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

FORM 10-Q

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

For the quarterly period ended March 31, 2017

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

For the transition period from to

Commission File Number: 001-36559

Spark Energy, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**46-5453215**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*

12140 Wickchester Ln, Suite 100
Houston, Texas 77079

(Address of principal executive offices)

(713) 600-2600
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this Chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).
Yes ☒ No ☐

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

Large accelerated filer ☐ Accelerated filer ☒
Non-accelerated filer ☐ (Do not check if a smaller reporting company) Smaller reporting company ☐
Emerging Growth Company ☒

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

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

There were 6,499,504 shares of Class A common stock, 10,742,563 shares of Class B common stock and 1,610,000 shares of Series A Preferred stock outstanding as of May 5, 2017 .

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PART 1. — FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

SPARK ENERGY, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
AS OF MARCH 31, 2017 AND DECEMBER 31, 2016
(in thousands)
(unaudited)

	March 31, 2017	December 31, 2016
Assets		
Current assets:		
Cash and cash equivalents	$ 24,931	$ 18,960
Accounts receivable, net of allowance for doubtful accounts of $2.4 million and $2.3 million as of March 31, 2017 and December 31, 2016, respectively	108,754	112,491
Accounts receivable—affiliates	2,013	2,624
Inventory	430	3,752
Fair value of derivative assets	2,388	8,344
Customer acquisition costs, net	18,515	18,834
Customer relationships, net	12,474	12,113
Prepaid assets	2,319	1,361
Deposits	6,264	7,329
Other current assets	13,595	12,175
Total current assets	191,683	197,983
Property and equipment, net	4,389	4,706
Fair value of derivative assets	—	3,083
Customer acquisition costs, net	8,776	6,134
Customer relationships, net	18,537	21,410
Deferred tax assets	54,335	55,047
Goodwill	79,407	79,147
Other assets	8,690	8,658
Total assets	$ 365,817	$ 376,168
Liabilities, Series A Preferred Stock and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 40,315	$ 52,309
Accounts payable—affiliates	3,217	3,775
Accrued liabilities	40,022	36,619
Fair value of derivative liabilities	1,723	680
Current portion of Senior Credit Facility	22,236	51,287
Current contingent consideration for acquisitions	12,103	11,827
Current portion of note payable	8,185	15,501
Convertible subordinated notes to affiliates	—	6,582
Other current liabilities	2,230	5,476
Total current liabilities	130,031	184,056
Long-term liabilities:		
Fair value of derivative liabilities	4,964	68
Payable pursuant to tax receivable agreement—affiliates	49,886	49,886
Subordinated debt—affiliate	—	5,000
Deferred tax liability	139	938
Contingent consideration for acquisitions	4,083	10,826
Other long-term liabilities	1,333	1,658
Total liabilities	190,436	252,432
Commitments and contingencies (Note 12)		
Series A Preferred Stock, par value $0.01 per share, 20,000,000 shares authorized, 1,610,000 shares issued and outstanding at March 31, 2017 and zero shares issued and outstanding at December 31, 2016	38,346	—
Stockholders' equity:		
Common Stock:		
Class A common stock, par value $0.01 per share, 120,000,000 shares authorized, 6,499,504 issued and outstanding at March 31, 2017 and 6,496,559 issued and outstanding at December 31, 2016	65	65
Class B common stock, par value $0.01 per share, 60,000,000 shares authorized, 10,742,563 issued and outstanding at March 31, 2017 and 10,224,742 issued and outstanding at December 31, 2016	108	103
Additional paid-in capital	33,812	25,413
Accumulated other comprehensive (income)/loss	(7)	11
Retained earnings	4,625	4,711
Total stockholders' equity	38,603	30,303
Non-controlling interest in Spark HoldCo, LLC	98,432	93,433
Total equity	137,035	123,736
Total liabilities, Series A Preferred Stock and stockholders' equity	$ 365,817	$ 376,168

The accompanying notes are an integral part of the condensed consolidated financial statements.

SPARK ENERGY, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME
FOR THE THREE MONTHS ENDED MARCH 31, 2017 AND 2016
(in thousands, except per share data)
(unaudited)

	Three Months Ended March 31,	
	2017	**2016**
Revenues:		
Retail revenues	$ 194,539	$ 110,019
Net asset optimization (expense)/revenues [1]	(194)	527
Total Revenues	194,345	110,546
Operating Expenses:		
Retail cost of revenues [2]	143,698	68,800
General and administrative [3]	24,377	17,380
Depreciation and amortization	9,232	6,789
Total Operating Expenses	177,307	92,969
Operating income	17,038	17,577
Other (expense)/income:		
Interest expense	(3,445)	(753)
Interest and other income	199	(95)
Total other expenses	(3,246)	(848)
Income before income tax expense	13,792	16,729
Income tax expense	2,406	988
Net income	$ 11,386	$ 15,741
Less: Net income attributable to non-controlling interests	9,117	11,568
Net income attributable to Spark Energy, Inc. stockholders	$ 2,269	$ 4,173
Other comprehensive loss, net of tax:		
Currency translation loss	$ (49)	$ —
Other comprehensive loss	(49)	—
Comprehensive income	$ 11,337	$ 15,741
Less: Comprehensive income attributable to non-controlling interests	9,086	11,568
Comprehensive income attributable to Spark Energy, Inc. stockholders	$ 2,251	$ 4,173
Net income attributable to Spark Energy, Inc. per share of Class A common stock [4]		
Basic	$ 0.32	$ 1.11
Diluted	$ 0.31	$ 0.68
Weighted average shares of Class A common stock outstanding		
Basic	6,498	3,756
Diluted	6,634	14,520

(1) Net asset optimization revenues (expenses) includes asset optimization revenues —affiliates of $0 and $113 for the three months ended March 31, 2017 and 2016 , respectively, and asset optimization revenues—affiliates cost of revenues of $0 and $1,258 for the three months ended March 31, 2017 and 2016 , respectively.
(2) Retail cost of revenues includes retail cost of revenues—affiliates of $0 and less than $100 for the three months ended March 31, 2017 and 2016 , respectively.
(3) General and administrative includes general and administrative expense—affiliates of $7,300 and $4,400 for the three months ended March 31, 2017 and 2016 , respectively.
(4) In accordance with GAAP, net income attributable to stockholders of Class A common stock is presented net of cumulative Series A Preferred Stock dividends of $183 as of March 31, 2017.

The accompanying notes are an integral part of the condensed consolidated financial statements.

SPARK ENERGY, INC.
CONDENSED CONSOLIDATED STATEMENT OF CHANGES IN EQUITY
FOR THE THREE MONTHS ENDED MARCH 31, 2017
(in thousands)
(unaudited)

	Issued Shares of Class A Common Stock	Issued Shares of Class B Common Stock	Class A Common Stock	Class B Common Stock	Accumulated Other Comprehensive Income (Loss)	Additional Paid-in Capital	Retained Earnings (Deficit)	Total Stockholders' Equity	Non-controlling Interest	Total Equity
Balance at December 31, 2016	6,497	10,225	$ 65	$ 103	$ 11	$ 25,413	$ 4,711	$ 30,303	$ 93,433	$ 123,736
Stock based compensation	—	—	—	—	—	531	—	531	—	531
Restricted stock unit vesting	3	—	—	—	—	78	—	78	—	78
Consolidated net income	—	—	—	—	—	—	2,269	2,269	9,117	11,386
Foreign currency translation adjustment for equity method investee	—	—	—	—	(18)	—	—	(18)	(31)	(49)
Distributions paid to non-controlling unit holders	—	—	—	—	—	—	—	—	(4,347)	(4,347)
Net contribution of the Major Energy Companies	—	—	—	—	—	—	—	—	260	260
Dividends paid to Class A common stockholders	—	—	—	—	—	—	(2,355)	(2,355)	—	(2,355)
Conversion of Convertible Subordinated Notes to Class B Common Stock	—	518	—	5	—	7,790	—	7,795	—	7,795
Balance at March 31, 2017	6,500	10,743	$ 65	$ 108	$ (7)	$ 33,812	$ 4,625	$ 38,603	$ 98,432	$ 137,035

The accompanying notes are an integral part of the condensed consolidated financial statements.

SPARK ENERGY, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE THREE MONTHS ENDED MARCH 31, 2017 AND 2016
(in thousands)
(unaudited)

	Three Months Ended March 31,	
	2017	**2016**
Cash flows from operating activities:		
Net income	$ 11,386	$ 15,741
Adjustments to reconcile net income to net cash flows provided by operating activities:		
Depreciation and amortization expense	8,167	6,789
Deferred income taxes	(87)	841
Stock based compensation	1,367	618
Amortization of deferred financing costs	248	117
Change in Fair Value of Earnout Liabilities	1,936	1,000
Bad debt expense	356	907
Loss on derivatives, net	21,456	9,749
Current period cash settlements on derivatives, net	(6,178)	(10,457)
Accretion of discount to convertible subordinated notes to affiliate	1,004	35
Other	7	235
Changes in assets and liabilities:		
Decrease in accounts receivable	3,381	5,060
Increase in accounts receivable—affiliates	(55)	(273)
Decrease in inventory	3,322	3,484
Increase in customer acquisition costs	(7,690)	(2,305)
Increase in prepaid and other current assets	(1,597)	(1,180)
Decrease in other assets	—	265
Decrease in accounts payable and accrued liabilities	(9,348)	(7,340)
(Decrease) increase in accounts payable—affiliates	(558)	1,949
(Decrease) increase in other current liabilities	(2,413)	156
(Decrease) increase in other non-current liabilities	(324)	111
Net cash provided by operating activities	24,380	25,502
Cash flows from investing activities:		
Purchases of property and equipment	(112)	(665)
Payment of the Major Energy Companies Earnout	(7,403)	—
Payment of the Provider Companies Earnout and Installment Note	(2,097)	—
Contribution to equity method investment in eRex Spark	—	(168)
Net cash used in investing activities	(9,612)	(833)
Cash flows from financing activities:		
Proceeds from issuance of Series A Preferred Stock, net of issuance costs paid	38,607	—
Borrowings on notes payable	5,625	—
Payments on notes payable	(46,993)	(18,825)
Proceeds from disgorgement of stockholders short-swing profits	666	—
Payment of dividends to Class A common stockholders	(2,355)	(1,493)
Payment of distributions to non-controlling unitholders	(4,347)	(5,876)
Net cash used in financing activities	(8,797)	(26,194)
Increase in cash and cash equivalents	5,971	(1,525)
Cash and cash equivalents—beginning of period	18,960	4,474
Cash and cash equivalents—end of period	$ 24,931	$ 2,949
Supplemental Disclosure of Cash Flow Information:		
Non-cash items:		
Property and equipment purchase accrual	$ 76	$ 57
Tax impact from tax receivable agreement upon exchange of units of Spark HoldCo, LLC to shares of Class A Common Stock	$ —	$ 1,707
Cash paid during the period for:		
Interest	$ 888	$ 539
Taxes	$ 118	$ 842

The accompanying notes are an integral part of the condensed consolidated financial statements.

SPARK ENERGY, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

1. Formation and Organization

Organization

Spark Energy, Inc. ("Spark Energy," "Company," "we" or "us") is an independent retail energy services company that provides residential and commercial customers in competitive markets across the United States with an alternative choice for natural gas and electricity. The Company is a holding company whose sole material asset consists of units in Spark HoldCo, LLC (“Spark HoldCo”). Spark HoldCo owns all of the outstanding membership interests or common stock in each of Spark Energy, LLC (“SE”), Spark Energy Gas, LLC (“SEG”), Oasis Power Holdings, LLC ("Oasis"), CenStar Energy Corp. ("CenStar"), Electricity Maine, LLC, Electricity N.H., LLC and Provider Power Mass, LLC (collectively, the "Provider Companies"); and Major Energy Services, LLC, Major Energy Electric Services, LLC, and Respond Power, LLC (collectively, the "Major Energy Companies"), the operating subsidiaries through which the Company operates. The Company is the sole managing member of Spark HoldCo, is responsible for all operational, management and administrative decisions relating to Spark HoldCo’s business and consolidates the financial results of Spark HoldCo and its subsidiaries.

SE is a licensed retail electric provider in multiple states. SE provides retail electricity services to end-use retail customers, ranging from residential and small commercial customers to large commercial and industrial users. SE was formed on February 5, 2002 under the Texas Revised Limited Partnership Act (as recodified by the TBOC) and was converted to a Texas limited liability company on May 21, 2014.

SEG is a retail natural gas provider and asset optimization business competitively serving residential, commercial and industrial customers in multiple states. SEG was formed on January 17, 2001 under the Texas Revised Limited Partnership Act (as recodified by the TBOC) and was converted to a Texas limited liability company on May 21, 2014.

Oasis, through its operating subsidiary, Oasis Power LLC, is a retail energy provider formed on August 28, 2009 as a limited liability company under the TBOC. We acquired Oasis on July 31, 2015 from an affiliate.

CenStar is a retail energy provider incorporated on July 18, 2008 under the New York Business Corporation Law. We acquired CenStar on July 8, 2015.

The Provider Companies operate as retail energy providers. Electricity Maine, LLC, Electricity N.H., LLC, and Provider Power Mass, LLC were formed on June 17, 2010, January 20, 2012 and August 22, 2012, respectively, as limited liability companies under the Maine Limited Liability Company Act. We acquired the Provider Companies on August 1, 2016, as described in Note 3 "Acquisitions."

The Major Energy Companies operate as retail energy providers. Major Energy Services, LLC, Major Energy Electric Services, LLC and Respond Power, LLC were formed on October 11, 2005, September 12, 2007 and July 11, 2008, respectively, as limited liability companies under the New York Limited Liability Company Law. We completed the purchase of all the outstanding membership interests of the Major Energy Companies on August 23, 2016 from an affiliate, as described in Note 3 "Acquisitions."

We are a Delaware corporation formed on April 22, 2014 for the purpose facilitating an initial public offering ("IPO") of our Class A common stock, par value $0.01 per share ("Class A common stock"), and to become the sole managing member of, and to hold an ownership interest in, Spark HoldCo. In connection with our IPO, NuDevco Retail Holdings LLC ("NuDevco Retail Holdings") formed NuDevco Retail, LLC (“NuDevco Retail”), a single member limited liability company, on May 29, 2014, to hold the remaining Spark HoldCo units and shares of our Class B common stock, par value $0.01 per share ("Class B common stock"). In January 2016, Retailco, LLC

("Retailco") succeeded to the interest of NuDevco Retail Holdings of its Class B common stock and an equal number of Spark HoldCo units it held pursuant to a series of transfers. See Note 4 "Equity" for further discussion.

