i) determined that this Agreement and the Transactions are fair and reasonable to and in the best interests of, Merger Sub and its stockholder, (ii) approved and declared advisable this Agreement and the Transactions and (iii) recommended this Agreement and the Transactions to Parent for approval and adoption thereby in its capacity as the sole stockholder of Merger Sub;

WHEREAS, Parent (i) in its capacity as the sole stockholder of Merger Sub, will approve and adopt this Agreement and (ii) in its capacity as the sole member of LLC Sub, will approve and adopt this Agreement, in each case, promptly following its execution;

WHEREAS, Parent desires to acquire 100% of the issued and outstanding shares of capital stock of the Company on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, immediately after the Effective Time, the Surviving Corporation shall be merged with and into LLC Sub, with LLC Sub continuing as the surviving entity in the LLC Sub Merger as a wholly owned subsidiary of Parent; and

WHEREAS, for U.S. federal income tax purposes, it is intended that (i) the Merger and the LLC Sub Merger (together, the "Integrated Mergers"), taken together, qualify as a "reorganization" within the meaning of Section 368(a) of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), and (ii) this Agreement and the LLC Sub Merger Agreement, taken together, constitute and be adopted as a "plan of reorganization" for purposes of Sections 354 and 361 of the Code and within the meaning of Treasury Regulations §§ 1.368-2(g) and 1.368-3(a).

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained in this Agreement, and for other valuable consideration, the receipt and sufficiency of which are acknowledged, Parent, Merger Sub, LLC Sub and the Company agree as follows:

ARTICLE I
CERTAIN DEFINITIONS

Section 1.1 **Certain Definitions**. As used in this Agreement, the capitalized terms have the meanings ascribed to such terms in Annex A or as otherwise defined elsewhere in this Agreement.

Section 1.2 **Terms Defined Elsewhere**. As used in this Agreement, the following capitalized terms are defined in this Agreement as referenced in the following table:

Definition	**Section**
Acceptable Confidentiality Agreement	6.3(c)(i)
Agreement	Preamble
Antitrust Laws	6.8(b)(ii)
Bonus Payment Date	6.9(h)
Book-Entry Shares	3.3(b)(ii)
Certificate of Merger	2.2(b)
Certificates	3.3(b)(i)
Closing	2.2(a)
Closing Date	2.2(a)
Code	Recitals
Company	Preamble
Company 401(k) Plans	6.9(f)
Company Alternative Acquisition Agreement	6.3(e)(vi)
Company Board	Recitals
Company Board Recommendation	4.3(a)
Company Capital Stock	4.2(a)
Company Change of Recommendation	6.3(e)(viii)
Company Common Stock	Recitals
Company Contracts	4.20(b)
Company Designee	2.5(a)
Company Disclosure Letter	Article IV
Company Employee	6.9(a)
Company Independent Petroleum Engineer	4.18(a)
Company Intellectual Property	4.14(a)
Company Material Adverse Effect	4.1
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ARTICLE II
THE MERGER

Section 2.1 **The Merger**. Upon the terms and subject to the conditions of this Agreement, at the Effective Time, Merger Sub will be merged with and into the Company in accordance with the provisions of the General Corporation Law of the State of Delaware (the "DGCL"). As a result of the Merger, the separate existence of Merger Sub shall cease and the Company shall continue its existence under the laws of the State of Delaware as the surviving corporation (in such capacity, the Company is sometimes referred to herein as the "Surviving Corporation"), as a wholly owned subsidiary of Parent.

Section 2.2 **Closing**.

(a) The closing of the Merger (the "Closing"), shall take place by the exchange of documents by "portable document format" (".pdf") or other electronic means at 9:00 a.m., Houston, Texas time, on the date that is three (3) Business Days immediately following the satisfaction or (to the extent permitted by applicable Law) waiver in accordance with this Agreement of all of the conditions set forth in Article VII (other than any such conditions which by their nature cannot be satisfied until the Closing Date, which shall be required to be so satisfied or (to the extent permitted by applicable Law) waived in accordance with this Agreement on the Closing Date), unless another date, time or place is agreed to in writing by Parent and the Company. For purposes of this Agreement, "Closing Date" shall mean the date on which the Closing occurs.

(b) As soon as practicable on the Closing Date in connection with the Closing, the Parties will cause a certificate of merger, prepared and executed in accordance with the relevant provisions of the DGCL to consummate the Merger (the "Certificate of Merger"), to be filed with the Secretary of State of the State of Delaware. The Merger shall become effective upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware, or at such later time as shall be agreed upon in writing by Parent and the Company and specified in the Certificate of Merger (the time the Merger becomes effective being the "Effective Time").

Section 2.3 **Effect of the Merger**. At the Effective Time, the Merger shall have the effects set forth in this Agreement and the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers and franchises of each of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts (including the Notes), liabilities, obligations, restrictions, disabilities and duties of each of the Company and Merger Sub shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Corporation.

Section 2.4 **Certificate of Incorporation and Bylaws of the Surviving Corporation**. At the Effective Time, (a) the certificate of incorporation of the Company in effect immediately prior to the Effective Time shall be amended and restated in its entirety as of the Effective Time to be in the form set forth in Exhibit A and (b) the bylaws of the Company in effect immediately prior to the Effective Time shall be amended and restated in their entirety as of the Effective Time to be in the form set forth in Exhibit B, and shall be the certificate of incorporation and bylaws, respectively, of the Surviving Corporation from and after the Effective Time, in each case until duly amended and/or restated in accordance with their respective terms and applicable Law.

Section 2.5 Directors and Officers.

(a) Parent Board. Unless otherwise agreed to by the Parties, Parent shall take all actions necessary to cause the Parent Board to consist, at the Effective Time, of eleven (11) members, including four (4) individuals selected by the Company (the "Company Designees"), each of whom is a member of the Company Board as of the date of this Agreement and will meet the requirements under the rules and regulations of NASDAQ to be considered an independent director on the Parent Board, with such directors to serve until their respective successors are duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Organizational Documents of Parent and applicable Law. The Company shall deliver to Parent, prior to the time that the Registration Statement is declared effective by the SEC, a written notice listing the names of all four (4) of the Company Designees and providing any relevant information about such designees as Parent may reasonably request for the purpose of including such information in filings with the SEC. If any of the Company Designees shall be unable or unwilling to serve at the Closing, the Company shall promptly designate a replacement director who meets the requirements of a Company Designee and provide any relevant information about such designees as Parent may reasonably request for the purpose of including such information in filings with the SEC. Following the Closing, Parent, through the Parent Board, shall take all necessary action to nominate such Company Designees for election to the Parent Board in the proxy statement relating to the first annual meeting of the stockholders of Parent thereafter.

(b) Surviving Corporation Directors and Officers. From and after the Effective Time, the Parties shall take all actions necessary so that, until successors are duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with applicable Law, (i) the members of the board of directors of Merger Sub at the Effective Time shall be the directors of the Surviving Corporation and (ii) the officers of Merger Sub at the Effective Time shall be the officers of the Surviving Corporation.

(c) Name and Ticker Symbol. As of the Effective Time, Parent shall cause the name and NASDAQ ticker symbol of Parent to be changed to such name and ticker symbol as determined by Parent following consultation in good faith with the Company prior to the Effective Time.

Section 2.6 Integration and Governance. From and after the date of this Agreement until the Effective Time, each of Parent and the Company shall, and shall cause each of its respective Subsidiaries to, subject to applicable Law, cooperate with the other Party in connection with planning the integration of the businesses of Parent and the Company, the identification of synergies and the adoption of best practices for Parent and its Subsidiaries following the Effective Time. In furtherance of the foregoing, promptly following the date of this Agreement, the respective Chief Executive Officers and Chief Financial Officers of Parent and the Company shall mutually develop an integration plan with the assistance of an integration team, the members of which shall be persons selected by the respective Chief Executive Officers and Chief Financial Officers of Parent and the Company, and such integration team shall meet at least once per month (unless otherwise determined by the respective Chief Executive Officers and Chief Financial Officers of Parent and the Company) prior to the Closing Date (subject to applicable Law as advised by their respective legal counsels) and as otherwise reasonably requested by Parent and the Company to conduct transition and integration planning.

Section 2.7 **Post-Closing Merger**. Immediately following the Effective Time, the Surviving Corporation shall merge with and into LLC Sub (the "LLC Sub Merger"), with LLC Sub continuing as the surviving entity in such merger as a wholly owned subsidiary of Parent, pursuant to a merger agreement substantially in the form attached hereto as Exhibit C (the "LLC Sub Merger Agreement"). At the time of and immediately after the LLC Sub Merger, Parent shall own all of the membership interests and other equity, if any, in LLC Sub and shall be the sole member of LLC Sub, and LLC Sub shall be treated as an entity disregarded as separate from Parent for U.S. federal income Tax purposes.

ARTICLE III
EFFECT OF THE MERGER ON CAPITAL STOCK; EXCHANGE

Section 3.1 **Effect of the Merger on Capital Stock**. Subject to the other provisions of this Article III, at the Effective Time, by virtue of the Merger and without any action on the part of Parent, Merger Sub, the Company, or any holder of any securities of Parent, Merger Sub or the Company:

(a) Capital Stock of Merger Sub. Each share of capital stock of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and shall represent one (1) validly issued, fully paid and nonassessable share of common stock, par value $0.01 per share, of the Surviving Corporation, which shall constitute the only outstanding shares of capital stock of the Surviving Corporation immediately following the Effective Time.

(b) Capital Stock of the Company.

(i) Each share of Company Common Stock issued and outstanding immediately prior to the Effective Time (excluding any Excluded Shares, and, to the extent set forth in Section 3.2, Company Incentive Awards) (such shares of Company Common Stock, the "Eligible Shares") shall be converted automatically at the Effective Time into the right to receive that number of validly issued, fully-paid and nonassessable shares of Parent Common Stock equal to the Exchange Ratio (the "Merger Consideration"). As used in this Agreement, "Exchange Ratio" means 0.0867.

(ii) All Eligible Shares, when so converted, shall cease to be outstanding and shall automatically be canceled and cease to exist and each holder of an Eligible Share that was outstanding immediately prior to the Effective Time shall cease to have any rights with respect thereto, except the right to receive (A) the Merger Consideration, (B) any dividends or other distributions in accordance with Section 3.3(g) and (C) any cash to be paid in lieu of any fractional shares of Parent Common Stock in accordance with Section 3.3(h), in each case to be issued or paid in consideration therefor upon the exchange of any Certificates or Book-Entry Shares, as applicable, in accordance with Section 3.3(a).

(iii) All shares of Company Common Stock held by the Company as treasury shares or held by Parent or Merger Sub immediately prior to the Effective Time and, in each case, not held on behalf of third parties (collectively, "Excluded Shares") shall automatically be canceled and cease to exist as of the Effective Time, and no consideration shall be delivered in exchange therefor.

(c) Impact of Stock Splits, Etc. In the event of any change in (i) the number of shares of Company Common Stock, or securities convertible or exchangeable into or exercisable for shares of Company Common Stock or (ii) the number of shares of Parent Common Stock, or securities convertible or exchangeable into or exercisable for shares of Parent Common Stock (including options to purchase Parent Common Stock), in each case issued and outstanding after the date of this Agreement and prior to the Effective Time by reason of any stock split, reverse stock split, stock dividend, subdivision, reclassification, recapitalization, combination, exchange of shares or the like, the Exchange Ratio shall be equitably adjusted to reflect the effect of such change and, as so adjusted, shall from and after the date of such event, be the applicable portion of the Merger Consideration, subject to further adjustment in accordance with this Section 3.1(c). Nothing in this Section 3.1(c) shall be construed to permit the Parties to take any action except to the extent such action is consistent with, and not otherwise prohibited by, the terms of this Agreement.

Section 3.2 Treatment of Equity Compensation Awards.

(a) Treatment of Options. At the Effective Time, each Company Option Award that is outstanding and unexercised as of immediately prior to the Effective Time shall cease to represent a right to acquire shares of Company Common Stock and shall be automatically canceled and terminated without consideration payable or owed therefor.

(b) Treatment of Restricted Stock. At the Effective Time, each outstanding Company Restricted Stock Award shall automatically, and without any action on the part of the holder thereof, become fully vested and the restrictions with respect thereto shall lapse, and each such Company Restricted Stock Award shall be converted into the right to receive a number of shares of Parent Common Stock equal to (i) the Exchange Ratio, multiplied by (ii) the total number of shares of Company Common Stock attributable to such Company Restricted Stock Award.

(c) Treatment of Restricted Stock Units.

(i) At the Effective Time, each Company Restricted Stock Unit Award that is outstanding under the Company's Nonemployee Director Deferred Compensation Plan shall automatically and without any action on the part of the holder thereof, become fully vested as of the Closing Date, and each such Company Restricted Stock Unit Award shall be canceled and converted into the right to receive a number of shares of Parent Common Stock equal to (A) the Exchange Ratio, multiplied by (B) the total number of shares of Company Common Stock subject to such Company Restricted Stock Unit Award, together with accrued dividend equivalent payments, in each case issuable and payable at the time(s) as specified in the Company's Nonemployee Director Deferred Compensation Plan and in accordance with such Director's deferral elections as set forth in the applicable Deferred Compensation Agreement.

(ii) At the Effective Time, each outstanding Company Restricted Stock Unit Award that (A) was granted pursuant to the Company's 2013 Incentive Plan, or (B) was granted prior to the date of this Agreement and is held by an employee of the Company or its Subsidiaries that is terminated upon or immediately after the Effective Time, and, in either case, that is subject only to time-based vesting conditions shall be deemed to be fully vested as of the Closing Date, and each such Company Restricted Stock Unit Award shall be canceled and converted into the right to receive a number of shares of Parent Common Stock equal to (1) the Exchange Ratio, multiplied by (2) the total number of shares of Company Common Stock subject to each such Company Restricted Stock Unit Award, together with accrued dividend equivalent payments, in each case issuable and payable in accordance with the terms of the applicable award agreement.

(iii) At the Effective Time, each outstanding Company Restricted Stock Unit Award that was granted pursuant to the Company's 2022 Incentive Plan and that is not covered by Section 3.2(c)(ii), and that is subject only to time-based vesting conditions, shall be canceled and converted into an award of restricted stock units in respect of Parent Common Stock (each, a "Parent RSU Award") in respect of that number of shares of Parent Common Stock (rounded to the nearest whole share) equal to the product of (1) the total number of shares of Company Common Stock subject to such Company Restricted Stock Unit Award immediately prior to the Effective Time multiplied by (2) the Exchange Ratio. Such Parent RSU Award shall vest and be payable on the same terms and conditions (including "double-trigger" vesting provisions) as are set forth in the corresponding award agreement (except that such award will be payable in Parent Common Stock).

(d) Treatment of Performance Units.

(i) At the Effective Time, each outstanding Company Performance Unit Award that (A) was granted pursuant to the Company's 2013 Incentive Plan, or (B) was granted prior to the date of this Agreement and is held by an employee of the Company or its Subsidiaries that is terminated upon or immediately after the Effective Time shall (I) automatically, by virtue of the occurrence of the Closing, be deemed to be fully vested and payable at the greater of (1) the level based on actual performance determined as of immediately prior to the Effective Time in accordance with the terms of the applicable award agreement and (2) target level (the number of shares of Company Common Stock payable pursuant to the foregoing, the "Earned Company Performance Shares"), and (II) be canceled and converted into the right to receive a number of shares of Parent Common Stock equal to (x) the Exchange Ratio, multiplied by (y) the number of Earned Company Performance Shares, together with accrued dividend equivalent payments, in each case issuable and payable in accordance with the terms of the applicable award agreement.

(ii) At the Effective Time, each outstanding Company Performance Unit Award that was granted pursuant to the Company's 2022 Incentive Plan and that is not covered by Section 3.2(d)(i) shall be deemed to correspond to a number of Earned Company Performance Shares determined in the same manner as described in Section 3.2(d)(i) and shall be canceled and converted into a Parent RSU Award in respect of that number of shares of Parent Common Stock (rounded to the nearest whole share) equal to (1) the number of Earned Company Performance Shares with respect to such Company Performance Unit Award multiplied by (2) the Exchange Ratio. Such Parent RSU Award shall vest at the end of the original performance period associated with the corresponding Company Performance Unit Award and shall otherwise be subject to and payable on the same terms and conditions (including "double-trigger" vesting provisions) as are set forth in the corresponding award agreement (except that such award will be payable in Parent Common Stock).

(e) Treatment of Performance Cash Units.

(i) At the Effective Time, each outstanding Company Performance Cash Unit Award that (A) was granted pursuant to the Company's 2013 Incentive Plan, or (B) was granted prior to the date of this Agreement and is held by an employee of the Company or its Subsidiaries that is terminated upon or immediately after the Effective Time shall automatically, by virtue of the occurrence of the Closing, be deemed to be fully vested as of the Closing Date and payable in cash in an amount equal to $1.00 for each unit granted under such Company Performance Cash Unit Award multiplied by the greater of (1) the percentage earned based on actual performance determined as of immediately prior to the Effective Time in accordance with the terms of the applicable award agreement and (2) 100%.

(ii) At the Effective Time, each outstanding Company Performance Cash Unit Award that was granted pursuant to the Company's 2022 Incentive Plan and that is not covered by Section 3.2(e)(i) above shall be deemed earned at a level equal to $1.00 for each unit granted under such Company Performance Cash Unit Award multiplied by the greater of (1) the percentage earned based on actual performance determined as of immediately prior to the Effective Time in accordance with the terms of the applicable award agreement and (2) 100%. Such amount shall vest and be payable in cash at the end of the original performance period associated with the corresponding Company Performance Cash Unit Award and shall otherwise be subject to and payable on the same terms and conditions (including "double-trigger" vesting provisions) as are set forth in the corresponding award agreement.

(f) Administration. Prior to the Effective Time, the Company Board and/or the Compensation Committee of the Company Board shall take such action and adopt such resolutions as are required to (i) effectuate the treatment of the Company Incentive Awards pursuant to the terms of this Section 3.2, (ii) if requested by Parent in writing at least ten (10) days prior to the Company Stockholders Meeting, cause the Company Equity Plan to terminate at or prior to the Effective Time and (iii) take actions reasonably required to effectuate any provision of this Section 3.2, including to ensure that from and after the Effective Time, other than as otherwise contemplated by this Agreement, neither Parent nor the Surviving Corporation will be required to deliver shares of Company Common Stock or other capital stock of the Company to any Person pursuant to or in settlement of any equity awards of the Company. Notwithstanding anything in this Agreement to the contrary, each of Parent, the Company, and their respective Affiliates shall be entitled to deduct or withhold from any amounts payable to any Person pursuant to this Agreement, including the payments under this Section 3.2; provided, that the Parties shall reasonably cooperate in good faith to minimize any such deduction or withholding.

(g) Parent Actions. Parent shall take all actions that are necessary for the treatment of Company Incentive Awards pursuant to this Section 3.2, including the reservation, issuance and listing of Parent Common Stock as necessary to effect the transactions contemplated by this Section 3.2. If registration of any plan interests in any Company Benefit Plan or the shares of Parent Common Stock issuable in satisfaction of any Company Incentive Awards following the Effective Time (and giving effect to this Section 3.2) is required under the Securities Act, Parent shall file with the SEC as soon as reasonably practicable on or after the Closing Date a registration statement on Form S-8 with respect to such plan interests or shares of Parent Common Stock, and shall use its reasonable best efforts to maintain the effectiveness of such registration statement for so long as the relevant Company Benefit Plan or Company Incentive Awards remain outstanding or in effect and such registration of interests therein or the shares of Parent Common Stock issuable thereunder continues to be required. With respect to those individuals who will be subject to the reporting requirements under Section 16(a) of the Exchange Act subsequent to the Effective Time, where applicable, Parent shall administer the Company Incentive Awards assumed pursuant to this Section 3.2 in a manner that complies with Rule 16b-3 promulgated under the Exchange Act.

Section 3.3 Payment for Securities; Exchange.

(a) Exchange Agent; Exchange Fund. Prior to the Closing, Parent shall enter into an agreement with Parent's or the Company's transfer agent to act as agent for the holders of Company Common Stock in connection with the Merger (the "Exchange Agent") and to receive the Merger Consideration and all cash payable pursuant to this Article III. On the Closing Date and prior to the filing of the Certificate of Merger, Parent shall deposit, or cause to be deposited, with the Exchange Agent, for the benefit of the holders of Eligible Shares, for distribution in accordance with this Article III through the Exchange Agent, (i) the number of shares of Parent Common Stock issuable in respect of Eligible Shares pursuant to Section 3.1 and (ii) sufficient cash to make payments in lieu of fractional shares pursuant to Section 3.3(h). Parent agrees to make available to the Exchange Agent, from time to time as needed, cash sufficient to pay any dividends and other distributions pursuant to Section 3.3(g). The Exchange Agent shall, pursuant to irrevocable instructions, deliver the Merger Consideration contemplated to be issued in exchange for Eligible Shares pursuant to this Agreement out of the Exchange Fund. Except as contemplated by this Section 3.3(a), Section 3.3(g) and Section 3.3(h), the Exchange Fund shall not be used for any other purpose. Any cash and shares of Parent Common Stock deposited with the Exchange Agent (including as payment for fractional shares in accordance with Section 3.3(h) and any dividends or other distributions in accordance with Section 3.3(g)) shall hereinafter be referred to as the "Exchange Fund." Parent or the Surviving Corporation shall pay all charges and expenses, including those of the Exchange Agent, in connection with the exchange of Eligible Shares pursuant to this Agreement. The cash portion of the Exchange Fund may be invested by the Exchange Agent as reasonably directed by Parent. To the extent, for any reason, the amount in the Exchange Fund is below that required to make prompt payment of the aggregate cash payments contemplated by this Article III, Parent shall promptly replace, restore or supplement (or cause to be replaced, restored or supplemented) the cash in the Exchange Fund so as to ensure that the Exchange Fund is at all times maintained at a level sufficient for the Exchange Agent to make the payment of the aggregate cash payments contemplated by this Article III. Any interest or other income resulting from investment of the cash portion of the Exchange Fund shall become part of the Exchange Fund, and any amounts in excess of the amounts payable hereunder shall, at the discretion of Parent, be promptly returned to Parent or the Surviving Corporation.

(b) Payment Procedures.

(i) Certificates. As soon as practicable after the Effective Time, Parent shall cause the Exchange Agent to deliver to each record holder, as of immediately prior to the Effective Time, of an outstanding Eligible Share represented by a certificate ("Certificates"), a letter of transmittal ("Letter of Transmittal") (which shall specify that delivery shall be effected, and risk of loss and title to Certificates shall pass, only upon proper delivery of such Certificates to the Exchange Agent, and which shall be in a customary form and agreed to by Parent and the Company prior to the Closing) and instructions for use in effecting the surrender of Certificates for payment of the Merger Consideration set forth in Section 3.1(b)(i). Upon surrender to the Exchange Agent of a Certificate (or an affidavit of loss in lieu of the Certificate as provided in Section 3.3(f)), together with the Letter of Transmittal, duly completed and validly executed in accordance with the instructions thereto, and such other customary documents as may be reasonably required by the Exchange Agent, the holder of the Eligible Share(s) formerly represented by such Certificate shall be entitled to receive in exchange therefor (A) the number of shares of Parent Common Stock (which shall be in uncertificated book-entry form) representing, in the aggregate, the whole number of shares of Parent Common Stock, if any, that such holder has the right to receive pursuant to Section 3.1 (after taking into account all Eligible Shares then held by such holder immediately prior to the Effective Time) and (B) a check or wire transfer in an aggregate amount equal to the cash payable in lieu of any fractional shares of Parent Common Stock pursuant to Section 3.3(h) and any dividends and other distributions pursuant to Section 3.3(g).

(ii) Non-DTC Book-Entry Shares. As soon as practicable after the Effective Time, Parent shall cause the Exchange Agent to deliver to each record holder, as of immediately prior to the Effective Time, of Eligible Shares represented by book-entry ("Book-Entry Shares") not held through DTC, (A) a statement reflecting the number of shares of Parent Common Stock (which shall be in uncertificated book-entry form) representing, in the aggregate, the whole number of shares of Parent Common Stock, if any, that such holder has the right to receive pursuant to Section 3.1 (after taking into account all Eligible Shares held by such holder immediately prior to the Effective Time) and (B) a check or wire transfer in an aggregate amount equal to the cash payable in lieu of any fractional shares of Parent Common Stock pursuant to Section 3.3(h) and any dividends and other distributions to which such holder is entitled pursuant to Section 3.3(g).

(iii) DTC Book-Entry Shares. With respect to Book-Entry Shares held through DTC, Parent and the Company shall cooperate to establish procedures with the Exchange Agent and DTC to ensure that the Exchange Agent will transmit to DTC or its nominees as soon as reasonably practicable on or after the Closing Date, upon surrender of Eligible Shares held of record by DTC or its nominees in accordance with DTC's customary surrender procedures, the Merger Consideration, the cash to be paid in lieu of any fractional shares of Parent Common Stock in accordance with Section 3.3(h), if any, and any unpaid non-stock dividends and any other dividends or other distributions, in each case, that DTC has the right to receive pursuant to this Article III.

(iv) No interest shall be paid or accrued on the Merger Consideration or any other amount payable in respect of any Eligible Shares pursuant to this Article III.

(v) With respect to any Eligible Shares represented by Certificates immediately prior to the Effective Time, if payment of the Merger Consideration (including any dividends or other distributions with respect to Parent Common Stock pursuant to Section 3.3(g) and any cash payable in lieu of fractional shares of Parent Common Stock pursuant to Section 3.3(h)) is to be made to a Person other than the record holder of such Eligible Shares, it shall be a condition of payment that the Certificates so surrendered shall be properly endorsed or shall be otherwise in proper form for transfer and that the Person requesting such payment shall have paid any transfer and other Taxes required by reason of the payment of the Merger Consideration to a Person other than the registered holder of such shares surrendered or shall have established to the satisfaction of the Surviving Corporation that such Taxes either have been paid or are not applicable. With respect to Book-Entry Shares, payment of the Merger Consideration (including any dividends or other distributions with respect to Parent Common Stock pursuant to Section 3.3(g) and any cash payable in lieu of fractional shares of Parent Common Stock pursuant to Section 3.3(h)) shall only be made to the Person in whose name such Book-Entry Shares are registered in the stock transfer books of the Company as of the Effective Time. Until surrendered as contemplated by this Section 3.3(b)(v) (together with the Letter of Transmittal, duly completed and validly executed in accordance with the instructions thereto, and such other customary documents as may be reasonably required by the Exchange Agent), each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender (and delivery of such duly completed and validly executed Letter of Transmittal with such other customary documents) the Merger Consideration payable in respect of such shares of Company Common Stock, cash payable in lieu of any fractional shares of Parent Common Stock in accordance with Section 3.3(h) and any dividends or other distributions to which such holder is entitled pursuant to Section 3.3(g).

(c) Termination of Rights. All Merger Consideration (including any dividends or other distributions with respect to Parent Common Stock pursuant to Section 3.3(g) and any cash payable in lieu of fractional shares of Parent Common Stock pursuant to Section 3.3(h)) paid upon the surrender of and in exchange for Eligible Shares in accordance with the terms hereof shall be deemed to have been paid in full satisfaction of all rights pertaining to such Company Common Stock. At the Effective Time, the stock transfer books of the Surviving Corporation shall be closed immediately with respect to shares outstanding prior to the Effective Time, and there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of the shares of Company Common Stock that were outstanding immediately prior to the Effective Time.

(d) Termination of Exchange Fund. Any portion of the Exchange Fund that remains undistributed to the former stockholders of the Company on the 180th day after the Closing Date shall be delivered to Parent, upon demand, and any holders of Eligible Shares as of immediately prior to the Effective Time who have not theretofore received the Merger Consideration, any cash payable in lieu of fractional shares of Parent Common Stock to which they are entitled pursuant to Section 3.3(h) and any dividends or other distributions with respect to Parent Common Stock to which they are entitled pursuant to Section 3.3(g), in each case without interest thereon, to which they are entitled under this Article III shall thereafter look only to the Surviving Corporation and Parent for payment of their claim for such amounts.

(e) No Liability. None of the Surviving Corporation, Parent, Merger Sub, LLC Sub or the Exchange Agent shall be liable to any holder of Company Common Stock for any amount of Merger Consideration properly delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law. If any Certificate has not been surrendered prior to the time that is immediately prior to the time at which Merger Consideration in respect of the Eligible Shares represented by such Certificate would otherwise escheat to or become the property of any Governmental Entity, any such shares, cash, dividends or distributions in respect of such Eligible Shares shall, to the extent permitted by applicable Law, become the property of Parent, free and clear of all claims or interest of any Person previously entitled thereto.

(f) Lost, Stolen, or Destroyed Certificates. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if reasonably required by Parent or the Surviving Corporation, the posting by such Person of a bond in such reasonable amount as the Surviving Corporation may direct as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent shall issue in exchange for such lost, stolen or destroyed Certificate the Merger Consideration payable in respect of the Eligible Shares formerly represented by such Certificate, any cash payable in lieu of fractional shares of Parent Common Stock to which the holder thereof is entitled pursuant to Section 3.3(h) and any dividends or other distributions to which the holder thereof is entitled pursuant to Section 3.3(g).

(g) Dividends or Other Distributions with Respect to Unexchanged Shares of Parent Common Stock. No dividends or other distributions declared or made with respect to shares of Parent Common Stock with a record date after the Effective Time shall be paid to the holder of any Eligible Shares immediately prior to the Effective Time represented by an unsurrendered Certificate with respect to the whole shares of Parent Common Stock that such holder would be entitled to receive upon surrender of such Certificate and no cash payment in lieu of fractional shares of Parent Common Stock shall be paid to any such holder, in each case until such holder shall surrender such Certificate in accordance with this Section 3.3 (or an affidavit of loss in lieu of the Certificate as provided in Section 3.3(f)). Following surrender of any such Certificate (or an affidavit of loss in lieu of the Certificate as provided in Section 3.3(f)) (together with the Letter of Transmittal, duly completed and validly executed in accordance with the instructions thereto, and such other customary documents as may be reasonably required by the Exchange Agent), there shall be paid to such holder of whole shares of Parent Common Stock issuable in exchange therefor, without interest, (i) promptly after the time of such surrender (and delivery of such duly completed and validly executed Letter of Transmittal with such other customary documents), the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to such whole shares of Parent Common Stock, and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to such surrender and delivery and a payment date subsequent to such surrender and delivery payable with respect to such whole shares of Parent Common Stock. For purposes of dividends or other distributions in respect of shares of Parent Common Stock, all whole shares of Parent Common Stock to be issued pursuant to the Merger shall be entitled to dividends pursuant to the immediately preceding sentence as if such whole shares of Parent Common Stock were issued and outstanding as of the Effective Time.

(h) No Fractional Shares of Parent Common Stock. No fractional shares or certificates or scrip representing fractional shares of Parent Common Stock shall be issued upon the exchange of Eligible Shares and no holder of Eligible Shares immediately prior to the Effective Time shall have any right to vote or have any other rights of a stockholder of Parent or a holder of shares of Parent Common Stock in respect of the fractional shares such holder would otherwise be entitled to receive. Notwithstanding any other provision of this Agreement, each holder of Eligible Shares immediately prior to the Effective Time exchanged pursuant to the Merger who would otherwise have been entitled to receive a fraction of a share of Parent Common Stock (after taking into account all Eligible Shares formerly represented by Certificates and Book-Entry Shares held by such holder immediately prior to the Effective Time) shall receive, in lieu thereof, cash (without interest) in an amount equal to the product of (i) such fractional part of a share of Parent Common Stock *multiplied by* (ii) the volume weighted average price of Parent Common Stock for the five (5) consecutive trading days ending immediately prior to the Closing Date as reported by Bloomberg, L.P. or, if not reported thereby, by another authoritative source mutually selected by Parent and the Company (the "Parent Closing Price"). As promptly as practicable after the determination of the amount of cash, if any, to be paid to a holder of Eligible Shares immediately prior to the Effective Time who would otherwise be entitled to receive a fractional share of Parent Common Stock, the Exchange Agent shall so notify Parent, and Parent shall cause the Exchange Agent to forward payments to such holders subject to and in accordance with the terms hereof when payable pursuant to this Article III. The payment of cash in lieu of fractional shares of Parent Common Stock is not a separately bargained-for consideration but merely represents a mechanical rounding-off of the fractions in the conversion of the Eligible Shares in the Merger.

(i) No Appraisal Rights. In accordance with Section 262 of the DGCL, no appraisal rights will be available to holders of Company Common Stock in connection with the Merger.

(j) Withholding Taxes. Notwithstanding anything in this Agreement to the contrary, Parent, Merger Sub, the Surviving Corporation, LLC Sub and the Exchange Agent shall be entitled to deduct and withhold from any amounts otherwise payable to any holder of Company Common Stock pursuant to this Agreement any amount required to be deducted and withheld with respect to the making of such payment under applicable Law and shall pay the amount deducted or withheld to the appropriate Taxing Authority in accordance with applicable Law. Parent, Merger Sub, the Surviving Corporation, LLC Sub and the Exchange Agent, as the case may be, shall reasonably cooperate in good faith to minimize any such deduction or withholding, and, except in the case of withholding required under applicable Law in respect of any consideration payable pursuant to Section 3.2, Section 3.3(g) or Section 3.3(h), the relevant withholding party shall use reasonable best efforts to provide prior written notice to the Company promptly after it determines withholding is required under this Section 3.3(j). To the extent such amounts are so properly deducted or withheld and paid over to the relevant Taxing Authority by Parent, Merger Sub, the Surviving Corporation, LLC Sub or the Exchange Agent, as the case may be, such deducted or withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the Company Common Stock to which such amounts would have been paid absent such deduction or withholding by Parent, Merger Sub, the Surviving Corporation, LLC Sub or the Exchange Agent, as the case may be.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as (i) set forth in the disclosure letter dated as of the date of this Agreement and delivered by the Company to Parent, Merger Sub and LLC Sub on or prior to the date of this Agreement (the "Company Disclosure Letter") or (ii) disclosed in the Company SEC Documents (including all exhibits and schedules thereto and documents incorporated by reference therein) filed with or furnished to the SEC and available on Edgar since December 31, 2021 and prior to the date of this Agreement (excluding any disclosures set forth or referenced in any risk factor section or in any other section, in each case, to the extent they are forward-looking statements or cautionary, predictive, non-specific or forward-looking in nature, including any historical factual information contained within such headings, disclosure or statements), the Company represents and warrants to Parent, Merger Sub and LLC Sub as follows:

Section 4.1 Organization, Standing and Power. Each of the Company and its Subsidiaries is a corporation, partnership or limited liability company duly incorporated, organized or formed, as the case may be, validly existing and in good standing under the Laws of its jurisdiction of incorporation, organization or formation, with all requisite entity power and authority to own, lease and operate its assets and properties and to carry on its business as now being conducted, other than, in the case of each of the Company's Subsidiaries, where the failure to be so organized or to have such power, authority or standing would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company and its Subsidiaries, taken as a whole (a "Company Material Adverse Effect"). Each of the Company and its Subsidiaries is duly qualified or licensed and in good standing to do business in each jurisdiction in which the business it is conducting, or the operation, ownership or leasing of its assets and properties, makes such qualification or license necessary, other than where the failure to so qualify, license or be in good standing would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company has heretofore made available to Parent complete and correct copies of its Organizational Documents and the Organizational Documents of each of its Subsidiaries, each as amended prior to the execution of this Agreement, and each as made available to Parent is in full force and effect, and neither the Company nor any of its Subsidiaries is in violation of any of the provisions of such Organizational Documents.

Section 4.2 Capital Structure.

(a) As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 2,500,000,000 shares of Company Common Stock and (ii) 10,000,000 shares of preferred stock, par value $0.01 per share ("Company Preferred Stock" and, together with the Company Common Stock, the "Company Capital Stock"). At the close of business on January 10, 2024, 1,101,464,507 shares of Company Common Stock (including outstanding Company Restricted Stock Awards and Company Common Stock subject to stock options and excluding outstanding Company Restricted Stock Unit Awards and Company Performance Unit Awards) were issued and outstanding and no shares of Company Preferred Stock were issued and outstanding.

(b) At the close of business on January 10, 2024 there were (i) 820,138 shares of Company Common Stock subject to outstanding Company Option Awards under the Company Equity Plans, (ii) 231,941 shares of Company Common Stock subject to outstanding Company Restricted Stock Awards under the Company Equity Plans; (iii) 4,970,667 shares of Company Common Stock subject to outstanding Company Restricted Stock Unit Awards under the Company Equity Plans; (iv) 2,440,090 shares of Company Common Stock subject to outstanding Company Performance Unit Awards granted under the Company Equity Plans (at the target award level); and (v) 36,875,052 shares of Company Common Stock remaining available for future awards pursuant to the Company Equity Plans.

(c) All outstanding equity securities of the Company, including Company Common Stock, have been duly authorized and are validly issued, fully paid and non-assessable and are not subject to preemptive rights. All outstanding equity securities of the Company have been issued and granted in compliance in all material respects with (i) applicable securities Laws and other applicable Law and (ii) all requirements set forth in applicable contracts (including the Company Equity Plan). As of the date of this Agreement, except as set forth in this Section 4.2, there are no outstanding options, warrants or other rights to subscribe for, purchase or acquire from the Company or any of its Subsidiaries any capital stock of the Company or securities convertible into or exchangeable or exercisable for capital stock of the Company (and the exercise, conversion, purchase, exchange or other similar price thereof). All outstanding shares of capital stock or other equity interests of the Subsidiaries of the Company are owned by the Company, or a direct or indirect wholly owned Subsidiary of the Company, are free and clear of all Encumbrances, other than Permitted Encumbrances, and have been duly authorized and are validly issued, fully paid and nonassessable. Except as set forth in this Section 4.2, there are outstanding: (1) no shares of capital stock, other equity interests, Voting Debt or other voting securities of the Company, (2) no securities of the Company or any of its Subsidiaries convertible into or exchangeable or exercisable for shares of capital stock, other equity interests, Voting Debt or other voting securities of the Company and (3) no options, warrants, subscriptions, calls, rights (including preemptive and appreciation rights), commitments or agreements to which the Company or any of its Subsidiaries is a party or by which it is bound in any case obligating the Company or any of its Subsidiaries to issue, deliver, sell, purchase, redeem or acquire, or cause to be issued, delivered, sold, purchased, redeemed or acquired, additional shares of capital stock, other equity interests or any Voting Debt or other voting securities of the Company, or obligating the Company or any of its Subsidiaries to grant, extend or enter into any such option, warrant, subscription, call, right, commitment or agreement. There are no stockholder agreements, voting trusts or other agreements to which the Company or any of its Subsidiaries is a party or by which it or they are bound relating to the voting of any shares of capital stock or other equity interests of the Company or any of its Subsidiaries. No Subsidiary of the Company owns any shares of Company Capital Stock.

(d) As of the date of this Agreement, neither the Company nor any of its Subsidiaries has any (i) interests in a material joint venture or, directly or indirectly, equity securities or other similar equity interests in any Person or (ii) material obligations, whether contingent or otherwise, to consummate any material additional investment in any Person other than its Subsidiaries and its joint ventures listed on Schedule 4.2(d) of the Company Disclosure Letter.

Section 4.3 Authority; No Violations; Consents and Approvals.

(a) The Company has all requisite corporate power and authority to execute and deliver this Agreement and, subject to the filing of the Certificate of Merger with the Secretary of State of the State of Delaware and the obtaining of the Company Stockholder Approval, to perform its obligations hereunder. The execution and delivery of this Agreement by the Company and the consummation by the Company of the Transactions have been duly authorized by all necessary corporate action on the part of the Company, subject, only with respect to the consummation of the Integrated Mergers, to the Company Stockholder Approval and the filing of the Certificate of Merger in respect of each of the Integrated Mergers with the Secretary of State of the State of Delaware. This Agreement has been duly executed and delivered by the Company and, assuming the due and valid execution of this Agreement by Parent, Merger Sub and LLC Sub, constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject, as to enforceability, to Creditors' Rights. The Company Board, at a meeting duly called and held, has (A) determined that this Agreement and the Transactions, including the Integrated Mergers, are fair and reasonable to, and in the best interests of, the Company and the holders of Company Common Stock, (B) approved and declared advisable this Agreement and the Transactions and (C) resolved to recommend that the holders of Company Common Stock approve and adopt this Agreement and the Transactions (such recommendation described in this clause (C), the "Company Board Recommendation"). The Company Stockholder Approval is the only approval of the holders of any class or series of the Company Capital Stock necessary to approve and adopt this Agreement and the Company's consummation of the Transactions contemplated hereby, including the Integrated Mergers.

(b) The execution, delivery and performance of this Agreement does not, and the consummation of the Transactions will not (with or without notice or lapse of time, or both) (i) contravene, conflict with or result in a breach or violation of any provision of the Organizational Documents of the Company (assuming that the Company Stockholder Approval is obtained) or any of its Subsidiaries, (ii) assuming the payoff and termination of the Company Credit Facility at or prior to the Closing, with or without notice, lapse of time or both, result in a breach or violation of, a termination (or right of termination) of or default under, the creation or acceleration of any obligation or the loss of a benefit under, or result in the creation of any Encumbrance upon any of the properties or assets of the Company or any of its Subsidiaries under, any provision of any loan or credit agreement, note, bond, mortgage, indenture, lease or other agreement, permit, franchise or license to which the Company or any of its Subsidiaries is a party or by which it or any of its Subsidiaries or its or their respective properties or assets are bound, or (iii) assuming the Consents referred to in Section 4.4 are duly and timely obtained or made and the Company Stockholder Approval has been obtained, contravene, conflict with or result in a violation of any Law applicable to the Company or any of its Subsidiaries or any of their respective properties or assets, other than, in the case of clauses (ii) and (iii), any such contraventions, conflicts, violations, defaults, acceleration, losses, or Encumbrances that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 4.4 **Consents**. No Consent from any Governmental Entity is required to be obtained or made by the Company or any of its Subsidiaries or Affiliates in connection with the execution, delivery and performance of this Agreement by the Company or the consummation by the Company of the Transactions, except for: (a) the filing of any required premerger notification and report forms under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder (the "HSR Act"), and the expiration or termination of any applicable waiting period with respect thereto; (b) the filing with the SEC of (i) a joint proxy statement/prospectus in preliminary and definitive form (including any amendments or supplements, the "Joint Proxy Statement/Prospectus") relating to the Company Stockholders Meeting and the Parent Stockholders Meeting, which Joint Proxy Statement/Prospectus may form part of the Registration Statement, and (ii) such reports under the Securities Act, the Exchange Act and the rules and regulations thereunder, as may be required in connection with this Agreement and the Transactions; (c) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware; (d) filings with the NYSE; (e) such filings and approvals as may be required by any applicable state securities or "blue sky" Laws or Takeover Laws; and (f) any such Consent that the failure to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 4.5 **Company SEC Documents; Financial Statements**.