Relationship with our Founder and Majority Shareholder

W. Keith Maxwell, III (our "Founder") is the owner of a majority in voting power of our common stock through his ownership of NuDevco Retail and Retailco. Retailco is a wholly owned subsidiary of TxEx Energy Investments, LLC ("TxEx"), which is wholly owned by Mr. Maxwell. NuDevco Retail is a wholly owned subsidiary of NuDevco Retail Holdings, which is a wholly owned subsidiary of Electric HoldCo, LLC, which is also a wholly owned subsidiary of TxEx.

Emerging Growth Company Status

As a company with less than $1.0 billion in revenues during its last fiscal year, the Company qualifies as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. An emerging growth company may take advantage of specified reduced reporting and other regulatory requirements.

The Company will remain an “emerging growth company” until as late as the last day of the Company's 2019 fiscal year, or until the earliest of (i) the last day of the fiscal year in which the Company has $1.0 billion or more in annual revenues; (ii) the date on which the Company becomes a “large accelerated filer” (the fiscal year-end on which the total market value of the Company’s common equity securities held by non-affiliates is $700 million or more as of June 30); (iii) the date on which the Company issues more than $1.0 billion of non-convertible debt over a three -year period.

As a result of the Company's election to avail itself of certain provisions of the JOBS Act, the information that the Company provides may be different than what you may receive from other public companies in which you hold an equity interest.

Exchange and Registration Rights

The Spark HoldCo Third Amended and Restated Limited Liability Company Agreement provides that if the Company issues a new share of Class A common stock, Series A Preferred Stock (as defined below) or other equity security of the Company (other than shares of Class B common stock, and excluding issuances of Class A common stock upon an exchange of Class B common stock or Series A Preferred Stock), Spark HoldCo will concurrently issue a corresponding limited liability company unit either to the holder of the Class B common stock, or to the Company in the case of the issuance of shares of Class A common stock, Series A Preferred Stock or such other equity security. As a result, the number of Spark HoldCo units held by the Company always equals the number of shares of Class A common stock, Series A Preferred Stock or such other equity securities of the Company outstanding.

Each share of Class B common stock, all of which are held by NuDevco Retail and Retailco, has no economic rights but entitles the holder to one vote on all matters to be voted on by stockholders generally. Holders of Class A common stock and Class B common stock vote together as a single class on all matters presented to our stockholders for their vote or approval, except as otherwise required by applicable law or by our certificate of incorporation.

NuDevco Retail and Retailco have the right to exchange (the “Exchange Right”) all or a portion of their Spark HoldCo units (together with a corresponding number of shares of Class B common stock) for Class A common stock (or cash at Spark Energy, Inc.’s or Spark HoldCo’s election (the “Cash Option”)) at an exchange ratio of one share of Class A common stock for each Spark HoldCo unit (and corresponding share of Class B common stock) exchanged. In addition, NuDevco Retail and Retailco have the right, under certain circumstances, to cause the Company to register the offer and resale of NuDevco Retail's and Retailco's shares of Class A common stock obtained pursuant to the Exchange Right. Retail Acquisition Co., LLC ("RAC") is entitled to similar registration

rights under the $2.1 million convertible subordinated note (the "CenStar Note") and $5.0 million convertible subordinated note (the "Oasis Note"). Refer to Note 8 "Debt" for further information.

2. Basis of Presentation and Summary of Significant Accounting Policies

The accompanying interim unaudited condensed consolidated financial statements (“interim statements”) of the Company have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”) and pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC"). This information should be read in conjunction with our consolidated financial statements and notes contained in our annual report on Form 10-K for the year ended December 31, 2016 . The Company's unaudited condensed consolidated financial statements are presented on a consolidated basis and include all wholly-owned and controlled subsidiaries. We account for investments over which we have significant influence but not a controlling financial interest using the equity method of accounting. All significant intercompany transactions and balances have been eliminated in the unaudited condensed consolidated financial statements.

The preparation of the Company's condensed consolidated financial statements requires estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the interim financial statements and the reported amounts of revenues and expenses during the period. Actual results could materially differ from those estimates. Effects on the business, financial condition and results of operations resulting from revisions to estimates are recognized when the facts that give rise to the revision become known. The information furnished herein reflects all normal recurring adjustments that are, in the opinion of management, necessary for a fair presentation of the condensed consolidated financial statements. Operating results for the three months ended March 31, 2017 are not necessarily indicative of the results that may be expected for the full year or for any interim period.

Transactions with Affiliates

The Company enters into transactions with and pays certain costs on behalf of affiliates that are commonly controlled by W. Keith Maxwell III, and these affiliates enter into transactions with and pay certain costs on our behalf, in order to reduce risk, reduce administrative expense, create economies of scale, create strategic alliances and supply goods and services among these related parties.

These transactions include, but are not limited to, certain services to the affiliated companies associated with the Company’s debt facility prior to the IPO, employee benefits provided through the Company’s benefit plans, insurance plans, leased office space, administrative salaries for management due diligence work, recurring management consulting, and accounting, tax, legal, or technology services based on services provided, departmental usage, or headcount, which are considered reasonable by management. As such, the accompanying condensed consolidated financial statements include costs that have been incurred by the Company and then directly billed or allocated to affiliates, and costs that have been incurred by our affiliates and then directly billed or allocated to us, and are recorded net in general and administrative expense on the condensed consolidated statements of operations with a corresponding accounts receivable—affiliates or accounts payable—affiliates, respectively, recorded in the condensed consolidated balance sheets. Additionally, the Company enters into transactions with certain affiliates for sales or purchases of natural gas and electricity, which are recorded in retail revenues, retail cost of revenues, and net asset optimization revenues in the condensed consolidated statements of operations with a corresponding accounts receivable—affiliate or accounts payable—affiliate in the condensed consolidated balance sheets. The allocations and related estimates and assumptions are described more fully in Note 13 “Transactions with Affiliates.”

Presentation of the Acquisition of Major Energy Companies

On April 15, 2016, National Gas & Electric, LLC (“NG&E”), an affiliate of the Company , completed the acquisition of 100% of the membership interests of Major Energy Companies. On May 3, 2016, Spark HoldCo and Retailco entered into a Membership Interest Purchase Agreement (the "Major Purchase Agreement") with NG&E

for the purchase of all of the membership interests of the Major Energy Companies. Spark HoldCo and Retailco completed the acquisition of the Major Energy Companies from NG&E on August 23, 2016.

Subsequent Events

Subsequent events have been evaluated through the date these financial statements are issued. Any material subsequent events that occurred prior to such date have been properly recognized or disclosed in the condensed consolidated financial statements. See Note 15 "Subsequent Events" for further discussion.

Recent Accounting Pronouncements

Adopted Standards

In March 2016, the FASB issued ASU No. 2016-09, *Compensation - Stock Compensation (Topic 718)* ("ASU 2016-09"). ASU 2016-09 includes provisions intended to simplify various aspects of accounting for shared-based payments, including income tax consequences, classification of awards as either equity or liability and classification on the statement of cash flows. This guidance is effective for annual and interim reporting periods of public entities beginning after December 15, 2016, with early adoption permitted. The Company adopted ASU 2016-09 in the first quarter of 2017.

The new standard requires prospective recognition of excess tax benefits resulting from stock-based compensation vesting and exercises to be recognized as a reduction of income taxes and reflected in operating cash flows. Previously, these amounts were recognized in additional paid-in capital and presented as a financing activity on the statement of cash flows. No net excess tax benefits were recognized as a reduction of income taxes for the three months ended March 31, 2017. Prior periods have not been adjusted.

The Company has elected to continue to estimate the number of stock-based awards expected to vest, as permitted by ASU 2016-09, rather than electing to account for forfeitures as they occur.

ASU 2016-09 requires that employee taxes paid when an employer withholds shares for tax-withholding purposes to be reported as financing activities in the statement of cash flows. Previously, these cash flows were included in operating activities. The Company has elected to adopt this prospectively, as permitted by ASU 2016-09. This change resulted in no impact on the statement of cash flow for the three months ended March 31, 2017.

In October 2016, the FASB issued ASU No. 2016-17, *Consolidation (Topic 810): Interests Held through Related Parties that Are under Common Control* ("ASU 2016-17"). ASU 2016-17 amends the consolidation guidance on how a reporting entity that is the single decision maker of a variable interest entity ("VIE") should treat indirect interests in the entity held through related parties that are under common control with the reporting entity when determining whether it is the primary beneficiary of that VIE. Under ASU 2016-17, a single decision maker of a VIE is required to consider indirect economic interests in the entity held through related parties on a proportionate basis when determining whether it is the primary beneficiary of that VIE. If a single decision maker and its related party are under common control, the single decision maker is required to consider indirect interests in the entity held through those related parties to be the equivalent of direct interests in their entirety. The amendments are effective for public business entities for fiscal years beginning after December 15, 2016 (the Company's first quarter of fiscal 2017), including interim periods within those fiscal years. Early adoption is permitted. The standard may be applied retrospectively or through a cumulative effect adjustment to retained earnings as of the beginning of the fiscal year of adoption. The Company adopted ASU 2016-17 effective January 1, 2017, and the adoption had no impact on the Company's consolidated financial statements.

Standards Being Evaluated/Standards Not Yet Adopted

In May 2014, the FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers* , which requires an entity to recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. The standard permits the use of either the retrospective or cumulative effect transition

method. In August 2015, the FASB issued ASU No. 2015-14, *Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date* , which deferred the effective date to periods beginning after December 15, 2017. Early adoption is permitted only as of annual reporting periods beginning after December 15, 2016. In December 2016, the FASB further issued ASU No. 2016-20, *Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers,* to increase stakeholders' awareness of the proposals and to expedite improvements to ASU 2014-09. After assessing the new standard, the Company expects that there will be no material impacts to our revenue recognition procedures.

The FASB issued additional amendments to ASU No. 2014-09, as amended by ASU No. 2015-14:

- March 2016 - ASU No. 2016-08, *Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)* ("ASU 2016-08"). ASU 2016-08 clarifies the implementation guidance on principal versus agent considerations. The guidance includes indicators to assist an entity in determining whether it controls a specified good or service before it is transferred to customers.
- April 2016 - ASU No. 2016-10, *Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing* ("ASU 2016-10"). ASU 2016-10 covers two specific topics: performance obligations and licensing. This amendment includes guidance on immaterial promised goods or services, shipping or handling activities, separately identifiable performance obligations, functional or symbolic intellectual property licenses, sales-based and usage-based royalties, license restrictions (time, use, geographical) and licensing renewals.
- May 2016 - ASU No. 2016-12, *Revenue from Contracts with Customers (Topic 606): Narrow Scope Improvements and Practical Expedients* ("ASU 2016-12"). ASU 2016-12 clarifies certain core recognition principles including collectability, sales tax presentation, noncash consideration, contract modifications and completed contracts at transition and disclosures no longer required if the full retrospective transition method is adopted.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* ("ASU 2016-02") . ASU 2016-02 amends the existing accounting standards for lease accounting by requiring entities to include substantially all leases on the balance sheet by requiring the recognition of right-of-use assets and lease liabilities for all leases. Entities may elect to not recognize leases with a maximum possible term of less than 12 months. For lessees, a lease is classified as finance or operating and the asset and liability are initially measured at the present value of the lease payments. For lessors, accounting for leases is largely unchanged from previous guidance. ASU 2016-02 also requires qualitative disclosures along with certain specific quantitative disclosures for both lessees and lessors. The amendments in this ASU are effective for fiscal years beginning after December 15, 2018, with early adoption permitted, and are effective for interim periods in the year of adoption. The ASU should be applied using a modified retrospective approach, which requires lessees and lessors to recognize and measure leases at the beginning of the earliest period presented. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"). ASU 2016-13 requires entities to use a current expected credit loss ("CECL") model, which is a new impairment model based on expected losses rather than incurred losses. The model requires financial assets measured at amortized cost be presented at the net amount expected to be collected. The allowance for credit losses is a valuation account that is deducted from the amortized cost basis. The income statement reflects the measurement of credit losses for newly recognized financial assets, as well as the expected credit losses during the period. The measurement of expected losses is based upon historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the reported amount. This guidance is effective for interim and annual reporting periods beginning after December 15, 2019, with early adoption permitted for annual reporting periods beginning after December 15, 2018. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, *Statement of Cash Flows (Topic 230), Classification of Certain Cash Receipts and Cash Payments* ("ASU 2016-15") . ASU 2016-15 provides guidance on the presentation and classification of eight specific cash flow issues in the statement of cash flows. Those issues are cash payment for debt prepayment or debt extinguishment costs; settlement of zero-coupon debt instrument or other debt instrument with coupon interest rates that are insignificant in relation to the effective interest rate of the borrowing; contingent consideration payments made after a business combination; cash proceeds from the settlement of insurance claims, cash received from settlement of corporate-owned life insurance policies; distribution received from equity method investees; beneficial interest in securitization transactions; and classification of cash receipts and payments that have aspects of more than one class of cash flows. The guidance is effective for interim and annual reporting periods beginning after December 15, 2017, with early adoption permitted. This ASU should be applied using a retrospective transition method for each period presented. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In October 2016, the FASB issued ASU No. 2016-16, *Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other Than Inventory* ("ASU 2016-16"). ASU 2016-16 requires immediate recognition of the current and deferred income tax consequences of intercompany asset transfers other than inventory. Current U.S. GAAP prohibits the recognition of current and deferred income taxes for an intra-entity asset transfer until the asset has been sold to an outside party. This guidance is effective for annual and interim reporting periods of public entities beginning after December 15, 2017, with early adoption permitted as of the beginning of an annual reporting period for which financial statements (interim or annual) have not been issued or made available for issuance. This ASU should be applied using a modified retrospective basis through a cumulative-effect adjustment directly to retained earnings as of the beginning of the period of adoption. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash* ("ASU 2016-18"). ASU 2016-18 is intended to add and clarify guidance on the classification and presentation of restricted cash on the statement of cash flows. ASU 2016-18 requires that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Therefore, amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The amendments are effective for public business entities for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business* ("ASU 2017-01"). ASU 2017-01 clarifies the definition of a business with the objective of adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. The definition of a business affects many areas of accounting, including acquisitions, disposals, goodwill, and consolidation. ASU 2017-01 is effective for annual periods beginning after December 15, 2017, including interim periods within those periods, and the amendments should be applied prospectively on or after the effective date. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-03, *Accounting Changes and Error Corrections (Topic 250) and Investments - Equity Method and Joint Ventures (Topic 323)* ("ASU 2017-03"). ASU 2017-03 offers amendments to SEC paragraphs pursuant to staff announcements at the September 22, 2016 and November 17, 2016 EITF meetings for clarification purposes. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment* ("ASU 2017-04"). ASU 2017-04 simplifies the subsequent measurement of goodwill by eliminating Step 2 from the goodwill impairment test. Under the amendments in this update, an entity should

perform its annual or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value. However, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. ASU 2017-04 should be applied on a prospective basis and is effective for annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In February 2017, the FASB issued ASU No. 2017-05, *Other Income - Gains and Losses from the Derecognition of Nonfinancial Assets* (Subtopic 610-20) : *Clarifying the Scope of Asset Derecognition Guidance and Accounting for Partial Sales of Nonfinancial Assets* ("ASU 2017-05"). ASU 2017-05 clarifies the scope of Subtopic 610-20 and adds guidance for partial sales of nonfinancial assets. Subtopic 610-20 was issued in May 2014 as part of ASU No. 2014-09, *Revenue from Contracts with Customers (Topic 606)* and provides guidance for recognizing gains and losses from the transfer of nonfinancial assets in contracts with noncustomers. The amendments in ASU 2017-05 clarify that a financial asset is within the scope of Subtopic 610-20 if it meets the definition of an in substance nonfinancial asset. The amendments also clarify that nonfinancial assets within the scope of Subtopic 610-20 may include nonfinancial assets transferred within a legal entity to a counterparty. The amendments in ASU 2017-05 are effective at the same time as the amendments in ASU 2014-09, which are effective for annual reporting periods beginning after December 15, 2017, including interim reporting periods within that reporting period. Early adoption is permitted for interim or annual reporting periods beginning after December 15, 2016. An entity may elect to apply the amendments in ASU 2017-05 either retrospectively to each period presented in the financial statements in accordance with the guidance on accounting changes (retrospective approach) or retrospectively with a cumulative-effect adjustment to retained earnings as of the beginning of the fiscal year of adoption (modified retrospective approach). The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

3. Acquisitions

Acquisition of the Provider Companies

On August 1, 2016, the Company and Spark HoldCo completed the purchase of all of the outstanding membership interests of the Provider Companies. The Provider Companies serve electrical customers in Maine, New Hampshire and Massachusetts. The purchase price for the Provider Companies was approximately $34.1 million , which included $1.3 million in working capital, subject to adjustments, and up to $9.0 million in earnout payments, valued at $4.8 million as of the purchase date, to be paid by June 30, 2017, subject to the achievement of certain performance targets (the "Provider Earnout"). See Note 9 "Fair Value Measurements" for further discussion on the Provider Earnout. The purchase price was funded by the issuance of 699,742 shares of Class B common stock (and a corresponding number of Spark HoldCo units) sold to Retailco, valued at $14.0 million based on a value of $20 per share; borrowings under the Senior Credit Facility of $10.6 million ; and $3.8 million in net installment consideration to be paid in ten monthly payments that commenced in August 2016. The first payment of $0.4 million was made with the initial consideration paid. See Note 8 "Debt" for further discussion of the Senior Credit Facility.

The acquisition of the Provider Companies was accounted for under the acquisition method in accordance with ASC 805, *Business Combinations* (“ASC 805”). The allocation of purchase consideration was based upon the estimated fair value of the tangible and identifiable intangible assets acquired and liabilities assumed in the acquisition. The allocation was made to major categories of assets and liabilities based on management’s best estimates, and supported by independent third-party analyses. The excess of the purchase price over the estimated fair value of tangible and intangible assets acquired and liabilities assumed was allocated to goodwill. The purchase price allocation for the acquisition of the Provider Companies was finalized as of December 31, 2016. No changes were recorded during the three months ended March 31, 2017.

Acquisition of the Major Energy Companies

On August 23, 2016, the Company and Spark HoldCo completed the transfer of all of the outstanding membership interests of the Major Energy Companies, which are retail energy companies operating in Connecticut, Illinois, Maryland (including the District of Columbia), Massachusetts, New Jersey, New York, Ohio, and Pennsylvania across 43 utilities, from NG&E in exchange for consideration of $63.4 million , which included $4.3 million in working capital, subject to adjustments; an assumed litigation reserve of $5.0 million , and up to $35.0 million in installment and earnout payments, valued at $13.1 million as of the purchase date, to be paid to the previous members of the Major Energy Companies, in annual installments on March 31, 2017, 2018 and 2019, subject to the achievement of certain performance targets (the “Major Earnout”). The Company is obligated to issue up to 200,000 shares of Class B common stock (and a corresponding number of Spark HoldCo units) to NG&E, subject to the achievement of certain performance targets, valued at $0.8 million (40,718 shares valued at $20 per share) as of the purchase date (the "Stock Earnout"). See Note 9 "Fair Value Measurements" for further discussion on the Major Earnout and Stock Earnout. The purchase price was funded by the issuance of 2,000,000 shares of Class B common stock (and a corresponding number of Spark HoldCo units) valued at $40.0 million based on a value of $20 per share, to NG&E. NG&E is owned by our Founder.

The acquisition of the Major Energy Companies by the Company and Spark HoldCo from NG&E was a transfer of equity interests of entities under common control on August 23, 2016. Accordingly, the assets acquired and liabilities assumed were based on their historical values as of August 23, 2016. NG&E acquired the Major Energy Companies on April 15, 2016 and the fair value of the net assets acquired was as follows (in thousands):

	Reported as of December 31, 2016	Q1 2017 Adjustments (1)	March 31, 2017
Cash	$ 17,368	$ —	$ 17,368
Property and equipment	14	—	14
Intangible assets - customer relationships & non-compete agreements	24,271	—	24,271
Other assets - trademarks	4,973	—	4,973
Non-current deferred tax assets	1,042	—	1,042
Goodwill	34,728	260	34,988
Net working capital, net of cash acquired	(6,746)	—	(6,746)
Fair value of derivative liabilities	(7,260)	—	(7,260)
Total	$ 68,390	$ 260	$ 68,650

(1) Changes to the purchase price allocation in the first quarter of 2017 related to NG&E's working capital settlement with the Major Energy Companies' sellers.

The initial working capital estimate paid to the Major Energy Companies by NG&E was $10.3 million . The Company subsequently paid $4.3 million in working capital to NG&E on August 23, 2016. Approximately $6.0 million was recorded as an equity transaction and treated as a contribution on August 23, 2016, revised to $4.9 million and $4.7 million based on the estimated working capital true-up adjustments with NG&E as of March 31, 2017 and December 31, 2016, respectively. An estimated working capital adjustment between the Company and NG&E of $1.4 million was recorded as of December 31, 2016 and is included in accounts payable - affiliates at March 31, 2017 and December 31, 2016. The Stock Earnout of $0.8 million due to NG&E is also reflected as a reduction to equity as of March 31, 2017 and December 31, 2016. Finalization of the Company's working capital adjustment with NG&E was completed prior to April 15, 2017.

The fair values of intangible assets were measured primarily based on significant inputs that are not observable in the market and thus represent a Level 3 measurement as defined by ASC 820, *Fair Value Measurement* ("ASC 820"). The fair value of derivative liabilities were measured by utilizing readily available quoted market prices and non-exchange-traded contracts fair valued using market price quotations available through brokers or over-the-counter and on-line exchanges and represent a Level 2 measurement as defined by ASC 820. Refer to Note 9 "Fair Value Measurements" for further discussion on the fair values hierarchy.

Goodwill

The excess of the purchase consideration over the estimated fair value of the amounts initially assigned to the identifiable assets acquired and liabilities assumed was recorded as goodwill. Goodwill arose on the acquisition of the Major Energy Companies by NG&E primarily due to the value of the Major Energy Companies brand strength, established vendor relationships and access to new utility service territories. Goodwill recorded in connection with the acquisition of the Major Energy Companies is deductible for income tax purposes because the acquisition of the Major Energy Companies was an acquisition of all of the assets of the Major Energy Companies. The valuation and purchase price allocation of the Major Energy Companies was based on a preliminary fair value analysis performed as of April 15, 2016, the date the Major Energy Companies were acquired by NG&E. During the measurement period, the Company may record adjustments to the working capital balances upon settlement of the final working capital balances per the terms of the purchase agreement.

Goodwill was transferred to the Company based on the acquisition of the Major Energy Companies by NG&E on April 15, 2016. Goodwill recorded in connection with the transfer of the Major Energy Companies is deductible for income tax purposes.

In December 2016, certain executives of the Major Energy Companies exercised a change of control provision under employment agreements with the Major Energy Companies. As a result, the Company recorded employment contract termination costs of $4.1 million as of December 31, 2016. The Company paid employment contract termination costs totaling $1.5 million during the three months ended March 31, 2017. As of March 31, 2017, the Company's liability related to the contract termination costs was $2.6 million , to be paid over a 22 month period beginning April 1, 2017.

4. Equity

Non-controlling Interest

The Company holds an economic interest and is the sole managing member in Spark HoldCo, with NuDevco Retail and Retailco holding the remaining economic interest in Spark HoldCo. As a result, the Company has consolidated the financial position and results of operations of Spark HoldCo and reflected the economic interest retained by NuDevco Retail and Retailco as a non-controlling interest.

The Company and NuDevco Retail and Retailco owned the following economic interests in Spark HoldCo at December 31, 2016 and March 31, 2017 , respectively.

Non-controlling Interest Economic Interest

	The Company	NuDevco Retail and Retailco (1) (2)
December 31, 2016	38.85%	61.15%
March 31, 2017	37.70%	62.30%

(1) In January 2016, Retailco succeeded to the interest of NuDevco Retail Holdings of its Class B common stock and an equal number of Spark HoldCo units it held pursuant to a series of transfers.
(2) In January 2017, Retailco converted the CenStar Note and Oasis Note into 134,731 and 383,090 shares, respectively, of Class B common stock.

The following table summarizes the portion of net income and income tax expense (benefit) attributable to non-controlling interest (in thousands):

	Three Months Ended March 31,	
	2017	2016
Net income allocated to non-controlling interest	$ 8,660	$ 12,008
Income tax expense (benefit) allocated to non-controlling interest	(457)	440
Net income attributable to non-controlling interest	$ 9,117	$ 11,568

Class A Common Stock

The Company had a total of 6,499,504 and 6,496,559 shares of its Class A common stock outstanding at March 31, 2017 and December 31, 2016 , respectively. Each share of Class A common stock holds economic rights and entitles its holder to one vote on all matters to be voted on by shareholders generally.

Class B Common Stock

The Company has a total of 10,742,563 and 10,224,742 shares of its Class B common stock outstanding at March 31, 2017 and December 31, 2016 , respectively. Each share of Class B common stock, all of which are held by NuDevco Retail and Retailco, have no economic rights but entitles its holder to one vote on all matters to be voted on by shareholders generally.

Holders of Class A common stock and Class B common stock vote together as a single class on all matters presented to our shareholders for their vote or approval, except as otherwise required by applicable law or by our certificate of incorporation.

Conversion of CenStar and Oasis Notes

On January 8, 2017 and January 31, 2017, respectively, the CenStar Note and Oasis Note were converted into 134,731 and 383,090 shares of Class B common stock (and related Spark HoldCo units). Refer to Note 8 "Debt" for further discussion.

Earnings Per Share

Basic earnings per share (“EPS”) is computed by dividing net income attributable to stockholders (the numerator) by the weighted-average number of Class A common shares outstanding for the period (the denominator). Class B common shares are not included in the calculation of basic earnings per share because they are not participating securities and have no economic interest in the Company. Diluted earnings per share is similarly calculated except that the denominator is increased (1) using the treasury stock method to determine the potential dilutive effect of the Company's outstanding unvested restricted stock units, (2) using the if-converted method to determine the potential dilutive effect of the Company's Class B common stock and (3) using the if-converted method to determine the potential dilutive effect of the outstanding convertible subordinated notes into the Company's Class B common stock.

The following table presents the computation of earnings per share for the three months ended March 31, 2017 and 2016 (in thousands, except per share data):

	Three Months Ended March 31,	
	2017	2016
Net income attributable to Spark Energy, Inc. stockholders	$ 2,269	$ 4,173
Less: Accumulated dividend on Series A preferred stock	$ 183	$ —
Net income attributable to stockholders of Class A common stock [2]	$ 2,086	$ 4,173
Basic weighted average Class A common shares outstanding	6,498	3,756
Basic EPS attributable to stockholders	**$ 0.32**	**$ 1.11**
Net income attributable to stockholders of Class A common stock [2]	$ 2,086	$ 4,173
Effect of conversion of Class B common stock to shares of Class A common stock	—	6,094
Effect of conversion of convertible subordinated notes into shares of Class B common stock and shares of Class B common stock into shares of Class A common stock [1]	—	(413)
Diluted net income attributable to stockholders of Class A common stock	2,086	9,854
Basic weighted average Class A common shares outstanding	6,498	3,756
Effect of dilutive Class B common stock	—	10,113
Effect of dilutive convertible subordinated notes into shares of Class B common stock and shares of Class B common stock into shares of Class A common stock [1]	—	493
Effect of dilutive restricted stock units	136	158
Diluted weighted average shares outstanding	6,634	14,520
Diluted EPS attributable to stockholders	**$ 0.31**	**$ 0.68**

(1) The CenStar Note and Oasis Note converted into 134,731 and 383,090 shares of Class B common stock on January 8, 2017, and January 31, 2017, respectively.
(2) In accordance with GAAP, net income attributable to stockholders of Class A common stock is presented net of cumulative Series A Preferred Stock dividends of $183 as of March 31, 2017.

The conversion of shares of Class B common stock to shares of Class A common stock was not recognized in dilutive earnings per share for the three months ended March 31, 2017 as the effect of the conversion was antidilutive.

Variable Interest Entity

Spark HoldCo is a variable interest entity due to its lack of rights to participate in significant financial and operating decisions and inability to dissolve or otherwise remove its management. Spark HoldCo owns all of the outstanding membership interests in each of the operating subsidiaries through which the Company operates. The Company is the sole managing member of Spark HoldCo, manages Spark HoldCo's operating subsidiaries through this managing membership interest, and is considered the primary beneficiary of Spark HoldCo.

The assets of Spark HoldCo cannot be used to settle the obligations of the Company except through distributions to the Company, and the liabilities of Spark HoldCo cannot be settled by the Company except through contributions to Spark HoldCo.