(a) Since December 31, 2021, the Company has filed or furnished with the SEC, on a timely basis, all forms, reports, certifications, schedules, statements and documents required to be filed or furnished under the Securities Act or the Exchange Act, respectively, (such forms, reports, certifications, schedules, statements and documents, collectively, the "Company SEC Documents"). As of their respective dates, each of the Company SEC Documents, as amended, complied, or if not yet filed or furnished, will comply as to form in all material respects with the applicable requirements of the Securities Act, the Exchange Act and the Sarbanes-Oxley Act, as the case may be, and the rules and regulations of the SEC thereunder applicable to such Company SEC Documents, and none of the Company SEC Documents contained, when filed or, if amended prior to the date of this Agreement, as of the date of such amendment with respect to those disclosures that are amended, or if filed with or furnished to the SEC subsequent to the date of this Agreement, will contain any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. No Subsidiary of the Company is subject to periodic reporting requirements of the Exchange Act other than as part of the Company's consolidated group or required to file any form, report or other document with the SEC, the NYSE, any other stock exchange or comparable Governmental Entity other than routine and ordinary filings (such as filings regarding ownership holdings or transfers).

(b) The financial statements of the Company included in the Company SEC Documents, including all notes and schedules thereto, complied, or, in the case of Company SEC Documents filed after the date of this Agreement, will comply, in all material respects, when filed or if amended prior to the date of this Agreement, as of the date of such amendment, with the rules and regulations of the SEC with respect thereto, were, or, in the case of Company SEC Documents filed after the date of this Agreement, will be, prepared in accordance with generally accepted accounting principles in the United States ("GAAP") applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of the unaudited statements, as permitted by Rule 10-01 of Regulation S-X of the SEC) and fairly present in all material respects in accordance with applicable requirements of GAAP (subject, in the case of the unaudited statements, to normal year-end audit adjustments, and to any other adjustments described therein, including the notes thereto) the financial position of the Company and its consolidated Subsidiaries as of their respective dates and the results of operations and the cash flows of the Company and its consolidated Subsidiaries for the periods presented therein.

(c) The Company has established and maintains a system of internal control over financial reporting and disclosure controls and procedures (as such terms are defined in Rule 13a-15 or Rule 15d-15, as applicable, under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to the Company, including its consolidated Subsidiaries, required to be disclosed by the Company in the reports that it files or furnishes under the Exchange Act is accumulated and communicated to the Company's principal executive officer and its principal financial officer to allow timely decisions regarding required disclosure; and such disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports that it files or furnishes under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and further designed and maintained to provide reasonable assurance regarding the reliability of the Company's financial reporting and the preparation of the Company financial statements for external purposes in accordance with GAAP. There (i) is no significant deficiency or material weakness in the design or operation of internal controls over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) utilized by the Company or its Subsidiaries, (ii) is not, and since December 31, 2021 there has not been, any illegal act or fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls, and (iii) is not, and since December 31, 2021 there has not been, any "extensions of credit" (within the meaning of Section 402 of the Sarbanes-Oxley Act) or prohibited loans to any executive officer of the Company (as defined in Rule 3b-7 under the Exchange Act) or director of the Company or any of its Subsidiaries. The principal executive officer and the principal financial officer of the Company have made all certifications required by the Sarbanes-Oxley Act, the Exchange Act and any related rules and regulations promulgated by the SEC with respect to the Company SEC Documents, and the statements contained in such certifications were complete and correct as of the dates they were made.

Section 4.6 Absence of Certain Changes or Events.

(a) Since December 31, 2022, there has not been any Company Material Adverse Effect or any event, change, effect or development that, individually or in the aggregate, could reasonably be expected to have a Company Material Adverse Effect.

(b) From December 31, 2022 through the date of this Agreement:

(i) the Company and its Subsidiaries have conducted their business in the Ordinary Course in all material respects;

(ii) there has not been any material damage, destruction or other casualty loss with respect to any material asset or property owned, leased or otherwise used by the Company or any of its Subsidiaries, including the Oil and Gas Properties of the Company and its Subsidiaries, whether or not covered by insurance; and

(iii) neither the Company nor any of its Subsidiaries has taken, or agreed, committed, arranged, authorized or entered into any understanding to take, any action that, if taken after the date of this Agreement, would (without Parent's prior written consent) have constituted a breach of any of the covenants set forth in Section 6.1(b) (other than the covenants set forth in Section 6.1(b)(ix) and the issuance of Company Incentive Awards).

Section 4.7 **No Undisclosed Material Liabilities**. There are no liabilities of the Company or any of its Subsidiaries of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than: (a) liabilities adequately provided for on the balance sheet of the Company dated as of September 30, 2023 (including the notes thereto) contained in the Company's Quarterly Report on Form 10-Q for the nine (9) months ended September 30, 2023; (b) liabilities incurred in the Ordinary Course subsequent to September 30, 2023; (c) liabilities incurred in connection with the Transactions; and (d) liabilities that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 4.8 **Information Supplied**. None of the information supplied or to be supplied by the Company for inclusion or incorporation by reference in (a) the registration statement on Form S-4 to be filed with the SEC by Parent pursuant to which shares of Parent Common Stock issuable in the Merger will be registered with the SEC (including any amendments or supplements, the "Registration Statement") shall, at the time the Registration Statement becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading or (b) the Joint Proxy Statement/Prospectus will, at the date it is first mailed to stockholders of the Company and at the time of the Company Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading; provided, however, that, in the case of clause (a) and (b), no representation or covenant is made by the Company with respect to the statements made therein based on information supplied by Parent specifically for inclusion or incorporation by reference therein. Subject to the accuracy of the Registration Statement and the first sentence of Section 5.8, the Joint Proxy Statement/Prospectus and the Registration Statement will comply as to form in all material respects with, as applicable, the provisions of the Exchange Act and the Securities Act, respectively, and the rules and regulations thereunder; provided, however, that no representation or covenant is made by the Company with respect to the statements made therein based on information supplied by Parent, Merger Sub or LLC Sub specifically for inclusion or incorporation by reference therein.

Section 4.9 **Company Permits; Compliance with Applicable Law**.

(a) The Company and its Subsidiaries hold and at all times since December 31, 2021 have held all permits, licenses, certifications, registrations, consents, authorizations, variances, exemptions, waivers, orders, franchises and approvals of all Governmental Entities necessary to own, lease and operate their respective properties and assets and for the lawful conduct of their respective businesses as they were or are now being conducted, as applicable (collectively, the "Company Permits"), and have paid all fees and assessments due and payable in connection therewith, except where the failure to so hold or make such a payment would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. All Company Permits are in full force and effect and no suspension or cancellation of any of the Company Permits is pending or, to the Knowledge of the Company, threatened, and the Company and its Subsidiaries are, and at all times since December 31, 2021 have been, in compliance with the terms of the Company Permits, except where the failure to be in full force and effect or failure to so comply would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(b) The businesses of the Company and its Subsidiaries and, with respect to the Oil and Gas Properties of the Company and its Subsidiaries that are operated by third parties, to the Knowledge of the Company, are not currently being conducted, and at no time since December 31, 2021 have been conducted, in violation of any applicable Law, except, in each case, for violations that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Other than as may arise under Antitrust Laws with respect to the Transactions, no investigation or review by any Governmental Entity with respect to the Company or any of its Subsidiaries is pending or, to the Knowledge of the Company, threatened, other than those the outcome of which has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(c) Neither the Company nor any of its Subsidiaries, nor any of their respective directors, officers, employees, or, to the Knowledge of the Company, agents, has directly or indirectly made, offered, promised or authorized any payment or gift of any money or anything of value to or for the benefit of any Person for the purpose of (i) influencing any official act or decision of a foreign government official, political party, or candidate for political office, (ii) inducing such official, party or candidate to use his, her or its influence to affect any act or decision of a foreign Governmental Entity, or (iii) securing any improper advantage, in the case of clauses (i), (ii) and (iii) in violation of any applicable Anti-Corruption Laws.

(d) Neither the Company nor any of its Subsidiaries, nor any of their respective directors, officers, employees, or, to the Knowledge of the Company, agents:

(i) has been nor is a Sanctioned Person;

(ii) has knowingly transacted any business directly or indirectly with any Sanctioned Person or otherwise knowingly violated Sanctions; nor

(iii) has knowingly violated any applicable material Ex-Im Law.

Section 4.10 Compensation; Benefits.

(a) Set forth on Schedule 4.10(a) of the Company Disclosure Letter is a list of each material Company Benefit Plan.

(b) True, correct and complete copies of each material Company Benefit Plan (or, in the case of any material Company Benefit Plan not in writing, a description of the material terms thereof) and related trust documents and favorable determination letters, if applicable, have been furnished or made available to Parent or its Representatives, along with, as applicable, with respect to each material Company Benefit Plan, the most recent report filed on Form 5500, summary plan description, and all material correspondence to or from (including non-routine filings made with) any Governmental Entity in the past three (3) years.

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, each Company Benefit Plan has been maintained, funded and operated in compliance with its terms and all applicable Laws, including ERISA and the Code.

(d) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, there are no actions, suits or claims (other than routine claims for benefits) pending or, to the Knowledge of the Company, threatened against, or with respect to, any of the Company Benefit Plans (or the assets thereof), and there are no Proceedings by a Governmental Entity pending with respect to any of the Company Benefit Plans (or the assets thereof).

(e) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, all contributions or other payments required to be made by the Company or any of its Subsidiaries with respect to each of the Company Benefit Plans pursuant to their terms or applicable Laws have been timely made or, if not yet due, accrued in accordance with GAAP.

(f) Each Company Benefit Plan that is intended to be qualified under Section 401(a) of the Code has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Code and nothing has occurred that could reasonably be expected to adversely affect the qualification of any such Company Benefit Plan. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, none of the Company, any of its Subsidiaries or, to the Knowledge of the Company, any other Person, has engaged in a transaction with respect to any Company Benefit Plan in connection with which the Company or any of its Subsidiaries or any Company Benefit Plan could, in each case, reasonably be expected to be subject to either a civil penalty assessed pursuant to Section 409 or 502(i) of ERISA or a Tax imposed pursuant to Section 4975 or 4976 of the Code.

(g) Except as set forth on Schedule 4.10(g) of the Company Disclosure Letter, none of the Company, any of its Subsidiaries or any of their respective ERISA Affiliates maintains, sponsors, contributes to or has an obligation to contribute to, or otherwise has any current or contingent liability or obligation under or with respect to, and no Company Benefit Plan is, a plan subject to Title IV of ERISA, Sections 302 or 303 of ERISA, or Sections 412 or 430 of the Code, a "multiemployer plan" (as defined in Section 3(37) of ERISA), a "multiple employer plan" (within the meaning of Section 210 of ERISA or Section 413(c) of the Code), or a "multiple employer welfare arrangement" (as defined in Section 3(40) of ERISA).

(h) Except as set forth on Schedule 4.10(h) of the Company Disclosure Letter or as required by applicable Law, no Company Benefit Plan provides retiree or post-employment medical or life insurance benefits to any Person, and neither the Company nor any of its Subsidiaries has any obligation to provide such benefits. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, neither the Company nor any of its Subsidiaries has incurred (whether or not assessed) or could reasonably be expected to incur any Tax or penalty under Section 4980B, 4980D, 4980H, 6721 or 6722 of the Code.

(i) Except as set forth on Schedule 4.10(i) of the Company Disclosure Letter, neither the execution and delivery of this Agreement nor the consummation of the Transactions will, either alone or in combination with another event, (i) entitle any employees of the Company or any of its Subsidiaries to any amount of compensation or benefits (including any severance pay or any material increase in severance pay or any loan forgiveness), (ii) accelerate the time of payment or vesting, or increase the amount of compensation due to any such employee of the Company or any of its Subsidiaries, (iii) directly or indirectly cause the Company to transfer or set aside any assets to fund any material benefits under any Company Benefit Plan, (iv) otherwise give rise to any liability under any Company Benefit Plan or (v) limit or restrict the right to amend, terminate or transfer the assets of any Company Benefit Plan on or following the Effective Time.

(j) Except as set forth on Schedule 4.10(j) of the Company Disclosure Letter, neither the execution and delivery of this Agreement nor the consummation of the Transactions could, either alone or in combination with another event, result in any "excess parachute payment" within the meaning of Section 280G of the Code.

(k) Neither the Company nor any of its Subsidiaries has any obligation to provide, and no Company Benefit Plan or other agreement provides any individual with the right to, a gross up, indemnification, reimbursement or other payment for any excise or additional Taxes, interest or penalties incurred pursuant to Section 409A or Section 4999 of the Code or due to the failure of any payment to be deductible under Section 280G of the Code.

(l) No Company Benefit Plan is maintained outside the jurisdiction of the United States or covers any employees of the Company or any of its Subsidiaries who reside or work outside of the United States.

Section 4.11 Labor Matters.

(a) (i) Neither the Company nor any of its Subsidiaries is a party to or bound by any collective bargaining or similar agreement with any labor union or labor organization, (ii) to the Knowledge of the Company there is no pending union representation petition filed with the National Labor Relations Board or any other Governmental Entity, with respect to employees of the Company or any of its Subsidiaries, and (iii) to the Knowledge of the Company, there is no labor organizing activity by any labor union or labor organization (or representative thereof) to organize employees of the Company or its Subsidiaries.

(b) Except for such matters as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, there is no unfair labor practice charge or complaint or any other complaint, litigation or judicial or administrative proceeding before the National Labor Relations Board or any other Governmental Entity, in each case, involving any employees of the Company or any of its Subsidiaries pending, or, to the Knowledge of the Company, threatened.

(c) There is no strike, slowdown, work stoppage or lockout pending, or, to the Knowledge of the Company, threatened, against the Company or any of its Subsidiaries by or involving any employees of the Company or any of its Subsidiaries, other than as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(d) The Company and its Subsidiaries are, and since December 31, 2021 have been, in compliance in all respects with all applicable Laws respecting employment and employment practices except, in each case, for violations that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Neither the Company nor any of its Subsidiaries is a party to, or otherwise bound by, any consent decree with or citation by any Governmental Entity relating to its employees or employment practices pursuant to which it has any outstanding liabilities or obligations, except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(e) In the last three (3) years: (i) to the Knowledge of the Company, no material allegations of sexual harassment have been made by any current or former employee of the Company against any current or former officer or director of the Company or its Subsidiaries; and (ii) neither the Company nor any of its Subsidiaries have been involved in any material Proceedings, or entered into any material settlement agreements, related to allegations of sexual harassment or sexual misconduct by any current or former officer or director of the Company or any of its Subsidiaries.

Section 4.12 Taxes.

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect:

(i) All Tax Returns required to be filed by or on behalf of the Company or any of its Subsidiaries have been duly and timely filed (taking into account extensions of time for filing), and all such filed Tax Returns are complete and accurate in all respects. All Taxes that are due and payable by the Company or any of its Subsidiaries (other than Taxes being contested in good faith by appropriate Proceedings and for which adequate reserves have been established in accordance with GAAP) have been paid in full. All withholding Tax requirements imposed on or with respect to the Company or any of its Subsidiaries have been satisfied in full, and the Company and its Subsidiaries have complied in all respects with all information reporting (and related withholding) and record retention requirements.

(ii) There is not in force any waiver or agreement for any extension of time for the assessment or payment of any Tax by the Company or any of its Subsidiaries.

(iii) There is no outstanding claim, assessment or deficiency against the Company or any of its Subsidiaries for any Taxes that have been asserted or, to the Knowledge of the Company, threatened in writing by any Taxing Authority. There are no Proceedings pending or, to the Knowledge of the Company, threatened in writing regarding any Taxes of the Company or any of its Subsidiaries.

(iv) Neither the Company nor any of its Subsidiaries is a party to any Tax allocation, sharing or indemnity contract or arrangement (not including, for the avoidance of doubt (i) an agreement or arrangement solely between or among the Company and/or any of its Subsidiaries, or (ii) any customary Tax sharing or indemnification provisions contained in any commercial agreement entered into in the Ordinary Course and not primarily relating to Tax). Neither the Company nor any of its Subsidiaries has (x) been a member of an affiliated group filing a consolidated U.S. federal income Tax Return (other than a group the common parent of which is or was the Company or any of its Subsidiaries) or (y) any liability for Taxes of any Person (other than the Company or any of its Subsidiaries) under Treasury Regulations § 1.1502-6 (or any similar provision of state, local or foreign Law) or as a transferee or successor.

(v) Neither the Company or any of its Subsidiaries has participated, or is currently participating, in a "listed transaction," as defined in Treasury Regulations § 1.6011-4(b)(2) (or any similar provision of state, local or foreign Law).

(vi) Neither the Company nor any of its Subsidiaries has constituted a "distributing corporation" or a "controlled corporation" in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code (or so much of Section 356 of the Code as relates to Section 355 of the Code) (i) in the two (2) years prior to the date of this Agreement or (ii) as part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the Transactions.

(vii) No written claim has been made by any Taxing Authority in a jurisdiction where the Company or any of its Subsidiaries does not currently file a Tax Return that it is or may be subject to any Tax in such jurisdiction, nor has any such assertion been threatened or proposed in writing and received by the Company or any of its Subsidiaries.

(viii) Neither the Company nor any of its Subsidiaries has requested, has received or is subject to any written ruling of a Taxing Authority that will be binding on it for any taxable period ending after the Closing Date or has entered into any "closing agreement" as described in Section 7121 of the Code (or any similar provision of state, local or foreign Law).

(ix) There are no Encumbrances for Taxes on any of the assets of the Company or any of its Subsidiaries, except for those described in clause (ii)(B) of Permitted Encumbrances.

(x) Neither of the Company nor any of its Subsidiaries has availed itself of the benefit of any Tax credits or deferred the payment of any Taxes pursuant to COVID-19 Measures.

(xi) The Company is, and has been since formation, properly classified for U.S. federal income tax purposes as a corporation.

(b) Neither the Company nor any of its Subsidiaries is aware of the existence of any fact, or has taken or agreed to take any action, that would reasonably be expected to prevent or impede the Integrated Mergers, taken together from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code.

Section 4.13 **Litigation**. Except for such matters as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect (or as may arise under Antitrust Laws with respect to the Transactions), there is no (a) Proceeding pending, or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries or any of their Oil and Gas Properties, or (b) judgment, decree, injunction, ruling, order, writ or award of any Governmental Entity or arbitrator with outstanding obligations against either the Company or any of its Subsidiaries. To the Knowledge of the Company, as of the date hereof, no officer or director of the Company is a defendant in any Proceeding in connection with his or her status as an officer or director of the Company.

Section 4.14 Intellectual Property.

(a) The Company and its Subsidiaries own or have the right to use all Intellectual Property used in or necessary for the operation of the businesses of each of the Company and its Subsidiaries as presently conducted (collectively, the "Company Intellectual Property") free and clear of all Encumbrances except for Permitted Encumbrances, except where the failure to own or have the right to use such properties has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(b) To the Knowledge of the Company, the use of the Company Intellectual Property by the Company and its Subsidiaries in the operation of the business of the Company and its Subsidiaries as presently conducted does not infringe, misappropriate or otherwise violate any Intellectual Property of any other Person, except for such matters that have not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. To the Knowledge of the Company, no third party is infringing on the Company Intellectual Property, except for such matters that have not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(c) The Company and its Subsidiaries have taken reasonable measures consistent with prudent industry practices to protect the confidentiality of trade secrets used in the businesses of the Company and its Subsidiaries as presently conducted, except where failure to do so has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(d) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the IT Assets owned, used, or held for use by the Company or any of its Subsidiaries (i) are sufficient for the current needs of the businesses of the Company and its Subsidiaries; (ii) have not malfunctioned or failed within the past three (3) years and (iii) to the Knowledge of the Company, are free from any malicious code.

Section 4.15 Privacy and Cybersecurity.

(a) The Company and its Subsidiaries maintain and are in compliance with, and since December 31, 2021 have maintained and been in compliance with, (i) all applicable Laws relating to the privacy and/or security of Personal Information, (ii) the Company's and its Subsidiaries' posted or publicly facing privacy policies or notices, and (iii) the Company's and its Subsidiaries' contractual obligations concerning the privacy and/or security of Personal Information and the IT Assets (clauses (i) through (iii) collectively, "Company Privacy Obligations"), in each case of clauses (i) through (iii) above, other than any non-compliance that, individually or in the aggregate, has not been and would not reasonably be expected to be material to the Company and its Subsidiaries. There are no actions by any Person (including any Governmental Entity) pending to which the Company or any of the Company's Subsidiaries is a named party or, to the knowledge of the Company, threatened in writing against the Company or its Subsidiaries alleging a violation of any Company Privacy Obligations.

(b) The Company and its Subsidiaries have implemented and at all times maintained commercially reasonable and legally compliant administrative, technical and physical safeguards designed to protect the IT Assets and all confidential and sensitive information (including trade secrets) and Personal Information in the Company or any Subsidiary's possession or control against unauthorized access, use, loss, modification, disclosure or other misuse ("Security Incident"). Other than as disclosed on Schedule 4.15(b) of the Company Disclosure Letter, neither the Company nor any Subsidiary of the Company has (i) experienced any material Security Incident, or (ii) received any written notice or complaint from any Person with respect to any of the foregoing, nor has any such notice or complaint been threatened in writing against the Company or any of the Company's Subsidiaries.

Section 4.16 **Real Property**. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and with respect to clauses (a) and (b), except with respect to any of the Company's Oil and Gas Properties, (a) the Company and its Subsidiaries have good, valid and defensible title to all material real property owned by the Company or any of its Subsidiaries (subject to the exclusion of the Company's Oil and Gas Properties and the Rights-of-Way, collectively, the "Company Owned Real Property") and valid leasehold estates in all material real property leased, subleased, licensed or otherwise occupied (whether as tenant, subtenant or pursuant to other occupancy arrangements) by the Company or any of its Subsidiaries, but excluding the Company Oil and Gas Properties and the Rights-of-Way (collectively, including the improvements thereon, but subject to the exclusion of the Company's Oil and Gas Properties and Rights-of-Way, the "Company Material Leased Real Property," and together with the Company Owned Real Property, the "Company Material Real Property") free and clear of all Encumbrances and defects and imperfections, except Permitted Encumbrances, (b) each agreement under which the Company or any of its Subsidiaries is the landlord, sublandlord, tenant, subtenant, or occupant with respect to the Company Material Leased Real Property (each, a "Company Material Real Property Lease") is in full force and effect and is valid and enforceable against the Company or such Subsidiary and, to the Knowledge of the Company, the other parties thereto in accordance with its terms, subject, as to enforceability, to Creditors' Rights, and neither the Company nor any of its Subsidiaries, or to the Knowledge of the Company, any other party thereto, has received written notice of any default under any Company Material Real Property Lease and no event has occurred and no circumstance exists which, if not remedied, would result in such a default (with or without notice or lapse of time, or both), and (c) as of the date of this Agreement, there does not exist any pending or, to the Knowledge of the Company, threatened, condemnation or eminent domain Proceedings that affect any Company Owned Real Property or Company Material Leased Real Property. The Company Owned Real Property, Company Material Leased Real Property and all other real property leased and owned by the Company and its Subsidiaries are sufficient for the current needs of the businesses of the Company and its Subsidiaries, except for such real property the absence of which would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 4.17 **Rights-of-Way**. Each of the Company and its Subsidiaries has such Consents, easements, rights-of-way, permits and licenses from each Person (collectively "Rights-of-Way") as are sufficient to conduct its business as presently conducted in the Ordinary Course, except for such Rights-of-Way the absence of which would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Each of the Company and its Subsidiaries has fulfilled and performed all of its material obligations with respect to such Rights-of-Way and conduct their business in a manner that does not violate any of the Rights-of-Way and no event has occurred that allows, or after notice or lapse of time would allow, revocation or termination thereof or would result in any impairment of the rights of the holder of any such Rights-of-Way, except for such revocations, terminations and impairments that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. All pipelines operated by the Company and its Subsidiaries are located on or are subject to valid Rights-of-Way or are located on real property owned or leased by the Company, and there are no gaps (including any gap arising as a result of any breach by the Company or any of its Subsidiaries of the terms of any Rights-of-Way) in the Rights-of-Way other than gaps that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 4.18 **Oil and Gas Matters**.

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, and except for property (i) sold or otherwise disposed of in the Ordinary Course since the date specified in the reserve reports prepared by Netherland, Sewell & Associates, Inc. (the "Company Independent Petroleum Engineer") relating to the Company's interests referred to therein and dated as of January 31, 2023 (the "Company Reserve Report") or (ii) reflected in the Company Reserve Report or in the Company SEC Documents as having been sold or otherwise disposed of (other than transactions effected after the date hereof in accordance with Section 6.1(b)(v)), the Company and its Subsidiaries, except as set forth on Schedule 4.18(a) of the Company Disclosure Letter, have good and defensible title to all Oil and Gas Properties forming the basis for the reserves reflected in the Company Reserve Report and in each case as attributable to interests owned by the Company and its Subsidiaries, free and clear of any Encumbrances (other than Permitted Encumbrances). For purposes of the foregoing sentence, "good and defensible title" means that the Company's and/or one or more of its Subsidiaries', as applicable, title (as of the date hereof and as of the Closing) to each of the Oil and Gas Properties held or owned by them (or purported to be held or owned by them) that (A) entitles the Company (and/or one or more of its Subsidiaries, as applicable) to receive (after satisfaction of all Production Burdens applicable thereto), not less than the net revenue interest share shown in the Company Reserve Report of all Hydrocarbons produced from such Oil and Gas Properties throughout the productive life of such Oil and Gas Properties (other than decreases in connection with operations in which the Company and/or its Subsidiaries may be a non-consenting co-owner from and after the date hereof, decreases resulting from reversion of interests to co-owners with respect to operations in which such co-owners elected not to consent from and after the date of the Company Reserve Report, and decreases resulting from the establishment of pools or units from and after the date of the Company Reserve Report), (B) obligates the Company (and/or one or more of its Subsidiaries, as applicable) to bear a percentage of the costs and expenses for the maintenance and development of, and operations relating to, such Oil and Gas Properties, of not greater than the working interest shown on the Company Reserve Report for such Oil and Gas Properties (other than any positive difference in such percentage and the applicable working interest shown on the Company Reserve Report for such Oil and Gas Properties that are accompanied by a proportionate (or greater) increase in the net revenue interest in such Oil and Gas Properties) and (C) is free and clear of all Encumbrances (other than Permitted Encumbrances).

(b) Except for any such matters that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the factual, non-interpretive data supplied by the Company to the Company Independent Petroleum Engineer relating to the Company's interests referred to in the Company Reserve Report, by or on behalf of the Company and its Subsidiaries that was material to such firm's estimates of proved oil and gas reserves attributable to the Oil and Gas Properties of the Company and its Subsidiaries in connection with the preparation of the Company Reserve Report was, as of the time provided, accurate in all respects. To the Company's Knowledge, any assumptions or estimates provided by any of the Company's Subsidiaries to the Company Independent Petroleum Engineer in connection with its preparation of the Company Reserve Report were made in good faith and on a reasonable basis based on the facts and circumstances in existence and that were known to the Company at the time such assumptions or estimates were made. Except for any such matters that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the oil and gas reserve estimates of the Company set forth in the Company Reserve Report are derived from reports that have been prepared by the Company Independent Petroleum Engineer, and such reserve estimates fairly reflect, in all respects, the oil and gas reserves of the Company and its Subsidiaries at the dates indicated therein and are in accordance with SEC guidelines applicable thereto applied on a consistent basis throughout the periods involved. Except for changes generally affecting the oil and gas exploration, development and production industry (including changes in commodity prices) and normal depletion by production, there has been no change in respect of the matters addressed in the Company Reserve Report that would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) all rentals, shut-ins and similar payments owed to any Person under (or otherwise with respect to) any Oil and Gas Leases owned or held by the Company or any of its Subsidiaries have been properly and timely paid or are being contested in good faith through appropriate Proceedings, (ii) all royalties, minimum royalties, overriding royalties and other Production Burdens with respect to any Oil and Gas Properties owned or held by the Company or any of its Subsidiaries have been timely and properly paid (other than any such Production Burdens that are being held in suspense by the Company or its Subsidiaries in accordance with applicable Law) or are being contested in good faith through appropriate Proceedings and (iii) neither the Company nor any of its Subsidiaries (and, to the Company's Knowledge, no third party operator) has violated any provision of, or taken or failed to take any act that, with or without notice, lapse of time, or both, would constitute a default under the provisions of any Oil and Gas Lease (or entitle the lessor thereunder to cancel or terminate such Oil and Gas Lease) included in the Oil and Gas Properties owned or held by the Company or any of its Subsidiaries.

(d) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, all proceeds from the sale of Hydrocarbons produced from the Oil and Gas Properties of the Company and its Subsidiaries are being received by them in a timely manner or are being contested in good faith through appropriate Proceedings and are not being held in suspense (by the Company, any of its Subsidiaries, any third party operator thereof or any other Person) for any reason other than awaiting preparation and approval of division order title opinions and the receipt of division orders for execution for recently drilled Wells. Neither the Company nor any of its Subsidiaries (i) is obligated by virtue of a take-or-pay payment, advance payment or similar payment (other than royalties, overriding royalties and similar arrangements established in the Oil and Gas Leases) to deliver Hydrocarbons or proceeds from the sale thereof attributable to such Person's interest in its Oil and Gas Properties at some future time without receiving payment therefor at the time of delivery or (ii) has any material transportation, processing or plant imbalance, and no Person has given notice that any such imbalance constitutes all of the relevant Person's ultimately recoverable reserves from a balancing area.

(e) All of the Wells and all water, CO_2, injection or other wells located on the Oil and Gas Properties of the Company and its Subsidiaries or otherwise associated with an Oil and Gas Property of the Company or its Subsidiaries that were drilled and completed by the Company or its Subsidiaries, and to the Knowledge of the Company, all such wells that were not drilled and completed by the Company or its Subsidiaries, have been drilled, completed and operated within the limits permitted by the applicable Contracts entered into by the Company or any of its Subsidiaries related to such wells, and in accordance with applicable Law and applicable Company Permits, and all drilling and completion (and plugging and abandonment) of such wells and all related development, production and other operations have been conducted in compliance with all applicable Contracts and Laws and applicable Company Permits except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Except as set forth on Schedule 4.18(e) of the Company Disclosure Letter, there are no wells that constitute a part of the Oil and Gas Properties of the Company and its Subsidiaries of which the Company or a Subsidiary has received a written notice, claim, demand or order from any Governmental Entity notifying, claiming, demanding or requiring that such well(s) be temporarily or permanently plugged and abandoned.

(f) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, none of the Oil and Gas Properties of the Company or its Subsidiaries is subject to any preferential purchase, tag-along, right of first refusal, consent or similar right that would become operative as a result of the execution of this Agreement or the consummation of the Transactions.

(g) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, since the date of the Company Reserve Reports, neither the Company nor any of its Subsidiaries has elected not to participate in any operation or activity proposed with respect to any of the Oil and Gas Properties owned or held by it (or them, as applicable) that could result in a penalty or forfeiture as a result of such election not to participate in such operation or activity that would be material to the Company and its Subsidiaries, taken as a whole and is not reflected in the Company Reserve Report.

Section 4.19 Environmental Matters.

(a) Except for those matters that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect:

(i) the Company and its Subsidiaries and their respective operations and assets are, and at all times since December 31, 2021 have been, in compliance with all Environmental Laws, which compliance includes, and since December 31, 2021 has included, obtaining, maintaining and complying with all Company Permits required under Environmental Laws;

(ii) the Company and its Subsidiaries are not subject to any pending or, to the Company's Knowledge, threatened Proceedings under Environmental Laws, and the Company and its Subsidiaries have not received any written notice of a violation of, or liability under, Environmental Laws, the subject of which is unresolved;

(iii) there has been no Release, treatment, storage, transportation or handling of, or exposure to, Hazardous Materials at, on, under, or from any property currently or, to the Knowledge of the Company, formerly owned, leased, operated or otherwise used by the Company or any of its Subsidiaries, or, to the Knowledge of the Company, by any predecessors of the Company or any of its Subsidiaries, or to the Knowledge of the Company, at, on, under, or from any other property, which has resulted or is reasonably likely to result in liability to the Company or its Subsidiaries under any Environmental Law, and, as of the date of this Agreement, neither the Company nor any of its Subsidiaries has received any unresolved written notice, claim, demand, or order asserting a liability or obligation under any Environmental Laws with respect to the investigation, remediation, removal, or monitoring of any Release of Hazardous Materials at, on, under, or from any property currently or formerly owned, leased, operated, or otherwise used by the Company, or at, on, under, or from any offsite location where Hazardous Materials from the Company's or its Subsidiaries' operations have been sent for treatment, disposal, storage or handling; and

(iv) neither the Company nor any of its Subsidiaries has assumed, either expressly or, to the Company's Knowledge, by operation of Law, any liability of any other Person related to Hazardous Materials or Environmental Laws.

(b) As of the date of this Agreement, there have been no environmental, health or safety investigations, studies, audits, or other analyses conducted during the past three (3) years by or on behalf of, or that are in the possession of, the Company or its Subsidiaries relating to any instance of material noncompliance with Environmental Laws by or any material liability arising under Environmental Laws of the Company or its Subsidiaries, or any material Release of Hazardous Materials with respect to any property owned, operated or otherwise used by any of them that have not been made available to Parent prior to the date hereof.

Section 4.20 Material Contracts.

(a) Schedule 4.20(a) of the Company Disclosure Letter, together with the lists of exhibits contained in the Company SEC Documents, sets forth a true and complete list, as of the date of this Agreement, of:

(i) each "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K under the Exchange Act) to which the Company or any of its Subsidiaries is a party;

(ii) each Contract that provides for the acquisition, disposition, license, use, distribution or outsourcing of assets, services, rights or properties (other than Oil and Gas Properties and any Contract of the type described in Section 4.20(a)(v)) with respect to which the Company reasonably expects that the Company and its Subsidiaries will make or receive payments in any calendar year in excess of $25,000,000 or aggregate payments in excess of $50,000,000;

(iii) each Contract that constitutes a commitment relating to Indebtedness or the deferred purchase price of property by the Company or any of its Subsidiaries (whether incurred, assumed, guaranteed or secured by any asset) in excess of $50,000,000, other than agreements solely between or among the Company and any of its Subsidiaries;

(iv) each Contract to which the Company or any of its Subsidiaries is a party that (A) restricts the ability of the Company or any of its Subsidiaries to compete in any business or with any Person in any geographical area, (B) requires the Company or any of its Subsidiaries to conduct any business on a "most favored nations" basis with any third party or (C) provides for "exclusivity" or any similar requirement in favor of any third party, except in the case of each of clauses (A), (B) and (C) for such restrictions, requirements and provisions that are not material to the Company and its Subsidiaries;

(v) any Contract providing for the purchase or sale by the Company or any of its Subsidiaries of Hydrocarbons that:

(A) has a remaining term of greater than one year and does not allow the Company or such Subsidiary to terminate it without penalty on one year's notice or less,

(B) contains a minimum throughput commitment, minimum volume commitment, "take-or-pay" clause or any similar material prepayment or forward sale arrangement or obligation (excluding "gas balancing" arrangements associated with customary joint operating agreements) to deliver Hydrocarbons at some future time, or

(C) contains acreage dedication, minimum volume commitments or capacity reservation fees to a gathering, transportation or other arrangement downstream of the wellhead that, in each case, cover, guaranty, dedicate or commit (1) more than 1,000 net acres or (2) volumes in excess of 10,000 MMcf of gas or 2,000 boe of liquid Hydrocarbons on a monthly basis (calculated on a yearly average basis);

(vi) any acquisition or divestiture Contract that contains "earn out" or other similar contingent payment obligations (other than asset retirement obligations, plugging and abandonment obligations and other reserves of the Company set forth in the Company Reserve Report), that would reasonably be expected to result in annual payments in excess of $50,000,000;

(vii) each contract for lease of personal property or real property (other than leases for compressors and leases in respect of Oil and Gas Properties) involving payments in excess of $2,000,000 in any calendar year or aggregate payments in excess of $10,000,000 over the life of the contract that are not terminable without penalty or other liability to the Company (other than any ongoing obligation pursuant to such contract that is not caused by any such termination) within sixty (60) days;

(viii) each Contract that would reasonably be expected to require the disposition of a material portion of the assets or any line of business of the Company or its Subsidiaries (or, after the Effective Time, Parent or its Subsidiaries);

(ix) each Contract involving the pending acquisition or sale of (or option to purchase or sell) any material amount of the assets or properties of the Company or any of its Subsidiaries (including any material portion of the Oil and Gas Properties), taken as a whole, other than Contracts involving the acquisition or sale of (or option to purchase or sell) Hydrocarbons in the Ordinary Course;

(x) each material partnership, joint venture or limited liability company agreement, other than any customary joint operating agreements, or unit agreements affecting the Oil and Gas Properties of the Company;

(xi) each joint development agreement, exploration agreement, participation, farm-out, farm-in or program agreement or similar Contract requiring the Company or any of its Subsidiaries to make expenditures from and after December 31, 2022 that would reasonably be expected to be in excess of $25,000,000 in the aggregate, other than customary joint operating agreements and continuous development obligations under Oil and Gas Leases;

(xii) each agreement under which the Company or any of its Subsidiaries has advanced or loaned any amount of money to any of its officers, directors, employees or consultants, in each case with a principal amount in excess of $120,000; and

(xiii) each contract for any Company Related Party Transaction.

(b) Collectively, the Contracts described in Section 4.20(a) are referred to as the "Company Contracts." A complete and correct copy of each of the Company Contracts has been made available to Parent. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, each Company Contract is legal, valid, binding and enforceable in accordance with its terms on the Company and each of its Subsidiaries that is a party thereto and, to the Knowledge of the Company, each other party thereto, and is in full force and effect, subject, as to enforceability, to Creditors' Rights. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, neither the Company nor any of its Subsidiaries is in breach or default under any Company Contract nor, to the Knowledge of the Company, is any other party to any such Company Contract in breach or default thereunder, and no event has occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder by the Company or its Subsidiaries, or, to the Knowledge of the Company, any other party thereto. Except as would not reasonably be expected to have individually or in the aggregate, a Company Material Adverse Effect, there are no disputes pending or, to the Knowledge of the Company, threatened with respect to any Company Contract and neither the Company nor any of its Subsidiaries has received any written notice of the intention of any other party to any Company Contract to terminate for default, convenience or otherwise any Company Contract, nor to the Knowledge of the Company, is any such party threatening to do so.

Section 4.21 Derivative Transactions.

(a) Schedule 4.21 of the Company Disclosure Letter contains a complete and correct list of all outstanding material Derivative Transactions (including each outstanding Hydrocarbon or financial hedging position attributable to the Hydrocarbon production of the Company or any of its Subsidiaries) entered into by the Company or any of its Subsidiaries or for the account of any of their respective customers as of the date hereof pursuant to which such party has outstanding rights or obligations. All such Derivative Transactions entered into by the Company or any of its Subsidiaries or for the account of any of its customers as of the date of this Agreement were, in all material respects, entered into in accordance with applicable Laws, and in accordance with the investment, securities, commodities, risk management and other policies, practices and procedures employed by the Company and its Subsidiaries, and were, in all material respects, entered into with counterparties believed at the time to be financially responsible and able to understand (either alone or in consultation with their advisers) and to bear the risks of such Derivative Transactions.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company and each of its Subsidiaries have duly performed in all respects all of their respective obligations under the Derivative Transactions to the extent that such obligations to perform have accrued, and there are no breaches, violations, collateral deficiencies, requests for collateral or demands for payment, or defaults or allegations or assertions of such by any party thereunder.

(c) The Company SEC Documents accurately summarize, in all material respects, the outstanding positions under any such Derivative Transaction of the Company and its Subsidiaries, including Hydrocarbon and financial positions under any such Derivative Transaction of the Company attributable to the production and marketing of the Company and its Subsidiaries, as of the dates reflected therein.

Section 4.22 Insurance. Set forth on Schedule 4.22 of the Company Disclosure Letter is a true, correct and complete list of all material insurance policies held by the Company or any of its Subsidiaries as of the date of this Agreement (other than those constituting or funding Company Benefit Plans) (collectively, the "Material Company Insurance Policies"). Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, each of the Material Company Insurance Policies is in full force and effect on the date of this Agreement and a true, correct and complete copy of each Material Company Insurance Policy has been made available to Parent. The Material Company Insurance Policies are with reputable insurance carriers, provide full and adequate coverage for all normal risks incident to the business of the Company and its Subsidiaries and their respective properties and assets, and are in breadth of coverage and amount at least equivalent to that carried by Persons engaged in similar businesses and subject to the same or similar perils or hazards, except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, all premiums payable under the Material Company Insurance Policies prior to the date of this Agreement have been duly paid to date, and neither the Company nor any of its Subsidiaries has taken any action or failed to take any action that (including with respect to the Transactions), with notice or lapse of time or both, would constitute a breach or default, or permit a termination of any of the Material Company Insurance Policies. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, as of the date of this Agreement, no written notice of cancellation or termination has been received with respect to any Material Company Insurance Policy. As of the date of this Agreement, the Company and its Subsidiaries do not have aggregate claims pending with insurers that are reasonably expected to result in insurance recoveries of more than $1,500,000 in the aggregate.

Section 4.23 **Opinion of Financial Advisor**. The Company Board has received the opinion of Goldman Sachs & Co. LLC addressed to the Company Board to the effect that, based upon and subject to the assumptions, qualifications, limitations, and other matters considered in connection with the preparation of each such opinion, as of the date of the opinion, the Exchange Ratio is fair, from a financial point of view, to the holders (other than the Parent and its Affiliates) of Company Common Stock.

Section 4.24 **Brokers**. Except for the fees and expenses payable to Goldman Sachs & Co. LLC and RBC Capital Markets, LLC, no broker, investment banker, advisor or other Person is entitled to any broker's, finder's or other similar fee or commission in connection with the Transactions based upon arrangements made by or on behalf of the Company.

Section 4.25 **Takeover Laws**. Assuming the accuracy of the representations contained in Section 5.25, the approval of the Company Board of this Agreement and the Transactions represents all the action necessary to render inapplicable to this Agreement and the Transactions the restrictions of any Takeover Law or any anti-takeover provision in Company's Organizational Documents that is applicable to the Company, the shares of Company Common Stock, this Agreement or the Transactions.

Section 4.26 **Related Party Transactions**. Schedule 4.26 of the Company Disclosure Letter sets forth, as of the date of this Agreement, a complete and correct list of any transaction or arrangement (other than any Company Benefit Plan) under which any (a) present or former executive officer or director of the Company or any of its Subsidiaries, (b) beneficial owner (within the meaning of Section 13(d) of the Exchange Act) of 5% or more of any class of the equity securities of the Company or any of its Subsidiaries whose status as a 5% holder is known to the Company as of the date of this Agreement or (c) Affiliate, "associate" or member of the "immediate family" (as such terms are respectively defined in Rules 12b-2 and 16a-1 of the Exchange Act) of any of the foregoing Persons described in clause (a) or (b) (but only, with respect to the Persons in clause (b), to the Knowledge of the Company), in each case as would be required to be disclosed by the Company pursuant to Item 404 of Regulation S-K promulgated under the Exchange Act, is a party to any actual or proposed loan, lease or other contract with or binding upon the Company or any of its Subsidiaries or any of their respective properties or assets or has any interest in any property owned by the Company or any of its Subsidiaries, in each case, including any bond, letter of credit, guarantee, deposit, cash account, escrow, policy of insurance or other credit support instrument or security posted or delivered by any Person listed in clauses (a), (b) or (c) in connection with the operation of the business of the Company or any of its Subsidiaries (each of the foregoing, a "Company Related Party Transaction").

Section 4.27 No Additional Representations.