The following table includes the carrying amounts and classification of the assets and liabilities of Spark HoldCo that are included in the Company's condensed consolidated balance sheet as of March 31, 2017 (in thousands):

		March 31, 2017
Assets		
Current assets:		
Cash and cash equivalents	$	24,784
Accounts receivable		108,754
Other current assets		57,997
Total current assets		191,535
Non-current assets:		
Goodwill		79,407
Other assets		40,392
Total non-current assets		119,799
Total Assets	$	311,334
Liabilities		
Current liabilities:		
Accounts payable and Accrued Liabilities	$	77,633
Intercompany payable with Spark Energy, Inc.		37,636
Current portion of Senior Credit Facility		22,236
Contingent consideration		12,103
Other current liabilities		7,170
Total current liabilities		156,778
Long-term liabilities:		
Contingent consideration		4,083
Other long-term liabilities		4,964
Total long-term liabilities		9,047
Total Liabilities	$	165,825

5. Preferred Stock

On March 15, 2017, the Company issued 1,610,000 shares of 8.75% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock ("Series A Preferred Stock"), par value $0.01 per share and liquidation preference $25.00 per share, plus accumulated and unpaid dividends, at a price to the public of $25.00 per share ($24.21 per share to the Company, net of underwriting discounts and commissions). The Company received approximately $39.0 million in net proceeds from the offering, after deducting underwriting discounts and commissions and a structuring fee. Preferred offering expenses of $0.6 million were recorded as a reduction to the carrying value of the stock. The net proceeds from the offering were contributed to Spark HoldCo to use for general corporate purposes.

Holders of the Series A Preferred Stock have no voting rights, except in specific circumstances of delisting or in the case the dividends are in arrears for as specified in the Series A Preferred Stock Certificate of Designations. From March 15, 2017, the Series A Preferred Stock issuance date, to, but not including, April 15, 2022, the Series A Preferred Stock will accrue dividends at a percentage of three-month LIBOR plus 6.578% .

The liquidation preference provisions of the Series A Preferred Stock were considered contingent redemption provisions because there were certain elements that were not solely within the control of the Company, such as a change in control of the Company. Accordingly, the Series A Preferred Stock is presented within the mezzanine portion of the accompanying consolidated balance sheet.

The Company had a total of 1,610,000 shares of Series A Preferred Stock issued and outstanding at March 31, 2017 and no shares of Series A Preferred Stock issued and outstanding at December 31, 2016 .

In connection with the issuance of the Series A Preferred Stock, the Company and Spark HoldCo entered into the Third Amended and Restated Spark HoldCo Limited Liability Company Agreement to amend the prior agreement to provide for, among other things, the designation and issuance of Spark HoldCo Series A preferred units, as another equity security of Spark HoldCo to be issued concurrently with the issuance of Series A Preferred Stock by the Company, including specific terms relating to distributions by Spark HoldCo in connection with the payment by the Company of dividends on the Series A Preferred Stock, the priority of liquidating distributions by Spark HoldCo, the allocation of income and loss to the Company in connection with distributions by Spark HoldCo on Series A preferred units, and other terms relating to the redemption and conversion by the Company of the Series A Preferred Stock.

6. Property and Equipment

Property and equipment consist of the following amounts as of (in thousands):

	Estimated useful lives (years)	March 31, 2017	December 31, 2016
Information technology	2 – 5	$ 29,863	$ 29,675
Leasehold improvements	2 – 5	4,568	4,568
Furniture and fixtures	2 – 5	1,024	1,024
Total		35,455	35,267
Accumulated depreciation		(31,066)	(30,561)
Property and equipment—net		**$ 4,389**	**$ 4,706**

Information technology assets include software and consultant time used in the application, development and implementation of various systems including customer billing and resource management systems. As of March 31, 2017 and December 31, 2016 , information technology includes $1.2 million and $1.1 million , respectively, of costs associated with assets not yet placed into service.

Depreciation expense recorded in the condensed consolidated statements of operations was $0.5 million and $0.4 million for the three months ended March 31, 2017 and 2016 , respectively.

7. Goodwill, Customer Relationships and Trademarks

Goodwill, customer relationships and trademarks consist of the following amounts as of (in thousands):

	March 31, 2017	December 31, 2016
Goodwill	**$ 79,407**	**$ 79,147**
Customer relationships - Acquired [1]		
Cost	$ 63,571	$ 63,571
Accumulated amortization	(33,812)	(31,660)
Customer relationships - Acquired, net	**$ 29,759**	**$ 31,911**
Customer relationships - Other [2]		
Cost	$ 4,320	$ 4,320
Accumulated amortization	(3,068)	(2,708)
Customer relationships - Other, net	**$ 1,252**	**$ 1,612**
Trademarks [3]		
Cost	$ 6,770	$ 6,770
Accumulated amortization	(551)	(431)
Trademarks, net	**$ 6,219**	**$ 6,339**

(1) Customer relationships - Acquired represent those customer acquisitions accounted for under the acquisition method in accordance with ASC 805. See Note 3 "Acquisitions" for further discussion.
(2) Customer relationships - Other represent portfolios of customer contracts not accounted for in accordance with ASC 805 as these acquisitions were not in conjunction with the acquisition of businesses.
(3) Trademarks reflect values associated with the recognition and positive reputation of acquired businesses accounted for as part of the acquisition method in accordance with ASC 805 through the acquisitions of CenStar, Oasis, the Provider Companies and the Major Energy Companies. These trademarks are recorded as other assets in the condensed consolidated balance sheets. See Note 3 "Acquisitions" for further discussion.

Changes in goodwill, customer relationships and trademarks consisted of the following (in thousands):

	Goodwill [1]	Customer Relationships - Acquired	Customer Relationships - Others	Trademarks
Balance at December 31, 2016	$ 79,147	$ 31,911	$ 1,612	$ 6,339
Additions (Major Working Capital Adjustment)	260	—	—	—
Amortization expense	—	(2,152)	(360)	(120)
Balance at March 31, 2017	$ 79,407	$ 29,759	$ 1,252	$ 6,219

(1) Changes in goodwill in the three months ended March 31, 2017 related to NG&E's working capital settlement with the Major Energy Companies' sellers.

The acquired customer relationship intangibles related to the Major Energy Companies and the Provider Companies were bifurcated between hedged and unhedged customer contracts. The unhedged customer contracts are amortized to depreciation and amortization based on the expected future cash flows by year. The hedged customer contracts were evaluated for favorable or unfavorable positions at the time of acquisition and amortized to retail cost of revenue based on the expected term and position of the underlying fixed price contract in each reporting period. Customer relationship amortization expense for the three months ended March 31, 2017 was $2.2 million , which is net of $1.1 million customer relationship amortization gain included in cost of revenues.

Estimated future amortization expense for customer relationships and trademarks at March 31, 2017 is as follows (in thousands):

Year ending December 31,		
2017	$	10,281
2018		10,337
2019		5,892
2020		2,894
2021		2,592
> 5 years		5,234
Total	**$**	**37,230**

8. Debt

Debt consists of the following amounts (in thousands):

	March 31, 2017	December 31, 2016
Current portion of Senior Credit Facility—Working Capital Line [1] [2]	$ —	$ 29,000
Current portion of Senior Credit Facility—Acquisition Line [2]	22,236	22,287
Current portion of Note Payable—Pacific Summit Energy	8,185	15,501
Convertible subordinated notes to affiliate	—	6,582
Total current debt	30,421	73,370
Subordinated Debt	—	5,000
Total long-term debt	—	5,000
Total debt	$ 30,421	$ 78,370

(1) As of March 31, 2017 and December 31, 2016 , the Company had $39.3 million and $29.6 million in letters of credit issued, respectively.
(2) As of March 31, 2017 and December 31, 2016 , the weighted average interest rate on the current portion of our Senior Credit Facility was 4.75% and 4.93% , respectively.

Deferred financing costs were $0.2 million and $0.4 million as of March 31, 2017 and December 31, 2016 , respectively, recorded in other current assets, representing capitalized financing costs in connection with the amendment and restatement of our Senior Credit Facility on July 8, 2015.

Interest expense consists of the following components for the periods indicated (in thousands):

	Three Months Ended March 31,	
	2017	2016
Interest incurred on Senior Credit Facility	$ 694	$ 318
Accretion related to Earnouts [1]	1,225	—
Letters of credit fees and commitment fees	226	192
Amortization of deferred financing costs	248	117
Interest incurred on convertible subordinated notes to affiliate [2]	1,052	126
Interest Expense	$ 3,445	$ 753

(1) Includes accretion related to the Provider Earnout of $0.1 million and the Major Earnout of $1.1 million for the three months ended March 31, 2017 .
(2) Includes amortization of the discount on the convertible subordinated notes to affiliates of $1.0 million and $0.1 million for the three months ended March 31, 2017 and 2016 , respectively.

Senior Credit Facility

The Company, as guarantor, and Spark HoldCo (the "Borrower," and together with Spark Energy, LLC, Spark Energy Gas, LLC, CenStar Energy Corp, CenStar Operating Company, LLC, Oasis, Oasis Power, LLC, Electricity Maine, LLC, Electricity N.H., LLC, and Provider Power Mass, LLC, each a subsidiary of Spark HoldCo, the "Co-Borrowers") are party to a senior secured revolving credit facility ("Senior Credit Facility"), which includes a

senior secured revolving working capital facility up to $82.5 million ("Working Capital Line") and a secured revolving line of credit of $25.0 million ("Acquisition Line") to be used specifically for the financing of up to 75% of the cost of acquisitions with the remainder to be financed by the Company either through cash on hand or the issuance of subordinated debt or equity.

On June 1, 2016, the Company and the Co-Borrowers entered into Amendment No. 3 to the Senior Credit Facility to, among other things, increase the Working Capital Line from $60.0 million to $82.5 million in accordance with the Co-Borrowers' right to increase under the existing terms of the Senior Credit Facility. Amendment No. 3 also provides for the addition of new lenders and re-allocates working capital and revolving commitments among existing and new lenders. Amendment No. 3 also provides for additional representations of the Co-Borrowers and additional protections of the lenders of the Senior Credit Facility.

On August 1, 2016, the Company and the Co-Borrowers entered into Amendment No. 4 to the Senior Credit Facility to, among other things, amend the provisions under the Acquisition Line to allow for the Provider Companies acquisition. Amendment No. 4 also raises the minimum availability under the Working Capital Line to $40.0 million . In addition, Amendment No. 4 designates Major Energy Companies as "unrestricted subsidiaries" upon the closing of such acquisition on August 23, 2016.

The Senior Credit Facility will mature on July 8, 2017. The outstanding balances under the Working Capital Line and the Acquisition Line are classified as current debt as of March 31, 2017 .

At our election, the interest rate under the Working Capital Line is generally determined by reference to:

- the Eurodollar-based rate plus an applicable margin of up to 3.00% per annum (based upon the prevailing utilization); or
- the alternate base rate plus an applicable margin of up to 2.00% per annum (based upon the prevailing utilization). The alternate base rate is equal to the highest of (i) Société Générale’s prime rate, (ii) the federal funds rate plus 0.50% per annum, or (iii) the reference Eurodollar rate plus 1.00% ; or
- the rate quoted by Société Générale as its cost of funds for the requested credit plus up to 2.50% per annum (based upon the prevailing utilization).

The interest rate is generally reduced by 25 basis points if utilization under the Working Capital Line is below fifty percent.

Borrowings under the Acquisition Line are generally determined by reference to:

- the Eurodollar rate plus an applicable margin of up to 3.75% per annum (based upon the prevailing utilization); or
- the alternate base rate plus an applicable margin of up to 2.75% per annum (based upon the prevailing utilization). The alternate base rate is equal to the highest of (i) Société Générale's prime rate, (ii) the federal funds rate plus 0.50% per annum, or (iii) the reference Eurodollar rate plus 1.00% .

The Co-Borrowers pay an annual commitment fee of 0.375% or 0.50% on the unused portion of the Working Capital Line depending upon the unused capacity and 0.50% on the unused portion of the Acquisition Line. The lending syndicate under the Senior Credit Facility is entitled to several additional fees including an upfront fee, annual agency fee, and fronting fees based on a percentage of the face amount of letters of credit payable to any syndicate member that issues a letter of credit.

The Company has the ability to elect the availability under the Working Capital Line between $40.0 million to $82.5 million . On September 30, 2016, the Company and the Co-Borrowers elected to reduce the capacity of the Working Capital Line from $82.5 million to $60.0 million . At December 31, 2016, we elected up to the $70.0 million level. The Company and the Co-Borrowers elected a Working Capital Line of $82.5 million , effective as of March 22, 2017.

Availability under the working capital line will be subject to borrowing base limitations. The borrowing base is calculated primarily based on 80% to 90% of the value of eligible accounts receivable and unbilled product sales (depending on the credit quality of the counterparties) and inventory and other working capital assets. The Co-Borrowers must generally seek approval of the agent or the lenders for permitted acquisitions to be financed under the Acquisition Line.

The Senior Credit Facility is secured by pledges of the equity of the portion of Spark HoldCo owned by the Company and of the equity of Spark HoldCo's subsidiaries (excluding the Major Energy Companies) and the Co-Borrowers' present and future subsidiaries, all of the Co-Borrowers' and their subsidiaries' present and future property and assets, including accounts receivable, inventory and liquid investments, and control agreements relating to bank accounts.

The Major Energy Companies are currently excluded from the definition of "Borrowers" under the Senior Credit Facility. Accordingly we did not factor their working capital into our working capital covenants.

The Senior Credit Facility also contains covenants that, among other things, require the maintenance of specified ratios or conditions as follows:

- *Minimum Net Working Capital* . The Co-Borrowers must maintain minimum consolidated net working capital equal to the greater of $5.0 million or 15% of the elected availability under the Working Capital Line.

- *Minimum Adjusted Tangible Net Worth.* The Co-Borrowers must maintain a minimum consolidated adjusted tangible net worth at all times equal to the net cash proceeds from equity issuances occurring after the date of the Senior Credit Facility plus the greater of (i) 20% of aggregate commitments under the Working Capital Line plus 33% of borrowings under the Acquisition Line and (ii) $18.0 million .

- *Minimum Fixed Charge Coverage Ratio.* Spark Energy, Inc. must maintain a minimum fixed charge coverage ratio of 1.25 to 1.00. The Fixed Charge Coverage Ratio is defined as the ratio of (a) Adjusted EBITDA to (b) the sum of consolidated interest expense (other than interest paid-in-kind in respect of any Subordinated Debt), letter of credit fees, commitment fees, acquisition earn-out payments, distributions and scheduled amortization payments.

- *Maximum Total Leverage Ratio.* Spark Energy, Inc. must maintain a ratio of total indebtedness (excluding the Working Capital Facility and qualifying subordinated debt) to Adjusted EBITDA of a maximum of 2.50 to 1.00.

The Senior Credit Facility contains various negative covenants that limit the Company's ability to, among other things, do any of the following:

- incur certain additional indebtedness;
- grant certain liens;
- engage in certain asset dispositions;
- merge or consolidate;
- make certain payments, distributions, investments, acquisitions or loans; or
- enter into transactions with affiliates.

Spark Energy, Inc. is entitled to pay cash dividends to the holders of the Class A common stock and Series A Preferred Stock, and Spark HoldCo will be entitled to make cash distributions to us, NuDevco Retail and Retailco (or their successors in interest) so long as: (a) no default exists or would result from such a payment; (b) the Co-Borrowers are in pro forma compliance with all financial covenants before and after giving effect to such payment and (c) the outstanding amount of all loans and letters of credit does not exceed the borrowing base limits. Spark

HoldCo's inability to satisfy certain financial covenants or the existence of an event of default, if not cured or waived, under the Senior Credit Facility could prevent the Company from paying dividends to holders of the Class A common stock.

The Senior Credit Facility contains certain customary representations and warranties and events of default. Events of default include, among other things, payment defaults, breaches of representations and warranties, covenant defaults, cross-defaults and cross-acceleration to certain indebtedness, change in control in which affiliates of W. Keith Maxwell III own less than 40% of the outstanding voting interests in the Company, certain events of bankruptcy, certain events under ERISA, material judgments in excess of $5.0 million , certain events with respect to material contracts, actual or asserted failure of any guaranty or security document supporting the Senior Credit Facility to be in full force and effect and changes of control. If such an event of default occurs, the lenders under the Senior Credit Facility would be entitled to take various actions, including the acceleration of amounts due under the facility and all actions permitted to be taken by a secured creditor.

In addition, the Senior Credit Facility contains affirmative covenants that are customary for credit facilities of this type. The covenants include delivery of financial statements, including any filings made with the SEC, maintenance of property and insurance, payment of taxes and obligations, material compliance with laws, inspection of property, books and records and audits, use of proceeds, payments to bank blocked accounts, notice of defaults and certain other customary matters.

Convertible Subordinated Notes to Affiliate

In connection with the financing of the CenStar acquisition, the Company, together with Spark HoldCo, issued the CenStar Note to RAC for $2.1 million on July 8, 2015. The CenStar Note matures on July 8, 2020, and bears interest at an annual rate of 5% , payable semiannually. The Company has the right to pay interest in kind at its option. The CenStar Note is convertible into shares of the Company's Class B common stock, par value $0.01 per share (and a related unit of Spark HoldCo) at a conversion price of $16.57 per share. RAC may not exercise conversion rights for the first eighteen months after the CenStar Note is issued. The CenStar Note is subject to automatic conversion upon a sale of the Company. The CenStar Note is subordinated in certain respects to the Senior Credit Facility pursuant to a subordination agreement. The Company may pay interest and prepay principal so long as the Company is in compliance with its covenants; is not in default under the Senior Credit Facility and has minimum availability of $5.0 million under its borrowing base under the Senior Credit Facility. Shares of Class A common stock resulting from the conversion of the shares of Class B common stock issued as a result of the conversion right under the CenStar Note will be entitled to registration rights identical to the registration rights currently held by NuDevco Retail and Retailco on shares of Class A common stock it receives upon conversion of its existing shares of Class B common stock. On October 5, 2016, RAC issued to the Company an irrevocable commitment to convert the CenStar Note into 134,731 shares of Class B common stock. RAC assigned the CenStar Note to Retailco on January 4, 2017, and on January 8, 2017, the CenStar Note was converted into 134,731 shares of Class B common stock.

In connection with the financing of the Oasis acquisition, the Company, together with Spark HoldCo, issued the Oasis Note to RAC for $5.0 million on July 31, 2015. The Oasis Note matures on July 31, 2020, and bears interest at an annual rate of 5% , payable semiannually. The Company has the right to pay-in-kind any interest at its option. The Oasis Note is convertible into shares of the Company's Class B common stock, par value $0.01 per share (and a related unit of Spark HoldCo) at a conversion price of $14.00 per share. RAC may not exercise conversion rights for the first eighteen months after the Oasis Note is issued. The Oasis Note is subject to automatic conversion upon a sale of the Company. The Oasis Note is subordinated in certain respects to the Senior Credit Facility pursuant to a subordination agreement. The Company may pay interest and prepay principal so long as the Company is in compliance with its covenants; is not in default under the Senior Credit Facility and has minimum availability of $5.0 million under its borrowing base under the Senior Credit Facility. Shares of Class A common stock resulting from the conversion of the shares of Class B common stock issued as a result of the conversion right under the Oasis Note will be entitled to registration rights identical to the registration rights currently held by NuDevco Retail and Retailco on shares of Class A common stock it receives upon conversion of its existing shares of Class B

common stock. On October 5, 2016, RAC issued to the Company an irrevocable commitment to convert the Oasis Note into 383,090 shares of Class B common stock. RAC assigned the Oasis Note to Retailco on January 4, 2017, and on January 31, 2017 the Oasis Note was converted into 383,090 shares of Class B common stock.

The conversion rate of $14.00 per share for the Oasis Note was fixed as of the date of the execution of the Oasis acquisition agreement on May 12, 2015. Due to a rise in the price of our common stock from May 12, 2015 to the closing of Oasis acquisition on July 31, 2015, the conversion rate of $14.00 per share was below the market price per share of Class A common stock of $16.21 on the issuance date of the Oasis Note on July 31, 2015. As a result, the Company assessed the Oasis Note for a beneficial conversion feature. Due to this conversion feature being "in-the-money" upon issuance, we recognized a beneficial conversion feature based on its intrinsic value of $0.8 million as a discount to the Oasis Note and as additional paid-in capital. This discount was amortized as interest expense under the effective interest method over the life of the Oasis Note through the conversion on January 31, 2017, at which time the remaining $1.0 million beneficial conversion feature was written-off and recognized as interest expense.

Subordinated Debt Facility

On December 27, 2016, we and Spark HoldCo jointly issued to Retailco, an entity owned by our Founder, a 5% subordinated note in the principal amount of up to $25.0 million . The subordinated note allows the Company and Spark HoldCo to draw advances in increments of no less than $1.0 million per advance up to the maximum principal amount of the subordinated note. The subordinated note matures approximately 3 ½ years following the date of issuance, and advances thereunder accrue interest at 5% per annum from the date of the advance. The Company has the right to capitalize interest payments under the subordinated note. The subordinated note is subordinated in certain respects to the Company's Senior Credit Facility pursuant to a subordination agreement. The Company may pay interest and prepay principal on the subordinated note so long as it is in compliance with its covenants under the Senior Credit Facility, is not in default under the Senior Credit Facility and has minimum availability of $5.0 million under the borrowing base under the Senior Credit Facility. Payment of principal and interest under the subordinated note is accelerated upon the occurrence of certain change of control or sale transactions. As of March 31, 2017 , there were no outstanding borrowings under the subordinated note, and at December 31, 2016 , there was $5.0 million in outstanding borrowings under the subordinated note.

Pacific Summit Energy LLC

Prior to March 31, 2017 , the Major Energy Companies were party to three trade credit arrangements with Pacific Summit Energy LLC (“Pacific Summit”), which consisted of purchase agreements, operating agreements relating to purchasing terms, security agreements, lockbox agreements and guarantees, and provided for the exclusive supply of gas and electricity on credit by Pacific Summit to the Major Energy Companies for resale to end users.

Under these arrangements, when the costs that Pacific Summit paid to procure and deliver the gas and electricity exceeded the payments that the Major Energy Companies made attributable to the gas and electricity purchased, the Major Energy Companies incurred interest on the difference. The operating agreements also allowed Pacific Summit to provide credit support. Each form of borrowing incurred interest at the floating 90-day LIBOR rate plus 300 basis points (except for certain credit support guaranties that did not bear interest). In connection with these arrangements, the Major Companies granted first liens to Pacific Summit on a substantial portion of the Major Companies’ assets, including present and future accounts receivable, inventory, liquid assets, and control agreements relating to bank accounts. As of March 31, 2017 , the Company had aggregate outstanding amounts payable under these arrangements of approximately $8.2 million , bearing an interest rate of approximately 4.2% . The Company was also the beneficiary under various credit support guarantees issued by Pacific Summit under these arrangements as of such date. On September 27, 2016, we notified Pacific Summit of our election to trigger the expiration of these arrangements. On March 31, 2017 the agreements were terminated.

9. Fair Value Measurements

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (exit price) in an orderly transaction between market participants at the measurement date. Fair values are based on assumptions that market participants would use when pricing an asset or liability, including assumptions about risk and the risks inherent in valuation techniques and the inputs to valuations. This includes not only the credit standing of counterparties involved and the impact of credit enhancements but also the impact of the Company's own nonperformance risk on its liabilities.

The Company applies fair value measurements to its commodity derivative instruments and a contingent payment arrangement based on the following fair value hierarchy, which prioritizes the inputs to valuation techniques used to measure fair value into three broad levels:

- Level 1—Quoted prices in active markets for identical assets and liabilities. Instruments categorized in Level 1 primarily consist of financial instruments such as exchange-traded derivative instruments.
- Level 2—Inputs other than quoted prices recorded in Level 1 that are either directly or indirectly observable for the asset or liability, including quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in inactive markets, inputs other than quoted prices that are observable for the asset or liability, and inputs that are derived from observable market data by correlation or other means. Instruments categorized in Level 2 primarily include non-exchange traded derivatives such as over-the-counter commodity forwards and swaps and options.
- Level 3—Unobservable inputs for the asset or liability, including situations where there is little, if any, observable market activity for the asset or liability. The Level 3 category includes estimated earnout obligations related to the Company's acquisitions.

As the fair value hierarchy gives the highest priority to quoted prices in active markets (Level 1) and the lowest priority to unobservable data (Level 3), the Company maximizes the use of observable inputs and minimizes the use of unobservable inputs when measuring fair value. In some cases, the inputs used to measure fair value might fall in different levels of the fair value hierarchy. In these cases, the lowest level input that is significant to a fair value measurement in its entirety determines the applicable level in the fair value hierarchy.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The following table presents assets and liabilities measured and recorded at fair value in the Company's condensed consolidated balance sheets on a recurring basis by and their level within the fair value hierarchy as of (in thousands):

	Level 1	Level 2	Level 3	Total
March 31, 2017				
Non-trading commodity derivative assets	$ 865	$ 1,515	$ —	$ 2,380
Trading commodity derivative assets	—	8	—	8
Total commodity derivative assets	**$ 865**	**$ 1,523**	**$ —**	**$ 2,388**
Non-trading commodity derivative liabilities	$ (238)	$ (6,305)	$ —	$ (6,543)
Trading commodity derivative liabilities	(124)	(20)	—	(144)
Total commodity derivative liabilities	**$ (362)**	**$ (6,325)**	**$ —**	**$ (6,687)**
Contingent payment arrangement	**$ —**	**$ —**	**$ (16,186)**	**$ (16,186)**

	Level 1	Level 2	Level 3	Total
December 31, 2016				
Non-trading commodity derivative assets	$ 1,511	$ 9,385	$ —	$ 10,896
Trading commodity derivative assets	101	430	—	531
Total commodity derivative assets	**$ 1,612**	**$ 9,815**	**$ —**	**$ 11,427**
Non-trading commodity derivative liabilities	$ —	$ (661)	$ —	$ (661)
Trading commodity derivative liabilities	—	(87)	—	(87)
Total commodity derivative liabilities	**$ —**	**$ (748)**	**$ —**	**$ (748)**
Contingent payment arrangement	**$ —**	**$ —**	**$ (22,653)**	**$ (22,653)**

The Company had no transfers of assets or liabilities between any of the above levels during the three months ended March 31, 2017 and the year ended December 31, 2016 .

The Company’s derivative contracts include exchange-traded contracts fair valued utilizing readily available quoted market prices and non-exchange-traded contracts fair valued using market price quotations available through brokers or over-the-counter and on-line exchanges. In addition, in determining the fair value of the Company’s derivative contracts, the Company applies a credit risk valuation adjustment to reflect credit risk which is calculated based on the Company’s or the counterparty’s historical credit risks. As of March 31, 2017 and December 31, 2016 , the credit risk valuation adjustment was not material.

The contingent payment arrangements referred to above reflect estimated earnout obligations incurred in relation to the Company's acquisitions. As of March 31, 2017 , the estimated earnout obligations were $16.2 million , which was comprised of the Provider Earnout, the Major Earnout and the Stock Earnout in the amount of $4.0 million , $11.4 million , and $0.8 million , respectively. As of December 31, 2016 , the estimated earnout obligations were $22.7 million , which was comprised of the Provider Earnout, the Major Earnout and the Stock Earnout in the amount of $4.9 million , $17.1 million , and $0.7 million , respectively. As of March 31, 2017 , the estimated earnouts are recorded on our condensed consolidated balance sheets in current liabilities - contingent consideration and long-term liabilities - contingent consideration in the amount of $12.1 million and $4.1 million , respectively; and as of December 31, 2016 , in current liabilities - contingent consideration and long-term liabilities - contingent consideration in the amount of $11.8 million and $10.8 million , respectively.

The Provider Earnout is based on achievement by the Provider Companies of a certain customer count criteria over the nine month period following the closing of the Provider Companies acquisition. The sellers of the Provider Companies are entitled to a maximum of $9.0 million and a minimum of $5.0 million in earnout payments based on the level of customer count attained, as defined by the Provider Companies membership interest purchase agreement. In March 2017, the Company paid the sellers of the Provider Companies $1.0 million related to the earnout based on the achievement of certain customer count targets. During the three months ended March 31, 2017, the Company recorded accretion of $0.1 million to reflect the impact of the time value of the liability. The Company has revalued the liability at March 31, 2017 with no expected change of the earnout payments. In determining the fair value of the Provider Earnout, the Company forecasted an expected customer count and certain other related criteria and calculated the probability of such forecast being attained. As this calculation is based on management's estimates of the liability, we classified the Provider Earnout as a Level 3 measurement.

The Major Earnout is based on the achievement by the Major Energy Companies of certain performance targets over the 33 month period following NG&E's closing of the Major Energy Companies acquisition (i.e., April 15, 2016). The previous members of Major Energy Companies are entitled to a maximum of $20.0 million in earnout payments based on the level of performance targets attained, as defined by the Major Purchase Agreement. The Stock Earnout obligation is contingent upon the Major Energy Companies achieving the Major Earnout's performance target ceiling, thereby earning the maximum Major Earnout payments. If the Major Energy Companies earn such maximum Major Earnout payments, NG&E would be entitled to a maximum of 200,000 shares of Class B common stock (and a corresponding number of Spark HoldCo units). Based on the financial results of the Major Energy Companies during the first earnout period, NG&E was not entitled to receive an issuance of shares of Class

B common stock (and a corresponding number of SparkHoldCo units). In determining the fair value of the Major Earnout and the Stock Earnout, the Company forecasted certain expected performance targets and calculated the probability of such forecast being attained. In March 2017, the Company paid the previous members of the Major Energy Companies $7.4 million related to the achievement of targets for the period from April 15, 2016 through December 31, 2016. During the three month period ended March 31, 2017, the Company recorded accretion of $1.2 million to reflect the impact of the time value of the liability. The Company revalued the liability at March 31, 2017, resulting in the increase of the fair value of the liability to $12.2 million . The impact of the $0.7 million increase in fair value is recorded in general and administrative expenses. As this calculation is based on management's estimates of the liability, we classified the Major Earnout as a Level 3 measurement.