(a) Except for the representations and warranties made in this Article IV, neither the Company nor any other Person makes any express or implied representation or warranty with respect to the Company or any of its Subsidiaries or their respective businesses, operations, assets, liabilities or conditions (financial or otherwise) in connection with this Agreement or the Transactions, and the Company hereby disclaims any such other representations or warranties. In particular, without limiting the foregoing disclaimer, neither the Company nor any other Person makes or has made any representation or warranty to Parent, Merger Sub, LLC Sub, or any of their respective Affiliates or Representatives with respect to (i) any financial projection, forecast, estimate, budget or prospect information relating to the Company or any of its Subsidiaries or their respective businesses; or (ii) except for the representations and warranties made by the Company in this Article IV, any oral or written information presented to Parent, Merger Sub, LLC Sub or any of their respective Affiliates or Representatives in the course of their due diligence investigation of the Company, the negotiation of this Agreement or in the course of the Transactions. Notwithstanding the foregoing, nothing in this Section 4.27 shall limit Parent's, Merger Sub's or LLC Sub's remedies with respect to claims of fraud arising from or relating to the express written representations and warranties made by the Company in this Article IV.

(b) Notwithstanding anything contained in this Agreement to the contrary, the Company acknowledges and agrees that none of Parent, Merger Sub, LLC Sub or any other Person has made or is making any representations or warranties relating to Parent or its Subsidiaries (including Merger Sub and LLC Sub) or any other matter whatsoever, express or implied, beyond those expressly given by Parent, Merger Sub and LLC Sub in Article V, including any implied representation or warranty as to the accuracy or completeness of any information regarding Parent furnished or made available to the Company or any of its Representatives, and that the Company has not relied on any such other representation or warranty not expressly set forth in Article V of this Agreement. Without limiting the generality of the foregoing, the Company acknowledges that no representations or warranties are made with respect to any projections, forecasts, estimates, budgets or prospect information that may have been made available to the Company or any of its Representatives (including in certain "data rooms," "virtual data rooms," management presentations or in any other form in expectation of, or in connection with, the Integrated Mergers or the other Transactions).

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF PARENT, MERGER SUB AND LLC SUB

Except as (i) set forth in the disclosure letter dated as of the date of this Agreement and delivered by Parent, Merger Sub and LLC Sub to the Company on or prior to the date of this Agreement (the "Parent Disclosure Letter") or (ii) disclosed in the Parent SEC Documents (including all exhibits and schedules thereto and documents incorporated by reference therein) filed with or furnished to the SEC and available on Edgar since December 31, 2021 and prior to the date of this Agreement (excluding any disclosures set forth or referenced in any risk factor section or in any other section, in each case, to the extent they are forward-looking statements or cautionary, predictive, non-specific or forward-looking in nature, including any historical factual information contained within such headings, disclosure or statements), Parent, Merger Sub and LLC Sub, jointly and severally, represent and warrant to the Company as follows:

Section 5.1 **Organization, Standing and Power**. Each of Parent and its Subsidiaries is a corporation, partnership or limited liability company duly incorporated, organized or formed, as the case may be, validly existing and in good standing under the Laws of its jurisdiction of incorporation, organization or formation, with all requisite entity power and authority to own, lease and operate its assets and properties and to carry on its business as now being conducted, other than, in the case of each of Parent's Subsidiaries, where the failure to be so organized or to have such power, authority or standing would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent and its Subsidiaries, taken as a whole (a "Parent Material Adverse Effect"). Each of Parent and its Subsidiaries is duly qualified or licensed and in good standing to do business in each jurisdiction in which the business it is conducting, or the operation, ownership or leasing of its assets and properties, makes such qualification or license necessary, other than where the failure to so qualify, license or be in good standing would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Parent, Merger Sub and LLC Sub each has heretofore made available to the Company complete and correct copies of its Organizational Documents and the Organizational Documents of each of its Subsidiaries, each as amended prior to the execution of this Agreement, and each as made available to the Company is in full force and effect, and neither Parent nor any of its Subsidiaries is in violation of any of the provisions of such Organizational Documents.

Section 5.2 **Capital Structure**.

(a) As of the date of this Agreement, the authorized capital stock of Parent consists of (i) 450,000,000 shares of Parent Common Stock and (ii) 45,000,000 shares of preferred stock, par value $0.01 per share ("Parent Preferred Stock" and, together with the Parent Common Stock, the "Parent Capital Stock"). At the close of business on January 10, 2024, (A) 130,794,580 shares of Parent Common Stock were issued and outstanding, (B) no shares of Parent Preferred Stock were issued and outstanding and (C) 10,148,220 shares of Parent Common Stock were issuable under warrants to purchase Parent Common Stock ("Parent Warrants"), rounded up to the nearest whole share and assuming all Parent Warrants were exercised via "Cashless Settlement" with an "Exercise Date" of January 10, 2024 (as such terms are defined in the Parent Warrant Agreements).

(b) At the close of business on January 10, 2024, there were (i) no outstanding options to purchase shares of Parent Common Stock pursuant to Parent's Stock and Performance Incentive Plan, as amended from time to time, and prior plans (the "Parent Stock Plans"), (ii) there were outstanding other stock-settled equity-based awards (other than shares of restricted stock or other equity based awards included in the number of shares of Parent Common Stock outstanding set forth above) with respect to 1,326,416 shares of Parent Common Stock and (iii) there were (A) 777,368 shares of Parent Common Stock (the "Reserved Shares") and (B) Parent Warrants exercisable for 1,091,933 shares of Parent Common Stock, rounded up to the nearest whole share assuming all such Parent Warrants were exercised via "Cashless Settlement" with an "Exercise Date" of January 10, 2024 (as such terms are defined in the Parent Warrant Agreements) (the "Reserved Warrants"), in each case held in reserve for future issuance relating to general unsecured claims.

(c) As of the date of this Agreement, the authorized capital stock of Merger Sub consists of 1,000 shares of common stock, par value $0.01 per share, all of which shares are validly issued, fully paid and nonassessable and are owned by Parent.

(d) As of the date of this Agreement, the authorized capital interests of LLC Sub consists of 1,000 units, all of which units are validly issued, fully paid and nonassessable and are owned by Parent.

(e) All outstanding equity securities of Parent, including Parent Common Stock have been duly authorized and are validly issued, fully paid and non-assessable and are not subject to preemptive rights. All outstanding equity securities of Parent have been issued and granted in compliance in all material respects with (i) applicable securities Laws and other applicable Law and (ii) all requirements set forth in applicable contracts. The Parent Common Stock to be issued pursuant to this Agreement, when issued, will be issued in compliance in all material respects with (A) applicable securities Laws and other applicable Law and (B) all requirements set forth in applicable contracts. As of the date of this Agreement, except as set forth in this Section 5.2, there are no outstanding options, warrants or other rights to subscribe for, purchase or acquire from Parent or any of its Subsidiaries any capital stock of Parent or securities convertible into or exchangeable or exercisable for capital stock of Parent (and the exercise, conversion, purchase, exchange or other similar price thereof). All outstanding shares of capital stock or other equity interests of the Subsidiaries of Parent are owned by Parent, or a direct or indirect wholly owned Subsidiary of Parent, are free and clear of all Encumbrances, other than Permitted Encumbrances, and have been duly authorized and are validly issued, fully paid and nonassessable. Except as set forth in this Section 5.2, there are outstanding: (1) no shares of capital stock, other equity interests, Voting Debt or other voting securities of Parent; (2) no securities of Parent or any Subsidiary of Parent convertible into or exchangeable or exercisable for shares of capital stock, other equity interests, Voting Debt or other voting securities of Parent; and (3) no options, warrants, subscriptions, calls, rights (including preemptive and appreciation rights), commitments or agreements to which Parent or any Subsidiary of Parent is a party or by which it is bound in any case obligating Parent or any Subsidiary of Parent to issue, deliver, sell, purchase, redeem or acquire, or cause to be issued, delivered, sold, purchased, redeemed or acquired, additional shares of capital stock, other equity interests or any Voting Debt or other voting securities of Parent, or obligating Parent or any Subsidiary of Parent to grant, extend or enter into any such option, warrant, subscription, call, right, commitment or agreement. There are no stockholder agreements, voting trusts or other agreements to which Parent or any of its Subsidiaries is a party or by which it is bound relating to the voting of any shares of capital stock or other equity interests of Parent or any of its Subsidiaries. No Subsidiary of Parent owns any shares of Parent Common Stock or any other shares of Parent Capital Stock.

(f) As of the date of this Agreement, neither Parent nor any of its Subsidiaries has any (i) interests in a material joint venture or, directly or indirectly, equity securities or other similar equity interests in any Person or (ii) material obligations, whether contingent or otherwise, to consummate any material additional investment in any Person other than its Subsidiaries and its joint ventures listed on Schedule 5.2(f) of the Parent Disclosure Letter.

Section 5.3 Authority; No Violations; Consents and Approvals.

(a) Each of Parent, Merger Sub and LLC Sub has all requisite power and authority to execute and deliver this Agreement and, subject to the filing of the Certificate of Merger with the Secretary of State of the State of Delaware and the obtaining of Parent Stockholder Approval, to perform its obligations hereunder. The execution and delivery of this Agreement by Parent and Merger Sub and the consummation by Parent, Merger Sub and LLC Sub of the Transactions have been duly authorized by all necessary action on the part of each of Parent (subject, only with respect to the Parent Stock Issuance, to obtaining Parent Stockholder Approval), Merger Sub (other than the adoption of this Agreement by Parent as sole stockholder of Merger Sub, which shall occur immediately after the execution and delivery of this Agreement) and LLC Sub (other than the adoption of this Agreement by Parent as sole managing member of LLC Sub, which shall occur immediately after the execution and delivery of this Agreement), and the filing of the Certificate of Mergers for each of the Integrated Mergers with the Secretary of State for the State of Delaware. This Agreement has been duly executed and delivered by each of Parent, Merger Sub and LLC Sub, and, assuming the due and valid execution of this Agreement by the Company, constitutes a valid and binding obligation of each of Parent, Merger Sub and LLC Sub enforceable against Parent, Merger Sub and LLC Sub in accordance with its terms, subject as to enforceability to Creditors' Rights. The Parent Board, at a meeting duly called and held, has (i) determined that this Agreement and the Transactions are fair and reasonable to, and advisable and in the best interests of, Parent and the holders of Parent Common Stock, (ii) approved the execution, delivery and performance of this Agreement and the consummation of the Transactions, including the Parent Stock Issuance, and (iii) resolved to recommend that the holders of shares of Parent Common Stock approve the Parent Stock Issuance (such recommendation described in clause (iii), the "Parent Board Recommendation"). The Merger Sub Board, acting by written consent, has (A) determined that this Agreement and the Transactions are fair and reasonable to, and in the best interests of, Merger Sub and the sole stockholder of Merger Sub, (B) approved and declared advisable this Agreement and the Transactions and (C) recommended this Agreement and the Transactions to Parent for approval and adoption thereby in its capacity as the sole stockholder of Merger Sub. The Parent Stockholder Approval is the only approval of the holders of any class or series of the Parent Capital Stock necessary to approve and adopt this Agreement and the Parent and its Subsidiaries' consummation of the Transactions contemplated hereby, including the Integrated Mergers and the Parent Stock Issuance. Parent, as the owner of all of the outstanding shares of capital stock of Merger Sub, will immediately after the execution and delivery of this Agreement adopt this Agreement in its capacity as sole stockholder of Merger Sub. The approval of the Transactions contemplated hereby, including the Merger, by Parent, as the sole stockholder of Merger Sub, is the only approval of the holders of any class or series of capital stock of Merger Sub necessary to approve and adopt this Agreement, which approval shall be obtained no later than one Business Day following the date hereof. The approval of the Transactions contemplated hereby, including the LLC Sub Merger, by Parent, as the sole member of LLC Sub, and, following the Effective Time, as the sole equityholder of the Company, is the only approval of the holders of any class or series of membership interests of LLC Sub necessary to approve and adopt this Agreement and the LLC Sub's consummation of the Transactions contemplated hereby, which approval shall be obtained no later than one Business Day following the date hereof.

(b) The execution, delivery and performance of this Agreement does not, and the consummation of the Transactions will not (with or without notice or lapse of time, or both) (i) contravene, conflict with or result in a breach or violation of any provision of the Organizational Documents of Parent (assuming that the Parent Stockholder Approval is obtained) or any of its Subsidiaries, (ii) with or without notice, lapse of time or both, result in a breach or violation of, a termination (or right of termination) of or default under, the creation or acceleration of any obligation or the loss of a benefit under, or result in the creation of any Encumbrance upon any of the properties or assets of Parent or any of its Subsidiaries under, any provision of any loan or credit agreement, note, bond, mortgage, indenture, lease or other agreement, permit, franchise or license to which Parent or any of its Subsidiaries is a party or by which Parent, Merger Sub, LLC Sub or any of their respective Subsidiaries or their respective properties or assets are bound or (iii) assuming the Consents referred to in Section 5.4 are duly and timely obtained or made and the Parent Stockholder Approval has been obtained, contravene, conflict with or result in a violation of any Law applicable to Parent or any of its Subsidiaries or any of their respective properties or assets, other than, in the case of clauses (ii) and (iii), any such contraventions, conflicts, violations, defaults, acceleration, losses or Encumbrances that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Parent is not party to any contract, arrangement or other commitment that does, would or would reasonably be expected to entitle any Person to appoint one or more directors to the Parent Board.

Section 5.4 **Consents**. No Consent from any Governmental Entity is required to be obtained or made by Parent or any of its Subsidiaries or Affiliates in connection with the execution, delivery and performance of this Agreement by Parent, Merger Sub and LLC Sub or the consummation by Parent, Merger Sub and LLC Sub of the Transactions, except for: (a) the filing of any required premerger notification and report forms under the HSR Act, and the expiration or termination of any applicable waiting period with respect thereto; (b) the filing with the SEC of (i) the Registration Statement relating to the registration under the Securities Act of the shares of Parent Common Stock to be issued under this Agreement, (ii) the Joint Proxy Statement/Prospectus relating to the Company Stockholders Meeting and the Parent Stockholders Meeting which Joint Proxy Statement/Prospectus may form part of the Registration Statement and (iii) such reports under the Securities Act, the Exchange Act and the rules and regulations thereunder, as may be required in connection with this Agreement and the Transactions; (c) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware; (d) filings with NASDAQ; (e) such filings and approvals as may be required by any applicable state securities or "blue sky" Laws or Takeover Laws; and (f) any such Consent that the failure to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

Section 5.5 Parent SEC Documents; Financial Statements.

(a) Since December 31, 2021, Parent has filed or furnished with the SEC, on a timely basis, all forms, reports, certifications, schedules, statements and documents required to be filed or furnished under the Securities Act or the Exchange Act, respectively, (such forms, reports, certifications, schedules, statements and documents, collectively, the "Parent SEC Documents"). As of their respective dates, each of the Parent SEC Documents, as amended, complied, or if not yet filed or furnished, will comply as to form in all material respects with the applicable requirements of the Securities Act, the Exchange Act and the Sarbanes-Oxley Act, as the case may be, and the rules and regulations of the SEC thereunder applicable to such Parent SEC Documents, and none of the Parent SEC Documents contained, when filed or, if amended prior to the date of this Agreement, as of the date of such amendment with respect to those disclosures that are amended, or if filed with or furnished to the SEC subsequent to the date of this Agreement, will contain any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. No Subsidiary of Parent is subject to periodic reporting requirements of the Exchange Act other than as part of Parent's consolidated group or required to file any form, report or other document with the SEC, NASDAQ, any other stock exchange or comparable Governmental Entity other than routine and ordinary filings (such as filings regarding ownership holdings or transfers).

(b) The financial statements of Parent included in the Parent SEC Documents, including all notes and schedules thereto, complied, or, in the case of Parent SEC Documents filed after the date of this Agreement, will comply, in all material respects, when filed or if amended prior to the date of this Agreement, as of the date of such amendment, with the rules and regulations of the SEC with respect thereto, were, or, in the case of Parent SEC Documents filed after the date of this Agreement, will be, prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of the unaudited statements, as permitted by Rule 10-01 of Regulation S-X of the SEC) and fairly present in all material respects in accordance with applicable requirements of GAAP (subject, in the case of the unaudited statements, to normal year-end audit adjustments, and to any other adjustments described therein, including the notes thereto) the financial position of Parent and its consolidated Subsidiaries as of their respective dates and the results of operations and the cash flows of Parent and its consolidated Subsidiaries for the periods presented therein.

(c) Parent has established and maintains a system of internal control over financial reporting and disclosure controls and procedures (as such terms are defined in Rule 13a-15 or Rule 15d-15, as applicable, under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to Parent, including its consolidated Subsidiaries, required to be disclosed by Parent in the reports that it files or furnishes under the Exchange Act is accumulated and communicated to Parent's principal executive officer and its principal financial officer to allow timely decisions regarding required disclosure; and such disclosure controls and procedures are effective to ensure that information required to be disclosed by Parent in the reports that it files or furnishes under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and further designed and maintained to provide reasonable assurance regarding the reliability of Parent's financial reporting and the preparation of Parent financial statements for external purposes in accordance with GAAP. There (i) is no significant deficiency or material weakness in the design or operation of internal controls over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) utilized by Parent or its Subsidiaries, (ii) is not, and since December 31, 2021, there has not been, any illegal act or fraud, whether or not material, that involves management or other employees who have a significant role in Parent's internal controls, and (iii) is not, and since December 31, 2021, there has not been, any "extensions of credit" (within the meaning of Section 402 of the Sarbanes-Oxley Act) or prohibited loans to any executive officer of Parent (as defined in Rule 3b-7 under the Exchange Act) or director of Parent or any of its Subsidiaries. The principal executive officer and the principal financial officer of Parent have made all certifications required by the Sarbanes-Oxley Act, the Exchange Act and any related rules and regulations promulgated by the SEC with respect to Parent SEC Documents, and the statements contained in such certifications were complete and correct as of the dates they were made.

Section 5.6 Absence of Certain Changes or Events.

(a) Since December 31, 2022, there has not been any Parent Material Adverse Effect or any event, change, effect or development that, individually or in the aggregate, could reasonably be expected to have a Parent Material Adverse Effect.

(b) From December 31, 2022 through the date of this Agreement:

(i) Parent and its Subsidiaries have conducted their business in the Ordinary Course in all material respects;

(ii) there has not been any material damage, destruction or other casualty loss with respect to any material asset or property owned, leased or otherwise used by Parent or any of its Subsidiaries, including the Oil and Gas Properties of Parent and its Subsidiaries, whether or not covered by insurance; and

(iii) neither Parent nor any of its Subsidiaries has taken, or agreed, committed, arranged, authorized or entered into any understanding to take, any action that, if taken after the date of this Agreement, would (without the Company's prior written consent) have constituted a breach of any of the covenants set forth in Section 6.2(b).

Section 5.7 No Undisclosed Material Liabilities. There are no liabilities of Parent or any of its Subsidiaries of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than: (a) liabilities adequately provided for on the balance sheet of Parent dated as of September 30, 2023 (including the notes thereto) contained in Parent's Quarterly Report on Form 10-Q for the nine (9) months ended September 30, 2023; (b) liabilities incurred in the Ordinary Course subsequent to September 30, 2023; (c) liabilities incurred in connection with the Transactions; and (d) liabilities that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

Section 5.8 Information Supplied. None of the information supplied or to be supplied by Parent for inclusion or incorporation by reference in (a) the Registration Statement shall, at the time the Registration Statement becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading or (b) the Joint Proxy Statement/Prospectus will, at the date it is first mailed to the stockholders of the Company and to the stockholders of Parent and at the time of the Company Stockholders Meeting and the Parent Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading; provided, however, that, in the case of clause (a) and (b), no representation or covenant is made by Parent with respect to the statements made therein based on information supplied by the Company specifically for inclusion or incorporation by reference therein. Subject to the accuracy of the first sentence of Section 4.8, the Joint Proxy Statement/Prospectus and the Registration Statement will comply as to form in all material respects with, as applicable, the provisions of the Exchange Act and the Securities Act, respectively, and the rules and regulations thereunder; provided, however, that no representation is made by Parent with respect to the statements made therein based on information supplied by the Company specifically for inclusion or incorporation by reference therein.

Section 5.9 Parent Permits; Compliance with Applicable Law.

(a) Parent and its Subsidiaries hold and at all times since December 31, 2021 have held all permits, licenses, certifications, registrations, consents, authorizations, variances, exemptions, waivers, orders, franchises, and approvals of all Governmental Entities necessary to own, lease and operate their respective properties and assets and for the lawful conduct of their respective businesses as they were or are now being conducted, as applicable (collectively, the "Parent Permits"), and have paid all fees and assessments due and payable in connection therewith, except where the failure to so hold or make such a payment would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. All Parent Permits are in full force and effect and no suspension or cancellation of any of the Parent Permits is pending or, to the Knowledge of Parent, threatened, and Parent and its Subsidiaries are, and at all times since December 31, 2021 have been, in compliance with the terms of the Parent Permits, except where the failure to be in full force and effect or failure to so comply would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(b) The businesses of Parent and its Subsidiaries and, with respect to the Oil and Gas Properties of Parent and its Subsidiaries that are operated by third parties, to the Knowledge of Parent, are not currently being conducted, and at no time since December 31, 2021 have been conducted, in violation of any applicable Law, except, in each case, for violations that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Other than as may arise under Antitrust Laws with respect to the Transactions, no investigation or review by any Governmental Entity with respect to Parent or any of its Subsidiaries is pending or, to the Knowledge of Parent, threatened, other than those the outcome of which has not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(c) Neither Parent nor any of its Subsidiaries, nor any of their respective directors, officers, employees, or, to the Knowledge of Parent, agents, has directly or indirectly made, offered, promised or authorized any payment or gift of any money or anything of value to or for the benefit of any Person for the purpose of (i) influencing any official act or decision of a foreign government official, political party, or candidate for political office, (ii) inducing such official, party or candidate to use his, her or its influence to affect any act or decision of a foreign Governmental Entity, or (iii) securing any improper advantage, in the case of clauses (i), (ii) and (iii) in violation of any applicable Anti-Corruption Laws.

(d) Neither Parent nor any of its Subsidiaries, nor any of their respective directors, officers, employees, or, to the Knowledge of Parent, agents:

(i) has been nor is a Sanctioned Person;

(ii) has knowingly transacted any business directly or indirectly with any Sanctioned Person or otherwise knowingly violated Sanctions; nor

(iii) has knowingly violated any applicable material Ex-Im Law.

Section 5.10 Compensation; Benefits.

(a) Set forth on Schedule 5.10(a) of the Parent Disclosure Letter is a list of each material Parent Plan.

(b) True, correct and complete copies of each material Parent Plan (or, in the case of any material Parent Plan not in writing, a description of the material terms thereof) and related trust documents and favorable determination letters, if applicable, have been furnished or made available to the Company, along with, as applicable, with respect to each material Parent Plan, the most recent report filed on Form 5500, summary plan description, and all material correspondence to or from (including non-routine filings made with) any Governmental Entity in the past three (3) years.

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, each Parent Plan has been maintained, funded and operated in compliance with its terms and all applicable Laws, including ERISA and the Code.

(d) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, there are no actions, suits or claims (other than routine claims for benefits) pending or, to the Knowledge of Parent, threatened against, or with respect to, any of the Parent Plans (or the assets thereof), and there are no Proceedings by a Governmental Entity pending with respect to any of the Parent Plans (or the assets thereof).

(e) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, all contributions or other payments required to be made by Parent or any of its Subsidiaries with respect to each of the Parent Plans pursuant to their terms or applicable Laws have been timely made or, if not yet due, accrued in accordance with GAAP.

(f) Each Parent Plan that is intended to be qualified under Section 401(a) of the Code has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Code and nothing has occurred that could reasonably be expected to adversely affect the qualification of any such Parent Plan. Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, none of Parent, any of its Subsidiaries or, to the Knowledge of Parent, any other Person, has engaged in a transaction with respect to any Parent Plan in connection with which Parent, any of its Subsidiaries or any Parent Plan could, in each case, reasonably be expected to be subject to either a civil penalty assessed pursuant to Section 409 or 502(i) of ERISA or a Tax imposed pursuant to Section 4975 or 4976 of the Code.

(g) Except as set forth on Schedule 5.10(g) of the Parent Disclosure Letter, none of Parent, any of its Subsidiaries or any of their respective ERISA Affiliates maintains, sponsors, contributes to or has an obligation to contribute to, or otherwise has any current or contingent liability or obligation under or with respect to, and no Parent Plan is, a plan subject to Title IV of ERISA, Sections 302 or 303 of ERISA, or Sections 412 or 430 of the Code, a "multiemployer plan" (as defined in Section 3(37) of ERISA), a "multiple employer plan" (within the meaning of Section 210 of ERISA or Section 413(c) of the Code), or a "multiple employer welfare arrangement" (as defined in Section 3(40) of ERISA).

(h) Except as set forth on Schedule 5.10(h) of the Parent Disclosure Letter or as required by applicable Law, no Parent Plan provides retiree or post-employment medical, or life insurance benefits to any Person, and neither Parent nor any of its Subsidiaries has any obligation to provide such benefits. Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, neither Parent nor any of its Subsidiaries has incurred (whether or not assessed) or could reasonably be expected to incur any Tax or penalty under Section 4980B, 4980D, 4980H, 6721 or 6722 of the Code.

(i) Except as set forth on Schedule 5.10(i) of the Parent Disclosure Letter, neither the execution and delivery of this Agreement nor the consummation of the Transactions will, either alone or in combination with another event, (i) entitle any employees of Parent or any of its Subsidiaries to any amount of compensation or benefits (including any severance pay or any material increase in severance pay or any loan forgiveness), (ii) accelerate the time of payment or vesting, or increase the amount of compensation due to any such employee of Parent or any of its Subsidiaries, (iii) directly or indirectly cause Parent to transfer or set aside any assets to fund any material benefits under any Parent Plan, (iv) otherwise give rise to any liability under any Parent Plan or (v) limit or restrict the right to amend, terminate or transfer the assets of any Parent Plan on or following the Effective Time.

(j) Neither Parent nor any of its Subsidiaries has any obligation to provide, and no Parent Plan or other agreement provides any individual with the right to, a gross up, indemnification, reimbursement or other payment for any excise or additional Taxes, interest or penalties incurred pursuant to Section 409A or Section 4999 of the Code or due to the failure of any payment to be deductible under Section 280G of the Code.

(k) No Parent Plan is maintained outside the jurisdiction of the United States or covers any employees of Parent or any of its Subsidiaries who reside and work exclusively outside of the United States.

Section 5.11 Labor Matters.

(a) (i) Neither Parent nor any of its Subsidiaries is a party to or bound by any collective bargaining or similar agreement with any labor union or labor organization, (ii) to the Knowledge of Parent there is no pending union representation petition filed with the National Labor Relations Board or any other Governmental Entity with respect to employees of Parent or any of its Subsidiaries, and (iii) to the Knowledge of Parent, there is no labor organizing activity by any labor union or labor organization (or representative thereof) to organize employees of Parent or its Subsidiaries.

(b) Except for such matters as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, there is no unfair labor practice charge or complaint or any other complaint, litigation or judicial or administrative proceeding before the National Labor Relations Board or any other Governmental Entity, in each case, involving any employees of Parent or any of its Subsidiaries pending, or, to the Knowledge of Parent, threatened.

(c) There is no strike, slowdown, work stoppage or lockout pending, or, to the Knowledge of Parent, threatened, against Parent or any of its Subsidiaries by or involving any employees of Parent or any of its Subsidiaries, other than as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(d) Parent and its Subsidiaries are, and since December 31, 2021 have been, in compliance in all respects with all applicable Laws respecting employment and employment practices except, in each case, for violations that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Neither Parent nor any of its Subsidiaries is a party to, or otherwise bound by, any consent decree with or citation by any Governmental Entity relating to its employees or employment practices pursuant to which it has any outstanding liabilities or obligations, except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(e) In the last three (3) years: (i) to the Knowledge of Parent, no material allegations of sexual harassment have been made by any current or former employee of Parent against any current or former officer or director of Parent or its Subsidiaries; and (ii) neither Parent nor any of its Subsidiaries have been in involved in any material Proceedings, or entered into any material settlement agreements, related to allegations of sexual harassment or sexual misconduct by any current or former officer or director of Parent or any of its Subsidiaries.

Section 5.12 Taxes.

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect:

(i) All Tax Returns required to be filed by or on behalf of Parent or any of its Subsidiaries have been duly and timely filed (taking into account extensions of time for filing), and all such filed Tax Returns are complete and accurate in all respects. All Taxes that are due and payable by Parent or any of its Subsidiaries (other than Taxes being contested in good faith by appropriate Proceedings and for which adequate reserves have been established in accordance with GAAP) have been paid in full. All withholding Tax requirements imposed on or with respect to Parent or any of its Subsidiaries have been satisfied in full, and Parent and its Subsidiaries have complied in all respects with all information reporting (and related withholding) and record retention requirements.

(ii) There is not in force any waiver or agreement for any extension of time for the assessment or payment of any Tax by Parent or any of its Subsidiaries.

(iii) There is no outstanding claim, assessment or deficiency against Parent or any of its Subsidiaries for any Taxes that have been asserted or, to the Knowledge of Parent, threatened in writing by any Taxing Authority. There are no Proceedings pending or, to the Knowledge of Parent, threatened in writing regarding any Taxes of Parent or any of its Subsidiaries.

(iv) Neither Parent nor any of its Subsidiaries is a party to any Tax allocation, sharing or indemnity contract or arrangement (not including, for the avoidance of doubt (i) an agreement or arrangement solely between or among Parent and/or any of its Subsidiaries, or (ii) any customary Tax sharing or indemnification provisions contained in any commercial agreement entered into in the Ordinary Course and not primarily relating to Tax). Neither Parent nor any of its Subsidiaries has (x) been a member of an affiliated group filing a consolidated U.S. federal income Tax Return (other than a group the common parent of which is or was Parent or any of its Subsidiaries) or (y) any liability for Taxes of any Person (other than Parent or any of its Subsidiaries) under Treasury Regulations § 1.1502-6 (or any similar provision of state, local or foreign Law) or as a transferee or successor.

(v) Neither Parent or any of its Subsidiaries has participated, or is currently participating, in a "listed transaction," as defined in Treasury Regulations § 1.6011-4(b)(2) (or any similar provision of state, local or foreign Law).

(vi) Neither Parent nor any of its Subsidiaries has constituted a "distributing corporation" or a "controlled corporation" in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code (or so much of Section 356 of the Code as relates to Section 355 of the Code) (i) in the two (2) years prior to the date of this Agreement or (ii) as part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the Transactions.

(vii) No written claim has been made by any Taxing Authority in a jurisdiction where Parent or any of its Subsidiaries does not currently file a Tax Return that it is or may be subject to any Tax in such jurisdiction, nor has any such assertion been threatened or proposed in writing and received by Parent or any of its Subsidiaries.

(viii) Neither Parent nor any of its Subsidiaries has requested, has received or is subject to any written ruling of a Taxing Authority that will be binding on it for any taxable period ending after the Closing Date or has entered into any "closing agreement" as described in Section 7121 of the Code (or any similar provision of state, local or foreign Law).

(ix) There are no Encumbrances for Taxes on any of the assets of Parent or any of its Subsidiaries, except for those described in clause (ii)(B) of Permitted Encumbrances.

(x) Neither of Parent nor any of its Subsidiaries has availed itself of the benefit of any Tax credits or deferred the payment of any Taxes pursuant to COVID-19 Measures.

(xi) Each of Parent and Merger Sub is, and has been since formation, properly classified for U.S. federal income tax purposes as a corporation. LLC Sub is, and has been since formation, properly classified for U.S. federal income tax purposes as an entity disregarded as separate from Parent.

(b) Neither Parent nor any of its Subsidiaries is aware of the existence of any fact, or has taken or agreed to take any action, that would reasonably be expected to prevent or impede the Integrated Mergers, taken together, from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code.

Section 5.13 **Litigation**. Except for such matters as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect (or as may arise under Antitrust Laws with respect to the Transactions), there is no (a) Proceeding pending, or to the Knowledge of Parent, threatened against Parent or any of its Subsidiaries or any of their Oil and Gas Properties, or (b) judgment, decree, injunction, ruling, order, writ or award of any Governmental Entity or arbitrator with outstanding obligations against Parent or any of its Subsidiaries. To the Knowledge of Parent, as of the date hereof, no officer or director of Parent is a defendant in any Proceeding in connection with his or her status as an officer or director of Parent.

Section 5.14 **Intellectual Property**.

(a) Parent and its Subsidiaries own or have the right to use all Intellectual Property used in or necessary for the operation of the businesses of each of Parent and its Subsidiaries as presently conducted (collectively, the "Parent Intellectual Property") free and clear of all Encumbrances except for Permitted Encumbrances, except where the failure to own or have the right to use such properties has not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(b) To the Knowledge of Parent, the use of Parent Intellectual Property by Parent and its Subsidiaries in the operation of the business of Parent and its Subsidiaries as presently conducted does not infringe, misappropriate or otherwise violate any Intellectual Property of any other Person, except for such matters that have not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. To the Knowledge of Parent, no third party is infringing on the Parent Intellectual Property, except for such matters that have not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(c) Parent and its Subsidiaries have taken reasonable measures consistent with prudent industry practices to protect the confidentiality of trade secrets used in the businesses of Parent and its Subsidiaries as presently conducted, except where failure to do so has not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(d) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, the IT Assets owned, used, or held for use by Parent or any of its Subsidiaries (i) are sufficient for the current needs of the businesses of Parent and its Subsidiaries; (ii) have not malfunctioned or failed within the past three (3) years and (iii) to the Knowledge of Parent, are free from any malicious code.

Section 5.15 Privacy and Cybersecurity.

(a) Parent and its Subsidiaries maintain and are in compliance with, and since December 31, 2021 have maintained and been in compliance with, (i) all applicable Laws relating to the privacy and/or security of Personal Information, (ii) Parent's and its Subsidiaries' posted or publicly facing privacy policies or notices, and (iii) Parent's and its Subsidiaries' contractual obligations concerning the privacy and/or security of Personal Information and the IT Assets (clauses (i) through (iii) collectively, "Parent Privacy Obligations"), in each case of clauses (i) through (iii) above, other than any non-compliance that, individually or in the aggregate, has not been and would not reasonably be expected to be material to Parent and its Subsidiaries. There are no actions by any Person (including any Governmental Entity) pending to which Parent or any of Parent's Subsidiaries is a named party or, to the knowledge of Parent, threatened in writing against Parent or its Subsidiaries alleging a violation of any Parent Privacy Obligations.

(b) Parent and its Subsidiaries have implemented and at all times maintained commercially reasonable and legally compliant administrative, technical and physical safeguards designed to protect the IT Assets and all confidential and sensitive information (including trade secrets) and Personal Information in Parent or any Subsidiary's possession or control against Security Incident. Other than as disclosed on Schedule 5.15(b) of the Parent Disclosure Letter, neither Parent nor any Subsidiary of Parent has (i) experienced any material Security Incident, or (ii) received any written notice or complaint from any Person with respect to any of the foregoing, nor has any such notice or complaint been threatened in writing against Parent or any of Parent's Subsidiaries.

Section 5.16 Real Property. Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect and with respect to clauses (a) and (b), except with respect to any of Parent's Oil and Gas Properties, (a) Parent and its Subsidiaries have good, valid and defensible title to all material real property owned by Parent or any of its Subsidiaries (subject to the exclusion of Parent's Oil and Gas Properties and the Rights-of-Way, collectively, the "Parent Owned Real Property") and valid leasehold estates in all material real property leased, subleased, licensed or otherwise occupied (whether as tenant, subtenant or pursuant to other occupancy arrangements) by Parent or any of its Subsidiaries, but excluding the Parent Oil and Gas Properties and the Rights-of-Way (collectively, including the improvements thereon, but subject to the exclusion of Parent's Oil and Gas Properties and Rights-of-Way, the "Parent Material Leased Real Property," and together with Parent Owned Real Property, the "Parent Material Real Property") free and clear of all Encumbrances and defects and imperfections, except Permitted Encumbrances, (b) each agreement under which Parent or any of its Subsidiaries is the landlord, sublandlord, tenant, subtenant, or occupant with respect to Parent Material Leased Real Property (each, a "Parent Material Real Property Lease") is in full force and effect and is valid and enforceable against Parent or such Subsidiary and, to the Knowledge of Parent, the other parties thereto in accordance with its terms, subject, as to enforceability, to Creditors' Rights, and neither Parent nor any of its Subsidiaries, or to the Knowledge of Parent, any other party thereto, has received written notice of any default under any Parent Material Real Property Lease and no event has occurred and no circumstance exists which, if not remedied, would result in such a default (with or without notice or lapse of time, or both), and (c) as of the date of this Agreement, there does not exist any pending or, to the Knowledge of Parent, threatened, condemnation or eminent domain Proceedings that affect any Parent Owned Real Property or Parent Material Leased Real Property. The Parent Owned Real Property, Parent Material Leased Real Property and all other real property leased and owned by the Parent and its Subsidiaries are sufficient for the current needs of the businesses of the Parent and its Subsidiaries, except for such real property the absence of which would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

Section 5.17 **Rights-of-Way**. Each of Parent and its Subsidiaries has such Rights-of-Way as are sufficient to conduct its business as presently conducted in the Ordinary Course, except for such Rights-of-Way the absence of which would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Each of Parent and its Subsidiaries has fulfilled and performed all of its material obligations with respect to such Rights-of-Way and conduct their business in a manner that does not violate any of the Rights-of-Way and no event has occurred that allows, or after notice or lapse of time would allow, revocation or termination thereof or would result in any impairment of the rights of the holder of any such Rights-of-Way, except for such revocations, terminations and impairments that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. All pipelines operated by Parent and its Subsidiaries are located on or are subject to valid Rights-of-Way, or are located on real property owned or leased by Parent, and there are no gaps (including any gap arising as a result of any breach by Parent or any of its Subsidiaries of the terms of any Rights-of-Way) in the Rights-of-Way other than gaps that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

Section 5.18 **Oil and Gas Matters**.

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, and except for property (i) sold or otherwise disposed of in the Ordinary Course since the date specified in the reserve report prepared by Netherland, Sewell & Associates, Inc. (the "Parent Independent Petroleum Engineer") relating to Parent's interests referred to therein and dated as of February 9, 2023 (the "Parent Reserve Report") or (ii) reflected in the Parent Reserve Report or in the Parent SEC Documents as having been sold or otherwise disposed of (other than transactions effected after the date hereof in accordance with Section 6.1(b)(v)), Parent and its Subsidiaries have good and defensible title to all Oil and Gas Properties forming the basis for the reserves reflected in the Parent Reserve Report and in each case as attributable to interests owned by Parent and its Subsidiaries, free and clear of any Encumbrances (other than Permitted Encumbrances). For purposes of the foregoing sentence, "good and defensible title" means that Parent's and/or one or more of its Subsidiaries', as applicable, title (as of the date hereof and as of the Closing) to each of the Oil and Gas Properties held or owned by them (or purported to be held or owned by them) that (A) entitles Parent (and/or one or more of its Subsidiaries, as applicable) to receive (after satisfaction of all Production Burdens applicable thereto), not less than the net revenue interest share shown in the Parent Reserve Report of all Hydrocarbons produced from such Oil and Gas Properties throughout the productive life of such Oil and Gas Properties (other than decreases in connection with operations in which Parent and/or its Subsidiaries may be a non-consenting co-owner from and after the date hereof, decreases resulting from reversion of interests to co-owners with respect to operations in which such co-owners elected not to consent from and after the date of the Parent Reserve Report, and decreases resulting from the establishment of pools or units from and after the date of the Parent Reserve Report), (B) obligates Parent (and/or one or more of its Subsidiaries, as applicable) to bear a percentage of the costs and expenses for the maintenance and development of, and operations relating to, such Oil and Gas Properties, of not greater than the working interest shown on the Parent Reserve Report for such Oil and Gas Properties (other than any positive difference in such percentage and the applicable working interest shown on the Parent Reserve Report for such Oil and Gas Properties that are accompanied by a proportionate (or greater) increase in the net revenue interest in such Oil and Gas Properties) and (C) is free and clear of all Encumbrances (other than Permitted Encumbrances).

(b) Except for any such matters that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, the factual, non-interpretive data supplied by Parent to the Parent Independent Petroleum Engineer relating to Parent interests referred to in the Parent Reserve Report, by or on behalf of Parent and its Subsidiaries that was material to such firm's estimates of proved oil and gas reserves attributable to the Oil and Gas Properties of Parent and its Subsidiaries in connection with the preparation of the Parent Reserve Report was, as of the time provided, accurate in all respects. To Parent's Knowledge, any assumptions or estimates provided by any of Parent's Subsidiaries to the Parent Independent Petroleum Engineer in connection with its preparation of the Parent Reserve Report were made in good faith and on a reasonable basis based on the facts and circumstances in existence and that were known to Parent at the time such assumptions or estimates were made. Except for any such matters that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, the oil and gas reserve estimates of Parent set forth in the Parent Reserve Report are derived from reports that have been prepared by the Parent Independent Petroleum Engineer, and such reserve estimates fairly reflect, in all respects, the oil and gas reserves of Parent and its Subsidiaries at the dates indicated therein and are in accordance with SEC guidelines applicable thereto applied on a consistent basis throughout the periods involved. Except for changes generally affecting the oil and gas exploration, development and production industry (including changes in commodity prices) and normal depletion by production, there has been no change in respect of the matters addressed in the Parent Reserve Report that would reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, (i) all rentals, shut-ins and similar payments owed to any Person under (or otherwise with respect to) any Oil and Gas Leases owned or held by Parent or any of its Subsidiaries have been properly and timely paid or are being contested in good faith through appropriate Proceedings, (ii) all royalties, minimum royalties, overriding royalties and other Production Burdens with respect to any Oil and Gas Properties owned or held by Parent or any of its Subsidiaries have been timely and properly paid (other than any such Production Burdens that are being held in suspense by Parent or its Subsidiaries in accordance with applicable Law) or are being contested in good faith through appropriate Proceedings and (iii) none of Parent or any of its Subsidiaries (and, to Parent's Knowledge, no third party operator) has violated any provision of, or taken or failed to take any act that, with or without notice, lapse of time, or both, would constitute a default under the provisions of any Oil and Gas Lease (or entitle the lessor thereunder to cancel or terminate such Oil and Gas Lease) included in the Oil and Gas Properties owned or held by Parent or any of its Subsidiaries.

(d) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, all proceeds from the sale of Hydrocarbons produced from the Oil and Gas Properties of Parent and its Subsidiaries are being received by them in a timely manner or are being contested in good faith through appropriate Proceedings and are not being held in suspense (by Parent, any of its Subsidiaries, any third party operator thereof or any other Person) for any reason other than awaiting preparation and approval of division order title opinions and the receipt of division orders for execution for recently drilled Wells. Neither Parent nor any of its Subsidiaries (i) is obligated by virtue of a take-or-pay payment, advance payment or similar payment (other than royalties, overriding royalties and similar arrangements established in the Oil and Gas Leases) to deliver Hydrocarbons or proceeds from the sale thereof attributable to such Person's interest in its Oil and Gas Properties at some future time without receiving payment therefor at the time of delivery or (ii) has any material transportation, processing or plant imbalance, and no Person has given notice that any such imbalance constitutes all of the relevant Person's ultimately recoverable reserves from a balancing area.