The following tables present reconciliations of liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) for the years ended March 31, 2017 and December 31, 2016 .

	Major Earnout and Stock Earnout	Provider Earnout	Total
Fair value at December 31, 2016	$ 17,760	$ 4,893	$ 22,653
Purchase price contingent consideration	$ —	$ —	$ —
Change in fair value of contingent consideration, net	711	—	711
Accretion of contingent earnout consideration (included within interest expense)	1,167	58	1,225
Settlements [1]	(7,403)	(1,000)	(8,403)
Fair Value at March 31, 2017	$ 12,235	$ 3,951	$ 16,186

(1) Settlements include pay downs at maturity

Other Financial Instruments

The carrying amount of cash and cash equivalents, accounts receivable, accounts receivable—affiliates, accounts payable, accounts payable—affiliates, and accrued liabilities recorded in the condensed consolidated balance sheets approximate fair value due to the short-term nature of these items. The carrying amount of the Senior Credit Facility recorded in the condensed consolidated balance sheets approximates fair value because of the variable rate nature of the Company’s line of credit. The fair value of our convertible subordinated notes to affiliates is not determinable for accounting purposes due to the affiliate nature and terms of the associated debt instrument with the affiliate. The fair value of the payable pursuant to tax receivable agreement—affiliate is not determinable for accounting purposes due to the affiliate nature and terms of the associated agreement with the affiliate.

10. Accounting for Derivative Instruments

The Company is exposed to the impact of market fluctuations in the price of electricity and natural gas and basis costs, storage and ancillary capacity charges from independent system operators. The Company uses derivative instruments to manage exposure to these risks, and historically designated certain derivative instruments as cash flow hedges for accounting purposes.

The Company holds certain derivative instruments that are not held for trading purposes and are not designated as hedges for accounting purposes. These derivative instruments represent economic hedges that mitigate the Company’s exposure to fluctuations in commodity prices. For these derivative instruments, changes in the fair value are recognized currently in earnings in retail revenues or retail cost of revenues.

As part of the Company’s strategy to optimize its assets and manage related risks, it also manages a portfolio of commodity derivative instruments held for trading purposes. The Company’s commodity trading activities are subject to limits within the Company’s Risk Management Policy. For these derivative instruments, changes in the fair value are recognized currently in earnings in net asset optimization revenues.

Derivative assets and liabilities are presented net in the Company's condensed consolidated balance sheets when the derivative instruments are executed with the same counterparty under a master netting arrangement. The Company's derivative contracts include transactions that are executed both on an exchange and centrally cleared as well as over-the-counter, bilateral contracts that are transacted directly with a third party. To the extent the Company has paid or received collateral related to the derivative assets or liabilities, such amounts would be presented net against the related derivative asset or liability's fair value. As of March 31, 2017 and December 31, 2016 , the Company had paid $0.3 million and zero in collateral outstanding, respectively. The specific types of derivative instruments the Company may execute to manage the commodity price risk include the following:

- Forward contracts, which commit the Company to purchase or sell energy commodities in the future;
- Futures contracts, which are exchange-traded standardized commitments to purchase or sell a commodity or financial instrument;
- Swap agreements, which require payments to or from counterparties based upon the differential between two prices for a predetermined notional quantity; and
- Option contracts, which convey to the option holder the right but not the obligation to purchase or sell a commodity.

The Company has entered into other energy-related contracts that do not meet the definition of a derivative instrument or qualify for the normal purchase or normal sale exception and are therefore not accounted for at fair value, including the following:

- Forward electricity and natural gas purchase contracts for retail customer load, and
- Natural gas transportation contracts and storage agreements.

Volumetric Underlying Derivative Transactions

The following table summarizes the net notional volume buy/(sell) of the Company's open derivative financial instruments accounted for at fair value, broken out by commodity, as of (in thousands):

Non-trading

Commodity	Notional	March 31, 2017	December 31, 2016
Natural Gas	MMBtu	9,136	8,016
Natural Gas Basis	MMBtu	—	—
Electricity	MWh	4,276	3,958

Trading

Commodity	Notional	March 31, 2017	December 31, 2016
Natural Gas	MMBtu	108	(953)
Natural Gas Basis	MMBtu	—	(380)

Gains (Losses) on Derivative Instruments

Gains (losses) on derivative instruments, net and current period settlements on derivative instruments were as follows for the periods indicated (in thousands):

	Three Months Ended March 31,	
	2017	**2016**
Loss on non-trading derivatives, net	(21,037)	$ (9,620)
Loss on trading derivatives, net	(419)	(129)
Loss on derivatives, net	**(21,456)**	**(9,749)**
Current period settlements on non-trading derivatives [1] [2]	7,574	11,277
Current period settlements on trading derivatives	(160)	(5)
Total current period settlements on derivatives	**$ 7,414**	**$ 11,272**

(1) Excludes settlements of less than $0.1 million and $(0.8) million , respectively, for the three months ended March 31, 2017 and 2016 related to non-trading derivative liabilities assumed in the acquisitions of CenStar and Oasis.

(2) Excludes settlements of $(1.3) million for the three months ended March 31, 2017 related to non-trading derivative liabilities assumed in the acquisitions of the Provider Companies and Major Energy Companies.

Gains (losses) on trading derivative instruments are recorded in net asset optimization revenues, and gains (losses) on non-trading derivative instruments are recorded in retail cost of revenues on the condensed consolidated statements of operations.

Fair Value of Derivative Instruments

The following tables summarize the fair value and offsetting amounts of the Company's derivative instruments by counterparty and collateral received or paid as of (in thousands):

	March 31, 2017				
Description	Gross Assets	Gross Amounts Offset	Net Assets	Cash Collateral Offset	Net Amount Presented
Non-trading commodity derivatives	$ 4,436	$ (2,056)	$ 2,380	$ —	$ 2,380
Trading commodity derivatives	(23)	31	8	—	8
Total Current Derivative Assets	$ 4,413	$ (2,025)	$ 2,388	$ —	$ 2,388
Non-trading commodity derivatives	$ 60	$ (60)	$ —	$ —	$ —
Total Non-current Derivative Assets	$ 60	$ (60)	$ —	$ —	$ —
Total Derivative Assets	$ 4,473	$ (2,085)	$ 2,388	$ —	$ 2,388

	March 31, 2017				
Description	Gross Liabilities	Gross Amounts Offset	Net Liabilities	Cash Collateral Offset	Net Amount Presented
Non-trading commodity derivatives	$ (11,015)	$ 9,012	$ (2,003)	$ 300	$ (1,703)
Trading commodity derivatives	(20)	—	(20)	—	(20)
Total Current Derivative Liabilities	$ (11,035)	$ 9,012	$ (2,023)	$ 300	$ (1,723)
Non-trading commodity derivatives	$ (7,605)	$ 2,765	$ (4,840)	$ —	$ (4,840)
Trading commodity derivatives	$ (240)	$ 116	$ (124)	$ —	$ (124)
Total Non-current Derivative Liabilities	$ (7,845)	$ 2,881	$ (4,964)	$ —	$ (4,964)
Total Derivative Liabilities	**$ (18,880)**	**$ 11,893**	**$ (6,987)**	**$ 300**	**$ (6,687)**

Description	December 31, 2016				
	Gross Assets	Gross Amounts Offset	Net Assets	Cash Collateral Offset	Net Amount Presented
Non-trading commodity derivatives	$ 19,657	$ (11,844)	$ 7,813	$ —	$ 7,813
Trading commodity derivatives	614	(83)	531	—	531
Total Current Derivative Assets	20,271	(11,927)	8,344	—	8,344
Non-trading commodity derivatives	7,874	(4,791)	3,083	—	3,083
Total Non-current Derivative Assets	7,874	(4,791)	3,083	—	3,083
Total Derivative Assets	**$ 28,145**	**$ (16,718)**	**$ 11,427**	**$ —**	**$ 11,427**

Description	December 31, 2016				
	Gross Liabilities	Gross Amounts Offset	Net Liabilities	Cash Collateral Offset	Net Amount Presented
Non-trading commodity derivatives	$ (662)	$ 69	$ (593)	$ —	$ (593)
Trading commodity derivatives	(92)	5	(87)	—	(87)
Total Current Derivative Liabilities	(754)	74	(680)	—	(680)
Non-trading commodity derivatives	(305)	237	(68)	—	(68)
Total Non-current Derivative Liabilities	(305)	237	(68)	—	(68)
Total Derivative Liabilities	**$ (1,059)**	**$ 311**	**$ (748)**	**$ —**	**$ (748)**

11. Income Taxes

Income Taxes

The Company and CenStar are each subject to U.S. federal income tax as corporations. Spark HoldCo and its subsidiaries, with the exception of CenStar, are treated as flow-through entities for U.S. federal income tax purposes, and, as such, are generally not subject to U.S. federal income tax at the entity level. Rather, the tax liability with respect to their taxable income is passed through to their members or partners. Accordingly, the Company is subject to U.S. federal income taxation on its allocable share of Spark HoldCo's net U.S. taxable income.

The Company accounts for income taxes using the assets and liabilities method. Deferred tax assets and liabilities are recognized for future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and those assets and liabilities tax bases. The Company applies existing tax law and the tax rate that the Company expects to apply to taxable income in the years in which those differences are expected to be recovered or settled in calculating the deferred tax assets and liabilities. Effects of changes in tax rates on deferred tax assets and liabilities are recognized in income in the period of the tax rate enactment. A valuation allowance is recorded when it is not more likely than not that some or all of the benefit from the deferred tax asset will be realized.

The Company periodically assesses whether it is more likely than not that it will generate sufficient taxable income to realize its deferred income tax assets. In making this determination, the Company considers all available positive and negative evidence and makes certain assumptions. The Company considers, among other things, its deferred tax liabilities, the overall business environment, its historical earnings and losses, current industry trends, and its outlook for future years. The Company believes it is more likely than not that the deferred tax assets will be utilized.

On February 3, 2016, Retailco exchanged 1,000,000 of its Spark HoldCo units (together with a corresponding number of shares of Class B common stock) for shares of Class A common stock. The exchange resulted in a step

up in tax basis, which gave rise to a deferred tax asset of approximately $8.0 million on the exchange date. In addition, the Company recorded an additional long-term liability as a result of the exchange of approximately $10.3 million pursuant to the Tax Receivable Agreement and a corresponding long-term deferred tax asset of approximately $3.9 million . The initial estimate for the deferred tax asset, net of the liability, under the Tax Receivable Agreement was recorded within additional paid-in capital on our condensed consolidated balance sheet at December 31, 2016.

On April 1, 2016, Retailco exchanged 1,725,000 of its Spark HoldCo units (together with a corresponding number of shares of Class B common stock) for shares of Class A common stock. The exchange resulted in a step up in tax basis, which gave rise to a deferred tax asset of approximately $7.6 million on the exchange date. In addition, the Company recorded an additional long-term liability as a result of the exchange of approximately $10.3 million pursuant to the Tax Receivable Agreement and a corresponding long-term deferred tax asset of approximately $3.9 million . The initial estimate for the deferred tax asset, net of the liability, under the Tax Receivable Agreement was recorded within additional paid-in capital on our condensed consolidated balance sheet at December 31, 2016.

On June 8, 2016, Retailco exchanged 500,000 of its Spark HoldCo units (together with a corresponding number of shares of Class B common stock) for shares of Class A common stock. The exchange resulted in a step up in tax basis, which gave rise to a deferred tax asset of approximately $5.3 million on the exchange date. In addition, the Company recorded an additional long-term liability as a result of the exchange of approximately $6.9 million pursuant to the Tax Receivable Agreement and a corresponding long-term deferred tax asset of approximately $2.6 million . The initial estimate for the deferred tax asset, net of the liability, under the Tax Receivable Agreement was recorded within additional paid-in capital on our condensed consolidated balance sheet at December 31, 2016.

The Company had a net deferred tax asset of approximately $15.6 million related to the step up in tax basis resulting from the purchase by the Company of Spark HoldCo units from NuDevco Retail and NuDevco Retail Holdings (predecessor to Retailco) on the IPO date. In addition, as of March 31, 2017 , the Company had a total liability of $49.9 million for the effect of the Tax Receivable Agreement liability classified as a long-term liability. The Company had a long-term deferred tax asset of approximately $19.7 million related to the Tax Receivable Agreement liability. See Note 13 "Transactions with Affiliates" for further discussion.

The effective U.S. federal and state income tax rate for the three months ended March 31, 2017 and 2016 is 17.4% and 5.9% , respectively, with respect to pre-tax income attributable to the Company's stockholders. The higher effective tax rate for the three months ended March 31, 2017 is primarily attributable to the tax treatment of Preferred Dividends and a decrease in the non-controlling interest. The decrease in non-controlling interest is primarily attributable to units exchanged by Retailco, which corresponds with an increase in taxable income allocable to the Company from Spark HoldCo that is subject to U.S. federal income taxation.

Total income tax expense for the three months ended March 31, 2017 differed from amounts computed by applying the U.S. federal statutory tax rates to pre-tax income primarily due to state taxes and the impact of permanent differences between book and taxable income, most notably the income attributable to non-controlling interest. The effective tax rate includes a rate benefit attributable to the fact that Spark HoldCo operates as a limited liability company treated as a partnership for federal and state income tax purposes and is not subject to federal and state income taxes. Accordingly, the portion of earnings attributable to non-controlling interest is subject to tax when reported as a component of the non-controlling interest’s taxable income. The February, April and June 2016 exchanges by Retailco decreased the effective tax rate benefit attributable to non-controlling interest.

12. Commitments and Contingencies

From time to time, the Company may be involved in legal, tax, regulatory and other proceedings in the ordinary course of business. Other than proceedings discussed below, management does not believe that we are a party to any litigation, claims or proceedings that will have a material impact on the Company’s condensed consolidated financial condition or results of operations. Liabilities for loss contingencies arising from claims, assessments, litigations or other sources are recorded when it is probable that a liability has been incurred and the amount can be reasonably estimated.

Indirect Tax Audits

The Company is undergoing various types of indirect tax audits spanning from years 2006 to 2016 for which the Company may have additional liabilities arise. At the time of filing these condensed consolidated financial statements, these indirect tax audits are at an early stage and subject to substantial uncertainties concerning the outcome of audit findings and corresponding responses. As of March 31, 2017 , we have accrued $1.9 million related to indirect tax audits. The outcome of these indirect tax audits may result in additional expense.