(e) All of the Wells and all water, CO2, injection or other wells located on the Oil and Gas Properties of Parent and its Subsidiaries or otherwise associated with an Oil and Gas Property of Parent or its Subsidiaries that were drilled and completed by Parent or its Subsidiaries, and to the Knowledge of Parent, all such wells that were not drilled and completed by Parent or its Subsidiaries, have been drilled, completed and operated within the limits permitted by the applicable Contracts entered into by Parent or any of its Subsidiaries related to such wells, and in accordance with applicable Law and applicable Parent Permits, and all drilling and completion (and plugging and abandonment) of such wells and all related development, production and other operations have been conducted in compliance with all applicable Contracts and Laws and applicable Parent Permits except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Except as set forth on Schedule 5.18(e) of the Parent Disclosure Letter, there are no wells that constitute a part of the Oil and Gas Properties of Parent and its Subsidiaries of which Parent or a Subsidiary has received a written notice, claim, demand or order from any Governmental Entity notifying, claiming, demanding or requiring that such well(s) be temporarily or permanently plugged and abandoned.

(f) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, none of the Oil and Gas Properties of Parent or its Subsidiaries is subject to any preferential purchase, tag-along, right of first refusal, consent or similar right that would become operative as a result of the execution of this Agreement or the consummation of the Transactions.

(g) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, since the date of the Parent Reserve Reports, neither the Parent nor any of its Subsidiaries has elected not to participate in any operation or activity proposed with respect to any of the Oil and Gas Properties owned or held by it (or them, as applicable) that could result in a penalty or forfeiture as a result of such election not to participate in such operation or activity that would be material to Parent and its Subsidiaries, taken as a whole and is not reflected in the Parent Reserve Report.

Section 5.19 Environmental Matters.

(a) Except for those matters that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect:

(i) Parent and its Subsidiaries and their respective operations and assets are, and at all times since December 31, 2021 have been, in compliance with all Environmental Laws, which compliance includes, and since December 31, 2021 has included, obtaining, maintaining and complying with all Parent Permits required under Environmental Laws;

(ii) Parent and its Subsidiaries are not subject to any pending or, to Parent's Knowledge, threatened Proceedings under Environmental Laws, and Parent and its Subsidiaries have not received any written notice of a violation of, or liability under, Environmental Laws, the subject of which is unresolved;

(iii) there has been no Release, treatment, storage, transportation or handling of, or exposure to, Hazardous Materials at, on, under, or from any property currently or, to the Knowledge of Parent, formerly owned, leased, operated or otherwise used by Parent or any of its Subsidiaries, or, to the Knowledge of Parent, by any predecessors of Parent or any Subsidiary of Parent, or to the Knowledge of Parent, at, on, under, or from any other property, which has resulted or is reasonably likely to result in liability to Parent or its Subsidiaries under any Environmental Law, and, as of the date of this Agreement, neither Parent nor any of its Subsidiaries has received any unresolved written notice, claim, demand, or order asserting a liability or obligation under any Environmental Laws with respect to the investigation, remediation, removal, or monitoring of any Release of Hazardous Materials at, on, under, or from any property currently or formerly owned, leased, operated, or otherwise used by Parent, or at, on, under, or from any offsite location where Hazardous Materials from Parent's or its Subsidiaries' operations have been sent for treatment, disposal, storage or handling; and

(iv) neither Parent nor any of its Subsidiaries has assumed, either expressly or, to Parent's Knowledge, by operation of Law, any liability of any other Person related to Hazardous Materials or Environmental Laws.

(b) As of the date of this Agreement, there have been no environmental, health or safety investigations, studies, audits, or other analyses conducted during the past three (3) years by or on behalf of, or that are in the possession of, Parent or its Subsidiaries relating to any instance of material noncompliance with Environmental Laws by or any material liability arising under Environmental Laws of Parent or its Subsidiaries, or any material Release of Hazardous Materials with respect to any property owned, operated or otherwise used by any of them that have not been made available to the Company prior to the date hereof.

Section 5.20 Material Contracts.

(a) Schedule 5.20(a) of the Parent Disclosure Letter, together with the lists of exhibits contained in the Parent SEC Documents, sets forth a true and complete list, as of the date of this Agreement, of:

(i) each "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K under the Exchange Act) to which Parent or any of its Subsidiaries is a party;

(ii) each Contract that provides for the acquisition, disposition, license, use, distribution or outsourcing of assets, services, rights or properties (other than Oil and Gas Properties and any Contract of the type described in Section 5.20(a)(v)) with respect to which Parent reasonably expects that Parent and its Subsidiaries will make or receive payments in any calendar year in excess of $25,000,000 or aggregate payments in excess of $50,000,000;

(iii) each Contract that constitutes a commitment relating to Indebtedness or the deferred purchase price of property by Parent or any of its Subsidiaries (whether incurred, assumed, guaranteed or secured by any asset) in excess of $50,000,000, other than agreements solely between or among Parent and any of its Subsidiaries;

(iv) each Contract to which Parent or any of its Subsidiaries is a party that (A) restricts the ability of Parent or any of its Subsidiaries to compete in any business or with any Person in any geographical area, (B) requires Parent or any of its Subsidiaries to conduct any business on a "most favored nations" basis with any third party or (C) provides for "exclusivity" or any similar requirement in favor of any third party, except in the case of each of clauses (A), (B) and (C) for such restrictions, requirements and provisions that are not material to Parent and its Subsidiaries;

(v) any Contract providing for the purchase or sale by Parent or any of its Subsidiaries of Hydrocarbons that:

(A) has a remaining term of greater than one year and does not allow Parent or such Subsidiary to terminate it without penalty on one year's notice or less,

(B) contains a minimum throughput commitment, minimum volume commitment, "take-or-pay" clause or any similar material prepayment or forward sale arrangement or obligation (excluding "gas balancing" arrangements associated with customary joint operating agreements) to deliver Hydrocarbons at some future time, or

(C) contains acreage dedication, minimum volume commitments or capacity reservation fees to a gathering, transportation or other arrangement downstream of the wellhead that, in each case, cover, guaranty, dedicate or commit (1) more than 1,000 net acres or (2) volumes in excess of 10,000 MMcf of gas or 2,000 boe of liquid Hydrocarbons on a monthly basis (calculated on a yearly average basis);

(vi) any acquisition or divestiture Contract that contains "earn out" or other similar contingent payment obligations (other than asset retirement obligations, plugging and abandonment obligations and other reserves of Parent set forth in the Parent Reserve Report), that would reasonably be expected to result in annual payments in excess of $50,000,000;

(vii) each Contract for lease of personal property or real property (other than leases for compressors and leases in respect of Oil and Gas Properties) involving payments in excess of $2,000,000 in any calendar year or aggregate payments in excess of $10,000,000 over the life of the contract that are not terminable without penalty or other liability to Parent (other than any ongoing obligation pursuant to such contract that is not caused by any such termination) within sixty (60) days;

(viii) each contract that would reasonably be expected to require the disposition of a material portion of the assets or any line of business of Parent or its Subsidiaries;

(ix) each Contract involving the pending acquisition or sale of (or option to purchase or sell) any material amount of the assets or properties of Parent or any of its Subsidiaries (including any material portion of the Oil and Gas Properties), taken as a whole, other than Contracts involving the acquisition or sale of (or option to purchase or sell) Hydrocarbons in the Ordinary Course;

(x) each material partnership, joint venture or limited liability company agreement, other than any customary joint operating agreements, or unit agreements affecting the Oil and Gas Properties of Parent;

(xi) each joint development agreement, exploration agreement, participation, farm-out, farm-in or program agreement or similar Contract requiring Parent or any of its Subsidiaries to make expenditures from and after December 31, 2022 that would reasonably be expected to be in excess of $25,000,000 in the aggregate, other than customary joint operating agreements and continuous development obligations under Oil and Gas Leases;

(xii) each agreement under which Parent or any of its Subsidiaries has advanced or loaned any amount of money to any of its officers, directors, employees or consultants, in each case with a principal amount in excess of $120,000; and

(xiii) each contract for any Parent Related Party Transaction.

(b) Collectively, the Contracts described in Section 5.20(a) are referred to as the "Parent Contracts." A complete and correct copy of each of the Parent Contracts has been made available to the Company. Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, each Parent Contract is legal, valid, binding and enforceable in accordance with its terms on Parent and each of its Subsidiaries that is a party thereto and, to the Knowledge of Parent, each other party thereto, and is in full force and effect, subject, as to enforceability, to Creditors' Rights. Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, neither Parent nor any of its Subsidiaries is in breach or default under any Parent Contract nor, to the Knowledge of Parent, is any other party to any such Parent Contract in breach or default thereunder, and no event has occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder by Parent or its Subsidiaries, or, to the Knowledge of Parent, any other party thereto. Except as would not reasonably be expected to have individually or in the aggregate, a Parent Material Adverse Effect, there are no disputes pending or, to the Knowledge of Parent, threatened with respect to any Parent Contract and neither Parent nor any of its Subsidiaries has received any written notice of the intention of any other party to any Parent Contract to terminate for default, convenience or otherwise any Parent Contract, nor to the Knowledge of Parent, is any such party threatening to do so.

Section 5.21 Derivative Transactions.

(a) Schedule 5.21 of the Parent Disclosure Letter contains a complete and correct list of all outstanding material Derivative Transactions (including each outstanding Hydrocarbon or financial hedging position attributable to the Hydrocarbon production of Parent or any of its Subsidiaries) entered into by Parent or any of its Subsidiaries or for the account of any of their respective customers as of the date hereof pursuant to which such party has outstanding rights or obligations. All such Derivative Transactions entered into by Parent or any of its Subsidiaries or for the account of any of its customers as of the date of this Agreement were, in all material respects, entered into in accordance with applicable Laws, and in accordance with the investment, securities, commodities, risk management and other policies, practices and procedures employed by Parent and its Subsidiaries, and were, in all material respects, entered into with counterparties believed at the time to be financially responsible and able to understand (either alone or in consultation with their advisers) and to bear the risks of such Derivative Transactions.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, Parent and each of its Subsidiaries have duly performed in all respects all of their respective obligations under the Derivative Transactions to the extent that such obligations to perform have accrued, and there are no breaches, violations, collateral deficiencies, requests for collateral or demands for payment, or defaults or allegations or assertions of such by any party thereunder.

(c) The Parent SEC Documents accurately summarize, in all material respects, the outstanding positions under any such Derivative Transaction of Parent and its Subsidiaries, including Hydrocarbon and financial positions under any such Derivative Transaction of Parent attributable to the production and marketing of Parent and its Subsidiaries, as of the dates reflected therein.

Section 5.22 Insurance. Set forth on Schedule 5.22 of Parent Disclosure Letter is a true, correct and complete list of all material insurance policies held by Parent or any of its Subsidiaries as of the date of this Agreement (other than those constituting or funding Parent Plans) (collectively, the "Material Parent Insurance Policies"). Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, each of the Material Parent Insurance Policies is in full force and effect on the date of this Agreement and a true, correct and complete copy of each Material Parent Insurance Policy has been made available to Parent. The Material Parent Insurance Policies are with reputable insurance carriers, provide full and adequate coverage for all normal risks incident to the business of Parent and its Subsidiaries and their respective properties and assets, and are in breadth of coverage and amount at least equivalent to that carried by Persons engaged in similar businesses and subject to the same or similar perils or hazards, except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, all premiums payable under the Material Parent Insurance Policies prior to the date of this Agreement have been duly paid to date, and neither Parent nor any of its Subsidiaries has taken any action or failed to take any action that (including with respect to the Transactions), with notice or lapse of time or both, would constitute a breach or default, or permit a termination of any of the Material Parent Insurance Policies. Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, as of the date of this Agreement, no written notice of cancellation or termination has been received with respect to any Material Parent Insurance Policy. As of the date of this Agreement, the Parent and its Subsidiaries do not have aggregate claims pending with insurers that are reasonably expected to result in insurance recoveries of more than $1,500,000 in the aggregate.

Section 5.23 **Opinion of Financial Advisor**. The Parent Board has received the oral opinion of Evercore Group LLC addressed to the Parent Board, to be confirmed by delivery of a written opinion, to the effect that, based upon and subject to the assumptions, qualifications, limitations, and other matters set forth in such opinion, as of the date of the opinion, the Exchange Ratio is fair, from a financial point of view, to Parent.

Section 5.24 **Brokers**. Except for the fees and expenses payable to Evercore Group LLC and J.P. Morgan Securities LLC, no broker, investment banker, advisor or other Person is entitled to any broker's, finder's or other similar fee or commission in connection with the Transactions based upon arrangements made by or on behalf of Parent.

Section 5.25 **Ownership of Company Common Stock**. As of the date hereof, neither Parent nor any of its Subsidiaries own, or has within the last three (3) years owned, any shares of Company Common Stock (or other securities or derivatives convertible into, exchangeable for or exercisable for shares of Company Common Stock).

Section 5.26 **Business Conduct**. Merger Sub was incorporated on January 3, 2024, and LLC Sub was formed on January 3, 2024. Since its inception, each of Merger Sub and LLC Sub has not engaged in any activity, other than such actions in connection with (a) its organization and (b) the preparation, negotiation and execution of this Agreement and the Transactions. Each of Merger Sub and LLC Sub has no operations, has not generated any revenues and has no assets or liabilities other than those incurred in connection with the foregoing and in association with the Merger as provided in this Agreement.

Section 5.27 **Related Party Transactions**. Schedule 5.27 of the Parent Disclosure Letter sets forth, as of the date of this Agreement, a complete and correct list of any transaction or arrangement under which any (a) present or former executive officer or director of Parent or any of its Subsidiaries, (b) beneficial owner (within the meaning of Section 13(d) of the Exchange Act) of 5% or more of any class of the equity securities of Parent or any of its Subsidiaries whose status as a 5% holder is known to Parent as of the date of this Agreement or (c) Affiliate, "associate" or member of the "immediate family" (as such terms are respectively defined in Rules 12b-2 and 16a-1 of the Exchange Act) of any of the foregoing Persons described in clause (a) or (b) (but only, with respect to the Persons in clause (b), to the Knowledge of Parent), in each case as would be required to be disclosed by the Parent pursuant to Item 404 of Regulation S-K promulgated under the Exchange Act is a party to any actual or proposed loan, lease or other contract with or binding upon Parent or any of its Subsidiaries or any of their respective properties or assets or has any interest in any property owned by Parent or any of its Subsidiaries, in each case, including any bond, letter of credit, guarantee, deposit, cash account, escrow, policy of insurance or other credit support instrument or security posted or delivered by any Person listed in clauses (a), (b) or (c) in connection with the operation of the business of Parent or any of its Subsidiaries (each of the foregoing, a "Parent Related Party Transaction").

Section 5.28 **Takeover Laws**. The approval of the Parent Board of this Agreement and the Transactions represents all the action necessary to render inapplicable to this Agreement and the Transactions the restrictions of any Takeover Law or any anti-takeover provision in Parent's Organizational Documents that is applicable to Parent, the shares of Parent Common Stock, this Agreement or the Transactions.

Section 5.29 **No Additional Representations**.

(a) Except for the representations and warranties made in this Article V, neither Parent nor any other Person makes any express or implied representation or warranty with respect to Parent or any of its Subsidiaries or their respective businesses, operations, assets, liabilities or conditions (financial or otherwise) in connection with this Agreement or the Transactions, and Parent hereby disclaims any such other representations or warranties. In particular, without limiting the foregoing disclaimer, neither Parent nor any other Person makes or has made any representation or warranty to the Company or any of its Affiliates or Representatives with respect to (i) any financial projection, forecast, estimate, budget or prospect information relating to Parent or any of its Subsidiaries or their respective businesses; or (ii) except for the representations and warranties made by Parent in this Article V, any oral or written information presented to the Company or any of its Affiliates or Representatives in the course of their due diligence investigation of Parent, the negotiation of this Agreement or in the course of the Transactions. Notwithstanding the foregoing, nothing in this Section 5.29 shall limit the Company's remedies with respect to claims of fraud arising from or relating to the express written representations and warranties made by Parent, Merger Sub and LLC Sub in this Article V.

(b) Notwithstanding anything contained in this Agreement to the contrary, Parent acknowledges and agrees that neither the Company nor any other Person has made or is making any representations or warranties relating to the Company or its Subsidiaries or any other matter whatsoever, express or implied, beyond those expressly given by the Company in Article IV, including any implied representation or warranty as to the accuracy or completeness of any information regarding the Company furnished or made available to Parent or any of its Representatives, and that none of Parent, Merger Sub or LLC Sub has relied on any such other representation or warranty not expressly set forth in Article IV of this Agreement. Without limiting the generality of the foregoing, Parent acknowledges that no representations or warranties are made with respect to any projections, forecasts, estimates, budgets or prospect information that may have been made available to Parent or any of its Representatives (including in certain "data rooms," "virtual data rooms," management presentations or in any other form in expectation of, or in connection with, the Merger or the other Transactions).

ARTICLE VI
COVENANTS AND AGREEMENTS

Section 6.1 Conduct of Company Business Pending the Merger.

(a) Except (i) as set forth on Schedule 6.1(a) of the Company Disclosure Letter, (ii) as expressly permitted, contemplated or required by this Agreement, (iii) as may be required by applicable Law, or (iv) as otherwise consented to by Parent in writing (which consent shall not be unreasonably withheld, delayed or conditioned), the Company covenants and agrees that, until the earlier of the Effective Time and the termination of this Agreement pursuant to Article VIII, it shall, and shall cause each of its Subsidiaries to, use reasonable best efforts to conduct its businesses in the Ordinary Course, including by using reasonable best efforts to preserve substantially intact its present business organization, goodwill and assets, to keep available the services of its current officers and employees and preserve its existing relationships with Governmental Entities and its significant customers, suppliers, licensors, licensees, distributors, lessors and others having significant business dealings with it.

(b) Except (i) as set forth on Schedule 6.1(b) of the Company Disclosure Letter, (ii) as expressly permitted, contemplated or required by this Agreement, (iii) as may be required by applicable Law, or (iv) otherwise consented to by Parent in writing (which consent shall not be unreasonably withheld, delayed or conditioned), until the earlier of the Effective Time and the termination of this Agreement pursuant to Article VIII the Company shall not, and shall not permit its Subsidiaries to (in each case whether directly or indirectly or by merger, consolidation, division, operation of law or otherwise):

(i) (A) declare, set aside or pay any dividends on, or make any other distribution in respect of any outstanding capital stock of, or other equity interests in, the Company or its Subsidiaries, except for dividends and distributions by a direct or indirect wholly owned Subsidiary of the Company to the Company or another direct or indirect wholly owned Subsidiary of the Company; (B) split, combine, exchange, subdivide, recapitalize or reclassify any capital stock of, or other equity interests in, or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for equity interests in the Company or any of its Subsidiaries; or (C) purchase, redeem or otherwise acquire, or offer to purchase, redeem or otherwise acquire, any capital stock of, or other equity interests in, the Company or any Subsidiary of the Company, except as required by the terms of any capital stock or equity interest of a Subsidiary or in respect of any Company Incentive Awards outstanding as of the date hereof in accordance with the terms of the Company Equity Plan and applicable award agreements;

(ii) offer, issue, deliver, grant or sell, or authorize or propose to offer, issue, deliver, grant or sell, any capital stock of, or other equity interests in, the Company or any of its Subsidiaries or any securities convertible into, or any rights, warrants or options to acquire, any such capital stock or equity interests, other than: (A) the delivery of Company Common Stock upon the exercise, vesting or settlement of any Company Incentive Awards outstanding on the date hereof or granted after the date hereof in compliance with this Agreement in accordance with the terms of the Company Equity Plan and applicable award agreements; and (B) issuances by a wholly owned Subsidiary of the Company of such Subsidiary's capital stock or other equity interests to the Company or any other wholly owned Subsidiary of the Company;

(iii) amend or propose to amend the Company's Organizational Documents or amend or propose to amend the Organizational Documents of any of the Company's Subsidiaries (other than ministerial changes);

(iv) (A) merge, consolidate, combine or amalgamate with any Person or effect any division transaction, in each case, other than between wholly owned Subsidiaries of the Company or (B) acquire or agree to acquire or make an investment in (including by merging or consolidating with, purchasing any equity interest in or a substantial portion of the assets of, licensing, or by any other manner), any assets, properties or any business or any corporation, partnership, association or other business organization or division thereof, in each case other than acquisitions for which the consideration is less than $50,000,000 in the aggregate;

(v) sell, lease, swap, exchange, transfer, farmout, license, Encumber (other than Permitted Encumbrances), abandon, permit to lapse, discontinue or otherwise dispose of, or agree to sell, lease, swap, exchange, transfer, farmout, license, Encumber (other than Permitted Encumbrances), abandon, permit to lapse, discontinue or otherwise dispose of, any material portion of its assets or properties, other than (A) sales, leases, exchanges or dispositions for which the consideration is less than $20,000,000 in the aggregate (or as otherwise permitted hereunder); (B) the sale of Hydrocarbons and rights thereto in the Ordinary Course; (C) among the Company and its wholly owned Subsidiaries or among wholly owned Subsidiaries of the Company; (D) sales or dispositions of excess, obsolete or worthless equipment in the Ordinary Course; (E) asset swaps the fair market value of which are less than, (x) for those entered in the Ordinary Course, $20,000,000 individually and $100,000,000 in the aggregate or (y) in all other cases, $10,000,000 in the aggregate; (F) with respect to relinquishment or abandonment, as required by Law, permit or any applicable Contract; or (G) for the expiration of any oil and gas lease in accordance with its terms.

(vi) authorize, recommend, propose, enter into, adopt a plan or announce an intention to adopt a plan of complete or partial liquidation, dissolution, restructuring, recapitalization or other reorganization of the Company or any of its Subsidiaries, other than such transactions among wholly owned Subsidiaries of the Company;

(vii) change in any material respect its financial accounting principles, practices or methods that would materially affect the consolidated assets, liabilities or results of operations of the Company and its Subsidiaries, except as required by GAAP or applicable Law;

(viii) (A) make, change or revoke any material Tax election or accounting method, but excluding any election that must be made periodically and is made consistent with past practice, (B) file any material amended Tax Return, (C) except to the extent otherwise required by applicable Law, file any material Tax Return other than on a basis consistent with past practice, (D) consent to any extension or waiver of the limitation period applicable to any material claim or assessment in respect of material Taxes, (E) enter into any material Tax allocation, sharing or indemnity agreement, any material Tax holiday agreement or other similar agreement with respect to Taxes, (F) enter into any closing agreement with respect to material Taxes, (G) settle or compromise any material Tax Proceeding, or (H) surrender any right to claim a material Tax refund, offset or other reduction in Tax liability;

(ix) except as required by applicable Law or by the terms of any Company Benefit Plan existing as of the date hereof, (A) grant any increases in the compensation or benefits payable or to become payable to any of its current or former directors, officers, employees or other individual service providers, other than (1) salary or wage increases made in the Ordinary Course with respect to employees (other than the Company's named executive officers) and service providers (not to exceed 4% in the aggregate) or (2) any increases provided to a newly promoted employee as permitted hereunder (and so long as such newly promoted employee's compensation and other terms and conditions of employment are substantially comparable to those of the employee that he or she is replacing); (B) take any action to accelerate the vesting or lapsing of restrictions or payment, or fund or in any other way secure the payment, of compensation or benefits; (C) grant any new equity-based or equity-linked awards or Company Performance Cash Unit Awards or other long-term compensation awards, amend or modify the terms of any outstanding equity-based or equity-linked awards or Company Performance Cash Unit Awards or other long-term compensation awards or approve treatment of outstanding equity awards or Company Performance Cash Unit Awards in connection with the Transactions that is inconsistent with the treatment contemplated by Section 3.2; (D) other than in the Ordinary Course, pay or agree to pay to any current or former director, officer, employee or other service provider any pension, retirement allowance or other benefit not required by the terms of any Company Benefit Plan existing as of the date hereof; (E) enter into any new, or materially amend any existing, employment or severance agreement or, except in the Ordinary Course, any termination agreement, in any case with any current or former director, officer, vice-president or higher level employee or service provider except for entry into offer letters with newly hired employees on a form that has previously been provided by Parent to the Company or a form that is substantially similar thereto; (F) establish or adopt any benefit or compensation plan, policy, program, agreement or arrangement that was not in existence prior to the date of this Agreement but that would be a Company Benefit Plan if in effect on the date of this Agreement, or amend or terminate any Company Benefit Plan in existence on the date of this Agreement, other than *de minimis* administrative amendments that do not have the effect of enhancing any benefits thereunder or otherwise resulting in increased costs to the Company or any of its Subsidiaries except for (i) changes to the contractual terms of health and welfare plans made in the Ordinary Course that do not materially increase the cost to Parent and its Subsidiaries, or (ii) arrangements necessary to effectuate any expressly permitted actions under this clause 6.1(b)(ix) on terms and conditions provided herein; (G) hire or promote any employee or engage any other service provider (who is a natural person) who is (or would be) an executive officer or who has (or would have) an annualized base salary in excess of $300,000 (except for the hire or promotion of an employee as is reasonably necessary to replace any employee, so long as the new employee's compensation and other terms and conditions of employment are substantially comparable to those of the employee being replaced); (H) terminate the employment of any executive officer other than for cause; or (I) enter into, amend or terminate any collective bargaining agreement with any labor union, works council or labor organization;

(x) (A) incur, create, assume, repurchase or offer to repurchase any Indebtedness or guarantee any such Indebtedness of another Person or (B) create any Encumbrances on any property or assets of the Company or any of its Subsidiaries in connection with any Indebtedness thereof, other than Permitted Encumbrances; provided, however, that the foregoing clauses (A) and (B) shall not restrict (1) the incurrence or repayment of Indebtedness under the Company Credit Facility in the Ordinary Course, (2) the incurrence or repayment of Indebtedness by the Company that is owed to any wholly owned Subsidiary of the Company or by any Subsidiary of the Company that is owed to the Company or a wholly owned Subsidiary of the Company, (3) the incurrence or assumption of Indebtedness in connection with any acquisition permitted by Sections 6.1(b)(iv) and 6.1(b)(v), (4) the incurrence of additional Indebtedness in an amount not to exceed (x) at any time on or prior to June 30, 2024, $50,000,000, and (y) at any time after June 30, 2024, an additional $50,000,000 (for an aggregate permitted amount of $100,000,000), (5) the incurrence of any Indebtedness (such new Indebtedness, the "Company Refinancing Indebtedness") that replaces, renews, extends, refinances or refunds existing Indebtedness (other than in respect of the Company Credit Facility) (such existing Indebtedness, the "Company Refinanced Indebtedness") (including Indebtedness incurred to repay or refinance related fees, premiums and expenses) and the repurchase or repayment of such Company Refinanced Indebtedness; provided that (A) such Company Refinancing Indebtedness does not contain covenants and events of default that are more restrictive in any material respect than those under the Company Refinanced Indebtedness as in effect on the date hereof, (B) such Company Refinancing Indebtedness does not contain terms or provisions that prohibit or restrict the Transactions contemplated by the terms of this Agreement except for encumbrances or restrictions that are no more restrictive in any material respect than those under the Company Refinanced Indebtedness, and (C) to the extent the Company Refinanced Indebtedness is unsecured and/or subordinated (including in right of payment) to any other Indebtedness of the Company, such Company Refinancing Indebtedness is unsecured and/or subordinated (including in right of payment) to such other Indebtedness on terms at least as favorable to the holders of such senior Indebtedness as those contained in the documentation governing the Company Refinanced Indebtedness, (6) the repurchase or repayment of Indebtedness within one year of its maturity date or (7) the creation of any Encumbrance securing Indebtedness permitted by the foregoing clauses (1), (2), (3), (4) or (5);

(xi) other than in the Ordinary Course, (A) enter into any contract that would be a Company Contract if it were in effect on the date of this Agreement, (B) modify, amend, terminate or assign, or waive or assign any rights under, any Company Contract (other than the renewal of an existing Company Contract on substantially the same terms), or (C) except to the extent necessary to remain in compliance with the Company Credit Facility, enter into any material Derivative Transaction;

(xii) other than in the Ordinary Course or with respect to amounts that are not material to such Party and its Subsidiaries, taken as a whole, cancel, modify or waive any debts or claims held by the Company or any of its Subsidiaries or waive any rights held by the Company or any of its Subsidiaries;

(xiii) waive, release, assign, settle or compromise or offer or propose to waive, release, assign, settle or compromise, any material Proceeding (excluding any Proceeding in respect of Taxes) other than (A) the settlement of such Proceedings involving only the payment of monetary damages by the Company or any of its Subsidiaries of any amount not exceeding $3,000,000 individually or $10,000,000 in the aggregate and (B) as would not result in any material restriction on future activity or conduct or a finding or admission of a violation of Law; provided, that the Company shall be permitted to settle any Transaction Litigation in accordance with Section 6.11;

(xiv) make or commit to make any capital expenditures that are, in the aggregate for any fiscal quarter, greater than 115% of the aggregate amount of capital expenditures (excluding capitalized interest, which is set forth on Schedule 6.1(b)(xiv)) contemplated for such fiscal quarter by the Company's annual capital expenditure budget as set forth in Schedule 6.1(b)(xiv) of the Company Disclosure Letter, except for capital expenditures to repair damage resulting from insured casualty events or capital expenditures required on an emergency basis or for the safety of individuals, assets or the environments in which individuals perform work for the Company and its Subsidiaries (provided that the Company shall notify Parent of any such emergency expenditure as soon as reasonably practicable) or delayed capital expenditures from a previous fiscal quarter's capital expenditure budget in the Ordinary Course;

(xv) take any action, cause any action to be taken, knowingly fail to take any action or knowingly fail to cause any action to be taken, which action or failure to act would prevent or impede, or would be reasonably likely to prevent or impede, the Integrated Mergers, taken together, from qualifying as a reorganization within the meaning of Section 368(a) of the Code;

(xvi) fail to maintain in full force and effect in all material respects, or fail to replace or renew, the insurance policies of the Company and its Subsidiaries at a level at least comparable to current levels or otherwise in a manner inconsistent with past practice; or

(xvii) agree to take any action that is prohibited by this Section 6.1(b).

Section 6.2 Conduct of Parent Business Pending the Merger.

(a) Except (i) as set forth on Schedule 6.2(a) of the Parent Disclosure Letter, (ii) as expressly permitted, contemplated or required by this Agreement, (iii) as may be required by applicable Law, or (iv) as otherwise consented to by the Company in writing (which consent shall not be unreasonably withheld, delayed or conditioned), Parent covenants and agrees that, until the earlier of the Effective Time and the termination of this Agreement pursuant to Article VIII, it shall, and shall cause each of its Subsidiaries to, use reasonable best efforts to conduct its businesses in the Ordinary Course, including by using reasonable best efforts to preserve substantially intact its present business organization, goodwill and assets, to keep available the services of its current officers and employees and preserve its existing relationships with Governmental Entities and its significant customers, suppliers, licensors, licensees, distributors, lessors and others having significant business dealings with it.

(b) Except (i) as set forth on Schedule 6.2(b) of the Parent Disclosure Letter, (ii) as expressly permitted or required by this Agreement, (iii) as may be required by applicable Law, or (iv) as otherwise consented to by the Company in writing (which consent shall not be unreasonably withheld, delayed or conditioned), until the earlier of the Effective Time and the termination of this Agreement pursuant to Article VIII, Parent shall not, and shall not permit its Subsidiaries to (in each case whether directly or indirectly or by merger, consolidation, division, operation of law or otherwise):

(i) (A) declare, set aside or pay any dividends on, or make any other distribution in respect of any outstanding capital stock of, or other equity interests in, Parent or its Subsidiaries, except for (x) regular quarterly cash dividends payable by Parent in the Ordinary Course pursuant to the formula set forth in Parent's dividend policy, which is set forth on Schedule 6.2(b)(i) of the Parent Disclosure Letter (which, for the avoidance of doubt, shall not include any special or other extraordinary dividends) and (y) dividends and distributions by a direct or indirect wholly owned Subsidiary of Parent to Parent or another direct or indirect wholly owned Subsidiary of Parent; (B) split, combine, exchange, subdivide, recapitalize or reclassify any capital stock of, or other equity interests in, or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for equity interests in Parent or any of its Subsidiaries; or (C) purchase, redeem or otherwise acquire, or offer to purchase, redeem or otherwise acquire, any capital stock of, or other equity interests in, Parent, or any Subsidiary of Parent, except as required by the terms of any capital stock or equity interest of a Subsidiary or in respect of any equity awards outstanding as of the date hereof or issued after the date hereof in accordance with this Agreement in accordance with the terms of the Parent Stock Plan and applicable award agreements;

(ii) offer, issue, deliver, grant or sell, or authorize or propose to offer, issue, deliver, grant or sell, any capital stock of, or other equity interests in, Parent or any of its Subsidiaries or any securities convertible into, or any rights, warrants or options to acquire, any such capital stock or equity interests, other than: (A) the delivery of Parent Common Stock upon the exercise, vesting or settlement of any equity awards outstanding as of the date hereof or granted after the date hereof in compliance with this Agreement in accordance with the terms of the Parent Stock Plans (or any successor equity compensation plans) and applicable award agreements; (B) any equity awards issued in the Ordinary Course after the date hereof under the Parent Stock Plans (or any successor equity compensation plans) as otherwise allowed under the terms of this Agreement; (C) the issuance of shares of Parent Common Stock upon the exercise of Parent Warrants outstanding on the date hereof; (D) the issuance of Reserved Shares and Reserved Warrants to satisfy general unsecured claims; and (E) issuances by a wholly owned Subsidiary of Parent of such Subsidiary's capital stock or other equity interests to Parent or any other wholly owned Subsidiary of Parent;

(iii) amend or propose to amend Parent's Organizational Documents or amend or propose to amend the Organizational Documents of any of Parent's Subsidiaries (other than ministerial changes);

(iv) (A) merge, consolidate, combine or amalgamate with any Person or effect any division transaction, in each case, other than between wholly owned Subsidiaries of Parent or (B) acquire or agree to acquire or make an investment in (including by merging or consolidating with, purchasing any equity interest in or a substantial portion of the assets of, licensing, or by any other manner), any assets, properties or any business or any corporation, partnership, association or other business organization or division thereof, in each case, other than acquisitions for which the consideration is less than $750,000,000 in the aggregate;

(v) sell, lease, swap, exchange, transfer, farmout, license, Encumber (other than Permitted Encumbrances), abandon, permit to lapse, discontinue or otherwise dispose of, or agree to sell, lease, swap, exchange, transfer, farmout, license, Encumber (other than Permitted Encumbrances), abandon, permit to lapse, discontinue or otherwise dispose of, any material portion of its assets or properties, other than sales, leases, exchanges or dispositions for which the consideration is less than $750,000,000, in the aggregate;

(vi) authorize, recommend, propose, enter into, adopt a plan or announce an intention to adopt a plan of complete or partial liquidation, dissolution, restructuring, recapitalization or other reorganization of Parent or any of its Subsidiaries, other than such transactions among wholly owned Subsidiaries of Parent;

(vii) change in any material respect its financial accounting principles, practices or methods that would materially affect the consolidated assets, liabilities or results of operations of Parent and its Subsidiaries, except as required by GAAP or applicable Law;

(viii) (A) make, change or revoke any material Tax election or accounting method, but excluding any election that must be made periodically and is made consistent with past practice, (B) file any material amended Tax Return, (C) except to the extent otherwise required by applicable Law, file any material Tax Return other than on a basis consistent with past practice, (D) consent to any extension or waiver of the limitation period applicable to any material claim or assessment in respect of material Taxes, (E) enter into any material Tax allocation, sharing or indemnity agreement, any material Tax holiday agreement or other similar agreement with respect to Taxes, (F) enter into any closing agreement with respect to material Taxes, (G) settle or compromise any material Tax Proceeding, or (H) surrender any right to claim a material Tax refund, offset or other reduction in Tax liability;

(ix) (A) incur, create, assume, repurchase or offer to repurchase any Indebtedness or guarantee any such Indebtedness of another Person or (B) create any Encumbrances on any property or assets of Parent or any of its Subsidiaries in connection with any Indebtedness thereof, other than Permitted Encumbrances; provided, however, that the foregoing clauses (A) and (B) shall not restrict (1) the incurrence or repayment of Indebtedness under the Parent Credit Facility in the Ordinary Course, (2) the incurrence or repayment of Indebtedness by Parent that is owed to any wholly owned Subsidiary of Parent or by any Subsidiary of Parent that is owed to Parent or a wholly owned Subsidiary of Parent, (3) the incurrence or assumption of Indebtedness in connection with any acquisition of any Person, assets or properties, (4) the incurrence of additional Indebtedness in an amount not to exceed (x) at any time on or prior to June 30, 2024, $50,000,000, and (y) at any time after June 30, 2024, an additional $50,000,000 (for an aggregate permitted amount of $100,000,000), (5) the incurrence of any Indebtedness (such new Indebtedness, the "Parent Refinancing Indebtedness") that replaces, renews, extends, refinances or refunds existing Indebtedness (other than in respect of the Parent Credit Facility) (such existing Indebtedness, the "Parent Refinanced Indebtedness") (including Indebtedness incurred to repay or refinance related fees, premiums and expenses) and the repurchase or repayment of such Parent Refinanced Indebtedness; provided that (A) such Parent Refinancing Indebtedness does not contain covenants and events of default that are more restrictive in any material respect than those under the Parent Refinanced Indebtedness as in effect on the date hereof, (B) such Parent Refinancing Indebtedness does not contain terms or provisions that prohibit or restrict the Transactions contemplated by the terms of this Agreement except for encumbrances or restrictions that are no more restrictive in any material respect than those under the Parent Refinanced Indebtedness, and (C) to the extent the Parent Refinanced Indebtedness is unsecured and/or subordinated (including in right of payment) to any other Indebtedness of Parent, such Parent Refinancing Indebtedness is unsecured and/or subordinated (including in right of payment) to such other Indebtedness on terms at least as favorable to the holders of such senior Indebtedness as those contained in the documentation governing the Parent Refinanced Indebtedness, (6) the incurrence of any Indebtedness pursuant to the Debt Financing; (7) the repurchase or repayment of Indebtedness within one year of its maturity date or (8) the creation of any Encumbrance securing Indebtedness permitted by the foregoing clauses (1), (2), (3), (4), (5) or (6);

(x) other than in the Ordinary Course or with respect to amounts that are not material to such Party and its Subsidiaries, taken as a whole, cancel, modify or waive any debts or claims held by the Parent or any of its Subsidiaries or waive any rights held by the Parent or any of its Subsidiaries;

(xi) other than (1) in the Ordinary Course or (2) in respect of any Parent Contracts or Derivative Transactions which do not exceed $750,000,000 in the aggregate, (A) enter into any contract that would be a Parent Contract if it were in effect on the date of this Agreement, (B) modify, amend, terminate or assign, or waive or assign any rights under, any Parent Contract (other than the renewal of an existing Parent Contract on substantially the same terms), or (C) except to the extent necessary to remain in compliance with the Parent Credit Facility, enter into any material Derivative Transaction;

(xii) waive, release, assign, settle or compromise or offer or propose to waive, release, assign, settle or compromise, any Proceeding (excluding any Proceeding in respect of Taxes) other than (A) the settlement of such proceedings involving only the payment of monetary damages by the Parent or any of its Subsidiaries of any amount not exceeding $3,000,000 individually or $10,000,000 in the aggregate and (B) as would not result in any restriction on future activity or conduct or a finding or admission of a violation of Law; provided, that Parent shall be permitted to settle any Transaction Litigation in accordance with Section 6.11;

(xiii) make or commit to make any capital expenditures that are, in the aggregate, greater than 115% of the aggregate amount of capital expenditures contemplated for such fiscal quarter by Parent's capital expenditure budget as set forth in Schedule 6.2(b)(xiii) of the Parent Disclosure Letter, except for capital expenditures to repair damage resulting from insured casualty events or capital expenditures required on an emergency basis or for the safety of individuals, assets or the environments in which individuals perform work for the Parent and its Subsidiaries (provided that the Parent shall notify Company of any such emergency expenditure as soon as reasonably practicable) or delayed capital expenditures from a previous fiscal quarter's capital expenditure budget in the Ordinary Course;

(xiv) take any action, cause any action to be taken, knowingly fail to take any action or knowingly fail to cause any action to be taken, which action or failure to act would prevent or impede, or would be reasonably likely to prevent or impede, the Integrated Mergers, taken together, from qualifying as a reorganization within the meaning of Section 368(a) of the Code;

(xv) fail to maintain in full force and effect in all material respects, or fail to replace or renew, the insurance policies of Parent and its Subsidiaries at a level at least comparable to current levels or otherwise in a manner inconsistent with past practice; or

(xvi) agree to take any action that is prohibited by this Section 6.2(b).

Section 6.3 No Solicitation by the Company.

(a) From and after the date of this Agreement and until the earlier of the Effective Time and termination of this Agreement pursuant to Article VIII, the Company and its officers and directors will, and will cause the Company's Subsidiaries and its and their controlled Affiliates and respective officers and directors to, and will use their reasonable best efforts to cause the other Representatives to, immediately cease, and cause to be terminated, any solicitation of, discussion or negotiations with any Person conducted heretofore by the Company or any of its Subsidiaries, their respective controlled Affiliates or Representatives with respect to any inquiry, proposal or offer that relates to, constitutes, or could reasonably be expected to lead to, a Company Competing Proposal. The Company shall, promptly following the execution and delivery of this Agreement, terminate any physical or electronic data room relating to any potential Company Competing Proposal.

(b) From and after the date of this Agreement and until the earlier of the Effective Time and termination of this Agreement pursuant to Article VIII, the Company and its officers and directors will not, and will cause the Company's Subsidiaries and its and their respective controlled Affiliates and respective officers and directors not to, and will use reasonable best efforts to cause the other Representatives not to, directly or indirectly:

(i) initiate, solicit, seek, propose, knowingly encourage, or knowingly facilitate (including by way of furnishing non-public information) any inquiry regarding the making, submission or announcement by any Person (other than Parent or its Subsidiaries) of any proposal or offer, including any proposal or offer to the Company's stockholders, that constitutes, or could reasonably be expected to lead to, a Company Competing Proposal;

(ii) engage in, continue or otherwise participate in any discussions with any Person with respect to or negotiations with any Person with respect to, relating to, or in furtherance of a Company Competing Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to a Company Competing Proposal;

(iii) furnish or afford access to any material non-public information regarding the Company or its Subsidiaries to any Person (other than Parent and its Subsidiaries) in connection with, for the purpose of soliciting, initiating, knowingly encouraging or knowingly facilitating, or in response to any Company Competing Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to a Company Competing Proposal;

(iv) approve, adopt, recommend, agree to or enter into, or propose to approve, adopt, recommend, agree to or enter into, any inquiry, proposal or offer that constitutes, or could reasonably be expected to lead to, a Company Alternative Acquisition Agreement;

(v) enter into any letter of intent, term sheet, memorandum of understanding, merger agreement, acquisition agreement, exchange agreement or duly execute any other agreement (whether binding or not) with respect to any inquiry, proposal or offer that constitutes, or could reasonably be expected to lead to, a Company Competing Proposal or that would require, or would reasonably be expected to require, the Company to abandon, terminate or fail to consummate the Integrated Mergers or any other transaction contemplated by this Agreement;

(vi) waive or release any Person from, forebear in the enforcement of, or amend or terminate any standstill agreement or any standstill provisions of any other contract; provided that if the Company (acting under the direction of the Company Board) determines in good faith after consultation with the Company's outside legal counsel that the failure to waive a particular standstill provision would be inconsistent with the relevant directors' fiduciary duties under applicable Law, then the Company may waive such standstill provision, solely to the extent necessary to permit a third party to make and pursue a non-public Company Competing Proposal that the Company reasonably believes is likely to lead to a Company Superior Proposal;

(vii) submit any Company Competing Proposal to the vote of the stockholders of the Company; or

(viii) resolve or agree to do any of the foregoing.