Legal Proceedings

The Company is the subject of the following lawsuits. At the time of filing these combined and consolidated financial statements, this litigation is at an early stage and subject to substantial uncertainties concerning the outcome of material factual and legal issues. Accordingly, we cannot currently predict the manner and timing of the resolution of this litigation or estimate a range of possible losses or a minimum loss that could result from an adverse verdict in a potential lawsuit.

John Melville et al v. Spark Energy Inc. and Spark Energy Gas, LLC is a purported class action filed on December 17, 2015 in the United States District Court for the District of New Jersey alleging, among other things, that (i) sales representatives engaged as independent contractors for Spark Energy Gas, LLC engaged in deceptive acts in violation of the New Jersey Consumer Fraud Act, (ii) Spark Energy Gas, LLC breach its contract with plaintiff, including a breach of the covenant of good faith and fair dealing. Plaintiffs are seeking unspecified compensatory and punitive damages for the purported class, injunctive relief and/or declaratory relief, disgorgement of revenues and/or profits and attorneys' fees. Initial discovery is ongoing. Spark Energy Inc. and Spark Energy Gas, LLC intend to vigorously defend this matter and the allegations asserted therein. Given the early stages of this matter, we cannot predict the outcome or consequences of this case at this time.

Halifax-American Energy Company, LLC et al v. Provider Power, LLC, Electricity N.H., LLC, Electricity Maine, LLC, Emile Clavet and Kevin Dean is a lawsuit initially filed on June 12, 2014, in the Rockingham County Superior Court, State of New Hampshire, alleging various claims related to the Provider Companies' employment of a sales contractor formerly employed with one or more of the plaintiffs, including misappropriation of trade secrets and tortious interference with a contractual relationship. The dispute occurred prior to the Company's acquisition of the Provider Companies. Portions of the original claim proceeded to trial and on January 19, 2016, a jury found in favor of the plaintiff. Damages totaling approximately $0.6 million and attorney's fees totaling approximately $0.3 million were awarded to the plaintiff. On May 4, 2016, following post-verdict motions, the defendants filed an appeal in the State of New Hampshire Supreme Court, appealing, among other things the failure of the trial court to direct a verdict for the defendants, to set aside the verdict, or grant judgment for the defendants, and the trial court's award of certain attorneys' fees. As of December 31, 2016 and March 31, 2017 , respectively, the Company has accrued approximately $1.0 million in contingent liabilities related to this litigation. Initial damages and attorney's fees have been factored into the purchase price for the Provider Companies, and the Company believes it has full indemnity coverage and set-off rights against future price installments for any actual exposure in the appeal.

Katherine Veilleux and Jennifer Chon, individually and on behalf of all other similarly situated v. Electricity Maine. LLC, Provider Power, LLC, Spark Holdco, LLC, Kevin Dean and Emile Clavet is a purported class action lawsuit filed on November 18, 2016 in the United States District Court of Maine, alleging that Electricity Maine, LLC, an entity acquired by Spark Holdco, LLC in mid-2016, enrolled customers through fraudulent and misleading advertising and promotions prior to the acquisition. Plaintiffs allege the following claims against all Defendants: violation of the Maine Unfair Trade Practices Act, violation of RICO, negligence, negligent misrepresentation, fraudulent misrepresentation, unjust enrichment and breach of contract. Plaintiffs seek unspecified damages for themselves and the purported class, rescission of contracts with Electricity Maine, injunctive relief, restitution, and attorney's fees. Discovery has not yet commenced in this matter. Spark HoldCo intends to vigorously defend this matter and the allegations asserted therein. Given the early stages of this matter, we cannot predict the outcome or

consequences of this case at this time. Under the terms of the acquisition, Spark HoldCo is indemnified for losses and expenses in connection with this action subject to certain limits.

Gillis et al. v. Respond Power, LLC is a purported class action lawsuit that was originally filed on May 21, 2014 in the Philadelphia Court of Common Pleas. On June 23, 2014, the case was removed to the United States District Court for the Eastern District of Pennsylvania. On September 15, 2014, the plaintiffs filed an amended class action complaint seeking a declaratory judgment that the disclosure statement contained in Respond Power, LLC's variable rate contracts with Pennsylvania consumers limited the variable rate that could be charged to no more than the monthly rate charged by the consumers' local utility company. The plaintiffs also allege that Respond Power, LLC (i) breached its variable rate contract with Pennsylvania consumers, and the covenant of good faith and fair dealing therein, by charging rates in excess of the monthly rate charged by the consumers' local utility company; (ii) engaged in deceptive conduct in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law; and (iii) engaged in negligent misrepresentation and fraudulent concealment in connection with purported promises of savings. The amount of damages sought is not specified. By order dated August 31, 2015, the district court denied class certification. The plaintiffs appealed the district court's denial of class certification to the United States Court of Appeals for the Third Circuit. The United States Court of Appeals for the Third Circuit vacated the district court's denial of class certification and remanded the matter to the district court for further proceedings. We currently cannot predict the outcome or consequences of this case at this time. The Company is indemnified for Major litigation matters, subject to certain limitations by original owners of the Major Energy Companies.

13. Transactions with Affiliates

The Company enters into transactions with and pays certain costs on behalf of affiliates that are commonly controlled in order to reduce risk, reduce administrative expense, create economies of scale, create strategic alliances and supply goods and services to these related parties. The Company also sells and purchases natural gas and electricity with affiliates. The Company presents receivables and payables with the same affiliate on a net basis in the condensed consolidated balance sheets as all affiliate activity is with parties under common control.

Master Service Agreement with Retailco Services, LLC

We entered into a Master Service Agreement (the "Master Service Agreement") effective January 1, 2016 with Retailco Services, LLC ("Retailco Services"), which is wholly owned by our Founder. The Master Service Agreement is for a one -year term and renews automatically for successive one -year terms unless the Master Service Agreement is terminated by either party. Retailco Services provides us with operational support services such as: enrollment and renewal transaction services; customer billing and transaction services; electronic payment processing services; customer services and information technology infrastructure and application support services under the Master Service Agreement. See "Cost Allocations" for further discussion of the fees paid in connection with the Master Service Agreement during the three months ended March 31, 2017 .

Accounts Receivable and Payable — Affiliates

The Company recorded current accounts receivable—affiliates of $2.0 million and $2.6 million as of March 31, 2017 and December 31, 2016 , respectively, and current accounts payable—affiliates of $3.2 million and $3.8 million as of March 31, 2017 and December 31, 2016 , respectively, for certain direct billings and cost allocations for services the Company provided to affiliates, services our affiliates provided to us, and sales or purchases of natural gas and electricity with affiliates.

Convertible Subordinated Notes to Affiliate

In connection with the financing of the CenStar acquisition, the Company, together with Spark HoldCo, issued the CenStar Note to Retailco Acquisition Co, LLC ("RAC"), which is wholly owned by our Founder, for $2.1 million on July 8, 2015. In connection with the financing of the Oasis acquisition, the Company, together with Spark HoldCo, issued the Oasis Note to RAC for $5.0 million on July 31, 2015. RAC converted the CenStar Note and the

Oasis Note into shares of Class B common stock on January 8, 2017 and January 31, 2017, respectively. Refer to Note 8 "Debt" for further discussion.

Revenues and Cost of Revenues — Affiliates

The Company and an affiliate are party to an agreement whereby the Company purchases natural gas from an affiliate. Cost of revenues—affiliates, recorded in net asset optimization revenues in the condensed consolidated statements of operations for the three months ended March 31, 2017 and 2016 related to this agreement were zero and $1.3 million , respectively.

The Company also purchases natural gas at a nearby third-party plant inlet that is then sold to an affiliate. Revenues—affiliates, recorded in net asset optimization revenues in the condensed consolidated statements of operations for the three months ended March 31, 2017 and 2016 related to these sales were zero and $0.1 million , respectively.

Additionally, the Company entered into a natural gas transportation agreement with another affiliate at its pipeline, whereby the Company transports retail natural gas and pays the higher of (i) a minimum monthly payment or (ii) a transportation fee per MMBtu times actual volumes transported. The current transportation agreement renews annually on February 28 at a fixed rate per MMBtu without a minimum monthly payment. While this transportation agreement remains in effect, this entity is no longer an affiliate as our Founder terminated his interest in the affiliate on May 16, 2016. Cost of revenues—affiliates, recorded in retail cost of revenues in the condensed consolidated statements of operations related to this activity, was less than $0.1 million for the three months ended March 31, 2016 .

Cost Allocations

The Company paid certain expenses on behalf of affiliates, which are reimbursed by the affiliates to the Company, and our affiliates paid certain expenses on our behalf, which are reimbursed by us. These transactions include costs that can be specifically identified and certain allocated overhead costs associated with general and administrative services, including executive management, due diligence work, recurring management consulting, facilities, banking arrangements, professional fees, insurance, information services, human resources and other support departments to the affiliates. Where costs incurred on behalf of the affiliate or us could not be determined by specific identification for direct billing, the costs were primarily allocated to the affiliated entities or us based on percentage of departmental usage, wages or headcount. The total net amount direct billed and allocated from affiliates was $7.4 million for the three months ended March 31, 2017 .

Of the $7.4 million total net amount directly billed and allocated from affiliates, the Company recorded general and administrative expense of $7.3 million for the three months ended March 31, 2017 in the condensed consolidated statement of operations in connection with fees paid, net of damages charged, under the Master Service Agreement with Retailco Services. Additionally under the Master Service Agreement, we capitalized $0.1 million of property and equipment for the application, development and implementation of various systems during three months ended March 31, 2017 .

The total net amount direct billed and allocated from affiliates was $5.0 million for the three months ended March 31, 2016, of which $4.4 million was recorded as general and administrative expense in the condensed consolidated statement of operations and $0.6 million was capitalized and amortized in accordance with our accounting policies.

Distributions to and Contributions from Affiliates

During the three months ended March 31, 2017 and 2016 , the Company made net capital distributions to NuDevco Retail and Retailco of $3.9 million and $3.5 million , respectively, in conjunction with the payment of quarterly distributions attributable to its Spark HoldCo units. During the three months ended March 31, 2017 , the Company made distributions to NuDevco Retail and Retailco for gross-up distributions of $0.5 million in connection with distributions made between Spark HoldCo and Spark Energy, Inc. for payment of income taxes incurred by Spark Energy, Inc.

Proceeds from Disgorgement of Stockholder Short-swing Profits

During the three months ended March 31, 2017 , the Company received $0.7 million cash for the disgorgement of stockholder short-swing profits under Section 16(b) under the Exchange Act accrued at December 31, 2016. The amount was recorded as an increase to additional paid-in capital in our condensed consolidated balance sheet as of December 31, 2016 .

Class B Common Stock

In connection with the Major Energy Companies acquisition, the Company issued Retailco 2,000,000 shares of Class B common stock (and a corresponding number of Spark HoldCo units) to NG&E. In connection with the financing of the Provider Companies acquisition, the Company sold 699,742 shares of Class B common stock (and a corresponding number of Spark HoldCo units) to RetailCo, valued at $14.0 million based on a value of $20 per share.

Tax Receivable Agreement

The Company is party to a Tax Receivable Agreement with Spark HoldCo, NuDevco Retail Holdings and NuDevco Retail. This agreement generally provides for the payment by the Company to Retailco, LLC (as successor to NuDevco Retail Holdings) and NuDevco Retail of 85% of the net cash savings, if any, in U.S. federal, state and local income tax or franchise tax that the Company actually realizes (or is deemed to realize in certain circumstances) in future periods as a result of (i) any tax basis increases resulting from the purchase by the Company of Spark HoldCo units from NuDevco Retail Holdings, (ii) any tax basis increases resulting from the exchange of Spark HoldCo units for shares of Class A common stock pursuant to the Exchange Right (or resulting from an exchange of Spark HoldCo units for cash pursuant to the Cash Option) and (iii) any imputed interest deemed to be paid by the Company as a result of, and additional tax basis arising from, any payments the Company makes under the Tax Receivable Agreement. The Company retains the benefit of the remaining 15% of these tax savings. See Note 11 "Income Taxes" for further discussion.

In certain circumstances, the Company may defer or partially defer any payment due (a “TRA Payment”) to the holders of rights under the Tax Receivable Agreement, which are currently Retailco and NuDevco Retail. During the five -year period ending September 30, 2019, the Company will defer all or a portion of any TRA Payment owed pursuant to the Tax Receivable Agreement to the extent that Spark HoldCo does not generate sufficient Cash Available for Distribution (as defined below) during the four-quarter period ending September 30th of the applicable year in which the TRA Payment is to be made in an amount that equals or exceeds 130% (the “TRA Coverage Ratio”) of the Total Distributions (as defined below) paid in such four-quarter period by Spark HoldCo. For purposes of computing the TRA Coverage Ratio:

- “Cash Available for Distribution” is generally defined as the Adjusted EBITDA of Spark HoldCo for the applicable period, less (i) cash interest paid by Spark HoldCo, (ii) capital expenditures of Spark HoldCo (exclusive of customer acquisition costs) and (iii) any taxes payable by Spark HoldCo; and
- “Total Distributions” are defined as the aggregate distributions necessary to cause the Company to receive distributions of cash equal to (i) the targeted quarterly distribution the Company intends to pay to holders of its Class A common stock payable during the applicable four-quarter period, plus (ii) the estimated taxes payable by the Company during such four-quarter period, plus (iii) the expected TRA Payment payable during the calendar year for which the TRA Coverage Ratio is being tested.

In the event that the TRA Coverage Ratio is not satisfied in any calendar year, the Company will defer all or a portion of the TRA Payment to NuDevco Retail or Retailco under the Tax Receivable Agreement to the extent necessary to permit Spark HoldCo to satisfy the TRA Coverage Ratio (and Spark HoldCo is not required to make and will not make the pro rata distributions to its members with respect to the deferred portion of the TRA

Payment). If the TRA Coverage Ratio is satisfied in any calendar year, the Company will pay NuDevco Retail or Retailco the full amount of the TRA Payment.

Following the five -year deferral period ending September 30, 2019, the Company will be obligated to pay any outstanding deferred TRA Payments to the extent such deferred TRA Payments do not exceed (i) the lesser of the Company's proportionate share of aggregate Cash Available for Distribution of Spark HoldCo during the five -year deferral period or the cash distributions actually received by the Company during the five -year deferral period, reduced by (ii) the sum of (a) the aggregate target quarterly dividends (which, for the purposes of the Tax Receivable Agreement, will be $0.3625 per share per quarter) during the five -year deferral period, (b) the Company's estimated taxes during the five -year deferral period, and (c) all prior TRA Payments and (y) if with respect to the quarterly period during which the deferred TRA Payment is otherwise paid or payable, Spark HoldCo has or reasonably determines it will have amounts necessary to cause the Company to receive distributions of cash equal to the target quarterly distribution payable during that quarterly period. Any portion of the deferred TRA Payments not payable due to these limitations will no longer be payable.