(c) Notwithstanding anything to the contrary in this Agreement, prior to obtaining the Company Stockholder Approval, the Company or any of its Representatives may:

(i) provide information in response to a request therefor by a Person who has made an unsolicited bona fide written Company Competing Proposal or any inquiry, proposal or offer with respect to (or that could reasonably be expected to lead to) a Company Competing Proposal after the date hereof that did not result from a breach of this Section 6.3 if the Company receives from the Person so requesting such information an executed confidentiality agreement on terms not less restrictive to the other party than those contained in the Confidentiality Agreement (an "Acceptable Confidentiality Agreement"), it being understood that such Acceptable Confidentiality Agreement need not prohibit the making, or amendment, of a Company Competing Proposal and shall not prohibit compliance by the Company with this Section 6.3, and the Company shall promptly (and, in any event, within 24 hours) disclose and provide copies of such Acceptable Confidentiality Agreement and any such information provided to such Person to Parent to the extent not previously provided to Parent; or

(ii) engage or participate in any discussions or negotiations with any Person who has made such an unsolicited bona fide written Company Competing Proposal after the date hereof that did not result from a breach of this Section 6.3;

in each case, if and only to the extent that, prior to taking any action described in Section 6.3(c)(i) or Section 6.3(c)(ii), (A) the Company provides the notice to Parent required by Section 6.3(d) and the Company Board determines in good faith after consultation with its outside legal counsel that failure to take such action in light of the Company Competing Proposal or such other inquiry, proposal or offer, as applicable, would be inconsistent with the Company Board's fiduciary duties under applicable law, and (B) the Company Board has determined in good faith based on the information then available and after consultation with its financial advisor and outside legal counsel that such Company Competing Proposal either constitutes a Company Superior Proposal or is reasonably likely to result in a Company Superior Proposal, provided that, notwithstanding anything to the contrary in this Section 6.3, if the Company receives any Company Competing Proposal or any inquiry, proposal or offer with respect to (or that could reasonably be expected to lead to) a Company Competing Proposal, the Company may seek clarification of the terms and conditions thereof so as to determine whether such Company Competing Proposal or any inquiry, proposal or offer with respect to (or that could reasonably be expected to lead to) a Company Competing Proposal constitutes a Company Superior Proposal or is reasonably likely to result in a Company Superior Proposal.

(d) From and after the date of this Agreement, the Company shall promptly (and in any event, within 24 hours) notify Parent in writing of the receipt by the Company of any Company Competing Proposal or any inquiry, proposal or offer with respect to (or that could reasonably be expected to lead to) a Company Competing Proposal made on or after the date of this Agreement, any request for information or data relating to the Company or any of its Subsidiaries made by any Person in connection with (or that could reasonably be expected to lead to) a Company Competing Proposal or any request for discussions or negotiations with the Company or a Representative of the Company relating to (or that could reasonably be expected to lead to) a Company Competing Proposal, and the Company shall notify Parent of the identity of the Person making or submitting such request, inquiry, proposal or offer and provide to Parent (i) a copy of any such request, inquiry, proposal or offer made in writing provided to the Company or any of its Subsidiaries or any of its and their respective Representatives or (ii) if any such inquiry, request, proposal or offer is not made in writing, a written summary of such request, proposal or offer (including the material terms and conditions thereof), in each case together with copies of any proposed transaction agreements. Thereafter the Company shall keep Parent reasonably informed in writing on a current basis (and, in any event, within twenty-four (24) hours) regarding material changes to the status of any such requests, inquiries, proposals or offers (including any amendments or changes thereto, which, for the avoidance of doubt, shall include (among other things) any changes to the form or amount of consideration) and shall reasonably apprise Parent of the status of any such negotiations to the extent the status changes in any material respect. Without limiting the foregoing, the Company shall notify Parent if the Company determines to engage in discussions or negotiations concerning a Company Competing Proposal.

(e) Except as expressly permitted by Section 6.3, neither the Company Board nor any committee of the Company Board shall:

(i) withhold, withdraw, qualify or modify, or publicly propose or announce any intention to withhold, withdraw, qualify or modify, in a manner adverse to Parent or Merger Sub, the Company Board Recommendation;

(ii) fail to include the Company Board Recommendation in the Joint Proxy Statement/Prospectus;

(iii) fail to publicly announce, within ten (10) Business Days after a tender offer or exchange offer relating to the equity securities of the Company shall have been commenced by any third party other than Parent and its Affiliates (and in no event later than one (1) Business Day prior to the date of the Company Stockholders Meeting, as it may be postponed or adjourned in accordance with the terms of this Agreement), a statement disclosing that the Company Board recommends rejection of such tender or exchange offer (for the avoidance of doubt, the taking of no position or a neutral position by the Company Board in respect of the acceptance of any such tender offer or exchange offer as of the end of such period shall constitute a failure to publicly announce that the Company Board recommends rejection of such tender or exchange offer);

(iv) if requested by Parent, fail to issue, within five (5) Business Days after a Company Competing Proposal is publicly announced (and in no event later than one (1) Business Day prior to the date of the Company Stockholders Meeting, as it may be postponed or adjourned in accordance with the terms of this Agreement), a press release reaffirming the Company Board Recommendation, which request may not be made more than two times in respect of any specific Company Competing Proposal;

(v) approve, recommend or declare advisable (or publicly propose to do so) any Company Competing Proposal;

(vi) approve, adopt, recommend, agree to or enter into, or propose or resolve to approve, adopt, recommend, agree to or enter into, any letter of intent, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement or other agreement (other than an Acceptable Confidentiality Agreement entered into in accordance with Section 6.3(b)) relating to a Company Competing Proposal (a "Company Alternative Acquisition Agreement");

(vii) cause or permit the Company to enter into a Company Alternative Acquisition Agreement; or

(viii) publicly propose to do any of the foregoing (together with any of the actions set forth in the foregoing clauses (i) though (vii), a "Company Change of Recommendation").

(f) Notwithstanding anything in this Agreement to the contrary, prior to the receipt of the Company Stockholder Approval:

(i) the Company Board may, after consultation with its outside legal counsel, make such disclosures as the Company Board determines in good faith are necessary to comply with Rule 14d-9 or Rule 14e-2(a) promulgated under the Exchange Act or other disclosure required to be made in the Joint Proxy Statement/Prospectus by applicable U.S. federal securities Laws; provided, however, that if such disclosure by the Company Board has the effect of withdrawing or materially and adversely modifying the Company Board Recommendation, such disclosure shall be deemed to be a Company Change of Recommendation and Parent shall have the right to terminate this Agreement as set forth in Section 8.1(c)(i);

(ii) in response to a *bona fide* written Company Competing Proposal from a third party that has not been withdrawn, was received after the date hereof, was not solicited at any time following the execution of this Agreement and did not result from a breach of the obligations set forth in this Section 6.3, the Company Board may (x) effect a Company Change of Recommendation or (y) terminate this Agreement pursuant to Section 8.1(d)(ii) in response to a Company Superior Proposal; provided, however, that such Company Change of Recommendation or termination of this Agreement, as applicable, may not be made unless and until:

(A) the Company Board determines in good faith after consultation with its financial advisors and outside legal counsel that such Company Competing Proposal is a Company Superior Proposal;

(B) the Company Board determines in good faith, after consultation with its financial advisors and outside legal counsel, that failure to effect a Company Change of Recommendation in response to such Company Superior Proposal would be inconsistent with the fiduciary duties of the directors under applicable Law;

(C) the Company provides Parent written notice of such proposed action four (4) Business Days in advance, which notice shall set forth in writing that the Company Board intends to take such action, shall include the identity of the Person making such Company Competing Proposal and shall contain a copy of such proposal and a draft of the definitive agreement to be entered into in connection therewith (or, if not in writing, a written summary of the material terms and conditions thereof);

(D) during the four (4) Business Day period commencing on the date of Parent's receipt of the notice specified in clause (C) above (subject to any applicable extensions), the Company negotiates (and causes its officers, employees, financial advisors, outside legal counsel and other Representatives to negotiate) in good faith with Parent (to the extent Parent wishes to negotiate) to permit Parent to make such adjustments, amendments or revisions to the terms of this Agreement so that the Company Competing Proposal that is the subject of the notice specified in clause (C) above ceases to be a Company Superior Proposal;

(E) at the end of the four (4) Business Day period, prior to taking action to effect a Company Change of Recommendation, the Company Board takes into account any binding irrevocable adjustments, amendments or revisions to the terms of this Agreement proposed by Parent in writing and any other information offered by Parent in response to the notice specified in clause (C) above, and determines in good faith after consultation with its financial advisors and outside legal counsel, that the Company Competing Proposal remains a Company Superior Proposal and that the failure to effect a Company Change of Recommendation in response to such Company Superior Proposal would continue to be inconsistent with the fiduciary duties of the directors under applicable Law; provided that if there is any material development with respect to or material modification of such Company Competing Proposal, the Company shall, in each case, be required to deliver to Parent an additional notice consistent with that described in clause (C) above and a new negotiation period under clause (D) above shall commence (except that the original four (4) Business Day notice period referred to in clause (C) above) shall instead be equal to the longer of (1) two (2) Business Days and (2) the period remaining under the first and original four (4) Business Day notice period of clause (C) above, during which time the Company shall be required to comply with the requirements of clause (D) above and this clause anew with respect to such additional notice (but substituting the time periods therein with the foregoing extended period); and

(F) in the case of the Company terminating this Agreement to enter into a definitive agreement with respect to a Company Superior Proposal, the Company shall have, prior to or contemporaneously with such termination, paid, or caused the payment of, the Company Termination Fee.

(iii) in response to a Company Intervening Event that is not caused by a Company Competing Proposal, that occurs or arises after the date of this Agreement and that did not arise from or in connection with a material breach of this Agreement by the Company, the Company Board may effect a Company Change of Recommendation; provided, however, that such Company Change of Recommendation may not be made unless and until:

(A) the Company Board determines in good faith after consultation with its financial advisors and outside legal counsel that a Company Intervening Event has occurred;

(B) the Company Board determines in good faith, after consultation with its financial advisors and outside legal counsel, that failure to effect a Company Change of Recommendation in response to such Company Intervening Event would be inconsistent with the fiduciary duties of the directors under applicable Law;

(C) the Company provides Parent written notice of such proposed action and the basis thereof four (4) Business Days in advance, which notice shall set forth in writing that the Company Board intends to take such action and includes the reasons therefor a reasonable description of the facts and circumstances of the Company Intervening Event and the reasons for the Company Board's determination;

(D) during the four (4) Business Day period commencing on the date of Parent's receipt of the notice specified in clause (C) above (subject to any applicable extensions), the Company negotiates (and causes its officers, employees, financial advisor, outside legal counsel and other Representatives to negotiate) in good faith with Parent (to the extent Parent wishes to negotiate) to make such adjustments, amendments or revisions to the terms of this Agreement as would permit the Company Board not to effect a Company Change of Recommendation in response thereto; and

(E) at the end of the four (4) Business Day period, prior to taking action to effect a Company Change of Recommendation, the Company Board takes into account any binding irrevocable adjustments, amendments or revisions to the terms of this Agreement proposed by Parent in writing and any other information offered by Parent in response to the notice specified in clause (C) above, and determines in good faith after consultation with its financial advisors and outside legal counsel, that the failure to effect a Company Change of Recommendation in response to such Company Intervening Event would continue to be inconsistent with the fiduciary duties of the directors under applicable Law if such adjustments, amendments or revisions irrevocably offered in writing by Parent were to be given effect; provided that if there is any material development with respect to such Company Intervening Event, the Company shall, in each case, be required to deliver to Parent an additional notice consistent with that described in clause (C) above and a new negotiation period under clause (D) above shall commence (except that the original four (4) Business Day notice period referred to in clause (C) above shall instead be equal to the longer of (1) two (2) Business Days and (2) the period remaining under the first and original four (4) Business Day notice period of clause (C) above, during which time the Company shall be required to comply with the requirements of clause (D) above and this clause anew with respect to such additional notice (but substituting the time periods therein with the foregoing extended period)).

(g) Notwithstanding anything to the contrary in this Section 6.3, any action, or failure to take action of a Representative of the Company that is taken by, at the direction of, or at the request or on behalf of the Company or any of its Subsidiaries or its and their directors, officers, employees or Affiliates in violation of this Section 6.3, shall be deemed to be a breach of this Section 6.3 by the Company.

Section 6.4 No Solicitation by Parent.

(a) From and after the date of this Agreement and until the earlier of the Effective Time and termination of this Agreement pursuant to Article VIII, Parent and its officers and directors will, and will cause Parent's Subsidiaries and its and their controlled Affiliates and respective officers and directors to, and will use their reasonable best efforts to cause the other Representatives to, immediately cease, and cause to be terminated, any solicitation of, discussion or negotiations with any Person conducted heretofore by Parent or any of its Subsidiaries, their respective controlled Affiliates or Representatives with respect to any inquiry, proposal or offer that relates to, constitutes, or could reasonably be expected to lead to, a Parent Competing Proposal. Parent shall, promptly following the execution and delivery of this Agreement, terminate any access any such Persons may have to any physical or electronic data room relating to any potential Parent Competing Proposal.

(b) From and after the date of this Agreement and until the earlier of the Effective Time and termination of this Agreement pursuant to Article VIII, Parent and its officers and directors will not, and will cause Parent's Subsidiaries and its and their respective controlled Affiliates and respective officers and directors not to, and will use their reasonable best efforts to cause the other Representatives not to, directly or indirectly:

(i) initiate, solicit, seek, propose, knowingly encourage, or knowingly facilitate (including by way of furnishing non-public information) any inquiry regarding the making, submission or announcement by any Person (other than the Company or its Subsidiaries) of any proposal or offer, including any proposal or offer to Parent's stockholders, that constitutes, or could reasonably be expected to lead to, a Parent Competing Proposal;

(ii) engage in, continue or otherwise participate in any discussions with any Person with respect to or negotiations with any Person with respect to, relating to, or in furtherance of a Parent Competing Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to a Parent Competing Proposal;

(iii) furnish or afford access to any material non-public information regarding Parent or its Subsidiaries to any Person (other than the Company and its Subsidiaries) in connection with, for the purpose of soliciting, initiating, knowingly encouraging or knowingly facilitating, or in response to any Parent Competing Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to a Parent Competing Proposal;

(iv) approve, adopt, recommend, agree to or enter into, or propose to approve, adopt, recommend, agree to or enter into, any inquiry, proposal or offer that constitutes, or could reasonably be expected to lead to, a Parent Alternative Acquisition Agreement;

(v) enter into any letter of intent, term sheet, memorandum of understanding, merger agreement, acquisition agreement, exchange agreement or duly execute any other agreement (whether binding or not) with respect to any inquiry, proposal or offer that constitutes, or could reasonably be expected to lead to, a Parent Competing Proposal or that would require, or would reasonably be expected to require Parent to abandon, terminate or fail to consummate the Integrated Mergers or any other transaction contemplated by this Agreement;

(vi) waive or release any Person from, forebear in the enforcement of, or amend or terminate any standstill agreement or any standstill provisions of any other contract; provided that if Parent (acting under the direction of the Parent Board) determines in good faith after consultation with Parent's outside legal counsel that the failure to waive a particular standstill provision would be inconsistent with the relevant directors' fiduciary duties under applicable Law, then Parent may waive such standstill provision, solely to the extent necessary to permit a third party to make and pursue a non-public Parent Competing Proposal that Parent reasonably believes is likely to lead to a Parent Superior Proposal;

(vii) submit any Parent Competing Proposal to the vote of the stockholders of Parent; or

(viii) resolve or agree to do any of the foregoing.

(c) Notwithstanding anything to the contrary in this Agreement, prior to obtaining the Parent Stockholder Approval, Parent or any of its Representatives may:

(i) provide information in response to a request therefor by a Person who has made an unsolicited bona fide written Parent Competing Proposal or any inquiry, proposal or offer with respect to (or that could reasonably be expected to lead to) a Parent Competing Proposal after the date hereof that did not result from a breach of this Section 6.4 if Parent receives from the Person so requesting such information an Acceptable Confidentiality Agreement, it being understood that such Acceptable Confidentiality Agreement need not prohibit the making, or amendment, of a Parent Competing Proposal and shall not prohibit compliance by Parent with this Section 6.4, and Parent shall promptly (and, in any event, within 24 hours) disclose and provide copies of such Acceptable Confidentiality Agreement and any such information provided to such Person to the Company to the extent not previously provided to the Company; or

(ii) engage or participate in any discussions or negotiations with any Person who has made such an unsolicited bona fide written Parent Competing Proposal after the date hereof that did not result from a breach of this Section 6.4;

in each case, if and only to the extent that, prior to taking any action described in Section 6.4(c)(i) or Section 6.4(c)(ii), (A) Parent provides the notice to the Company required by Section 6.4(d) and the Parent Board determines in good faith after consultation with its outside legal counsel that failure to take such action in light of the Parent Competing Proposal or such other inquiry, proposal or offer, as applicable, would be inconsistent with the Parent Board's fiduciary duties under applicable law, and (B) the Parent Board has determined in good faith based on the information then available and after consultation with its financial advisor and outside legal counsel that such Parent Competing Proposal either constitutes a Parent Superior Proposal or is reasonably likely to result in a Parent Superior Proposal, provided that, notwithstanding anything to the contrary in this Section 6.4, if Parent receives any Parent Competing Proposal or any inquiry, proposal or offer with respect to (or that could reasonably be expected to lead to) a Parent Competing Proposal, Parent may seek clarification of the terms and conditions thereof so as to determine whether such Parent Competing Proposal or any inquiry, proposal or offer with respect to (or that could reasonably be expected to lead to) a Parent Competing Proposal constitutes a Parent Superior Proposal or is reasonably likely to result in a Parent Superior Proposal.

(d) From and after the date of this Agreement, Parent shall promptly (and in any event, within 24 hours) notify the Company in writing of the receipt by Parent of any Parent Competing Proposal or any inquiry, proposal or offer with respect to (or that could reasonably be expected to lead to) a Parent Competing Proposal made on or after the date of this Agreement, any request for information or data relating to Parent or any of its Subsidiaries made by any Person in connection with (or that could reasonably be expected to lead to) a Parent Competing Proposal or any request for discussions or negotiations with Parent or a Representative of Parent relating to (or that could reasonably be expected to lead to) a Parent Competing Proposal, and Parent shall notify the Company of the identity of the Person making or submitting such request, inquiry, proposal or offer and provide to the Company (i) a copy of any such request, inquiry, proposal or offer made in writing provided to Parent or any of its Subsidiaries or any of its and their respective Representatives or (ii) if any such request, inquiry, proposal or offer is not made in writing, a written summary of such request, proposal or offer (including the material terms and conditions thereof), in each case together with copies of any proposed transaction agreements. Thereafter Parent shall keep the Company reasonably informed in writing on a current basis (and, in any event, within twenty-four (24) hours) regarding material changes to the status of any such requests, inquiries, proposals or offers (including any amendments or changes thereto, which, for the avoidance of doubt, shall include (among other things) any changes to the form or amount of consideration) and shall reasonably apprise the Company of the status of any such negotiations to the extent the status changes in any material respect. Without limiting the foregoing, Parent shall notify the Company if Parent determines to engage in discussions or negotiations concerning a Parent Competing Proposal.

(e) Except as expressly permitted by this Section 6.4, neither the Parent Board nor any committee of the Parent Board shall:

(i) withhold, withdraw, qualify or modify, or publicly propose or announce any intention to withhold, withdraw, qualify or modify, in a manner adverse to the Company, the Parent Board Recommendation;

(ii) fail to include the Parent Board Recommendation in the Joint Proxy Statement/Prospectus;

(iii) fail to publicly announce, within ten (10) Business Days after a tender offer or exchange offer relating to the equity securities of Parent shall have been commenced by any third party other than the Company and its Affiliates (and in no event later than one (1) Business Day prior to the date of the Parent Stockholders Meeting, as it may be postponed or adjourned in accordance with the terms of this Agreement), a statement disclosing that the Parent Board recommends rejection of such tender or exchange offer (for the avoidance of doubt, the taking of no position or a neutral position by the Parent Board in respect of the acceptance of any such tender offer or exchange offer as of the end of such period shall constitute a failure to publicly announce that the Parent Board recommends rejection of such tender or exchange offer);

(iv) if requested by the Company, fail to issue, within five (5) Business Days after a Parent Competing Proposal is publicly announced (and in no event later than one (1) Business Day prior to the date of the Parent Stockholders Meeting, as it may be postponed or adjourned in accordance with the terms of this Agreement), a press release reaffirming the Parent Board Recommendation, which request may not be made more than two times in respect of any specific Parent Competing Proposal;

(v) approve, recommend or declare advisable (or publicly propose to do so) any Parent Competing Proposal;

(vi) approve, adopt, recommend, agree to or enter into, or propose or resolve to approve, adopt, recommend, agree to or enter into, any letter of intent, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement or other agreement (other than an Acceptable Confidentiality Agreement entered into in accordance with Section 6.4(b)) relating to a Parent Competing Proposal (a "Parent Alternative Acquisition Agreement");

(vii) cause or permit Parent to enter into a Parent Alternative Acquisition Agreement; or

(viii) publicly propose to do any of the foregoing (together with any of the actions set forth in the foregoing clauses (i) though (vii), a "Parent Change of Recommendation").

(f) Notwithstanding anything in this Agreement to the contrary, prior to the receipt of the Parent Stockholder Approval:

(i) the Parent Board may, after consultation with its outside legal counsel, make such disclosures as the Parent Board determines in good faith are necessary to comply with Rule 14d-9 or Rule 14e-2(a) promulgated under the Exchange Act or other disclosure required to be made in the Joint Proxy Statement/Prospectus by applicable U.S. federal securities Laws; provided, however, that if such disclosure by the Parent Board has the effect of withdrawing or materially and adversely modifying the Parent Board Recommendation, such disclosure shall be deemed to be a Parent Change of Recommendation and the Company shall have the right to terminate this Agreement as set forth in Section 8.1(d)(i);

(ii) in response to a *bona fide* written Parent Competing Proposal from a third party that has not been withdrawn, was received after the date hereof, was not solicited at any time following the execution of this Agreement and did not result from a breach of the obligations set forth in this Section 6.4, the Parent Board may (x) effect a Parent Change of Recommendation or (y) terminate this Agreement pursuant to Section 8.1(c)(ii) in response to a Parent Superior Proposal; provided, however, that such Parent Change of Recommendation or termination of this Agreement, as applicable, may not be made unless and until:

(A) the Parent Board determines in good faith after consultation with its financial advisors and outside legal counsel that such Parent Competing Proposal is a Parent Superior Proposal;

(B) the Parent Board determines in good faith, after consultation with its financial advisors and outside legal counsel, that failure to effect a Parent Change of Recommendation in response to such Parent Superior Proposal would be inconsistent with the fiduciary duties of the directors under applicable Law;

(C) Parent provides the Company written notice of such proposed action four (4) Business Days in advance, which notice shall set forth in writing that the Parent Board intends to take such action, shall include the identity of the Person making such Parent Competing Proposal and shall contain a copy of such proposal and a draft of the definitive agreement to be entered into in connection therewith (or, if not in writing, a written summary of the material terms and conditions thereof);

(D) during the four (4) Business Day period commencing on the date of the Company's receipt of the notice specified in clause (C) above (subject to any applicable extensions), Parent negotiates (and causes its officers, employees, financial advisors, outside legal counsel and other Representatives to negotiate) in good faith with the Company (to the extent the Company wishes to negotiate) to permit the Company to make such adjustments, amendments or revisions to the terms of this Agreement so that the Parent Competing Proposal that is the subject of the notice specified in clause (C) above ceases to be a Parent Superior Proposal;

(E) at the end of the four (4) Business Day period, prior to taking action to effect a Parent Change of Recommendation, the Parent Board takes into account any binding irrevocable adjustments, amendments or revisions to the terms of this Agreement proposed by the Company in writing and any other information offered by the Company in response to the notice specified in clause (C) above, and determines in good faith after consultation with its financial advisors and outside legal counsel, that the Parent Competing Proposal remains a Parent Superior Proposal and that the failure to effect a Parent Change of Recommendation in response to such Parent Superior Proposal would be inconsistent with the fiduciary duties of the directors under applicable Law; provided that if there is any material development with respect to or material modification of such Parent Competing Proposal, Parent shall, in each case, be required to deliver to the Company an additional notice consistent with that described in clause (C) above and a new negotiation period under clause (D) above shall commence (except that the original four (4) Business Day notice period referred to in clause (C) above shall instead be equal to the longer of (1) two (2) Business Days and (2) the period remaining under the first and original four (4) Business Day notice period of clause (C) above, during which time Parent shall be required to comply with the requirements of clause (D) above and this clause anew with respect to such additional notice (but substituting the time periods therein with the foregoing extended period)); and

(F) in the case of Parent terminating this Agreement to enter into a definitive agreement with respect to a Parent Superior Proposal, Parent shall have, prior to or contemporaneously with such termination, paid, or caused the payment of, the Parent Termination Fee.

(iii) in response to a Parent Intervening Event that is not caused by a Parent Competing Proposal, that occurs or arises after the date of this Agreement and that did not arise from or in connection with a breach of this Agreement by Parent, the Parent Board may effect a Parent Change of Recommendation; provided, however, that such Parent Change of Recommendation may not be made unless and until:

(A) the Parent Board determines in good faith after consultation with its financial advisors and outside legal counsel that a Parent Intervening Event has occurred;

(B) the Parent Board determines in good faith, after consultation with its financial advisors and outside legal counsel, that failure to effect a Parent Change of Recommendation in response to such Parent Intervening Event would be inconsistent with the fiduciary duties of the directors under applicable Law;

(C) Parent provides the Company written notice of such proposed action and the basis thereof four (4) Business Days in advance, which notice shall set forth in writing that the Parent Board intends to take such action and includes the reasons therefor a reasonable description of the facts and circumstances of the Parent Intervening Event and the reasons for the Parent Board's determination;

(D) during the four (4) Business Day period commencing on the date of the Company's receipt of the notice specified in clause (C) above (subject to any applicable extensions), Parent negotiates (and causes its officers, employees, financial advisor, outside legal counsel and other Representatives to negotiate) in good faith with the Company (to the extent the Company wishes to negotiate) to make such adjustments, amendments or revisions to the terms of this Agreement as would permit the Parent Board not to effect a Parent Change of Recommendation in response thereto; and

(E) at the end of the four (4) Business Day period, prior to taking action to effect a Parent Change of Recommendation, the Parent Board takes into account any binding irrevocable adjustments, amendments or revisions to the terms of this Agreement proposed by the Company in writing and any other information offered by Parent in response to the notice specified in clause (C) above, and determines in good faith after consultation with its financial advisors and outside legal counsel, that the failure to effect a Parent Change of Recommendation in response to such Parent Intervening Event would continue to be inconsistent with the fiduciary duties of the directors under applicable Law if such adjustments, amendments or revisions irrevocably offered in writing by the Company were to be given effect; provided that if there is any material development with respect to such Parent Intervening Event, Parent shall, in each case, be required to deliver to the Company an additional notice consistent with that described in clause (C) above and a new negotiation period under clause (D) above shall commence (except that the original four (4) Business Day notice period referred to in clause (C) above shall instead be equal to the longer of (1) two (2) Business Days and (2) the period remaining under the first and original four (4) Business Day notice period of clause (C) above, during which time Parent shall be required to comply with the requirements of clause (D) above and this clause anew with respect to such additional notice (but substituting the time periods therein with the foregoing extended period)).

(g) Notwithstanding anything to the contrary in this Section 6.4, any action, or failure to take action of a Representative of Parent that is taken by, at the direction of or at the request or on behalf of Parent or any of its Subsidiaries or its and their directors, officers, employees or Affiliates, in violation of this Section 6.4, shall be deemed to be a breach of this Section 6.4 by Parent.

Section 6.5 Preparation of the Joint Proxy Statement/Prospectus and Registration Statement.

(a) Parent will promptly furnish to the Company such data and information relating to it, its Subsidiaries (including Merger Sub) and the holders of its capital stock, as the Company may reasonably request for the purpose of including such data and information in the Joint Proxy Statement/Prospectus and any amendments or supplements thereto. The Company will promptly furnish to Parent such data and information relating to it, its Subsidiaries and the holders of its capital stock, as Parent may reasonably request for the purpose of including such data and information in the Joint Proxy Statement/Prospectus and the Registration Statement and any amendments or supplements thereto.

(b) Promptly following the date hereof, the Company and Parent shall cooperate in preparing and shall use their respective reasonable best efforts to cause to be filed with the SEC as promptly as practicable following the execution of this Agreement, and in any event no more than forty-five (45) days following the date of this Agreement, a mutually acceptable (i) Joint Proxy Statement/Prospectus relating to the matters to be submitted to the holders of Company Common Stock at the Company Stockholders Meeting and the matters to be submitted to the holders of Parent Common Stock at the Parent Stockholders Meeting and (ii) Registration Statement (of which the Joint Proxy Statement/Prospectus will be a part). The Company and Parent shall each use reasonable best efforts to cause the Joint Proxy Statement/Prospectus and the Registration Statement to comply as to form and substance in all material respects with the requirements of the Securities Act and the Exchange Act and the rules and regulations promulgated thereunder and to respond as promptly as practicable to any comments of the SEC or its staff. Parent and the Company shall each use its reasonable best efforts to cause the Registration Statement to become effective under the Securities Act as soon after such filing as reasonably practicable and Parent shall use reasonable best efforts to keep the Registration Statement effective as long as is necessary to consummate the Merger. Each of the Company and Parent will advise the other promptly after it receives any request by the SEC for amendment of the Joint Proxy Statement/Prospectus or the Registration Statement or comments thereon and responses thereto or any request by the SEC for additional information and Parent and the Company shall jointly prepare any response to such comments or requests, and shall provide each other with copies of all correspondence that is provided between it, on one hand, and by the SEC on the other hand. Each of Parent and the Company agrees to permit the other (in each case, to the extent practicable), and their respective counsels, to participate in all meetings and conferences with the SEC. Each of Parent and the Company shall use reasonable best efforts to cause all documents that it is responsible for filing with the SEC in connection with the Transactions to comply as to form and substance in all material respects with the applicable requirements of the Securities Act and the Exchange Act and the rules and regulations promulgated thereunder. Notwithstanding the foregoing, prior to filing the Registration Statement (or any amendment or supplement thereto) or filing or mailing the Joint Proxy Statement/Prospectus (or any amendment or supplement thereto) or responding to any comments of the SEC with respect thereto, each of the Company and Parent will (A) provide the other with a reasonable opportunity to review and comment on such document or response (including the proposed final version of such document or response), (B) include in such document or response all comments reasonably and promptly proposed by the other and (C) not file or mail such document or respond to the SEC prior to receiving the approval of the other, which approval shall not be unreasonably withheld, conditioned or delayed.

(c) Parent and the Company shall make all necessary filings with respect to the Integrated Mergers and the Transactions under the Securities Act and the Exchange Act and applicable "blue sky" laws and the rules and regulations thereunder and the rules and regulations of NASDAQ or the NYSE, as applicable. Each Party will advise the other, promptly after it receives notice thereof, of the time when the Registration Statement has become effective or any supplement or amendment has been filed, the issuance of any stop or cease-trade order, or the suspension of the qualification of the shares of Parent Common Stock issuable in connection with the Merger for offering or sale in any jurisdiction. Each of the Company and Parent will use reasonable best efforts to have any such stop or cease-trade order or suspension lifted, reversed or otherwise terminated.

(d) If at any time prior to the Effective Time, any information relating to Parent or the Company, or any of their respective Affiliates, officers or directors, should be discovered by Parent or the Company that should be set forth in an amendment or supplement to the Joint Proxy Statement/Prospectus or the Registration Statement, so that such documents would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Party that discovers such information shall promptly notify the other Party and an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and, to the extent required by applicable Law, disseminated to the stockholders of the Company and the stockholders of Parent.

Section 6.6 Stockholders Meetings.

(a) The Company shall take all action necessary in accordance with applicable Laws and the Organizational Documents of the Company to duly give notice of, convene and hold (in person or virtually, in accordance with applicable Law) the Company Stockholders Meeting, to be held as promptly as practicable following the clearance of the Joint Proxy Statement/Prospectus by the SEC and the Registration Statement is declared effective by the SEC (and in any event will use reasonable best efforts to convene such meeting within forty-five (45) days thereof and no later than five (5) Business Days prior to the Outside Date). Except where a Company Change of Recommendation has been made in compliance with Section 6.3, the Company Board shall recommend that the stockholders of the Company approve and adopt this Agreement at the Company Stockholders Meeting and the Joint Proxy Statement/Prospectus shall include the Company Board Recommendation. The Company shall solicit from stockholders of the Company proxies in favor of the adoption of this Agreement, use its reasonable best efforts to obtain the Company Stockholder Approval and submit the proposal to adopt this Agreement to the stockholders of the Company at the Company Stockholders Meeting. The Company shall ensure that all proxies solicited in connection with the Company Stockholders Meeting are solicited in compliance with any applicable Laws. Notwithstanding anything to the contrary contained in this Agreement, the Company (i) shall be required to adjourn or postpone the Company Stockholders Meeting (A) to the extent necessary to ensure that any legally required supplement or amendment to the Joint Proxy Statement/Prospectus is provided to the Company's stockholders or (B) if, as of the time for which the Company Stockholders Meeting is scheduled, there are insufficient shares of Company Common Stock represented (either in person or by proxy) to constitute a quorum necessary to conduct business at such Company Stockholders Meeting and (ii) may adjourn or postpone the Company Stockholders Meeting with the written consent of Parent if, as of the time for which the Company Stockholders Meeting is scheduled, there are insufficient shares of Company Common Stock represented (either in person or by proxy) to obtain the Company Stockholder Approval; provided, however, that (x) unless otherwise agreed to by the Parties, the Company Stockholders Meeting shall not be adjourned or postponed to a date that is more than ten (10) Business Days after the date for which the meeting was previously scheduled except as may be required by applicable Law; (y) the Company Stockholders Meeting shall not be adjourned or postponed to a date on or after five (5) Business Days prior to the Outside Date; and (z) no such adjournment or postponement may have the effect of changing the record date for determining the stockholders of the Company entitled to notice of or to vote at the Company Stockholders Meeting without the written consent of Parent (which consent shall not be unreasonably withheld, conditioned, or delayed). If requested by Parent, the Company shall promptly provide Parent with all voting tabulation reports relating to the Company Stockholders Meeting that have been prepared by the Company or the Company's transfer agent, proxy solicitor or other Representative, and shall otherwise keep Parent reasonably informed regarding the status of the solicitation and any material oral or written communications from or to the Company's stockholders with respect thereto. Unless there has been a Company Change of Recommendation made in accordance with Section 6.3, the Parties agree to cooperate and use their reasonable best efforts to defend against any efforts by any of the Company's stockholders or any other Person to prevent the Company Stockholder Approval from being obtained. The Company, in consultation with Parent, shall fix a record date for determining the stockholders of the Company entitled to notice of, and to vote at, the Company Stockholders Meeting and the Company shall not change such record date or establish a different record date for the Company Stockholders Meeting without the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned or delayed). Without the prior written consent of Parent or as required by applicable Law, (i) the adoption of this Agreement shall be the only matter (other than a non-binding advisory proposal regarding compensation that may be paid or become payable to the named executive officers of the Company in connection with the Integrated Mergers and matters of procedure, including any adjournment proposal) that the Company shall propose to be acted on by the stockholders of the Company at the Company Stockholders Meeting and the Company shall not submit any other proposal to such stockholders in connection with the Company Stockholders Meeting or otherwise (including any proposal inconsistent with the adoption of this Agreement or the consummation of the Transactions) and (ii) the Company shall not call any meeting of the stockholders of the Company (or solicit any other stockholder action by written consent) other than the Company Stockholders Meeting.

(b) Parent shall take all action necessary in accordance with applicable Laws and the Organizational Documents of Parent to duly give notice of, convene and hold (in person or virtually, in accordance with applicable Law) the Parent Stockholders Meeting, to be held as promptly as practicable following the clearance of the Joint Proxy Statement/Prospectus by the SEC and the Registration Statement is declared effective by the SEC (any in any event will use reasonable best efforts to convene such meeting within forty-five (45) days thereof and no later than five (5) Business Days prior to the Outside Date). Except where a Parent Change of Recommendation has been made in compliance with Section 6.4, the Parent Board shall recommend that the stockholders of Parent approve and adopt this Agreement at the Parent Stockholders Meeting and the Joint Proxy Statement/Prospectus shall include the Parent Board Recommendation. Parent shall solicit from stockholders of Parent proxies in favor of the adoption of this Agreement, use its reasonable best efforts to obtain the Parent Stockholder Approval and submit the proposal to adopt this Agreement to the stockholders of Parent at the Parent Stockholders Meeting. Parent shall ensure that all proxies solicited in connection with the Parent Stockholders Meeting are solicited in compliance with any applicable Laws. Notwithstanding anything to the contrary contained in this Agreement, Parent (i) shall be required to adjourn or postpone the Parent Stockholders Meeting (A) to the extent necessary to ensure that any legally required supplement or amendment to the Joint Proxy Statement/Prospectus is provided to Parent's stockholders or (B) if, as of the time for which the Parent Stockholders Meeting is scheduled, there are insufficient shares of Parent Common Stock represented (either in person or by proxy) to constitute a quorum necessary to conduct business at such Parent Stockholders Meeting and (ii) may adjourn or postpone the Parent Stockholders Meeting with the written consent of the Company if, as of the time for which the Parent Stockholders Meeting is scheduled, there are insufficient shares of Parent Common Stock represented (either in person or by proxy) to obtain the Parent Stockholder Approval; provided, however, that (x) unless otherwise agreed to by the Parties, the Parent Stockholders Meeting shall not be adjourned or postponed to a date that is more than ten (10) Business Days after the date for which the meeting was previously scheduled except as may be required by applicable Law; (y) the Parent Stockholders Meeting shall not be adjourned or postponed to a date on or after five (5) Business Days prior to the Outside Date; and (z) no such adjournment or postponement may have the effect of changing the record date for determining the stockholders of Parent entitled to notice of or to vote at the Parent Stockholders Meeting without the written consent of the Company (which consent shall not be unreasonably withheld, conditioned, or delayed). If requested by the Company, Parent shall promptly provide the Company with all voting tabulation reports relating to the Parent Stockholders Meeting that have been prepared by Parent or Parent's transfer agent, proxy solicitor or other Representative, and shall otherwise keep the Company reasonably informed regarding the status of the solicitation and any material oral or written communications from or to Parent's stockholders with respect thereto. Unless there has been a Parent Change of Recommendation made in accordance with Section 6.4, the Parties agree to cooperate and use their reasonable best efforts to defend against any efforts by any of Parent's stockholders or any other Person to prevent Parent Stockholder Approval from being obtained. Parent, in consultation with the Company, shall fix a record date for determining the stockholders of Parent entitled to notice of, and to vote at, the Parent Stockholders Meeting and Parent shall not change such record date or establish a different record date for the Parent Stockholders Meeting without the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed). Without the prior written consent of the Company or as required by applicable Law, (i) the Parent Stock Issuance shall be the only matter that Parent shall propose to be acted on by the stockholders of Parent at the Parent Stockholders Meeting and Parent shall not submit any other proposal to such stockholders in connection with the Parent Stockholders Meeting or otherwise (including any proposal inconsistent with the adoption of this Agreement or the consummation of the Transactions) and (ii) Parent shall not call any meeting of the stockholders of Parent (or solicit any other stockholder action by written consent) other than the Parent Stockholders Meeting.

(c) The Parties shall cooperate and use their reasonable best efforts to set the record dates for and hold the Company Stockholders Meeting and the Parent Stockholders Meeting, as applicable, on the same day and at approximately the same time.

(d) Promptly following the execution of this Agreement, Parent shall cause the adoption of this Agreement (i) in its capacity as the sole stockholder of Merger Sub in accordance with applicable Law and the Organizational Documents of Merger Sub and (ii) in its capacity as sole member of LLC Sub in accordance with applicable Law and the Organizational Documents of LLC Sub and, in each case, deliver to the Company evidence of such votes or actions by written consent so approving and adopting this Agreement.

Section 6.7 Access to Information.

(a) Subject to applicable Law and the other provisions of this Section 6.7, the Company and Parent each shall (and shall cause its Subsidiaries to), upon reasonable advance written notice by the other, use reasonable best efforts to furnish the other with all information concerning itself, its Subsidiaries, directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with the Joint Proxy Statement/Prospectus, the Registration Statement, or any other statement, filing, notice or application made by or on behalf of Parent, the Company or any of their respective Subsidiaries to any third party or any Governmental Entity in connection with the Transactions. The Company and Parent shall, and shall cause each of its Subsidiaries to, the other Party, use reasonable best efforts to afford the other Party's officers and its Representatives, during the period prior to the earlier of the Effective Time and the termination of this Agreement pursuant to the terms of Section 8.1, reasonable access, at reasonable times upon reasonable prior notice, to the officers, key employees, agents, properties, offices and other facilities of the other Party and its Subsidiaries and to their books, records, contracts and documents and shall, and shall cause each of its Subsidiaries to, furnish reasonably promptly to such Party and its Representatives such information concerning its and its Subsidiaries' business, properties, contracts, records and personnel as may be reasonably requested, from time to time, by or on behalf of the other Party; provided, that such access may be limited by either Party to the extent reasonably necessary to comply with applicable Law; provided, further, that if any access is withheld pursuant to the immediately preceding proviso, the withholding Party shall use commercially reasonable efforts to seek an alternative means to provide the access to the withheld information in a manner that does not violate any such Law. Each Party and its Representatives shall conduct any such activities in such a manner as not to interfere unreasonably with the business or operations of the other Party or its Subsidiaries or otherwise cause any unreasonable interference with the prompt and timely discharge by the employees of the other Party and its Subsidiaries of their normal duties. Notwithstanding the foregoing:

(i) No Party shall be required to, or to cause any of its Subsidiaries to, grant access or furnish information, as applicable, to the other Party or any of its Representatives to the extent that such information is subject to an attorney/client privilege or the attorney work product doctrine or that such access or the furnishing of such information, as applicable, is prohibited by applicable Law or an existing contract or agreement (provided, however, the Company or Parent, as applicable, shall inform the other Party as to the general nature of what is being withheld and the Company and Parent shall reasonably cooperate to make appropriate substitute arrangements to permit reasonable disclosure that does not suffer from any of the foregoing impediments, including through the use of commercially reasonable efforts to (A) obtain the required consent or waiver of any third party required to provide such information and (B) implement appropriate and mutually agreeable measures to permit the disclosure of such information in a manner to remove the basis for the objection, including by arrangement of appropriate clean room procedures, redaction or entry into a customary joint defense agreement with respect to any information to be so provided, if the Parties determine that doing so would reasonably permit the disclosure of such information without violating applicable Law or jeopardizing such privilege);

(ii) No Party shall have access to personnel records of the other Party or any of its Subsidiaries relating to individual performance or evaluation records, medical histories or other personnel information that in the other Party's good faith opinion the disclosure of which could subject the other Party or any of its Subsidiaries to risk of liability;

(iii) No Party shall be required to, or to cause any of its Subsidiaries to, grant access or furnish information, as applicable, to the other Party or any of its Representatives to the extent that such results in the disclosure of competitively sensitive information or information concerning the valuation of the Company, Parent or any of their respective Subsidiaries;

(iv) Notwithstanding the foregoing, neither Party shall be permitted to conduct any invasive or intrusive sampling, testing or analysis (commonly known as a "Phase II") of any environmental media or building materials at any facility of the other Party or its Subsidiaries without the prior written consent of the other Party (which may be granted or withheld in such Party's sole discretion); and

(v) No investigation or information provided pursuant to this Section 6.7 shall affect or be deemed to modify any representation or warranty made by the Company, Parent, Merger Sub or LLC Sub herein and no Party shall, and each Party shall use their reasonable best efforts to cause their respective Representatives to not, use any information obtained pursuant to this Section 6.7 for any purpose unrelated to the evaluation, negotiation or consummation of the Transactions; provided, that in event that the Company or Parent, as applicable, objects to any request submitted pursuant to and in accordance with this Section 6.7(a) and withholds information on the basis of the foregoing clauses (i) through (v), the Company or Parent, as applicable, shall inform the other Party in writing as to the general nature of what is being withheld and shall use reasonable best efforts to make appropriate substitute arrangements to permit reasonable disclosure that does not suffer from any of the foregoing impediments. Each of the Company and Parent, as it deems advisable and necessary, may reasonably designate competitively sensitive material provided to the other as "Outside Counsel Only Material" or with similar restrictions. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient, or otherwise as the restriction indicates, and be subject to any additional confidentiality or joint defense agreement between the Parties. All requests for information made pursuant to this Section 6.7(a) shall be directed to the Person designated by the Company or Parent, as applicable.

(b) The Confidentiality Agreement between Parent and the Company (the "Confidentiality Agreement") shall survive the execution and delivery of this Agreement and shall apply to all information furnished thereunder or hereunder; provided that, for the avoidance of doubt, the restrictions set forth in the Confidentiality Agreement shall not limit the disclosure or dissemination of information (including publicly) if required by Law or requested by any Governmental Entity, Financial Industry Regulatory Authority, NYSE or NASDAQ. From and after the date of this Agreement until the earlier of the Effective Time and termination of this Agreement in accordance with Article VIII, each Party shall continue to provide access to the other Party and its Representatives to the electronic data room relating to the Transactions maintained by or on behalf of it to which the other Party and its Representatives were provided access prior to the date of this Agreement.

Section 6.8 HSR and Other Approvals.

(a) Except for the Consents and other matters related to Antitrust Laws to which Sections 6.8(b) and 6.8(c), and not this Section 6.8(a), shall apply, promptly following the execution of this Agreement, the Parties shall proceed to prepare and file with the appropriate Governmental Entities and other third parties all Consents that are necessary in order to consummate the Transactions and shall diligently and expeditiously prosecute, and shall cooperate fully with each other in the prosecution of, such matters. Notwithstanding the foregoing, in no event shall either the Company or Parent or any of their respective Affiliates be required to pay any consideration to any third parties or give anything of value to obtain any such Person's Consent to effectuate the Transactions, other than filing, recordation or similar fees. Parent and the Company shall have the right to review in advance and, to the extent reasonably practicable, each will consult with the other on and consider in good faith the views of the other in connection with, all of the information relating to Parent or the Company, as applicable, and any of their respective Subsidiaries or Affiliates, that appears in any filing made with, or written materials submitted to, any third party or any Governmental Entity in connection with the Transactions (including the Joint Proxy Statement/Prospectus) under this Section 6.8(a). The Company and its Subsidiaries and Affiliates shall not agree to any actions, restrictions or conditions with respect to obtaining any Consents in connection with the Transactions without the prior written consent of Parent (which consent may be withheld in Parent's sole discretion).

(b) As promptly as reasonably practicable but in no event later than fifteen (15) Business Days after the date of this Agreement (unless Parent and the Company agree in writing to a later date), the Parties shall, or shall cause their Affiliates to, make any filings required under the HSR Act in connection with the Transactions. Each Party shall use reasonable best efforts to obtain the expiration or termination of any waiting period under the HSR Act applicable to the Transactions and bring about the Closing as promptly as reasonably practicable (and in any event before the Outside Date). In furtherance of the foregoing, each Party shall:

(i) cooperate fully with the other Party and furnish to it such necessary information and reasonable assistance as it may reasonably request in connection with its preparation of any required filings under the HSR Act;

(ii) use reasonable best efforts to respond appropriately as promptly as reasonably practicable to any request for information in connection with the Transactions from any Governmental Entity under the HSR Act or any other Law designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, restraint of trade or lessening competition through merger or acquisition (collectively, "Antitrust Laws");

(iii) keep the other Party apprised of any substantive communications with, and any inquiries or requests for additional information from, any Governmental Entity in connection with the Transactions;

(iv) provide copies to the other Party of all substantive written communications relating to the Transactions to or from any Governmental Entity, provided, that each Party may redact or withhold materials due to reasonable good-faith confidentiality or privilege concerns or designate such communications as "Outside Counsel Only Material";

(v) permit the other Party a reasonable opportunity to review any proposed substantive written communications to a Governmental Entity, and consider in good faith the other Party's comments thereon;

(vi) not participate in any substantive discussion with any Governmental Entity in relation to the Transactions without giving the other Party reasonable notice and an opportunity to participate;

(vii) use reasonable efforts to share information protected from disclosure under the attorney-client privilege, work product doctrine, joint defense privilege or any other privilege pursuant to this Section 6.8(b) so as to preserve any applicable privilege; and

(viii) not enter into any timing agreement with any Governmental Entity that would reasonably be expected to extend beyond the Outside Date, without the prior written consent of the other Party.

(c) In furtherance of the foregoing, the Parties shall each use reasonable best efforts to take, or cause to be taken, all actions and to do or cause to be done, all things necessary, proper or advisable to consummate the Transactions as promptly as reasonably practicable (taking into account the time reasonably needed to respond to and resolve concerns or requirements of applicable regulators), including (i) proposing, negotiating, agreeing to, and effecting the sale, leasing, licensing, divestiture or other disposition of any assets, operations, businesses or interests of the Company or Parent and their respective Subsidiaries and Affiliates; (ii) terminating existing relationships, contractual rights or obligations of the Company or Parent and their respective Subsidiaries and Affiliates; (iii) terminating any venture or other arrangement of the Company or Parent and their respective Subsidiaries and Affiliates; (iv) creating any relationship, contractual rights or obligations binding on the Company or Parent and their respective Subsidiaries and Affiliates; (v) effectuating any other change or restructuring of the Company or Parent and their respective Subsidiaries and Affiliates; or (vi) agreeing to restrictions or actions that after the Closing would limit Parent's or its Subsidiaries' freedom of action or operation (any such action, a "Remedy Action"), and, in connection therewith, entering into appropriate agreements with or stipulating to the entry of an order by any Governmental Entity; provided, however, that (x) any Remedy Action shall be conditioned on the Closing and (y) notwithstanding anything to the contrary contained in this Agreement, nothing in this Section 6.8 or otherwise in this Agreement shall require Parent or any of its Subsidiaries or Affiliates to offer, propose, negotiate, commit to, agree to, effect or take any Remedy Action that would, or would reasonably be expected to, either individually or in the aggregate, have a material adverse effect on the financial condition, business, assets, or results of operations of Parent, the Company and their respective Subsidiaries, taken as a whole, provided, however, that for this purpose, Parent, the Company and their respective Subsidiaries, taken as a whole, shall be deemed a consolidated group of entities of the size and scale of a hypothetical company that is 100% of the size of the Company and its Subsidiaries, taken as a whole, taking into account the terms of any divestiture or other disposition of assets, as of the date of this Agreement. The Company shall (and shall cause its Subsidiaries and Affiliates to) take, or agree to take, any Remedy Action that Parent requests in writing, provided that such Remedy Action is conditioned on the Closing. The Company shall not (and shall cause its Subsidiaries and Affiliates not to) offer, propose, negotiate, commit to, agree to, effect or take any Remedy Action without Parent's prior written consent. If a Proceeding is instituted by any Governmental Entity challenging the validity or legality or seeking to restrain the consummation of the Transactions, the Parties shall each use their reasonable best efforts to resist, resolve, or, if necessary defend, such Proceeding. Parent shall, upon reasonable consultation with the Company and in consideration of the Company's views in good faith, and, subject to the penultimate sentence of Section 6.8(b), control, lead and direct all actions, decisions and strategy for, and make all final determinations as to the timing and appropriate course of action with respect to, making and obtaining Consents with or from Governmental Entities in connection with the Transactions and responding to and defending any Proceeding by or with any Governmental Entity in connection with the Transactions, including all matters relating to Antitrust Laws, provided, however, that Parent shall afford the Company a reasonable opportunity to participate therein and shall consider the views of the Company in good faith in connection with the foregoing.

(d) Neither Party shall take any action that would reasonably be expected to prevent or materially delay the Closing or the expiration or termination of the waiting period under the HSR Act. In furtherance of the foregoing, each Party shall not, and shall cause its respective Subsidiaries and Affiliates not to, acquire or merge with any Person or portion thereof (or agree to do the foregoing), if the entering into of a definitive agreement relating to or the consummation of such transaction would reasonably be expected to (x) materially delay the Closing or the expiration or termination of the waiting period under the HSR Act, (y) materially increase the risk of any Governmental Entity instituting a Proceeding seeking to prohibit the Transactions, or (z) materially increase the risk of any Governmental Entity entering an order prohibiting the Transactions.

Section 6.9 Employee Matters.

(a) Until the date that is twelve (12) months following the Closing Date, (or, if earlier, the date of the applicable employee's termination of employment with Parent or one of its Subsidiaries), Parent shall cause each individual who was employed immediately prior to the Closing by the Company or a Subsidiary thereof (a "Company Employee") and who remains employed by Parent or any of its Subsidiaries (including the Surviving Corporation, LLC Sub and their respective Subsidiaries) to be provided with (i) a base salary or wages, as applicable, that are no less favorable than those provided to such Company Employee immediately prior to the Closing Date; (ii) a total annual cash incentive opportunity that is no less favorable than that provided to such Company Employee immediately prior to the Closing Date; (iii) equity compensation or long-term cash incentive compensation opportunity, as applicable, that is substantially comparable to that provided to such Company Employee immediately prior to the Closing Date, provided that the amount of such equity compensation or long-term cash incentive compensation opportunity, as applicable, may be adjusted to avoid duplication that otherwise may arise as a result of differences in timing of grants by the Company prior to the Closing Date and by Parent following the Closing Date, provided further that such long-term cash incentive compensation opportunity may instead be in the form of equity compensation; and (iv) employee benefits (excluding for the avoidance of doubt, incentives and equity compensation, which are covered above, and severance benefits, which are covered below) at a level that is no less favorable in the aggregate than either the employee benefits in effect for such Company Employee immediately prior to the Closing Date or the employee benefits provided to similarly situated employees of Parent and its Subsidiaries. In the case of a Company Employee who is terminated during the 12-month period following Closing, such Company Employee will be eligible for severance benefits under and subject to the terms and conditions of the Southwestern Energy Change in Control Severance Plan or, if applicable, such Company Employee's individual severance agreement entered into with the Company.

(b) Parent shall, or shall cause the Surviving Corporation, LLC Sub and their respective Subsidiaries, to assume and honor their respective obligations under all employment, severance, change in control, retention and other agreements, if any, between the Company (or a Subsidiary thereof) and a Company Employee.

(c) From and after the Effective Time, as applicable, Parent shall, or shall cause its Subsidiaries (including the Surviving Corporation, LLC Sub and their respective Subsidiaries), to credit the Company Employees for purposes of vesting, eligibility and benefit accrual under the Parent Plans and any other benefit or compensation plan, program, policy, agreement or arrangement of Parent or any of its Subsidiaries (including the Surviving Corporation, LLC Sub and their respective Subsidiaries) (other than with respect to any "defined benefit plan" as defined in Section 3(35) of ERISA, retiree medical, dental, life or disability benefits, or to the extent such credit would result in a duplication of benefits) in which the Company Employees participate, for such Company Employees' service with the Company and its Subsidiaries, to the same extent and for the same purposes that such service was taken into account under a corresponding Company Benefit Plan immediately prior to the Closing Date. Parent shall, or shall cause its Subsidiaries (including the Surviving Corporation and its Subsidiaries) to, give service credit for long term disability coverage purposes for the Company Employees' service with the Company and its Subsidiaries.

(d) From and after the Effective Time, as applicable, Parent shall, or shall cause its Subsidiaries (including the Surviving Corporation, LLC Sub and their respective Subsidiaries) to, take commercially reasonable efforts to, for the plan year in which the Closing Date occurs, (i) waive any limitation on health and welfare coverage of any Company Employee and his or her eligible dependents due to pre-existing conditions and/or waiting periods, active employment requirements and requirements to show evidence of good health under the applicable health and welfare Parent Plan to the extent such Company Employee and his or her eligible dependents are covered under a Company Benefit Plan immediately prior to the Closing Date, and such conditions, periods or requirements are satisfied or waived under such Company Benefit Plan and (ii) give each Company Employee credit towards applicable deductibles and annual out-of-pocket limits for medical expenses incurred prior to the Closing Date for which payment has been made.

(e) It is acknowledged and agreed that the consummation of the transactions contemplated hereby will constitute a "change of control" (or "change in control" or transaction of similar import) of the Company and its Subsidiaries under the terms of the Company Benefit Plans.

(f) If requested by Parent in writing not less than ten (10) days prior to the Effective Time, the Company shall, or shall cause its applicable Subsidiaries to, adopt resolutions necessary to terminate each Company Benefit Plan that is intended to be qualified under Section 401(a) of the Code and that contains a cash or deferred arrangement within the meaning of Section 401(k) of the Code (collectively, the "Company 401(k) Plans"), effective as of the day immediately prior to the Closing Date, and the Company shall provide Parent with copies of such resolutions to terminate the Company 401(k) Plans, the form of such resolutions shall be subject to the reasonable approval of Parent. To the extent the Company 401(k) Plans are terminated pursuant to Parent's request, the Company Employees shall be eligible to participate immediately after the Closing in a 401(k) plan maintained by Parent or one of its Subsidiaries ("Parent 401(k) Plan"). Parent shall or shall cause the Parent 401(k) Plan to accept the rollover of any "eligible rollover distribution" (within the meaning of Section 402(c)(4) of the Code) from the Company 401(k) Plans that is in cash but including plan loans.

(g) For purposes of determining the number of vacation days and other paid time off to which each Company Employee is entitled during the calendar year in which the Closing occurs, Parent, LLC Sub, the Surviving Corporation or one of their Subsidiaries will credit such Company Employee for such Company Employee's service with the Company and its Subsidiaries, to the same extent and for the same purposes that such service was taken into account under the applicable Company Benefit Plans, and Parent, the Surviving Corporation or one of their Subsidiaries will assume and honor all unused vacation and other paid time off days accrued or earned by each Company Employee through the Closing, pursuant to the terms of the applicable Company Benefit Plan as in effect immediately prior to the Closing, provided that the foregoing shall not prohibit Parent or the Surviving Corporation from amending or modifying its applicable vacation policies as in effect from time to time so long as Parent and Surviving Corporation comply with the provisions of this Section 6.9(g).

(h) If the Effective Time occurs in 2024, each Company Employee who as of immediately prior to the Effective Time is eligible for an annual bonus for 2024 (each a "Participating Employee") and who remains employed with Parent or its Subsidiaries through the payment date, shall receive in cash, on Parent's regular payment date for annual bonuses (the "Bonus Payment Date"), the following bonus to the extent such bonus is not otherwise paid prior to the Effective Time: (i) for the period from January 1, 2024 through the Effective Time (or the last day of the month immediately preceding the Effective Time, if the Effective Time does not occur on the last day of a month) a bonus in an amount determined based on the level of attainment of the applicable performance measures measured as of the Effective Time (or the last day of the month immediately preceding the Effective Time, if the Effective Time does not occur on the last day of a month) against budgeted performance for such period, but in no event less than 100% of the target amount of such bonus, which bonus, for the avoidance of doubt, will be prorated to reflect the number of calendar days during such period and (ii) if applicable, for the post-Effective Time portion of 2024, an annual bonus opportunity prorated for the post-Effective Time portion of the year in which the Effective Time occurs in accordance with Section 6.9(a)(i), with payout based on the satisfaction of performance objectives determined by Parent with respect to such post-Closing period, but in no event less than 100% of the target amount of such bonus opportunity.

(i) Nothing in this Agreement shall constitute an establishment of, amendment to, or be construed as amending or terminating, any Parent Plan, Company Benefit Plan or other Employee Benefit Plan which, in each case, is sponsored, maintained or contributed to by the Company, Parent or any of their respective Subsidiaries. The provisions of this Section 6.9 are for the sole benefit of the Parties and nothing herein, expressed or implied, is intended or will be construed to confer upon or give to any Person (including, for the avoidance of doubt, any Company Employee or other current or former employee of the Company, Parent or any of their respective Affiliates), other than the Parties and their respective permitted successors and assigns, any third-party beneficiary, legal or equitable or other rights or remedies (including with respect to the matters provided for in this Section 6.9) under or by reason of any provision of this Agreement. Nothing in this Agreement is intended to prevent Parent, LLC Sub, the Surviving Corporation or any of their Affiliates (i) from amending or terminating any of their respective Employee Benefit Plans or, after the Closing, any Company Benefit Plan in accordance with their terms or (ii) after the Closing, from terminating the employment of any Company Employee at any time and for any reason.

Section 6.10 Indemnification; Directors' and Officers' Insurance.

(a) Without limiting any other rights that any Indemnified Person may have pursuant to any employment agreement, organizational document or indemnification agreement in effect on the date hereof or otherwise, and to the fullest extent permitted by applicable Law, from the Effective Time and until the six (6) year anniversary of the Effective Time, Parent and the Surviving Corporation shall, jointly and severally, indemnify, defend and hold harmless in the same manner as provided by the Company immediately prior to the date of this Agreement, each Person who is now, or has been at any time prior to the date of this Agreement or who becomes prior to the Effective Time, a director or officer of the Company or any of its Subsidiaries or who acts as a fiduciary under any Company Benefit Plan, in each case, when acting in such capacity (the "Indemnified Persons") against all losses, claims, damages, costs, fines, penalties, expenses (including attorneys' and other professionals' fees and expenses), liabilities or judgments or amounts that are paid in settlement, of or incurred in connection with any threatened or actual Proceeding to which such Indemnified Person is or is threatened to be made a party by reason of the fact that such Person is or was a director or officer of the Company or any of its Subsidiaries, a fiduciary under any Company Benefit Plan or, while a director or officer of the Company or any of its Subsidiaries, is or was serving at the request of the Company or any of its Subsidiaries as a director, officer or fiduciary of another corporation, partnership, limited liability company, joint venture, Employee Benefit Plan, trust or other enterprise, as applicable, whether pertaining to any act or omission occurring or existing at or prior to, but not after, the Effective Time and whether asserted or claimed prior to, at or after the Effective Time ("Indemnified Liabilities"), including all Indemnified Liabilities based in whole or in part on, or arising in whole or in part out of, or pertaining to, this Agreement or the Transactions, in each case to the fullest extent permitted under applicable Law (and Parent and the Surviving Corporation shall, jointly and severally, pay expenses incurred in connection therewith in defending any such Proceeding in advance of the final disposition of any such Proceeding to each Indemnified Person to the fullest extent permitted under applicable Law upon receipt of an undertaking from such Person to repay any such amounts so advanced if it shall ultimately be determined that such Person is not entitled to indemnification from Parent or the Surviving Corporation therefor). Any Indemnified Person wishing to claim indemnification or advancement of expenses under this Section 6.10, upon learning of any such Proceeding, shall notify Parent and the Surviving Corporation (but the failure so to notify shall not relieve a Party from any obligations that it may have under this Section 6.10 except to the extent such failure prejudices Parent, the Surviving Corporation or such Party's position with respect to such claims or liability therefor). With respect to any determination of whether any Indemnified Person is entitled to indemnification by Parent or Surviving Corporation under this Section 6.10, such Indemnified Person shall have the right, as contemplated by the DGCL, to require that such determination be made by special, independent legal counsel selected by the Indemnified Person and approved by Parent or Surviving Corporation, as applicable (which approval shall not be unreasonably withheld or delayed), and who has not otherwise performed material services for Parent, Surviving Corporation or the Indemnified Person within the last three (3) years.

(b) Parent and the Surviving Corporation agree that, until the six (6) year anniversary date of the Effective Time, that neither Parent nor the Surviving Corporation shall amend, repeal or otherwise modify any provision in the Organizational Documents of the Surviving Corporation or its Subsidiaries in any manner that would affect (or manage the Surviving Corporation or its Subsidiaries, with the intent to or in a manner that would) adversely the rights thereunder or under the Organizational Documents of the Surviving Corporation or any of its Subsidiaries of any Indemnified Person to indemnification, exculpation and advancement except to the extent required by applicable Law. Parent shall, and shall cause the Surviving Corporation and its Subsidiaries to, fulfill and honor any indemnification, expense advancement or exculpation agreements between the Company or any of its Subsidiaries and any of their respective directors or officers existing and in effect immediately prior to the Effective Time.

(c) Parent and the Surviving Corporation shall indemnify any Indemnified Person against all reasonable costs and expenses (including reasonable and documented attorneys' fees and expenses), such amounts to be payable in advance upon request as provided in Section 6.10(a), relating to the enforcement of such Indemnified Person's rights under this Section 6.10 or under any charter, bylaw or Contract; provided, that if any such payment is for costs or expenses relating to a loss or liability that is determined by a court of competent jurisdiction to have resulted primarily from the fraud, bad faith, willful misconduct or gross negligence of such Indemnified Person, such Indemnified Person shall promptly repay such amount to Parent or the Surviving Corporation, as applicable.

(d) Parent and the Surviving Corporation shall cause to be put in place, and Parent shall fully prepay immediately prior to the Effective Time, "tail" insurance policies with a claims reporting or discovery period of at least six (6) years from the Effective Time (the "Tail Period") from an insurance carrier with the same or better credit rating as the Company's current insurance carrier with respect to directors' and officers' liability insurance ("D&O Insurance") in an amount and scope at least as favorable as the Company's existing policies with respect to matters, acts or omissions existing or occurring at, prior to, or after, the Effective Time; provided, however, that in no event shall the aggregate cost of the D&O Insurance exceed during the Tail Period 300% of the current aggregate annual premium paid by the Company for such purpose for the 2023 fiscal year; and provided, further, that if the cost of such insurance coverage exceeds such amount, the Surviving Corporation shall obtain a policy with the greatest coverage reasonably available for a cost not exceeding such amount.

(e) In the event that, prior to the six (6) year anniversary date of the Effective Time, Parent, the Surviving Corporation or any of their respective successors or assignees (i) consolidates with or merges into any other Person and shall not be the continuing or surviving company or entity of such consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any Person, then, in each such case, proper provisions shall be made so that the successors and assigns of Parent or the Surviving Corporation, as the case may be, shall assume the obligations set forth in this Section 6.10. The provisions of this Section 6.10 are intended to be for the benefit of, and shall be enforceable by, the Parties and each Person entitled to indemnification or insurance coverage or expense advancement pursuant to this Section 6.10, and his heirs and Representatives. The rights of the Indemnified Persons under this Section 6.10 are in addition to any rights such Indemnified Persons may have under the Organizational Documents of Parent, the Company or any of their respective Subsidiaries, or under any applicable contracts or Law.

Section 6.11 Transaction Litigation. In the event any Proceeding (but excluding any Proceeding under or related to Antitrust Laws, for which Section 6.8 shall control) by any Governmental Entity or other Person (other than the Parties hereto) is commenced or, to the Knowledge of the Company or Parent, as applicable, threatened against such Party, that questions the validity or legality of the Transactions or seeks damages or an injunction in connection therewith, including stockholder litigation ("Transaction Litigation"), the Company or Parent, as applicable, shall promptly notify the other Party of such Transaction Litigation and shall keep the other Party reasonably informed with respect to the status thereof. Each Party shall give the other Party a reasonable opportunity to participate in the defense or settlement of any Transaction Litigation (at such other Party's cost) and shall consider in good faith, acting reasonably, the other Party's advice with respect to such Transaction Litigation; provided, that the Party that is subject to such Transaction Litigation shall not offer or agree to settle any Transaction Litigation without the prior written consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed).

Section 6.12 **Public Announcements**. The initial press release with respect to the execution of this Agreement shall be a joint press release to be reasonably agreed upon by the Parties. No Party shall, and each will use its reasonable best efforts to cause its Representatives not to, issue any public announcements or make other public disclosures regarding this Agreement or the Transactions, without the prior written approval of the other Party. Notwithstanding the foregoing, but subject to the provisions of Section 6.3 and Section 6.4, a Party, its Subsidiaries or their Representatives may issue a public announcement or other public disclosures (a) required by applicable Law, (b) required by the rules of any stock exchange upon which such Party's or its Subsidiary's capital stock is traded or (c) consistent with the final form of the joint press release announcing the Merger and the investor presentation given to investors on the morning of announcement of the Merger; provided, in each case, such Party uses reasonable best efforts to afford the other Party an opportunity to first review the content of the proposed disclosure and provide reasonable comments thereon (which such comments shall be considered in good faith by the disclosing party); and provided, however, that no provision in this Agreement shall be deemed to restrict in any manner a Party's ability to communicate directly and confidentially with its employees and that neither Party shall be required by any provision of this Agreement to consult with or obtain any approval from any other Party with respect to a public announcement or press release issued in connection with the receipt and existence of a Company Competing Proposal or a Parent Competing Proposal, as applicable, and matters related thereto or a Company Change of Recommendation or a Parent Change of Recommendation, other than as set forth in Section 6.3 or Section 6.4, as applicable.

Section 6.13 **Advice on Certain Matters; Control of Business**. Subject to compliance with applicable Law, the Company and Parent, as the case may be, shall confer on a regular basis with each other and shall promptly advise each other orally and in writing of any change or event having, or that would be reasonably likely to have, individually or in the aggregate, a Company Material Adverse Effect or Parent Material Adverse Effect, as the case may be. Except with respect to Antitrust Laws as provided in Section 6.8, the Company and Parent shall promptly provide each other (or their respective counsel) copies of all filings made by such Party or its Subsidiaries with the SEC or any other Governmental Entity in connection with this Agreement and the Transactions. Without limiting in any way any Party's rights or obligations under this Agreement, nothing contained in this Agreement shall give any Party, directly or indirectly, the right to control or direct the other Party and their respective Subsidiaries' operations prior to the Effective Time. Prior to the Effective Time, each of the Parties shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations.

Section 6.14 Financing Cooperation.

(a) Until the earlier of the Closing and the termination of this Agreement pursuant to Article VIII, the Company shall use commercially reasonable efforts to provide, and shall cause its Subsidiaries and use commercially reasonable efforts to cause its and their respective Representatives to provide, such cooperation, at Parent's sole cost and expense, as may be reasonably requested by Parent in connection (i) with any evaluation or analysis of, or diligence with respect to, the existing Indebtedness of the Company or any of its Subsidiaries, including (a) reasonably promptly furnishing any pertinent and customary information regarding the Company and its Subsidiaries as may be reasonably requested by Parent relating to the existing Indebtedness of the Company or any of its Subsidiaries (including using commercially reasonable efforts to ensure that lenders and/or holders of the existing Indebtedness of the Company or any of its Subsidiaries and their advisors and consultants shall have sufficient access to the Company and its Subsidiaries and its and their respective Representatives) and (b) upon reasonable notice and at reasonable, mutually agreed times and locations, participating in meetings and presentations with lenders and/or holders of the existing Indebtedness of the Company or any of its Subsidiaries (in each case which shall be telephonic or virtual meetings or sessions, as circumstances require) and (ii) with any consents from, or agreements with, lenders or noteholders, or any internal reorganization transactions, in each case with respect to the assumption of the existing Indebtedness of the Company by Parent (other than, for the avoidance of doubt, the Company Credit Facility) and the waiver of any requirement to consummate any redemption thereof.

(b) Until the earlier of the Closing and the termination of this Agreement pursuant to Article VIII, the Company shall use commercially reasonable efforts to provide, and shall cause its Subsidiaries and use commercially reasonable efforts to cause its and their respective Representatives to provide, such cooperation, at Parent's sole cost and expense, as may be reasonably requested by Parent in connection with the arrangement of any debt financing that may be arranged by Parent or any of its Affiliates in connection with the Transactions (the "Debt Financing"), including by using commercially reasonable efforts to (i) upon reasonable advance notice and at mutually agreeable times and locations, participate in a reasonable number of bank meetings, due diligence sessions and similar presentations to and with prospective arrangers, underwriters or lenders with respect to the Debt Financing (including the parties to any commitment letters, engagement letters, joinder agreements, indentures or credit agreements entered into pursuant to or relating to any Debt Financing, the "Debt Financing Sources") and rating agencies, including direct contact between senior management and the other Representatives of the Company, on the one hand, and the actual and potential Debt Financing Sources and ratings agencies, on the other hand, (ii) furnish Parent with such customary historical financial and other factual information that is readily available to, and in the form customarily prepared by, the Company and its Subsidiaries regarding the Company and its Subsidiaries as may be reasonably requested by Parent's actual and potential Debt Financing Sources and is customarily provided in connection with financings of the type contemplated by any Debt Financing, (iii) reasonably assist with the preparation of (as applicable) customary bank books, "road show presentations", information memoranda, prospectuses, pricing term sheets, offering or private placement memoranda, and other marketing materials or customary information packages (A) suitable for use in a customary syndication process or "road show", in each case, regarding the business, operations, financial condition and projections of the Company (which prospectuses, offering or private placement memoranda or other customary information for use in a "road show" will be in a form that will enable the independent registered public accountants of Company to render a customary "comfort letter" (including customary "negative assurances") on the Closing Date) or (B) reasonably requested by Parent or its financing sources in connection with the syndication or other marketing of the Debt Financing (subject to advance review of and consultation with respect to such use), (iv) reasonably assist with the preparation of any pledge and security documents, any loan agreement, currency or interest hedging agreement, other definitive financing documents for any Debt Financing, including information in respect of the oil and gas reserves attributable to the Oil and Gas Properties of the Company and its Subsidiaries and schedules to the definitive documentation for any Debt Financing, or other certificates, legal opinions delivered by counsel to Parent or documents as may be reasonably requested by Parent and usual and customary for transactions of the type contemplated by such Debt Financing, (v) reasonably facilitate the pledging of collateral for any Debt Financing (including cooperation in connection with the pay-off of existing Indebtedness to the extent contemplated by this Agreement or the Debt Financing and the release of related Encumbrances and termination of security interests (including delivering prepayment or termination notices as required by the terms of any existing Indebtedness and delivering customary payoff letters)) and (vi) provide to Parent and its Debt Financing Sources at least three (3) Business Days prior to the Closing Date all documentation and other information required by Governmental Entities under applicable "know your customer" and anti-money laundering rules and regulations to the extent reasonably requested in writing by Parent at least ten (10) Business Days prior to the Closing. Parent shall be permitted to disclose confidential information to any parties providing commitments for any Debt Financing, rating agencies and prospective lenders during syndication of such Debt Financing, subject to such parties providing commitments, rating agencies and prospective lenders entering into customary confidentiality undertakings for a syndication with respect to such information.

(c) Notwithstanding anything in this Agreement to the contrary, nothing herein shall require (i) the Company, its Subsidiaries or any of their respective Representatives to execute or enter into any certificate, instrument, agreement or other document in connection with any Debt Financing which will be effective prior to the Closing, (ii) cooperation or other actions or efforts on the part of the Company, any of its Subsidiaries, or any of their respective Representatives, in connection with any Debt Financing to the extent, in the Company's reasonable judgment, it would (A) interfere unreasonably with the business or operations of the Company or its Subsidiaries, (B) subject any director, manager, officer or employee of the Company or a Subsidiary thereof to any actual or potential personal liability or (C) result in a failure of any condition to the obligations of the parties hereto to consummate the Transactions, (iii) the Company or its Subsidiaries or any of their respective Representatives to pay any commitment or other fee or incur any other liability in connection with any Debt Financing that is not reimbursed by Parent, (iv) the board of directors or similar governing body of any of the Company or its Subsidiaries, prior to the Closing, to adopt resolutions approving, or otherwise approve, the agreements, documents or instruments pursuant to which any Debt Financing is made, (v) the Company and its Subsidiaries to provide any access or information if (A) doing so would reasonably be expected to violate any fiduciary duty, applicable Law or existing Contract to which the Company or such Subsidiary is party, (B) doing so would reasonably be expected to result in the loss of the ability to successfully assert attorney-client, work product or similar privileges or (C) doing so would reasonably be expected to violate any Company policies regarding access to such books, Contracts and records or jeopardize the health and safety of any employee, independent contract or other agent of the Company or any of its Subsidiaries; provided, that the Company and its Subsidiaries shall, in the case of clauses (A) through (C), use commercially reasonable efforts to make appropriate substitute arrangements under circumstances in which the foregoing restrictions do not apply, (vi) cooperation that would violate, or result in the waiver of any benefit under this Agreement, any other material Contract (not entered in contemplation hereof) or any Law to which Company, any of its Subsidiaries, or any of their respective Representatives, is a party or subject or (vii) the Company or its Subsidiaries or any of their respective Representatives to prepare or provide (and Parent shall be solely responsible for) (A) pro forma financial information, including pro forma cost savings, synergies, capitalization or other pro forma adjustments in each case giving effect to the transactions desired to be incorporated into any pro forma financial information in connection with any Debt Financing, (B) any description of all or any component of any Debt Financing, or (C) projections or other forward-looking statements relating to all or any component of any debt financing. Parent shall be responsible for all fees and expenses related to any Debt Financing, including the compensation of any contractor or advisor of Parent or the Company directly related to actions taken pursuant to Section 6.14(a) or Section 6.14(b). Accordingly, notwithstanding anything to the contrary herein, Parent shall promptly, upon written request by the Company, reimburse the Company for all reasonable and documented out-of-pocket costs and expenses (including reasonable and documented compensation or other fees of any contractor or advisor) incurred in connection with the Debt Financing incurred by the Company and its Subsidiaries and their respective Representatives in connection with the Debt Financing, including the cooperation of the Company and the Subsidiaries thereof contemplated by this Section 6.14, and shall indemnify and hold harmless the Company and its Subsidiaries and their respective Representatives from and against any and all losses, claims, damages, liabilities, judgments, obligations, causes of action, payments, charges, fines, assessments and costs and expenses (including reasonable attorneys' fees, legal and other expenses incurred in connection therewith) suffered or incurred by any of them in connection with this Section 6.14, the arrangement of the Debt Financing or any information used in connection therewith, in each case, except to the extent suffered or incurred as a result of the gross negligence, bad faith or willful misconduct by the Company or any of its Subsidiaries or, in each case, their respective Representatives.

(d) Notwithstanding anything to the contrary herein, the condition set forth in Section 7.2(b) as it applies to the Company's obligations under this Section 6.14, shall be deemed satisfied unless (i) the Company has failed to satisfy its obligations under Section 6.14 in any material respect, (ii) Parent has notified the Company of such failure in writing a reasonably sufficient amount of time prior to the Closing Date to afford the Company with a reasonable opportunity to cure such failure and (iii) such failure has been the primary cause of Parent's failure to consummate any Debt Financing. Parent acknowledges and agrees that obtaining any Debt Financing is not a condition to Closing. If any Debt Financing has not been obtained, Parent shall continue to be obligated, until such time as the Agreement is terminated in accordance with Article VIII and subject to the waiver or fulfillment of the conditions set forth in Article VII, to complete the transactions contemplated by this Agreement.

Section 6.15 Reasonable Best Efforts; Notification.

(a) Except to the extent that the Parties' obligations are specifically set forth elsewhere in this Article VI, and subject to the terms of Section 6.8, which shall control with respect to Consents and other matters related to Antitrust Laws, upon the terms and subject to the conditions set forth in this Agreement (including Section 6.3), each of the Parties shall use reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other Party in doing, all things necessary, proper or advisable to consummate and make effective, as promptly as reasonably practicable, the Transactions.

(b) Subject to applicable Law and as otherwise required by any Governmental Entity, and subject to the terms of Section 6.8, which shall control with respect to Consents and other matters related to Antitrust Laws, the Company and Parent each shall keep the other apprised of the status of matters relating to the consummation of the Transactions, including promptly furnishing the other with copies of notices or other communications received by Parent or the Company, as applicable, or any of its Subsidiaries, from any third party or any Governmental Entity with respect to the Transactions (including those alleging that the approval or consent of such Person is or may be required in connection with the Transactions). The Company shall give prompt written notice to Parent, and Parent shall give prompt written notice to the Company, upon becoming aware of (i) any condition, event or circumstance that will result in any of the conditions in Section 7.2(a) or 7.3(a) not being met, or (ii) the failure by such Party to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it under this Agreement; provided, however, that no such notification shall affect the representations, warranties, covenants or agreements of the Parties or the conditions to the obligations of the Parties under this Agreement.

Section 6.16 Section 16 Matters. Prior to the Effective Time, Parent, Merger Sub, LLC Sub and the Company shall take all such steps as may be reasonably required to cause any dispositions of equity securities of the Company (including derivative securities) or acquisitions of equity securities of Parent (including derivative securities) in connection with this Agreement by each individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company, or will become subject to such reporting requirements with respect to Parent, to be exempt under Rule 16b-3 under the Exchange Act, to the extent permitted by applicable Laws.

Section 6.17 Stock Exchange Listing and Delistings. Parent shall take all action necessary to cause the Parent Common Stock to be issued in the Merger to be approved for listing on NASDAQ prior to the Effective Time, subject to official notice of issuance. Prior to the Closing Date, the Company shall cooperate with Parent and use reasonable best efforts to take, or cause to be taken, all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under applicable Law and rules and policies of the NYSE to enable the delisting by the Surviving Corporation of the shares of Company Common Stock from the NYSE and the deregistration of the shares of Company Common Stock under the Exchange Act as promptly as practicable after the Effective Time, and in any event no more than ten (10) days after the Effective Time. If the Surviving Corporation is required to file any quarterly or annual report pursuant to the Exchange Act by a filing deadline that is imposed by the Exchange Act and that falls on a date within the fifteen (15) days following the Closing Date, the Company shall make available to Parent, at least five (5) Business Days prior to the Closing Date, a substantially final draft of any such annual or quarterly report reasonably likely to be required to be filed during such period.

Section 6.18 Certain Indebtedness. The Company and its Subsidiaries shall deliver to Parent at least two (2) Business Days prior to the Closing Date a copy of a payoff letter, setting forth the total amounts payable pursuant to the Company Credit Facility to fully satisfy all principal, interest, fees, costs, and expenses owed to each holder of Indebtedness under the Company Credit Facility as of the anticipated Closing Date (and the daily accrual thereafter), together with appropriate wire instructions, and the agreement from the administrative agent under the Company Credit Facility that upon payment in full of all such amounts owed to such holder, all Indebtedness under the Company Credit Facility shall be discharged and satisfied in full, the Loan Documents (as defined in the Company Credit Facility) shall be terminated with respect to the Company and its Subsidiaries that are borrowers or guarantors thereof (or the assets or equity of which secure such Indebtedness) and all liens on the Company and its Subsidiaries and their respective assets and equity securing the Company Credit Facility shall be released and terminated, together with any applicable documents reasonably necessary to evidence the release and termination of all liens on the Company and its Subsidiaries and their respective assets and equity securing, and any guarantees by the Company and its Subsidiaries in respect of, such Company Credit Facility. The Company shall reasonably cooperate with Parent in replacing any letters of credit issued pursuant to the Company Credit Facility evidencing the above referenced Indebtedness or obligations.

Section 6.19 Tax Matters.

(a) Each of Parent, Merger Sub, LLC Sub and the Company will (and will cause its respective Subsidiaries to) use its reasonable best efforts to cause the Integrated Mergers, taken together, to qualify, and will not take or knowingly fail to take (and will cause its Subsidiaries not to take or knowingly fail to take) any actions that would, or would reasonably be expected to, prevent or impede the Integrated Mergers, taken together, from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code. Each of Parent, Merger Sub, LLC Sub and the Company will notify the other Party promptly after becoming aware of any reason to believe that the Integrated Mergers, taken together, may not qualify as a "reorganization" within the meaning of Section 368(a) of the Code. Each of Parent, Merger Sub, LLC Sub and the Company will comply (and will cause its respective Subsidiaries to comply) with all representations, warranties and covenants contained in the Parent Tax Certificate and the Company Tax Certificate, respectively, to the extent necessary to cause the Integrated Mergers, taken together, to qualify as a "reorganization" within the meaning of Section 368(a) of the Code.

(b) This Agreement and the LLC Sub Merger Agreement, taken together, are intended to constitute, and the Parties hereto adopt the foregoing as, a "plan of reorganization" for purposes of Sections 354 and 361 of the Code and within the meaning of Treasury Regulations §§1.368-2(g) and 1.368-3(a).

(c) Parent and the Company will cooperate to facilitate the issuance of the opinion described in Section 7.3(d) and any other opinions to be filed in connection with the Registration Statement or the Joint Proxy Statement/Prospectus regarding the U.S. federal income tax treatment of the Integrated Mergers. In connection therewith, (i) Parent shall deliver to Kirkland & Ellis LLP and/or Latham & Watkins LLP (or other applicable legal counsel), as applicable, a duly executed certificate containing such representations, warranties and covenants as shall be reasonably necessary or appropriate to enable the relevant counsel to render the opinion described in Section 7.3(d) and any opinions to be filed in connection with the declaration of effectiveness of the Registration Statement or the Joint Proxy Statement/Prospectus regarding the U.S. federal income tax treatment of the Integrated Mergers, taken together (the "Parent Tax Certificate"), and (ii) the Company shall deliver to Kirkland & Ellis LLP and/or Latham & Watkins LLP (or other applicable legal counsel), as applicable a duly executed certificate containing such representations, warranties and covenants as shall be reasonably necessary or appropriate to enable the relevant counsel to render the opinion described in Section 7.3(d) and any opinions to be filed in connection with the declaration of effectiveness of the Registration Statement or the Joint Proxy Statement/Prospectus regarding the U.S. federal income tax treatment of the Integrated Mergers, taken together (the "Company Tax Certificate"), in each case, dated as of the Closing Date (and such additional dates as may be necessary in connection with the preparation, filing and delivery of the Registration Statement or the Joint Proxy Statement/Prospectus). Parent and the Company shall provide such other information as reasonably requested by Kirkland & Ellis LLP and/or Latham & Watkins LLP (or other applicable legal counsel), as applicable, for purposes of rendering the opinion described in Section 7.3(d) and any opinions to be filed in connection with the Registration Statement or the Joint Proxy Statement/Prospectus.

Section 6.20 **Takeover Laws**. None of the Parties will take any action that would cause the Transactions to be subject to requirements imposed by any Takeover Laws, and each of them will take all reasonable steps within its control to exempt (or ensure the continued exemption of) the Transactions from the Takeover Laws of any state that purport to apply to this Agreement or the Transactions.

Section 6.21 **Obligations of Merger Sub and LLC Sub**. Parent shall take all action necessary to cause Merger Sub and LLC Sub to perform its obligations under this Agreement and the LLC Sub Merger Agreement and to consummate the transactions contemplated hereby, including the Integrated Mergers, upon the terms and subject to the conditions set forth in this Agreement and the LLC Sub Merger Agreement.

Section 6.22 **Transfer Taxes**. All Transfer Taxes imposed with respect to the Merger or the transfer of shares of Company Common Stock pursuant to the Merger shall be borne by the Surviving Corporation. The Parties will cooperate, in good faith, in the filing of any Tax Returns with respect to such Transfer Taxes and the minimization, to the extent reasonably permissible under applicable Law, of the amount of any such Transfer Taxes.

Section 6.23 **Derivative Contracts; Hedging Matters**. Until the earlier of the Closing and the termination of this Agreement pursuant to Article VIII, each Party shall use commercially reasonable efforts to cooperate with the other Party as reasonably requested by the other Party, in connection with the development of a post-Closing hedging strategy for the Parent and the mechanics for implementing that strategy, including, without limitation, the amendment, assignment, termination or novation of any Derivative Transaction (including any commodity hedging arrangement or related Contract) of the Company or any of its Subsidiaries on terms that are reasonably requested by Parent and effective at and conditioned upon the Closing. Each Party shall be responsible for its own costs and expenses in connection with the foregoing. Notwithstanding the foregoing, among other potential reasons, any such requested cooperation under this Section 6.23 will not be considered commercially reasonably if it would materially or unreasonably interfere with the operations of the Party (or any of its Subsidiaries) requested to provide such cooperation.

ARTICLE VII
CONDITIONS PRECEDENT

Section 7.1 Conditions to Each Party's Obligation to Consummate the Merger. The respective obligation of each Party to consummate the Merger is subject to the satisfaction at or prior to the Effective Time of the following conditions, any or all of which may be waived jointly by the Parties, in whole or in part, to the extent permitted by applicable Law:

(a) Stockholder Approvals. (i) The Company Stockholder Approval shall have been obtained in accordance with applicable Law and the Organizational Documents of the Company and (ii) the Parent Stockholder Approval shall have been obtained in accordance with applicable Law and the Organizational Documents of Parent.

(b) Regulatory Approval. All waiting periods (and any extensions thereof) applicable to the Transactions under the HSR Act, and any commitment to, or agreement (including any timing agreement) with, any Governmental Entity to delay the consummation of, or not to consummate before a certain date, the Transactions, shall have expired or been terminated.

(c) No Injunctions or Restraints. No Law shall be in effect restraining, enjoining, making illegal or unlawful, or otherwise prohibiting the consummation of the Transactions (it being understood for avoidance of doubt that an HSR Reservation Notice shall not constitute such a Law).

(d) Registration Statement. The Registration Statement shall have been declared effective by the SEC under the Securities Act and shall not be the subject of any stop order or Proceedings seeking a stop order.

(e) NASDAQ Listing. The shares of Parent Common Stock issuable to the holders of shares of Company Common Stock pursuant to this Agreement shall have been authorized for listing on NASDAQ, subject to official notice of issuance.

Section 7.2 Additional Conditions to Obligations of Parent, Merger Sub and LLC Sub. The obligations of Parent and Merger Sub to consummate the Merger are subject to the satisfaction at or prior to the Effective Time of the following conditions, any or all of which may be waived exclusively by Parent, in whole or in part, to the extent permitted by applicable Law:

(a) Representations and Warranties of the Company. (i) The representations and warranties of the Company set forth in the first sentence of Section 4.1 (Organization, Standing and Power), Section 4.2(a) (Capital Structure), Section 4.2(b) (Capital Structure), the third and fifth sentences of Section 4.2(c) (Capital Structure), Section 4.3(a) (Authority), Section 4.6(a) (Absence of Certain Changes or Events) and Section 4.24 (Brokers) shall have been true and correct as of the date of this Agreement and shall be true and correct as of the Closing Date, as though made on and as of the Closing Date (except, with respect to Section 4.2(a), Section 4.2(b), the third and fifth sentences of Section 4.2(c) and Section 4.24, for any *de minimis* inaccuracies) (except that representations and warranties that speak as of a specified date or period of time shall have been true and correct only as of such date or period of time), (ii) all other representations and warranties of the Company set forth in Section 4.2(c) (Capital Structure) shall have been true and correct in all material respects as of the date of this Agreement and shall be true and correct in all material respects as of the Closing Date, as though made on and as of the Closing Date (except that representations and warranties that speak as of a specified date or period of time shall have been true and correct in all material respects only as of such date or period of time), and (iii) all other representations and warranties of the Company set forth in Article IV shall have been true and correct as of the date of this Agreement and shall be true and correct as of the Closing Date, as though made on and as of the Closing Date (except that representations and warranties that speak as of a specified date or period of time shall have been true and correct only as of such date or period of time), except, in the case of this clause (iii), where the failure of such representations and warranties to be so true and correct (without regard to qualification or exceptions contained therein as to "materiality," "in all material respects" or "Company Material Adverse Effect") would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(b) Performance of Obligations of the Company. The Company shall have performed, or complied with, in all material respects all agreements and covenants required to be performed or complied with by it under this Agreement on or prior to the Effective Time.

(c) Compliance Certificate. Parent shall have received a certificate of the Company signed by an executive officer of the Company, dated the Closing Date, confirming that the conditions in Section 7.2(a) and (b) have been satisfied.

Section 7.3 Additional Conditions to Obligations of the Company

. The obligation of the Company to consummate the Merger is subject to the satisfaction at or prior to the Effective Time of the following conditions, any or all of which may be waived exclusively by the Company, in whole or in part, to the extent permitted by applicable Law:

(a) Representations and Warranties of Parent, Merger Sub and LLC Sub. (i) The representations and warranties of Parent, Merger Sub and LLC Sub set forth in the first sentence of Section 5.1 (Organization, Standing and Power), Section 5.2(a) (Capital Structure), Section 5.2(b) (Capital Structure), the second sentence, fifth sentence and seventh sentence of Section 5.2(e) (Capital Structure), Section 5.3(a) (Authority), Section 5.6(a) (Absence of Certain Changes or Events) and Section 5.24 (Brokers) shall have been true and correct as of the date of this Agreement and shall be true and correct as of the Closing Date, as though made on and as of the Closing Date (except, with respect to Section 5.2(a), Section 5.2(b), the fourth sentence and sixth sentence of Section 5.2(e) and Section 5.24 for any *de minimis* inaccuracies) (except that representations and warranties that speak as of a specified date or period of time shall have been true and correct only as of such date or period of time), (ii) all other representations and warranties of Parent set forth in Section 5.2(e) (Capital Structure) shall have been true and correct in all material respects as of the date of this Agreement and shall be true and correct in all material respects as of the Closing Date, as though made on and as of the Closing Date (except that representations and warranties that speak as of a specified date or period of time shall have been true and correct in all material respects only as of such date or period of time), and (iii) all other representations and warranties of Parent, Merger Sub and LLC Sub set forth in Article V shall have been true and correct as of the date of this Agreement and shall be true and correct as of the Closing Date, as though made on and as of the Closing Date (except that representations and warranties that speak as of a specified date or period of time shall have been true and correct only as of such date or period of time), except where the failure of such representations and warranties to be so true and correct (without regard to qualification or exceptions contained therein as to "materiality," "in all material respects" or "Parent Material Adverse Effect") that would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(b) Performance of Obligations of Parent, Merger Sub and LLC Sub. Parent, Merger Sub and LLC Sub each shall have performed, or complied with, in all material respects all agreements and covenants required to be performed or complied with by them under this Agreement at or prior to the Effective Time.

(c) Compliance Certificate. The Company shall have received a certificate of Parent signed by an executive officer of Parent, dated the Closing Date, confirming that the conditions in Section 7.3(a) and (b) have been satisfied.

(d) Tax Opinion. The Company shall have received an opinion from Kirkland & Ellis LLP (or other legal counsel selected by the Company and reasonably satisfactory to Parent), in form and substance reasonably satisfactory to the Company, dated as of the Closing Date, to the effect that, on the basis of the facts, representations and assumptions set forth or referred to in such opinion, the Integrated Mergers, taken together, will qualify as a "reorganization" within the meaning of Section 368(a) of the Code. In rendering the opinion described in this Section 7.3(d), Kirkland & Ellis LLP (or other applicable legal counsel) shall have received and may rely upon the Parent Tax Certificate and the Company Tax Certificate and such other information reasonably requested by and provided to it by the Company or Parent for purposes of rendering such opinion.

Section 7.4 Frustration of Closing Conditions. None of the Parties may rely, either as a basis for not consummating the Merger or for terminating this Agreement, on the failure of any condition set forth in Section 7.1, Section 7.2 or Section 7.3, as the case may be, to be satisfied if such failure was caused by such Party's breach in any material respect of any provision of this Agreement.

ARTICLE VIII
TERMINATION

Section 8.1 Termination. This Agreement may be terminated and the Transactions may be abandoned at any time prior to the Effective Time, whether (except as expressly set forth below) before or after the Company Stockholder Approval or the Parent Stockholder Approval has been obtained:

(a) by mutual written consent of the Company and Parent;

(b) by either the Company or Parent:

(i) if any Law permanently restraining, enjoining, making illegal or unlawful, or otherwise prohibiting the consummation of any of the Transactions has become final and nonappealable; provided, however, that the right to terminate this Agreement under this Section 8.1(b)(i) shall not be available to any Party whose material breach of any covenant or agreement under this Agreement has been the primary cause of or resulted in the action or event described in this Section 8.1(b)(i) occurring;

(ii) if the Merger shall not have been consummated on or before 5:00 p.m. Houston time on January 10, 2025 (such date, the "Outside Date"); provided, however, that if five (5) days prior to the Outside Date, all of the conditions to closing in Article VII have been satisfied or waived, other than any of the conditions in Section 7.1(b) or Section 7.1(c) (solely if the applicable Law relates to any Antitrust Law) and conditions to be satisfied at the Closing (so long as such conditions remain capable of being satisfied), the Outside Date shall automatically be extended to July 10, 2025, which later date shall thereafter be deemed the Outside Date; provided, however, that if five (5) days prior to such extended date, all of the conditions to closing in Article VII have been satisfied or waived, other than any of the conditions in Section 7.1(b) or Section 7.1(c) (solely if the applicable Law relates to any Antitrust Law) and conditions to be satisfied at the Closing (so long as such conditions remain capable of being satisfied), the Outside Date shall automatically be extended to January 10, 2026, which later date shall thereafter be deemed the Outside Date; provided, further, however, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party whose material breach of any covenant or agreement under this Agreement has been the primary cause of or resulted in the failure of the Merger to be consummated on or before such date;

(iii) in the event of a breach by the other Party of any representation, warranty, covenant or other agreement contained in this Agreement which would give rise to the failure of a condition set forth in Sections 7.2(a) or (b) or Sections 7.3(a) or (b), as applicable (and such breach is not curable prior to the Outside Date, or if curable prior to the Outside Date, has not been cured by the earlier of (A) thirty (30) days after the giving of written notice to the breaching Party of such breach and (B) two (2) Business Days prior to the Outside Date) (a "Terminable Breach"); provided, however, that the terminating Party is not then in Terminable Breach of any representation, warranty, covenant or other agreement contained in this Agreement;

(iv) if the Company Stockholder Approval shall not have been obtained upon a vote held at a duly held Company Stockholders Meeting, or at any final adjournment or postponement thereof; or

(v) if the Parent Stockholder Approval shall not have been obtained upon a vote held at a duly held Parent Stockholders Meeting, or at any final adjournment or postponement thereof;

(c) by Parent:

(i) prior to, but not after, the time the Company Stockholder Approval is obtained, (A) if the Company Board or a committee thereof shall have effected a Company Change of Recommendation (whether or not such Company Change of Recommendation is permitted by this Agreement) or (B) if the Company shall have Willfully and Materially Breached any of its obligations under Section 6.3, in a manner that materially impedes, interferes with or prevents the consummation of the Transaction on or before the Outside Date; or

(ii) prior to, but not after, the time the Parent Stockholder Approval is obtained, in order to enter into a definitive agreement with respect to a Parent Superior Proposal; provided, however, that (i) Parent has received a Parent Superior Proposal after the date of this Agreement that did not result from a breach of Section 6.4, (ii) Parent has complied with Section 6.4 with respect to such Parent Superior Proposal (including the requirements set forth in Section 6.4(f)(ii)), (iii) the Parent Board has authorized Parent to enter into, and Parent substantially concurrently enters into, a definitive written agreement providing for such Parent Superior Proposal (it being agreed that Parent may enter into such definitive written agreement concurrently with any such termination), and (iv) Parent shall have contemporaneously with such termination paid the Company the Parent Termination Fee pursuant to Section 8.3;

(d) by the Company:

(i) prior to, but not after, the time the Parent Stockholder Approval is obtained, (A) if the Parent Board or a committee thereof shall have effected a Parent Change of Recommendation (whether or not such Parent Change of Recommendation is permitted by this Agreement) or (B) if Parent shall have Willfully and Materially Breached any of its obligations under Section 6.4, in a manner that materially impedes, interferes with or prevents the consummation of the Transaction on or before the Outside Date; or

(ii) prior to, but not after, the time the Company Stockholder Approval is obtained, in order to enter into a definitive agreement with respect to a Company Superior Proposal; provided, however, that (i) the Company has received a Company Superior Proposal after the date of this Agreement that did not result from a breach of Section 6.3, (ii) the Company has complied with Section 6.3 with respect to such Company Superior Proposal (including the requirements set forth in Section 6.3(f)(ii)), (iii) the Company Board has authorized the Company to enter into, and the Company substantially concurrently enters into, a definitive written agreement providing for such Company Superior Proposal (it being agreed that the Company may enter into such definitive written agreement concurrently with any such termination), and (iv) the Company shall have contemporaneously with such termination paid Parent the Company Termination Fee pursuant to Section 8.3.

Section 8.2 Notice of Termination; Effect of Termination.

(a) A terminating Party shall provide written notice of termination to the other Party specifying with particularity the reason for such termination and, if made in accordance with this Agreement, any termination shall be effective immediately upon delivery of such written notice to the other Party.

(b) In the event of termination of this Agreement by any Party as provided in Section 8.1, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of any Party except with respect to this Section 8.2(b), Section 6.7(b), Section 6.18, Section 8.3 and Article I and Article IX (and the provisions that substantively define any related defined terms not substantively defined in Article I); provided, however, that notwithstanding anything to the contrary herein, no such termination shall relieve any Party from liability for any damages or liability for a Willful and Material Breach of any of its representations, warranties, covenants, agreements or obligations hereunder or fraud; in which case the non-breaching Party shall be entitled to all rights and remedies available at law or in equity.

Section 8.3 Expenses and Other Payments.

(a) Except as otherwise provided in this Agreement, each Party shall pay its own expenses incident to preparing for, entering into and carrying out this Agreement and the consummation of the Transactions, whether or not the Merger shall be consummated; provided, however, that Parent and the Company shall each be responsible for the payment of 50% of the HSR filing fee applicable to the Merger.

(b) If (i) Parent terminates this Agreement pursuant to Section 8.1(c)(i)(A) (Company Change of Recommendation) or Section 8.1(c)(i)(B) (Company Willful Breach of Non-Solicit), or (ii) Parent or the Company terminates this Agreement pursuant to Section 8.1(b)(ii) (Outside Date) or Section 8.1(b)(iv) (Failure to Obtain Company Stockholder Approval) at a time when Parent would have been entitled to terminate this Agreement pursuant to Section 8.1(c)(i) (Company Change of Recommendation), then the Company shall pay Parent the Company Termination Fee in cash by wire transfer of immediately available funds to an account designated by Parent no later than three (3) Business Days after notice of termination of this Agreement.

(c) If (i) the Company terminates this Agreement pursuant to Section 8.1(d)(i)(A) (Parent Change of Recommendation) or Section 8.1(d)(i)(B) (Parent Willful Breach of Non-Solicit), or (ii) Parent or the Company terminates this Agreement pursuant to Section 8.1(b)(ii) (Outside Date) or Section 8.1(b)(v) (Failure to Obtain Parent Stockholder Approval) at a time when the Company would have been entitled to terminate this Agreement pursuant to Section 8.1(d)(i) (Parent Change of Recommendation), then Parent shall pay the Company the Parent Termination Fee in cash by wire transfer of immediately available funds to an account designated by the Company no later than three (3) Business Days after notice of termination of this Agreement.

(d) If the Company terminates this Agreement pursuant to Section 8.1(d)(ii) (Company Superior Proposal), then the Company shall pay Parent the Company Termination Fee, in cash by wire transfer of immediately available funds to an account designated by Parent, prior to or concurrently with the termination of this Agreement.

(e) If Parent terminates this Agreement pursuant to Section 8.1(c)(ii) (Parent Superior Proposal), then Parent shall pay the Company the Parent Termination Fee, in cash by wire transfer of immediately available funds to an account designated by the Company, prior to or concurrently with the termination of this Agreement.

(f) If (i) (A) Parent or the Company terminates this Agreement pursuant to Section 8.1(b)(iv) (Failure to Obtain Company Stockholder Approval), and on or before the date of any such termination, a Company Competing Proposal shall have been publicly announced or publicly disclosed and not publicly withdrawn without qualification at least seven (7) Business Days prior to the Company Stockholders Meeting or (B) (1) the Company terminates this Agreement pursuant to Section 8.1(b)(ii) (Outside Date) at a time when Parent would be permitted to terminate this Agreement pursuant to Section 8.1(b)(iii) (Company Terminable Breach) or (2) Parent terminates this Agreement pursuant to Section 8.1(b)(iii) (Company Terminable Breach) and, in the case of each of clauses (1) and (2), following the execution of this Agreement and on or before the date of any such termination a Company Competing Proposal shall have been announced, disclosed or otherwise communicated to the Company Board and not withdrawn without qualification at least seven (7) Business Days prior to the date of such termination, and (ii) within twelve (12) months of the date of such termination, the Company enters into a definitive agreement with respect to a Company Competing Proposal (or publicly approves or recommends to the stockholders of the Company or otherwise does not oppose, in the case of a tender or exchange offer, a Company Competing Proposal) or consummates a Company Competing Proposal, then the Company shall pay Parent the Company Termination Fee (less any amount previously paid by the Company pursuant to Section 8.3(h)) within three (3) Business Days after the earlier to occur of (x) the consummation of such Company Competing Proposal or (y) entering into a definitive agreement relating to a Company Competing Proposal. For purposes of this Section 8.3(f) any reference in the definition of Company Competing Proposal to "20% or more" shall be deemed to be a reference to "more than 50%".

(g) If (i) (A) Parent or the Company terminates this Agreement pursuant to Section 8.1(b)(v) (Failure to Obtain Parent Stockholder Approval), and on or before the date of any such termination, a Parent Competing Proposal shall have been publicly announced or publicly disclosed and not publicly withdrawn without qualification at least seven (7) Business Days prior to the Parent Stockholders Meeting or (B) (1) Parent terminates this Agreement pursuant to Section 8.1(b)(ii) (Outside Date) at a time when the Company would be permitted to terminate this Agreement pursuant to Section 8.1(b)(iii) (Parent Terminable Breach) or (2) the Company terminates this Agreement pursuant to Section 8.1(b)(iii) (Parent Terminable Breach) and, in the case of each of clauses (1) and (2), following the execution of this Agreement and on or before the date of any such termination a Parent Competing Proposal shall have been announced, disclosed or otherwise communicated to the Parent Board and not withdrawn without qualification at least seven (7) Business Days prior to the date of such termination, and (ii) within twelve (12) months of the date of such termination, Parent enters into a definitive agreement with respect to a Parent Competing Proposal (or publicly approves or recommends to the stockholders of Parent or otherwise does not oppose, in the case of a tender or exchange offer, a Parent Competing Proposal) or consummates a Parent Competing Proposal, then Parent shall pay the Company the Parent Termination Fee (less any amount previously paid by Parent pursuant to Section 8.3(i)) within three (3) Business Days after the earlier to occur of (x) the consummation of such Parent Competing Proposal or (y) entering into a definitive agreement relating to a Parent Competing Proposal. For purposes of this Section 8.3(g), any reference in the definition of Parent Competing Proposal to "20% or more" shall be deemed to be a reference to "more than 50%".

(h) If Parent or the Company terminates this Agreement pursuant to Section 8.1(b)(iv) (Failure to Obtain Company Stockholder Approval), then the Company shall pay Parent the Parent Expenses no later than three (3) Business Days after notice of termination of this Agreement.

(i) If Parent or the Company terminates this Agreement pursuant to Section 8.1(b)(v) (Failure to Obtain Parent Stockholder Approval), then Parent shall pay the Company the Company Expenses no later than three (3) Business Days after notice of termination of this Agreement.

(j) In no event shall Parent or the Company, respectively, be entitled to receive more than one payment of the Company Termination Fee or Parent Termination Fee, as applicable, or Parent Expenses or Company Expenses, as applicable. Notwithstanding anything in this Agreement to the contrary, the payment of the Parent Expenses or of the Company Expenses shall not relieve the Company or Parent, respectively, of any subsequent obligation to pay the Company Termination Fee or the Parent Termination Fee, as applicable; provided, that the Company shall be entitled to credit any prior Parent Expenses actually paid by the Company pursuant to Section 8.3(h) against the amount of any Company Termination Fee required to be paid and Parent shall be entitled to credit any prior Company Expenses actually paid by Parent pursuant to Section 8.3(i) against the amount of any Parent Termination Fee required to be paid. The Parties agree that the agreements contained in this Section 8.3 are an integral part of the Transactions, and that, without these agreements, the Parties would not enter into this Agreement. Each of the Parties acknowledges and agrees that the Company Termination Fee and the Parent Termination Fee, as applicable, is not intended to be a penalty, but rather is liquidated damages in a reasonable amount that will compensate Parent or the Company, as applicable, in the circumstances in which such Company Termination Fee or Parent Termination Fee is due and payable and which do not involve fraud or Willful And Material Breach, for the efforts and resources expended and opportunities forgone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the Transactions contemplated by this Agreement, which amount would otherwise be impossible to calculate with precision. If a Party fails to promptly pay the amount due by it pursuant to this Section 8.3, interest shall accrue on such amount from the date such payment was required to be paid pursuant to the terms of this Agreement until the date of payment at the rate of 8% per annum (compounded annually). If in order to obtain such payment, the other Party commences a Proceeding that results in judgment for such Party for such amount, the defaulting Party shall pay the other Party its reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees and expenses, provided, that, in no event shall attorneys' fees that are based on a contingency fee, "success" fee or any other type of fee arrangement dependent on the outcome of the Proceeding be deemed to constitute reasonable out-of-pocket attorneys' fees) incurred in connection with such Proceeding. The Parties agree that the monetary remedies set forth in this Section 8.3 and the specific performance remedies set forth in Section 9.10 shall be the sole and exclusive remedies of (i) the Company and its Subsidiaries against Parent and its Subsidiaries and any of their respective former, current or future directors, officers, stockholders, Representatives or Affiliates for any loss suffered as a result of the failure of any of the Integrated Mergers to be consummated except in the case of fraud or a Willful and Material Breach of any representation, warranty, covenant, agreement or obligation (in which case only Parent shall be liable for damages for such fraud or Willful and Material Breach), and upon payment of such amount, none of Parent or any of its former, current or future directors, officers, stockholders, Representatives or Affiliates shall have any further liability or obligation relating to or arising out of this Agreement or the Transactions, except for the liability of Parent in the case of fraud or a Willful and Material Breach of any representation, warranty, covenant, agreement or obligation; and (ii) Parent and its Subsidiaries against the Company and its Subsidiaries and any of their respective former, current or future directors, officers, stockholders, Representatives or Affiliates for any loss suffered as a result of the failure of any of the Integrated Mergers to be consummated except in the case of fraud or a Willful and Material Breach of any representation, warranty, covenant, agreement or obligation (in which case only the Company shall be liable for damages for such fraud or Willful and Material Breach), and upon payment of such amount, none of the Company and its Subsidiaries or any of their respective former, current or future directors, officers, stockholders, Representatives or Affiliates shall have any further liability or obligation relating to or arising out of this Agreement or the Transactions, except for the liability of the Company in the case of fraud or a Willful and Material Breach of any representation, warranty, covenant, agreement or obligation.

ARTICLE IX
GENERAL PROVISIONS

Section 9.1 **Schedule Definitions**. All capitalized terms in the Company Disclosure Letter and the Parent Disclosure Letter shall have the meanings ascribed to them herein (including in Annex A) except as otherwise defined therein.

Section 9.2 **Survival; Exclusive Remedy**.

(a) Except as otherwise provided in this Agreement, none of the representations, warranties, agreements and covenants contained in this Agreement will survive the Closing; provided, however, that Article I (and the provisions that substantively define any related defined terms not substantively defined in Article I), this Article IX and the agreements of the Parties in Article II and III, and Section 4.27 (No Additional Representations), Section 5.29 (No Additional Representations), Section 6.9 (Employee Matters), Section 6.10 (Indemnification; Directors' and Officers' Insurance), Section 6.18 (Certain Indebtedness and Financing Cooperation), Section 6.19 (Tax Matters), and those other covenants and agreements contained herein that by their terms apply, or that are to be performed in whole or in part, after the Closing, shall survive the Closing. The Confidentiality Agreement shall (i) survive termination of this Agreement in accordance with its terms and (ii) terminate as of the Effective Time.

(b) From and after the Closing, except for claims of fraud, the remedies expressly provided for in this Agreement shall be the sole and exclusive remedies for any and all claims against any Party to the extent arising under, out of, related to or in connection with this Agreement including with respect to the Comprehensive Environmental Response, Compensation and Liability Act or any other Environmental Law. Without limiting the generality of the foregoing, each of Company and Parent hereby waives, as of the Closing, to the fullest extent permitted under applicable Law, any and all rights, claims and causes of action that it or any of their respective Affiliates may have against the other Party or any of its Affiliates or its or their respective Representatives with respect to the subject matter of this Agreement, whether under any contract, misrepresentation, tort, or strict liability theory, or under applicable Law, and whether in Law or in equity; provided that the foregoing waiver shall not apply to any claims for fraud.

Section 9.3 **Notices**. All notices, requests and other communications to any Party under, or otherwise in connection with, this Agreement shall be in writing and shall be deemed to have been duly given (a) upon delivery in person to the Party to be notified; (b) if transmitted by electronic mail ("e-mail"), upon confirmation by non-automated reply email; provided that each notice Party shall use reasonable best efforts to confirm receipt of any such email correspondence promptly upon receipt of such request; or (c) upon delivery if transmitted by national overnight courier (with confirmation of delivery) in each case as addressed as follows:

(i) if to Parent, Merger Sub or LLC Sub, to:

Chesapeake Energy Corporation
6100 North Western Avenue
Oklahoma City, Oklahoma 73118
Attention: Benjamin E. Russ
E-mail: ben.russ@chk.com

with a required copy to (which copy shall not constitute notice):

Latham & Watkins LLP
811 Main Street, Suite 3700
Houston, Texas 77002
Attention: Kevin M. Richardson
William N. Finnegan IV
Ryan J. Lynch
E-mail: kevin.richardson@lw.com
bill.finnegan@lw.com
ryan.lynch@lw.com

and

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attention: David A. Katz
E-mail: DAKatz@wlrk.com

(ii) if to the Company, to:

Southwestern Energy Company
10000 Energy Drive
Spring, Texas 77389
Attention: Chris Lacy
E-mail: Chris_Lacy@swn.com

with a required copy to (which copy shall not constitute notice):

Kirkland & Ellis LLP
609 Main Street, Suite 4700
Houston, Texas 77002
Attention: Douglas E. Bacon, P.C.
Kim Hicks, P.C.
Patrick Salvo
E-mail: douglas.bacon@kirkland.com
kim.hicks@kirkland.com
patrick.salvo@kirkland.com

Section 9.4 Rules of Construction.

(a) Each of the Parties acknowledges that it has been represented by independent counsel of its choice throughout all negotiations that have preceded the execution of this Agreement and that it has executed the same with the advice of said independent counsel. Each Party and its counsel cooperated in the drafting and preparation of this Agreement and the documents referred to herein, and any and all drafts relating thereto exchanged between the Parties shall be deemed the work product of the Parties and may not be construed against any Party by reason of its preparation. Accordingly, any rule of Law or any legal decision that would require interpretation of any ambiguities in this Agreement against any Party that drafted it is of no application and is hereby expressly waived.

(b) The inclusion of any information in the Company Disclosure Letter or Parent Disclosure Letter shall not be deemed an admission or acknowledgment, in and of itself and solely by virtue of the inclusion of such information in the Company Disclosure Letter or Parent Disclosure Letter, as applicable, that such information is required to be listed in the Company Disclosure Letter or Parent Disclosure Letter, as applicable, that such items are material to the Company and its Subsidiaries, taken as a whole, or Parent and its Subsidiaries, taken as a whole, as the case may be, or that such items have resulted in a Company Material Adverse Effect or a Parent Material Adverse Effect. The headings, if any, of the individual sections of each of the Parent Disclosure Letter and the Company Disclosure Letter are inserted for convenience only and shall not be deemed to constitute a part thereof or a part of this Agreement. The Company Disclosure Letter and Parent Disclosure Letter are arranged in sections corresponding to the Sections of this Agreement merely for convenience, and the disclosure of an item in one section of the Company Disclosure Letter or Parent Disclosure Letter, as applicable, as an exception to a particular representation or warranty shall be deemed adequately disclosed as an exception with respect to all other representations or warranties to the extent that the relevance of such item to such representations or warranties is reasonably apparent on its face, notwithstanding the presence or absence of an appropriate section of the Company Disclosure Letter or Parent Disclosure Letter with respect to such other representations or warranties or an appropriate cross reference thereto.

(c) The specification of any dollar amount in the representations and warranties or otherwise in this Agreement or in the Company Disclosure Letter or Parent Disclosure Letter is not intended and shall not be deemed to be an admission or acknowledgment of the materiality of such amounts or items, nor shall the same be used in any dispute or controversy between the Parties to determine whether any obligation, item or matter (whether or not described herein or included in any schedule) is or is not material for purposes of this Agreement.

(d) All references in this Agreement to Annexes, Exhibits, Schedules, Articles, Sections, subsections and other subdivisions refer to the corresponding Annexes, Exhibits, Schedules, Articles, Sections, subsections and other subdivisions of this Agreement unless expressly provided otherwise. Titles appearing at the beginning of any Articles, Sections, subsections or other subdivisions of this Agreement are for convenience only, do not constitute any part of such Articles, Sections, subsections or other subdivisions, and shall be disregarded in construing the language contained therein. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof" and words of similar import, refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The words "this Section," "this subsection" and words of similar import, refer only to the Sections or subsections hereof in which such words occur. The word "including" (in its various forms) means "including, without limitation." Pronouns in masculine, feminine or neuter genders shall be construed to state and include any other gender and words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise expressly requires. Unless the context otherwise requires, all defined terms contained herein shall include the singular and plural and the conjunctive and disjunctive forms of such defined terms. Unless the context otherwise requires, all references to a specific time shall refer to Houston, Texas time. Unless otherwise clearly indicated to the contrary or expressly specified herein by the context or use thereof: (i) the word "or" is not exclusive; (ii) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends and such phrase shall not mean simply "if"; and (iii) references to "written" or "writing" and words of similar import includes printing, typing and other means of reproducing words (including, electronic form, and, for the avoidance of doubt, including e-mail transmission or electronic communication by .pdf, but not text messages) in a visible form. The term "dollars" and the symbol "$" mean United States Dollars. The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(e) In this Agreement, except as the context may otherwise require, references to: (i) any agreement (including this Agreement), contract, statute or regulation are to the agreement, contract, statute or regulation as amended, modified, supplemented, restated or replaced from time to time (in the case of an agreement or contract, to the extent permitted by the terms thereof and, if applicable, by the terms of this Agreement); (ii) any Governmental Entity includes any successor to that Governmental Entity; (iii) any applicable Law refers to such applicable Law as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under such statute) and references to any section of any applicable Law or other law include any successor to such section; (iv) "days" mean calendar days; when calculating the period of time within which, or following which, any act is to be done or step taken pursuant to this Agreement, the date that is the reference day in calculating such period shall be excluded and if the last day of the period is a non-Business Day, the period in question shall end on the next Business Day or if any action must be taken hereunder on or by a day that is not a Business Day, then such action may be validly taken on or by the next day that is a Business Day; and (v) "made available" means, with respect to any document, that such document was filed with or furnished to the SEC and available on Edgar or in the virtual data room, relating to the Transactions maintained by the Company or Parent, as applicable, in each case, no later than 5:00 p.m. (Houston time) on the day that is one (1) Business Day prior to the execution of this Agreement.

Section 9.5 **Counterparts**. This Agreement may be executed in two (2) or more counterparts, including via facsimile or email in .pdf form transmission, all of which shall be considered one and the same agreement and shall become effective when two (2) or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart.

Section 9.6 Entire Agreement; No Third Party Beneficiaries. This Agreement (together with the Confidentiality Agreement and any other documents and instruments executed pursuant hereto) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof. Except for the provisions of (a) Article III (including, for the avoidance of doubt, the rights of the former holders of Company Common Stock and Company Incentive Awards to receive the Merger Consideration) but only from and after the Effective Time and (b) Section 6.10 (which from and after the Effective Time is intended for the benefit of, and shall be enforceable by, the Persons referred to therein and by their respective heirs and Representatives) but only from and after the Effective Time, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the Parties any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 9.7 Governing Law; Venue; Waiver of Jury Trial.

(a) SUBJECT TO SECTION 9.15, THIS AGREEMENT, AND ALL CLAIMS OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT) THAT MAY BE BASED UPON, ARISE OUT OF RELATE TO THIS AGREEMENT, OR THE NEGOTIATION, EXECUTION OR PERFORMANCE OF THIS AGREEMENT, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAW THEREOF. NOTWITHSTANDING THE FOREGOING, ALL MATTERS RELATING TO THE FIDUCIARY OBLIGATIONS OF THE PARENT BOARD SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OKLAHOMA WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF TO THE EXTENT SUCH PRINCIPLES WOULD DIRECT A MATTER TO ANOTHER JURISDICTION.

(b) SUBJECT TO SECTION 9.15, THE PARTIES IRREVOCABLY SUBMIT TO THE JURISDICTION OF THE COURT OF CHANCERY OF THE STATE OF DELAWARE OR, IF THE COURT OF CHANCERY OF THE STATE OF DELAWARE OR THE DELAWARE SUPREME COURT DETERMINES THAT, NOTWITHSTANDING SECTION 111 OF THE DGCL, THE COURT OF CHANCERY DOES NOT HAVE OR SHOULD NOT EXERCISE SUBJECT MATTER JURISDICTION OVER SUCH MATTER, THE SUPERIOR COURT OF THE STATE OF DELAWARE AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE STATE OF DELAWARE SOLELY IN CONNECTION WITH ANY DISPUTE THAT ARISES IN RESPECT OF THE INTERPRETATION AND ENFORCEMENT OF THE PROVISIONS OF THIS AGREEMENT AND THE DOCUMENTS REFERRED TO IN THIS AGREEMENT OR IN RESPECT OF THE TRANSACTIONS, AND HEREBY WAIVE, AND AGREE NOT TO ASSERT, AS A DEFENSE IN ANY ACTION, SUIT OR PROCEEDING FOR INTERPRETATION OR ENFORCEMENT HEREOF OR ANY SUCH DOCUMENT THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF SAID COURTS OR THAT SUCH ACTION, SUIT OR PROCEEDING MAY NOT BE BROUGHT OR IS NOT MAINTAINABLE IN SAID COURTS OR THAT VENUE THEREOF MAY NOT BE APPROPRIATE OR THAT THIS AGREEMENT OR ANY SUCH DOCUMENT MAY NOT BE ENFORCED IN OR BY SUCH COURTS, AND THE PARTIES IRREVOCABLY AGREE THAT ALL CLAIMS WITH RESPECT TO SUCH ACTION, SUIT OR PROCEEDING SHALL BE HEARD AND DETERMINED EXCLUSIVELY BY SUCH DELAWARE STATE OR FEDERAL COURT, AND EACH OF THE PARTIES AGREE NOT TO COMMENCE ANY SUCH ACTION, SUIT OR PROCEEDING EXCEPT IN SUCH DELAWARE STATE OR FEDERAL COURT. THE PARTIES HEREBY CONSENT TO AND GRANT ANY SUCH COURT JURISDICTION OVER THE PERSON OF SUCH PARTIES AND OVER THE SUBJECT MATTER OF SUCH DISPUTE AND AGREE THAT MAILING OF PROCESS OR OTHER PAPERS IN CONNECTION WITH SUCH ACTION, SUIT OR PROCEEDING IN THE MANNER PROVIDED IN SECTION 9.3 OR IN SUCH OTHER MANNER AS MAY BE PERMITTED BY LAW SHALL BE VALID AND SUFFICIENT SERVICE THEREOF.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (II) SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THE FOREGOING WAIVER; (III) SUCH PARTY MAKES THE FOREGOING WAIVER VOLUNTARILY AND (IV) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 9.7.

Section 9.8 **Severability**. Each Party agrees that, should any court or other competent authority hold any provision of this Agreement or part hereof to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such other term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties 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 be consummated as originally contemplated to the greatest extent possible. Except as otherwise contemplated by this Agreement, in response to an order from a court or other competent authority for any Party to take any action inconsistent herewith or not to take an action consistent herewith or required hereby, to the extent that a Party took an action inconsistent with this Agreement or failed to take action consistent with this Agreement or required by this Agreement pursuant to such order, such Party shall not incur any liability or obligation unless such Party did not in good faith seek to resist or object to the imposition or entering of such order.

Section 9.9 **Assignment**. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the Parties (whether by operation of Law or otherwise) without the prior written consent of the other Party. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns. Any purported assignment in violation of this Section 9.9 shall be void.

Section 9.10 **Specific Performance**. The Parties agree that irreparable damage, for which monetary damages would not be an adequate remedy, would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached by the Parties. Prior to the termination of this Agreement pursuant to Section 8.1, it is accordingly agreed that the Parties shall be entitled to an injunction or injunctions, or any other appropriate form of specific performance or equitable relief, to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of competent jurisdiction, in each case in accordance with this Section 9.10, this being in addition to any other remedy to which they are entitled under the terms of this Agreement at Law or in equity. Each Party accordingly agrees not to raise any objections to the availability of the equitable remedy of specific performance to prevent or restrain breaches or threatened breaches of, or to enforce compliance with, the covenants and obligations of such Party under this Agreement all in accordance with the terms of this Section 9.10. Each Party further agrees that no other Party or any other Person shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 9.10, and each Party irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument. If prior to the Outside Date, any Party brings an action to enforce specifically the performance of the terms and provisions hereof by any other Party, the Outside Date shall automatically be extended by such other time period established by the court presiding over such action.

Section 9.11 **Affiliate Liability**. Each of the following is herein referred to as a "Company Affiliate": (a) any direct or indirect holder of equity interests or securities in the Company (whether stockholders or otherwise), and (b) any director, officer, employee, Representative or agent of (i) the Company, or (ii) any Person who controls the Company. No Company Affiliate shall have any liability or obligation to Parent, Merger Sub or LLC Sub of any nature whatsoever in connection with or under this Agreement or the Transactions other than for fraud, and Parent, Merger Sub and LLC Sub waive and release all claims of any such liability and obligation, other than for fraud. Each of the following is referred to as a "Parent Affiliate": (x) any direct or indirect holder of equity interests or securities in Parent (whether stockholders or otherwise), and (y) any director, officer, employee, Representative or agent of (i) Parent or (ii) any Person who controls Parent. No Parent Affiliate shall have any liability or obligation to the Company of any nature whatsoever in connection with or under this Agreement or the Transactions other than for fraud, and the Company waives and releases all claims of any such liability and obligation, other than for fraud.

Section 9.12 **Amendment**. This Agreement may be amended by the Parties at any time before or after adoption of this Agreement by the stockholders of the Company, but, after any such adoption, no amendment shall be made which by Law would require the further approval by such stockholders without first obtaining such further approval. Subject to Section 9.15, this Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties.

Section 9.13 **Extension; Waiver**. At any time prior to the Effective Time, the Company and Parent may, to the extent legally allowed:

(a) extend the time for the performance of any of the obligations or acts of the other Party hereunder;

(b) waive any inaccuracies in the representations and warranties of the other Party contained herein or in any document delivered pursuant hereto; or

(c) waive compliance with any of the agreements or conditions of the other Party contained herein.

Notwithstanding the foregoing, no failure or delay by the Company or Parent in exercising any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any other right hereunder. No agreement on the part of a Party to any such extension or waiver shall be valid unless set forth in an instrument in writing signed on behalf of such Party. No waiver by any of the Parties of any default, misrepresentation or breach of representation, warranty, covenant or other agreement hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

Section 9.14 **Non-Recourse**. This Agreement may only be enforced against, and any claim or cause of action based upon, arising out of, or related to this Agreement or the Transactions may only be brought against, the entities that are expressly named as parties hereto and then only with respect to the specific obligations set forth herein with respect to such party. Except to the extent a named party to this Agreement (and then only to the extent of the specific obligations undertaken by such named party in this Agreement and not otherwise), no past, present or future director, manager, officer, employee, incorporator, member, partner, equityholder, Affiliate, agent, attorney, advisor, consultant, Debt Financing Source Related Party or Representative or Affiliate of any of the foregoing shall have any liability (whether in contract, tort, equity or otherwise) for any one or more of the representations, warranties, covenants, agreements or other obligations or liabilities of any one or more of Parent, the Company, Merger Sub or LLC Sub under this Agreement (whether for indemnification or otherwise) or of or for any claim based on, arising out of, or related to this Agreement or the Transactions.

Section 9.15 **Debt Financing Sources**. Notwithstanding anything in this Agreement to the contrary, each of the parties on behalf of itself and each of its Affiliates hereby: (a) agrees that any legal action (whether in Law or in equity, whether in Contract or in tort or otherwise), involving any Debt Financing Source Related Party, arising out of or relating to this Agreement, any Debt Financing or any of the transactions contemplated hereby or thereby or the performance of any services thereunder, shall be subject to the exclusive jurisdiction of any New York State court or federal court of the United States of America, in each case, sitting in New York County and any appellate court thereof (each such court, the "Subject Courts") and each party irrevocably submits itself and its property with respect to any such legal action to the exclusive jurisdiction of such Subject Courts and agrees that any such dispute shall be governed by, and construed in accordance with, the Laws of the State of New York, except as otherwise set forth in any commitment letter in respect of such Debt Financing with respect to (i) the determination of the accuracy of any "specified acquisition agreement representation" (as such term or similar term is defined in such commitment letter) and whether as a result of any inaccuracy thereof Parent or any of its Affiliates has the right to terminate its or their obligations hereunder pursuant to Section 8.1(b)(iii) or decline to consummate the Closing as a result thereof pursuant to Section 7.2(a) and (iii) the determination of whether the Closing has been consummated in all material respects in accordance with the terms hereof, which shall in each case be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to any choice or conflict of Law provision or rule that would cause the application of Laws of any other jurisdiction, (b) agrees not to bring or support or permit any of its Affiliates to bring or support any legal action (including any action, cause of action, claim, cross-claim or third party claim of any kind or description, whether in Law or in equity, whether in Contract or in tort or otherwise), against any Debt Financing Source Related Party in any way arising out of or relating to this Agreement, any Debt Financing or any of the transactions contemplated hereby or thereby or the performance of any services thereunder in any forum other than any Subject Court, (c) irrevocably waives, to the fullest extent that it may effectively do so, the defense of an inconvenient forum to the maintenance of such legal action in any such Subject Court, (d) knowingly, intentionally and voluntarily waives to the fullest extent permitted by applicable Law trial by jury in any legal action brought against any Debt Financing Source Related Party in any way arising out of or relating to this Agreement, any Debt Financing or any of the transactions contemplated hereby or thereby or the performance of any services thereunder, (e) agrees that no Debt Financing Source Related Party will have any liability to any of the Company, the Company's Subsidiaries or their respective shareholders or Affiliates relating to or arising out of this Agreement, any Debt Financing or any of the transactions contemplated hereby or thereby or the performance of any services thereunder and that none of the Company, the Company's Subsidiaries or any of their respective Affiliates or shareholders shall bring or support any legal action (including any action, cause of action, claim, cross-claim or third party claim of any kind or description, whether in Law or in equity, whether in Contract or in tort or otherwise), against any Debt Financing Source Related Source relating to or in any way arising out of this Agreement, any Debt Financing or any of the transactions contemplated hereby or thereby or the performance of any services thereunder, (f) waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any legal action involving any Debt Financing Source Related Party or the transactions contemplated hereby, any claim that it is not personally subject to the jurisdiction of the Subject Courts as described herein for any reason, and (g) agrees (i) that any Debt Financing Source Related Parties are express third party beneficiaries of, and may enforce, any of the provisions in this Section 9.15 (or the definitions of any terms used in this Section 9.15) and (ii) to the extent any amendments to any provision of this Section 9.15 (or, solely as they relate to such Section, the definitions of any terms used in this Section 9.15) are materially adverse to any Debt Financing Source Related Party, such provisions shall not be amended without the prior written consent of each applicable Debt Financing Source. Notwithstanding anything contained herein to the contrary, nothing in this Section 9.15 shall in any way affect any party's or any of their respective Affiliates' rights and remedies under any binding agreement to which a Debt Financing Source is a party.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, each Party has caused this Agreement to be signed by its respective officer thereunto duly authorized, all as of the date first written above.

PARENT:

CHESAPEAKE ENERGY CORPORATION

By: /s/ Domenic J. Dell'Osso, Jr.
Name: Domenic J. Dell'Osso, Jr.
Title: President and Chief Executive Officer

MERGER SUB:

HULK MERGER SUB, INC.

By: /s/ Domenic J. Dell'Osso, Jr.
Name: Domenic J. Dell'Osso, Jr.
Title: President and Chief Executive Officer

LLC SUB:

HULK LLC SUB, LLC

By: /s/ Domenic J. Dell'Osso, Jr.
Name: Domenic J. Dell'Osso, Jr.
Title: President and Chief Executive Officer

COMPANY:

SOUTHWESTERN ENERGY COMPANY

By: /s/ Bill Way
Name: Bill Way
Title: President & Chief Executive Officer

[*Signature Page to Agreement and Plan of Merger*]

ANNEX A

Certain Definitions

"Affiliate" means, with respect to any Person, any other Person directly or indirectly, controlling, controlled by, or under common control with, such Person, through one or more intermediaries or otherwise.

"Anti-Corruption Laws" means (i) the United States Foreign Corrupt Practices Act of 1977, as amended, (ii) the U.K. Bribery Act 2010, (iii) legislation adopted in furtherance of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and (iv) similar legislation applicable to the Company or Parent and their respective Subsidiaries, as applicable, from time to time.

"Business Day" means a day other than a day on which banks in the State of New York or the State of Delaware are authorized or obligated to be closed.

"Company Benefit Plan" means an Employee Benefit Plan that is sponsored, maintained, contributed to or required to be contributed to by the Company or any of its Subsidiaries or with respect to which the Company or any of its Subsidiaries has any obligation or liability (contingent or otherwise).

"Company Competing Proposal" means any contract, proposal, offer or indication of interest relating to any transaction or series of related transactions (other than transactions only with Parent or any of its Subsidiaries) involving, directly or indirectly: (a) any acquisition (by asset purchase, stock purchase, merger, or otherwise) by any Person or group of any business or assets of the Company or any of its Subsidiaries (including capital stock of or ownership interest in any Subsidiary) that generated 20% or more of the Company's and its Subsidiaries' assets (by fair market value), net revenue or earnings before interest, Taxes, depreciation and amortization for the preceding twelve (12) months, or any license, lease or long-term supply agreement having a similar economic effect, (b) any acquisition by any Person resulting in, or proposal or offer, which if consummated would result in, any Person becoming the beneficial owner of directly or indirectly, in one or a series of related transactions, 20% or more of the total voting power or of any class of equity securities of the Company or those of any of its Subsidiaries, or 20% or more of the consolidated total assets (including, without limitation, equity securities of its Subsidiaries) or (c) any merger, amalgamation, consolidation, division, tender offer, exchange offer, deSPAC transaction, share exchange, business combination, recapitalization, liquidation, dissolution or similar transaction involving the Company or any of its Subsidiaries.

"Company Credit Facility" means that certain Amended and Restated Credit Agreement, dated as of April 8, 2022, by and among the Company, the financial institutions from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent as amended by that certain Amendment No. 1 to Amended and Restated Credit Agreement dated as of August 4, 2022.

"Company Equity Plans" means the Company's 2022 Incentive Plan, the Company's 2013 Incentive Plan, and the Company's Nonemployee Director Deferred Compensation Plan, in each case, as amended.

"Company Expenses" means a cash amount equal to $37,250,000 to be paid in respect of the Company's costs and expenses in connection with the negotiation, execution and performance of this Agreement and the Transactions.

"Company Incentive Awards" means the Company Option Awards, Company Performance Unit Awards, Company Performance Cash Unit Awards, Company Restricted Stock Awards and Company Restricted Stock Unit Awards.

"Company Intervening Event" means a development, event, effect, state of facts, condition, occurrence or change in circumstance that materially affects the business or assets of the Company and its Subsidiaries (taken as a whole) that occurs or arises after the date of this Agreement that was not known to or reasonably foreseeable by the Company Board as of the date of this Agreement (or, if known or reasonably foreseeable, the magnitude or material consequences of which were not known or reasonably foreseeable by the Company Board as of the date of this Agreement); provided, however, that in no event shall the following constitute a Company Intervening Event: (i) the receipt, existence or terms of an actual or possible Company Competing Proposal or Company Superior Proposal, (ii) any Effect relating to Parent or any of its Subsidiaries, (iii) any change, in and of itself, in the price or trading volume of shares of Company Common Stock or Parent Common Stock (it being understood that the underlying facts giving rise or contributing to such change may be taken into account in determining whether there has been a Company Intervening Event, to the extent otherwise permitted by this definition), (iv) the fact that the Company or any of its Subsidiaries exceeds (or fails to meet) internal or published projections or guidance or any matter relating thereto or of consequence thereof (it being understood that the underlying facts giving rise or contributing to such change may be taken into account in determining whether there has been a Company Intervening Event, to the extent otherwise permitted by this definition), (v) conditions (or changes in such conditions) in the oil and gas exploration and production industry (including changes in commodity prices, general market prices and political or regulatory changes affecting the industry or any changes in applicable Law) or (vi) any opportunity to acquire (by merger, joint venture, partnership, consolidation, acquisition of stock or assets or otherwise), directly or indirectly, any assets, securities, properties or businesses from, or enter into any licensing, collaborating or similar arrangements with, any other Person.

"Company Option Award" means an option to purchase shares of Company Common Stock granted to an employee or individual service provider of the Company pursuant to a Company Equity Plan.

"Company Performance Cash Unit Award" an award in the form of cash units, the value of which depends on the performance of the Company over a specified time period.

"Company Performance Unit Award" means each award of restricted stock units granted pursuant to a Company Equity Plan that is subject performance-based vesting conditions and for which the applicable performance period has not been completed as of the applicable determination date.

"Company Restricted Stock Award" means each award of Company Common Stock that vests based on continued service to the Company, and which is granted pursuant to a Company Equity Plan.

"Company Restricted Stock Unit Award" means each award of restricted stock units relating to shares of Company Common Stock that vests based on continued service to the Company granted pursuant to a Company Equity Plan (but does not include Company Performance Unit Awards).

"Company Stockholder Approval" means the adoption of this Agreement by the holders of a majority in voting power of the outstanding shares of Company Common Stock entitled to vote thereon in accordance with the DGCL and the Organizational Documents of the Company.

"Company Stockholders Meeting" means the meeting of the stockholders of the Company to be held for the purposes of obtaining Company Stockholder Approval, including any postponement, adjournment or recess thereof.

"Company Superior Proposal" means a *bona fide* Company Competing Proposal that is not solicited after the date of this Agreement (or otherwise resulting from a breach of Section 6.3) by any Person or group (other than Parent or any of its Affiliates) to acquire, directly or indirectly, (a) businesses or assets of the Company or any of its Subsidiaries (including capital stock of or ownership interest in any Subsidiary) that account for 50% or more of the fair market value of such assets or that generated 50% or more of the Company's and its Subsidiaries' net revenue or earnings before interest, Taxes, depreciation and amortization for the preceding twelve (12) months, respectively, or (b) 50% or more of the total voting power or of any class of equity securities of the Company or those of any of its Subsidiaries, in each case whether by way of merger, amalgamation, share exchange, tender offer, exchange offer, recapitalization, consolidation, sale of assets or otherwise, that in the good faith determination of the Company Board, (i) if consummated, would result in a transaction more favorable to the Company's stockholders (in their capacity as such) than the Merger (after taking into account the time likely to be required to consummate such proposal and any binding irrevocable adjustments or revisions to the terms of this Agreement offered by Parent in response to such proposal or otherwise) and (ii) is reasonably likely to be consummated on the terms proposed, in each case taking into account any legal, financial, regulatory and stockholder approval requirements, including the sources, availability and terms of any financing, financing market conditions and the existence of a financing contingency, the likelihood of termination, the timing of Closing, the identity of the Person or Persons making the proposal and any other aspects considered relevant by the Company Board.

"Company Termination Fee" means $260,000,000.

"Consent" means any filing, notice, notification, report, declaration, registration, certification, approval, clearance, consent, ratification, permit, permission, waiver, expiration or termination of waiting periods, or authorization.

"Contract" means any contract, legally binding commitment, license, promissory note, loan, bond, mortgage, indenture, lease or other legally binding instrument or agreement (whether written or oral).

"control" and its correlative terms, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Creditors' Rights" means, collectively, bankruptcy, insolvency, reorganization, moratorium and other Laws of general applicability relating to or affecting creditors' rights and to general principles of equity regardless of whether such enforceability is considered in a Proceeding in equity or at Law.

"Debt Financing Source Related Parties" means the Debt Financing Sources, the respective Affiliates of each of the foregoing and the respective officers, directors, employees, controlling Persons, agents, advisors and the other Representatives and successors of each of the foregoing.

"Derivative Transaction" means any swap transaction, option, hedge, warrant, forward purchase or sale transaction, futures transaction, cap transaction, floor transaction or collar transaction relating to one or more currencies, commodities (including, without limitation, natural gas, natural gas liquids, crude oil and condensate), bonds, equity securities, loans, interest rates, catastrophe events, weather-related events, credit-related events or conditions or any indexes, or any other similar transaction (including any put, call or other option with respect to any of these transactions) or combination of any of these transactions, including collateralized mortgage obligations or other similar instruments or any debt or equity instruments evidencing or embedding any such types of transactions, and any related credit support, collateral or other similar arrangements related to such transactions.

"DTC" means The Depositary Trust Company.

"Edgar" means the Electronic Data Gathering, Analysis and Retrieval System administered by the SEC.

"Employee Benefit Plan" of any Person means any "employee benefit plan" (within the meaning of Section 3(3) of ERISA, regardless of whether such plan is subject to ERISA), and any personnel policy (oral or written), equity option, restricted equity, equity purchase, equity compensation, phantom equity or appreciation rights, bonus, incentive award, vacation or holiday pay, retention or severance, deferred compensation, change in control, hospitalization or other medical, dental, vision, accident, disability, or life, executive compensation or supplemental income, consulting, employment, and any other benefit or compensation plan, agreement, arrangement, program, or policy, including for any present or former director, employee or contractor of the Person, but excluding any such plan, program or arrangement that is administered by a Governmental Entity.

"Encumbrances" means liens, pledges, charges, encumbrances, claims, hypothecation, mortgages, deeds of trust, security interests, restrictions, rights of first refusal, defects in title, prior assignment, license sublicense or other burdens, options or encumbrances of any kind or any agreement, option, right or privilege (whether by Law, contract or otherwise) capable of becoming any of the foregoing (any action of correlative meaning, to "Encumber").

"Environmental Laws" means any and all Laws in effect as of or prior to the date hereof pertaining to pollution, protection of the environment or natural resources (including, without limitation, any natural resource damages), human health and safety (to the extent relating to exposure to Hazardous Materials), and the generation, treatment, storage, disposal, handling, use, manufacturing, transportation, discharge, emission or Release of, or exposure to, Hazardous Materials.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means, with respect to any Person, any other Person that is treated as a single employer with such Person within the meaning of Section 414 of the Code.

"Ex-Im Law" means all Laws and regulations relating to export, re-export, transfer or import controls, including, without limitation, the Export Administration Regulations administered by the U.S. Department of Commerce, and customs and import Laws administered by U.S. Customs and Border Protection.

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

"fraud" means, with respect to any Party, knowing actual common law fraud under the Laws of the State of Delaware in the making of any representation or warranty made by such Party and set forth in Article IV or Article V of this Agreement.

"Governmental Entity" means any U.S. or non-U.S. federal, state, tribal, local or municipal court or other adjudicative body or entity, legislature, governmental, regulatory or administrative agency or commission or other governmental authority or instrumentality, domestic or foreign.

"group" has the meaning ascribed to such term in Section 13(d) of the Exchange Act.

"Hazardous Materials" means any (a) chemical, product, material, substance or waste that is defined or listed as hazardous or toxic, or as a pollutant or contaminant, or that is otherwise regulated under, or for which standards of conduct or liability may be imposed pursuant to, any Environmental Law due to its hazardous or dangerous properties or characteristics; (b) asbestos or asbestos-containing materials, whether in a friable or non-friable condition, lead-containing material, polychlorinated biphenyls, per- and polyfluoroalkyl substances, naturally occurring radioactive materials or radon; and (c) any Hydrocarbons.

"HSR Reservation Notice" means a communication or notification from a Governmental Entity that an investigation of the Transaction under Antitrust Laws may be conducted or continue following the expiration of the waiting period under the HSR Act and the consummation of the Merger.

"Hydrocarbons" means any hydrocarbon-containing substance, crude oil, natural gas, casinghead gas, condensate, drip gas and natural gas liquids, coalbed gas, ethane, propane, iso-butane, nor-butane, gasoline, scrubber liquids and other liquids or gaseous hydrocarbons or other substances (including minerals or gases), or any combination thereof, produced, derived, refined or associated therewith.

"Indebtedness" of any Person means, without duplication: (a) indebtedness of such Person for borrowed money; (b) obligations of such Person to pay the deferred purchase or acquisition price for any property of such Person; (c) reimbursement obligations of such Person in respect of drawn letters of credit or similar instruments issued or accepted by banks and other financial institutions for the account of such Person; (d) obligations of such Person under a lease to the extent such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP; and (e) indebtedness of others as described in clauses (a) through (d) above guaranteed by such Person; but Indebtedness does not include accounts payable to trade creditors, or accrued expenses arising in the Ordinary Course, in each case, that are not yet due and payable, or are being disputed in good faith, and the endorsement of negotiable instruments for collection in the Ordinary Course.

"Intellectual Property" means any and all proprietary, industrial and intellectual property rights, under the applicable Law of any jurisdiction or rights under international treaties, both statutory and common Law rights, including: (a) utility models, supplementary protection certificates, invention disclosures, registrations, patents and applications for same, and extensions, divisions, continuations, continuations-in-part, reexaminations, revisions, renewals, substitutes, and reissues thereof; (b) trademarks, service marks, certification marks, collective marks, brand names, d/b/a's, trade names, slogans, domain names, symbols, logos, trade dress and other identifiers of source, and registrations and applications for registrations thereof and renewals of the same (including all common Law rights and goodwill associated with the foregoing and symbolized thereby); (c) published and unpublished works of authorship, whether copyrightable or not, copyrights therein and thereto, together with all common Law and moral rights therein, database rights, and registrations and applications for registration of the foregoing, and all renewals, extensions, restorations and reversions thereof; (d) trade secrets, know-how, and other rights in information, including designs, formulations, concepts, compilations of information, methods, techniques, procedures, and processes, whether or not patentable; (e) Internet domain names and URLs; and (f) all other intellectual property, industrial or proprietary rights.

"IT Assets" means computers, software, servers, networks, workstations, routers, hubs, circuits, switches, data communications lines, and all other information technology equipment, and all associated documentation.

"Knowledge" means the actual knowledge of, (a) in the case of the Company, the individuals listed in Schedule 1.1 of the Company Disclosure Letter, and (b) in the case of Parent, the individuals listed in Schedule 1.1 of the Parent Disclosure Letter.

"Law" means any law, statute, rule, regulation, ordinance, code, judgment, order, decree, injunction, decision, ruling, writ, award, treaty or convention, U.S. or non-U.S., of any Governmental Entity, including common law.

"Material Adverse Effect" means, when used with respect to any Party, any fact, circumstance, effect, change, event or development ("Effect") that (a) would prevent, materially delay or materially impair the ability of such Party or its Subsidiaries to consummate the Transactions or (b) has, or would have, a material adverse effect on the financial condition, business, or results of operations of such Party and its Subsidiaries, taken as a whole; provided, however, that with respect to this clause (b) only, no Effect (by itself or when aggregated or taken together with any and all other Effects) to the extent directly or indirectly resulting from, arising out of, attributable to, or related to any of the following shall be deemed to be or constitute a "Material Adverse Effect" or shall be taken into account when determining whether a "Material Adverse Effect" has occurred or may, would or could occur:

(i) general economic conditions (or changes in such conditions) or conditions in the U.S. or global economies generally;

(ii) conditions (or changes in such conditions) in the securities markets, credit markets, commodity markets, currency markets or other financial markets, including (A) changes in interest rates and changes in exchange rates for the currencies of any countries and (B) any suspension of trading in securities (whether equity, debt, derivative or hybrid securities) generally on any securities exchange or over-the-counter market;

(iii) conditions (or changes in such conditions) in the oil and gas exploration, development or production industry (including changes in commodity prices, general market prices and regulatory changes affecting the industry);

(iv) political conditions (or changes in such conditions) or acts of war, sabotage or terrorism (including any escalation or general worsening of any such acts of war, sabotage or terrorism);

(v) earthquakes, hurricanes, tsunamis, tornadoes, floods, mudslides, wild fires or other natural disasters, pandemics, epidemics or other widespread health crises or weather conditions;

(vi) effects resulting from the negotiation, execution and announcement of this Agreement or the pendency or consummation of the Transactions, including the impact thereof on the relationship of such Party and its Subsidiaries with customers, suppliers, partners, employees or governmental bodies, agencies, officials or authorities (other than with respect to any representation or warranty that is intended to address the consequences of the execution or delivery of this Agreement or the announcement or consummation of the Transactions);

(vii) the execution and delivery of or compliance with the terms of, or the taking of any action or failure to take any action which action or failure to act is requested in writing by Parent or expressly permitted or required by, this Agreement (except for any obligation under this Agreement to operate in the Ordinary Course (or similar obligation) pursuant to Sections 6.1 or 6.2, as applicable), the public announcement of this Agreement or the Transactions (provided that this clause (vii) shall not apply to any representation or warranty to the extent the purpose of such representation or warranty is to address the consequences resulting from the execution and delivery of this Agreement or the consummation of the Transactions);

(viii) any litigation brought by any holder of Company Common Stock against the Company or holder of Parent Common Stock against Parent, or against any of their respective Subsidiaries and/or respective directors or officers relating to the Merger and any of the other Transactions or this Agreement;

(ix) changes in Law or other legal or regulatory conditions, or the interpretation thereof, or changes in GAAP or other accounting standards (or the interpretation thereof), or that result from any action taken for the purpose of complying with any of the foregoing;

(x) any Remedy Action or any effects arising due to Antitrust Law in relation to the Transactions;

(xi) any changes in such Party's stock price or the trading volume of such Party's stock, or any failure by such Party to meet any analysts' estimates or expectations of such Party's revenue, earnings or other financial performance or results of operations for any period, or any failure by such Party or any of its Subsidiaries to meet any internal or published budgets, plans or forecasts of its revenues, earnings or other financial performance or results of operations (it being understood that the facts or occurrences giving rise to or contributing to such changes or failures may constitute, or be taken into account in determining whether there has been or will be, a Material Adverse Effect);

provided, however, except to the extent such Effects directly or indirectly resulting from, arising out of, attributable to or related to the matters described in the foregoing clauses (i) through (v) and (ix) disproportionately adversely affect such Party and its Subsidiaries, taken as a whole, as compared to other similarly situated participants operating in the oil and gas exploration, development or production industry (in which case, such adverse effects (if any) shall be taken into account when determining whether a "Material Adverse Effect" has occurred or may, would or could occur solely to the extent they are disproportionate).

"NASDAQ" means the Nasdaq Global Select Market.

"Notes" means the Company's (i) 4.950% Senior Notes due 2025, (ii) 8.375% Senior Notes due 2028, (iii) 5.375% Senior Notes due 2029, (iv) 5.375% Senior Notes due 2030, and (v) 4.750% Senior Notes due 2032, and each series of Notes in the preceding clauses (i) through (v) a "Series of Notes".

"NYSE" means the New York Stock Exchange.

"Oil and Gas Leases" means all leases, subleases, licenses or other occupancy or similar agreements (including any series of related leases with the same lessor) under which a Person leases, subleases or licenses or otherwise acquires or obtains rights to produce Hydrocarbons from real property interests.

"Oil and Gas Properties" means all interests in and rights with respect to (a) oil, gas, mineral, and similar properties of any kind and nature, including working, leasehold and mineral interests and operating rights and royalties, overriding royalties, production payments, net profit interests and other non-working interests and non-operating interests (including all Oil and Gas Leases, operating agreements, unitization and pooling agreements and orders, division orders, transfer orders, mineral deeds, royalty deeds, and in each case, interests thereunder), surface interests, carried interests, fee interests, reversionary interests, reservations and concessions and (b) all Wells.

"Ordinary Course" means, with respect to an action taken by any Person, that such action is taken in the ordinary course of business consistent with the past practices of such Person.

"Organizational Documents" means (a) with respect to a corporation, the charter, articles or certificate of incorporation, as applicable, and bylaws thereof, (b) with respect to a limited liability company, the certificate of formation or organization, as applicable, and the operating or limited liability company agreement thereof, (c) with respect to a partnership, the certificate of formation or partnership and the partnership agreement, and (d) with respect to any other Person the organizational, constituent and/or governing documents and/or instruments of such Person.

"other Party" means (a) when used with respect to the Company, Parent, Merger Sub and LLC Sub and (b) when used with respect to Parent, Merger Sub or LLC Sub, the Company.

"Parent Competing Proposal" means any contract, proposal, offer or indication of interest relating to any transaction or series of related transactions (other than transactions only with the Company or any of its Subsidiaries) involving, directly or indirectly: (a) any acquisition (by asset purchase, stock purchase, merger, or otherwise) by any Person or group of any business or assets of Parent or any of its Subsidiaries (including capital stock of or ownership interest in any Subsidiary) that generated 20% or more of Parent's and its Subsidiaries' assets (by fair market value), net revenue or earnings before interest, Taxes, depreciation and amortization for the preceding twelve (12) months, or any license, lease or long-term supply agreement having a similar economic effect, (b) any acquisition by any Person resulting in, or proposal or offer, which if consummated would result in, any Person becoming the beneficial owner of directly or indirectly, in one or a series of related transactions, 20% or more of the total voting power or of any class of equity securities of Parent or those of any of its Subsidiaries, or 20% or more of the consolidated total assets (including, without limitation, equity securities of its Subsidiaries) or (c) any merger, amalgamation, consolidation, division, tender offer, exchange offer, deSPAC transaction, share exchange, business combination, recapitalization, liquidation, dissolution or similar transaction involving Parent or any of its Subsidiaries.

"Parent Credit Facility" means that certain Credit Agreement, dated as of December 9, 2022, by and among Parent, the financial institutions from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent.

"Parent Expenses" means a cash amount equal to $55,600,000 to be paid in respect of Parent's costs and expenses in connection with the negotiation, execution and performance of this Agreement and the Transactions.

"Parent Intervening Event" means a development, event, effect, state of facts, condition, occurrence or change in circumstance that materially affects the business or assets of Parent and its Subsidiaries (taken as a whole) that occurs or arises after the date of this Agreement that was not known to or reasonably foreseeable by the Parent Board as of the date of this Agreement (or, if known or reasonably foreseeable, the magnitude or material consequences of which were not known or reasonably foreseeable by the Parent Board as of the date of this Agreement); provided, however, that in no event shall the following constitute a Parent Intervening Event: (i) the receipt, existence or terms of an actual or possible Parent Competing Proposal or Parent Superior Proposal, (ii) any Effect relating to the Company or any of its Subsidiaries, (iii) any change, in and of itself, in the price or trading volume of shares of Parent Common Stock or Company Common Stock (it being understood that the underlying facts giving rise or contributing to such change may be taken into account in determining whether there has been a Parent Intervening Event, to the extent otherwise permitted by this definition), (iv) the fact that Parent or any of its Subsidiaries exceeds (or fails to meet) internal or published projections or guidance or any matter relating thereto or of consequence thereof (it being understood that the underlying facts giving rise or contributing to such change may be taken into account in determining whether there has been a Parent Intervening Event, to the extent otherwise permitted by this definition), (v) conditions (or changes in such conditions) in the oil and gas exploration and production industry (including changes in commodity prices, general market prices and political or regulatory changes affecting the industry or any changes in applicable Law) or (vi) any opportunity to acquire (by merger, joint venture, partnership, consolidation, acquisition of stock or assets or otherwise), directly or indirectly, any assets, securities, properties or businesses from, or enter into any licensing, collaborating or similar arrangements with, any other Person.

"Parent Plan" means an Employee Benefit Plan and any successor plan thereto that, in each case, is sponsored, maintained, contributed to or required to be contributed to by Parent or any of its Subsidiaries or with respect to which Parent or any of its Subsidiaries has any obligation or liability (contingent or otherwise).

"Parent Stockholder Approval" means the approval of the Parent Stock Issuance by the affirmative vote of a majority of the votes cast at the Parent Stockholders Meeting in accordance with the rules and regulations of NASDAQ and the Organizational Documents of Parent.

"Parent Stockholders Meeting" means the meeting of the stockholders of the Parent to be held for the purposes of obtaining Parent Stockholder Approval, including any postponement adjournment or recess thereof.

"Parent Superior Proposal" means a *bona fide* Parent Competing Proposal that is not solicited after the date of this Agreement (or otherwise resulting from a breach of Section 6.4) by any Person or group to acquire, directly or indirectly, (a) businesses or assets of Parent or any of its Subsidiaries (including capital stock of or ownership interest in any Subsidiary) that account for 50% or more of the fair market value of such assets or that generated 50% or more of Parent's and its Subsidiaries' net revenue or earnings before interest, Taxes, depreciation and amortization for the preceding twelve (12) months, respectively, or (b) 50% or more of the total voting power or of any class of equity securities of Parent or those of any of its Subsidiaries, in each case whether by way of merger, amalgamation, share exchange, tender offer, exchange offer, recapitalization, consolidation, sale of assets or otherwise, that in the good faith determination of the Parent Board, (i) if consummated, would result in a transaction more favorable to Parent's stockholders (in their capacity as such) than the Merger (after taking into account the time likely to be required to consummate such proposal and any binding irrevocable adjustments or revisions to the terms of this Agreement offered by the Company in response to such proposal or otherwise) and (ii) is reasonably likely to be consummated on the terms proposed, in each case taking into account any legal, financial, regulatory and stockholder approval requirements, including the sources, availability and terms of any financing, financing market conditions and the existence of a financing contingency, the likelihood of termination, the timing of Closing, the identity of the Person or Persons making the proposal and any other aspects considered relevant by the Parent Board.

"Parent Termination Fee" means $389,000,000.

"Parent Warrant Agreements" means that certain (i) Class A Warrant Agreement, dated as of February 9, 2021, between Parent and Equiniti Trust Company, (ii) Class B Warrant Agreement, dated as of February 9, 2021, between Parent and Equiniti Trust Company and (iii) Class C Warrant Agreement, dated as of February 9, 2021, between Parent and Equiniti Trust Company.

"Party" or "Parties" means a party or the parties to this Agreement, except as the context may otherwise require.

"Permitted Encumbrances" means:

(i) to the extent not applicable to the Transactions or otherwise waived prior to the Effective Time, preferential purchase rights, rights of first refusal, purchase options and similar rights granted pursuant to any contracts, including joint operating agreements, joint ownership agreements, participation agreements, development agreements, stockholders agreements, consents and other similar agreements and documents;

(ii) (A) contractual or statutory mechanic's, materialmen's, warehouseman's, journeyman's, vendor's, repairman's, construction and carrier's liens and other similar Encumbrances arising in the Ordinary Course for amounts not yet delinquent and (B) Encumbrances for Taxes or assessments or other governmental charges that are not yet delinquent or, in all instances, if delinquent, that are being contested in good faith by appropriate Proceeding and for which adequate reserves have been established on the financial statements of the Company or Parent, as applicable, in accordance with GAAP;

(iii) Production Burdens payable to third parties that are deducted in the calculation of discounted present value in the Company Reserve Report or the Parent Reserve Report, as applicable;

(iv) Encumbrances arising in the Ordinary Course under operating agreements, joint venture agreements, partnership agreements, Oil and Gas Leases, farm-out agreements, division orders, contracts for the sale, purchase, transportation, processing or exchange of oil, gas or other Hydrocarbons, unitization and pooling declarations and agreements, area of mutual interest agreements, development agreements, joint ownership arrangements and other agreements that are customary in the oil and gas business, provided, however, that, in each case, such Encumbrance (i) secures obligations that are not Indebtedness or a deferred purchase price and are not delinquent and (ii) would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect, on the value, use or operation of the property encumbered thereby;

(v) such Encumbrances as the Company (in the case of Encumbrances with respect to properties or assets of Parent or its Subsidiaries) or Parent (in the case of Encumbrances with respect to properties or assets of the Company or its Subsidiaries), as applicable, have expressly waived in writing;

(vi) all easements, zoning restrictions, conditions, covenants, rights-of-way, servitudes, permits, surface leases and other similar rights in respect of surface operations, and easements for pipelines, facilities, streets, alleys, highways, telephone lines, power lines, railways removal of timber, grazing, logging operations, canals, ditches, reservoirs and other easements and rights-of-way, on, over or in respect of any of the properties of the Company or Parent, as applicable, or any of their respective Subsidiaries, that are customarily granted in the oil and gas industry and do not materially interfere with the operation, value or use of the property or asset affected;

(vii) any Encumbrances to be discharged at or prior to the Effective Time (including Encumbrances securing any Indebtedness that will be paid off in connection with Closing);

(viii) Encumbrances imposed or promulgated by applicable Law or any Governmental Entity with respect to real property, including zoning, building or similar restrictions;

(ix) Encumbrances, exceptions, defects or irregularities in title, easements, imperfections of title, claims, charges, security interests, rights-of-way, covenants, restrictions and other similar matters that would be accepted by a reasonably prudent purchaser of oil and gas interests in the geographic area where such oil and gas interests are located, that would not reduce the net revenue interest share of the Company or Parent (without at least a proportionate increase in net revenue interest), as applicable, or such Party's Subsidiaries, in any Oil and Gas Lease below the net revenue interest share shown in the Company Reserve Report, with respect to such lease, or increase the working interest of the Company or Parent, as applicable, or of such Party's Subsidiaries, in any Oil and Gas Lease above the working interest shown on the Company Reserve Report, with respect to such lease and, in each case, that have not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect or Parent Material Adverse Effect, as applicable;

(x) with respect to (i) Parent and its Subsidiaries, Encumbrances arising under the Parent Credit Facility and (ii) the Company and its Subsidiaries, Encumbrances arising under the Company Credit Facility;

(xi) Encumbrances arising from precautionary Uniform Commercial Code financing statements or similar filings made in respect of operating leases;

(xii) Encumbrances that are contractual rights of set-off, revocation, refund, or chargeback (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposits or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course or (iii) relating to purchase orders and other agreements entered in the Ordinary Course;

(xiii) Encumbrances solely on any cash earnest money deposits or escrow arrangements in connection with any letter of intent or purchase agreement relating to any acquisition of property permitted hereunder;

(xiv) Encumbrances on insurance policies and the proceeds thereof securing the financing of the related insurance premiums;

(xv) ground leases in respect of real property on which facilities owned or leased by the Company, Parent or any of their respective Subsidiaries are located;

(xvi) any right which any municipal or governmental body or agency may have by virtue of any franchise, license, contract or statute to purchase, or designate a purchaser of or order the sale or disposition of, any property upon payment of reasonable compensation therefor or to terminate any franchise, license or other rights or to regulate the property and business of the Company or Parent, as applicable;

(xvii) Encumbrances on (x) property of the Company or a Subsidiary thereof securing its obligations owing to the Company or a wholly owned Subsidiary thereof and (y) property of Parent or a Subsidiary thereof securing its obligations owing to Parent or a wholly owned Subsidiary thereof; and

(xviii) Encumbrances consisting of deposits which secure public or statutory obligations, or surety, custom or appeal bonds, or the payment of contested taxes or import duties.

"Person" means any individual, partnership, limited liability company, corporation, joint stock company, trust, estate, joint venture, Governmental Entity, association or unincorporated organization, or any other form of business or professional entity.

"Personal Information" means any information that (i) alone or in combination with other information held by the Company or any of its Subsidiaries, identifies or could reasonably be used to identify an individual, and/or (ii) is considered "personally identifiable information," "personal information," "personal data," or any similar term by any applicable Laws.

"Proceeding" means any cause of action, action, audit, demand, litigation, suit, proceeding, investigation, citation, inquiry, hearing, arbitration or other proceeding at Law or in equity or order or ruling, in each case whether civil, criminal, administrative, investigative or otherwise, whether in contract, in tort or otherwise.

"Production Burdens" means any royalties (including lessor's royalties), overriding royalties, production payments, net profit interests or other similar interests that constitute a burden on, and are measured by or are payable out of the production of Hydrocarbons or the proceeds realized from the sale or other disposition thereof.

"Release" means any releasing, depositing, spilling, leaking, pumping, pouring, placing, emitting, discarding, abandoning, emptying, discharging, injecting, escaping, leaching, dumping, dispersing or disposing into or onto the indoor or outdoor environment.

"Representatives" means, with respect to any Person, the officers, directors, employees, accountants, consultants, agents, legal counsel, financial advisors and other representatives of such Person.

"Sanctioned Person" means, at any time, any Person: (a) listed on any Sanctions-related list of designated or blocked Persons; (b) resident in or organized under the Laws of a country or territory that is the subject of comprehensive Sanctions from time to time; or (c) majority owned or controlled by any of the foregoing.

"Sanctions" means those trade, economic and financial sanctions Laws, regulations, embargoes and restrictive measures (in each case having the force of Law) administered, enacted or enforced from time to time by (a) the United States (including, without limitation, the Department of Treasury, Office of Foreign Assets Control), (b) the European Union and enforced by its member states, (c) the United Nations or (d) Her Majesty's Treasury.

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002.

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

"Securities Act" means the Securities Act of 1933, as amended.

"Subsidiary" means, with respect to a Person, any Person, whether incorporated or unincorporated, of which (a) more than 50% of the securities or ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions, (b) a general partner interest or (c) a managing member interest, is directly or indirectly owned or controlled by the subject Person or by one or more of its respective Subsidiaries.

"Takeover Law" means any "fair price," "moratorium," "control share acquisition," "business combination" or any other anti-takeover statute or similar statute enacted under applicable Law, including Section 203 of the DGCL and Sections 1090.3 and 1145 through 1155 of the Oklahoma General Corporation Act.

"Tax Returns" means any return, report, statement, information return or other document (including any related or supporting information) filed or required to be filed with any Taxing Authority in connection with the determination, assessment, collection or administration of any Taxes, including any schedule or attachment thereto and any amendment thereof.

"Taxes" means any and all taxes and similar charges, duties, levies or other assessments, each in the nature of a tax, including, but not limited to, income, estimated, business, occupation, corporate, gross receipts, transfer, stamp, employment, occupancy, license, severance, capital, impact fee, production, ad valorem, excise, property, sales, use, turnover, value added and franchise taxes, deductions, withholdings and custom duties, imposed by any Governmental Entity, including interest, penalties, and additions to tax imposed with respect thereto.

"Taxing Authority" means any Governmental Entity having jurisdiction in matters relating to Tax matters.

"Transactions" means the Merger, the LLC Sub Merger and the other transactions contemplated by this Agreement and each other agreement to be executed and delivered in connection with this Agreement.

"Transfer Taxes" means any transfer, sales, use, stamp, registration or other similar Taxes; provided, for the avoidance of doubt, that Transfer Taxes shall not include any income, franchise or similar taxes.

"Voting Debt" of a Person means bonds, debentures, notes or other Indebtedness having the right to vote (or convertible into securities having the right to vote) on any matters on which stockholders of such Person may vote.

"Wells" means all oil or gas wells, whether producing, operating, shut-in or temporarily abandoned, located on an Oil and Gas Lease or any pooled, communitized or unitized acreage that includes all or a part of such Oil and Gas Lease or otherwise associated with an Oil and Gas Property of the applicable Person or any of its Subsidiaries, together with all oil, gas and mineral production from such well.

"Willful and Material Breach" including the correlative term "Willfully and Materially Breach," shall mean a breach that is material (or the committing of a breach that is material) that is a consequence of an act or failure to take an act by the breaching party with the knowledge (actual or constructive) that the taking of such act (or the failure to take such act) would constitute, or would reasonably be expected to result in, a breach of this Agreement.

EXHIBIT A

Form of Certificate of Incorporation of the Surviving Corporation

[*Omitted.*]

EXHIBIT B

Form of Bylaws of the Surviving Corporation

[*Omitted.*]

EXHIBIT C

Form of LLC Sub Merger Agreement

[*Omitted.*]

Exhibit 10.1

January [●], 2024

To: [NAME]

Dear [NAME]:

Reference is hereby made to (i) that certain Agreement and Plan of Merger, dated as of the date of this letter agreement (the "***Merger Agreement***") by and among the Chesapeake Energy Corporation (the "***Company***"), Hulk Merger Sub, Inc., Hulk LLC Sub, LLC and Southwestern Energy Company ("***Southwestern***"), pursuant to which the Company will, subject to the terms and conditions of the Merger Agreement, acquire all of the outstanding equity interests of Southwestern in exchange for shares of common stock in the Company (the "***Transaction***"), (ii) the Chesapeake Energy Corporation Executive Severance Plan (the "***Severance Plan***"), under which you have previously executed a Participation Agreement (as defined in the Severance Plan), and (iii) the Chesapeake Energy Corporation 2021 Long Term Incentive Plan (together with any successor equity incentive plan, the "***LTIP***"), pursuant to which you have been and/or will be granted one or more Awards (as defined in the LTIP). Capitalized terms used but not defined herein have the meanings set forth in the Severance Plan, except as expressly set forth herein.

This letter agreement (the "***Agreement***") confirms your eligibility for enhanced severance benefits in the event you incur a Qualifying Termination during the Transaction Protection Period (as defined below).

Notwithstanding anything in the Severance Plan, the LTIP or any Award Agreement (as defined in the LTIP and, for the avoidance of doubt, including any Award Agreement entered into after the date of this letter agreement and prior to the consummation of the Transaction) to the contrary, you and the Company hereby agree as follows:

1. The "***Transaction Protection Period***" shall be the period beginning on the date of the consummation of the Transaction (the "***Closing***") and ending 24 months after the date of the Closing.

2. In the event you incur a Qualifying Termination during the Transaction Protection Period, such Qualifying Termination shall be considered to have been incurred during the Change in Control Protection Period for purposes of the Severance Plan and you shall be eligible to receive the benefits set forth in Section 5(b) of the Severance Plan, subject to the other terms and conditions of the Severance Plan. In addition, if you incur a Qualifying Termination during the Transaction Protection Period, the amount payable under Section 5(b)(ii) of the Severance Plan shall be one and one-half (1.5) times the Group Health Plan Amount.

3. During the Transaction Protection Period, the Transaction will be considered as, and will be deemed to be, a Change in Control for all purposes under the LTIP solely with respect to Awards granted prior to the Closing ("***Pre-Closing Awards***"), and, with respect to Pre-Closing Awards, any Qualifying Termination shall be considered a termination by the Company without Cause, such that all Pre-Closing Awards will become fully vested (with performance-based awards measured based on actual performance in accordance with the terms of the applicable award agreement). For the avoidance of doubt, the foregoing shall not apply to Awards granted after the Closing.

4. For the avoidance of doubt, you will not be entitled to the benefits provided under this Agreement in the event your employment is terminated by the Company for Cause. Without limiting the foregoing, and notwithstanding any other provision herein to the contrary, you will not be entitled to the benefits provided under this Agreement in the event your employment is terminated by the Company during the Transaction Protection Period for bona fide performance reasons unrelated to the consummation of the Transactions, provided that (i) such bona fide performance reasons relate to significant repeated and continuing deficiencies in job performance (i.e., excluding isolated, sporadic and/or immaterial performance lapses), (ii) such deficiencies in job performance have been documented by the Company in accordance with its customary disciplinary and/or performance improvement processes and have been communicated to you in a writing (which written communication shall describe with reasonable specificity the nature of such performance deficiencies, including the material acts or omissions giving rise thereto) within a reasonable period of time following the onset of thereof, and (iii) you have been given a reasonable opportunity to remedy on a prospective basis the alleged performance deficiencies and have failed to do so for a period of at least 30 days following your receipt of written notice thereof.

5. During the Transaction Protection Period, the Company will not amend the Severance Plan in any manner that would adversely affect the benefits or protections provided to you under the Severance Plan or this Agreement.

6. In addition, if you incur a Qualifying Termination in calendar year 2024 and prior to the Closing, then any outstanding Awards previously granted to you under the LTIP (or portions thereof) that are unvested as of your date of termination and were scheduled under their original terms to vest in calendar year 2024, will remain outstanding and will continue to vest in accordance with their terms as if you had remained employed through the applicable vesting date (and, for the avoidance of doubt, vesting of performance-based awards will be based on actual performance, as determined in accordance with the applicable award agreement).

Except as expressly set forth herein, the terms of the Severance Plan, the LTIP and each Award Agreement remain unchanged. The benefits provided under this Agreement are subject to Section 15(j) of the Severance Plan and the parties hereto further intend that the benefits provided under this Agreement shall be exempt from the requirements of Section 409A and that this Agreement shall be interpreted and administered consistent with such intent. Paragraphs 1-5 above are expressly conditioned upon the consummation of the Transaction. In the event the Merger Agreement is terminated without consummation of the Transaction, paragraphs 1-5 of this Agreement shall be considered null and void *ab initio*; however, paragraph 6 shall survive and shall remain in effect in accordance with its terms. This letter agreement may be executed in any number of counterparts (including via facsimile or e-mail in .pdf format), any one of which need not contain the signatures of more than one party, but all of such counterparts together shall constitute one agreement.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have executed this letter agreement as of the date first written above.

Chesapeake Energy Corporation

By: _____
Name:
Its:

Acknowledged, agreed and accepted:

By: _____
[NAME]