We met the threshold coverage ratio required to fund the first TRA Payment to Retailco and NuDevco Retail under the Tax Receivable Agreement during the four-quarter period ending September 30, 2016, resulting in an initial TRA Payment of $1.4 million becoming due in December 2016. On November 6, 2016, Retailco and NuDevco Retail granted the Company the right to defer the TRA Payment until May 2018. During the period of time when the Company has elected to defer the TRA payment, the outstanding payment amount will accrue interest at a rate calculated in the manner provided for under the Tax Receivable Agreement. We do not expect to meet the threshold coverage ratio required to fund the payment to Retailco, LLC under the Tax Receivable Agreement during the four-quarter period ending September 30, 2017. As such, the payment will be deferred pursuant to the terms thereof. The liability has been classified as non-current in our condensed consolidated balance sheet at March 31, 2017 and December 31, 2016.

14. Segment Reporting

The Company’s determination of reportable business segments considers the strategic operating units under which the Company makes financial decisions, allocates resources and assesses performance of its retail and asset optimization businesses.

The Company’s reportable business segments are retail natural gas and retail electricity. The retail natural gas segment consists of natural gas sales to, and natural gas transportation and distribution for, residential and commercial customers. Asset optimization activities, considered an integral part of securing the lowest price natural gas to serve retail gas load, are part of the retail natural gas segment. The Company recorded asset optimization revenues of $61.9 million and $42.3 million and asset optimization cost of revenues of $62.1 million and $41.8 million for the three months ended March 31, 2017 and 2016 , respectively, which are presented on a net basis in asset optimization revenues. The retail electricity segment consists of electricity sales and transmission to residential and commercial customers. Corporate and other consists of expenses and assets of the retail natural gas and retail electricity segments that are managed at a consolidated level such as general and administrative expenses.

To assess the performance of the Company’s operating segments, the Chief Operating Decision Maker analyzes retail gross margin. The Company defines retail gross margin as operating income (loss) plus (i) depreciation and amortization expenses and (ii) general and administrative expenses, less (i) net asset optimization revenues (expenses), (ii) net gains (losses) on non-trading derivative instruments, and (iii) net current period cash settlements on non-trading derivative instruments. The Company deducts net gains (losses) on non-trading derivative instruments, excluding current period cash settlements, from the retail gross margin calculation in order to remove the non-cash impact of net gains and losses on non-trading derivative instruments.

Retail gross margin is a primary performance measure used by our management to determine the performance of our retail natural gas and electricity business by removing the impacts of our asset optimization activities and net non-cash income (loss) impact of our economic hedging activities. As an indicator of our retail energy business’

operating performance, retail gross margin should not be considered an alternative to, or more meaningful than, operating income, as determined in accordance with GAAP.

Below is a reconciliation of retail gross margin to income before income tax expense (in thousands):

	Three Months Ended March 31,	
	2017	2016
Reconciliation of Retail Gross Margin to Income before taxes		
Income before income tax expense	$ 13,792	$ 16,729
Interest and other income	(199)	95
Interest expense	3,445	753
Operating Income	17,038	17,577
Depreciation and amortization	9,232	6,789
General and administrative	24,377	17,380
Less:		
Net asset optimization (expenses) revenues	(194)	527
Net, Losses on non-trading derivative instruments	(21,037)	(9,620)
Net, Cash settlements on non-trading derivative instruments	7,574	11,277
Retail Gross Margin	**$ 64,304**	**$ 39,562**

The Company uses retail gross margin and net asset optimization revenues as the measure of profit or loss for its business segments. This measure represents the lowest level of information that is provided to the chief operating decision maker for our reportable segments.

Financial data for business segments are as follows (in thousands):

Three Months Ended March 31, 2017	Retail Electricity	Retail Natural Gas	Corporate and Other	Eliminations	Spark Retail
Total Revenues	$ 131,733	$ 62,612	$ —	$ —	$ 194,345
Retail cost of revenues	106,780	36,918	—	—	143,698
Less:					
Net asset optimization expenses	—	(194)	—	—	(194)
Losses on non-trading derivatives	(19,287)	(1,750)	—	—	(21,037)
Current period settlements on non-trading derivatives	7,764	(190)	—	—	7,574
Retail Gross Margin	**$ 36,476**	**$ 27,828**	**$ —**	**$ —**	**$ 64,304**
Total Assets at March 31, 2017	**$ 666,742**	**$ 272,045**	**$ 163,806**	**$ (736,776)**	**$ 365,817**
Goodwill at March 31, 2017	**$ 76,877**	**$ 2,530**	**$ —**	**$ —**	**$ 79,407**

Three Months Ended March 31, 2016	Retail Electricity	Retail Natural Gas	Corporate and Other	Eliminations	Spark Retail
Total revenues	$ 61,933	$ 48,613	$ —	$ —	$ 110,546
Retail cost of revenues	46,300	22,500	—	—	68,800
Less:					
Net asset optimization revenues	—	527	—	—	527
Losses on non-trading derivatives	(9,390)	(230)	—	—	(9,620)
Current period settlements on non-trading derivatives	9,617	1,660	—	—	11,277
Retail Gross Margin	**$ 15,406**	**$ 24,156**	**$ —**	**$ —**	**$ 39,562**
Total Assets at December 31, 2016	**$ 577,695**	**$ 242,739**	**$ 169,404**	**$ (613,670)**	**$ 376,168**
Goodwill at December 31, 2016	**$ 76,617**	**$ 2,530**	**$ —**	**$ —**	**$ 79,147**

15. Subsequent Events

Pacific Summit Energy LLC

On September 27, 2016, we notified Pacific Summit of our election to trigger the expiration of these arrangements as of March 31, 2017. On March 31, 2017, the Pacific Summit arrangements were terminated and the credit requirements of the Major Energy Companies are now being funded from our working capital.

Acquisition of Perigee

On April 1, 2017, the Company and Spark HoldCo entered into an agreement with NG&E for the acquisition of approximately 19,000 RCEs and the membership interests of Perigee Energy, LLC ("Perigee"), a Texas limited liability company, and simultaneously exercised an option to acquire an additional 41,000 RCEs from a third party in connection with the acquisition. The acquisition was approved by a special committee of the Board of Directors. The Company paid approximately $2.2 million in cash, subject to working capital adjustments as consideration for the Perigee Acquisition.

Declaration of Dividends

On April 19, 2017 , the Company declared a quarterly dividend of $0.3625 to holders of record of our Class A common stock on May 30, 2017 and payable on June 14, 2017 .

On April 19, 2017 , the Company declared an initial cash dividend for the period from the date of issuance of the Series A Preferred Stock through June 30, 2017 in the amount of $0.72917 per share of Series A Preferred Stock. The dividend will be paid on July 15, 2017 to holders of record on July 1, 2017 of Spark's Class A Preferred Stock. The Company anticipates Series A Preferred Stock dividends paid and declared of $1.85 per share or $3.0 million for the year ended December 31, 2017 based on the Series A Preferred Stock outstanding as of March 31, 2017.

Verde Membership Interest and Stock Purchase Agreement

On May 5, 2017, the Company and CenStar Energy Corp. entered into a Membership Interest and Stock Purchase Agreement (the “Verde Purchase Agreement”) with Verde Energy USA Holdings, LLC (the “Seller”), as a seller of all interests in and to the Seller's operating companies (the “Verde Companies”). Pursuant to the terms of the Verde Purchase Agreement, CenStar Energy Corp. has agreed to purchase, and the Seller has agreed to sell, all of the outstanding membership interests and stock in the Verde Companies. The Company acts as a guarantor of the obligations of CenStar Energy Corp. under the Verde Purchase Agreement.

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the unaudited condensed consolidated financial statements and the related notes thereto included elsewhere in this report and the audited combined and consolidated financial statements and notes thereto and management's discussion and analysis of financial condition and results of operations included in our Form 10-K for the year ended December 31, 2016 that was filed with the Securities and Exchange Commission ("SEC"). In this report, the terms "Spark Energy," "Company," "we," "us" and "our" refer collectively to (i) the combined business and assets of the retail natural gas business and asset optimization activities of Spark Energy Gas, LLC and the retail electricity business of Spark Energy, LLC before the completion of our corporate reorganization in connection with the initial public offering of Spark Energy, Inc., which closed on August 1, 2014 (the "IPO") and (ii) Spark Energy, Inc. and its subsidiaries as of the IPO and thereafter.

Cautionary Note Regarding Forward-Looking Statements

This report contains forward-looking statements that are subject to a number of risks and uncertainties, many of which are beyond our control. These forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act") and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), can be identified by the use of forward-looking terminology including "may," "should," "likely," "will," "believe," "expect," "anticipate," "estimate," "continue," "plan," "intend," "projects," or other similar words. All statements, other than statements of historical fact included in this report, regarding strategy, future operations, financial position, estimated revenues and losses, projected costs, prospects, plans, objectives and beliefs of management are forward-looking statements. Forward-looking statements appear in a number of places in this report and may include statements about business strategy and prospects for growth, customer acquisition costs, ability to pay cash dividends, cash flow generation and liquidity, availability of terms of capital, competition and government regulation and general economic conditions. Although we believe that the expectations reflected in such forward-looking statements are reasonable, we cannot give any assurance that such expectations will prove correct.

The forward-looking statements in this report are subject to risks and uncertainties. Important factors that could cause actual results to materially differ from those projected in the forward-looking statements include, but are not limited to:

- changes in commodity prices,
- extreme and unpredictable weather conditions,
- the sufficiency of risk management and hedging policies,
- customer concentration,
- federal, state and local regulation, including the industry's ability to prevail on its challenge to the New York Public Service Commission's order enacting new regulations that sought to impose significant new restrictions on retail energy providers operating in New York,
- key license retention,
- increased regulatory scrutiny and compliance costs,
- our ability to borrow funds and access credit markets,
- restrictions in our debt agreements and collateral requirements,
- credit risk with respect to suppliers and customers,
- level of indebtedness,
- changes in costs to acquire customers,
- actual customer attrition rates,
- actual bad debt expense in non-POR markets,
- actual results of the companies we acquire,
- accuracy of billing systems,
- ability to successfully navigate entry into new markets,
- whether our majority stockholder or its affiliates offer us acquisition opportunities on terms that are commercially acceptable to us,
- ability to successfully and efficiently integrate acquisitions into our operations,

- ability to achieve expected future results attributable to acquisitions,
- competition, and
- the "Risk Factors" in our Form 10-K for the year ended December 31, 2016 and other public filings and press releases.

You should review the risk factors and other factors noted throughout or incorporated by reference in this report that could cause our actual results to differ materially from those contained in any forward-looking statement. All forward-looking statements speak only as of the date of this report. Unless required by law, we disclaim any obligation to publicly update or revise these statements whether as a result of new information, future events or otherwise. It is not possible for us to predict all risks, nor can we assess the impact of all factors on the business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

Overview

Spark Energy, Inc. ("Spark Energy," "Company," "we" or "us") is a growing independent retail energy services company founded in 1999 that provides residential and commercial customers in competitive markets across the United States with an alternative choice for their natural gas and electricity. We purchase our natural gas and electricity supply from a variety of wholesale providers and bill our customers monthly for the delivery of natural gas and electricity based on their consumption at either a fixed or variable price. Natural gas and electricity are then distributed to our customers by local regulated utility companies through their existing infrastructure. As of March 31, 2017 , we operated in 90 utility service territories across 18 states and the District of Columbia.

Our business consists of two operating segments:

- *Retail Natural Gas Segment* . We purchase natural gas supply through physical and financial transactions with market counterparts and supply natural gas to residential and commercial consumers pursuant to fixed-price and variable-price contracts. For the three months ended March 31, 2017 and 2016 , approximately 32% and 44% , respectively, of our retail revenues were derived from the sale of natural gas. We also identify wholesale natural gas arbitrage opportunities in conjunction with our retail procurement and hedging activities, which we refer to as asset optimization.

- *Retail Electricity Segment* . We purchase electricity supply through physical and financial transactions with market counterparts and ISOs and supply electricity to residential and commercial consumers pursuant to fixed-price and variable-price contracts. For the three months ended March 31, 2017 and 2016 , approximately 68% and 56% , respectively, of our retail revenues were derived from the sale of electricity.

Recent Developments

Issuance of Preferred Stock

On March 15, 2017, the Company issued 1,610,000 shares of 8.75% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock ("Series A Preferred Stock"), par value $0.01 per share and liquidation preference $25.00 per share, plus accumulated and unpaid dividends, at a price to the public of $25.00 per share ($24.21 per share to the Company, net of underwriting discounts and commissions). The Company received approximately $39.0 million in net proceeds from the offering, after deducting underwriting discounts and commissions and a structuring fee. The net proceeds from the offering were contributed to Spark HoldCo to use for general corporate purposes.

Acquisition of Perigee

Effective April 1, 2017, the Company and Spark HoldCo entered into an agreement with NG&E for the acquisition of approximately 19,000 RCEs and the membership interests of Perigee Energy, LLC, a Texas limited liability

company, and simultaneously exercised an option to acquire an additional 41,000 RCEs from a third party in connection with the acquisition. The acquisition was approved by a special committee of the Board of Directors. The Company paid approximately $2.2 million in cash, subject to working capital adjustments, for Perigee.

Declaration of Dividends

On April 19, 2017 , the Company declared a quarterly dividend of $0.3625 to holders of record of our Class A common stock on May 30, 2017 and payable on June 14, 2017 .

On April 19, 2017 , the Company declared a dividend of $0.72917 to holders of record of our Series A Preferred Stock on July 1, 2017 and payable on July 15, 2017.

Verde Membership Interest and Stock Purchase Agreement

On May 5, 2017, the Company and CenStar Energy Corp. entered into a Membership Interest and Stock Purchase Agreement (the “Verde Purchase Agreement”) with Verde Energy USA Holdings, LLC (the “Seller”), as a seller of all interests in Seller's operating subsidiaries (the “Verde Companies”). Pursuant to the terms of the Verde Purchase Agreement, CenStar Energy Corp. has agreed to purchase, and the Seller has agreed to sell, all of the outstanding membership interests and stock in the Verde Companies. The Company acts as a guarantor of the obligations of CenStar Energy Corp. under the Verde Purchase Agreement. For a more detailed description of the Verde Purchase Agreement, please see “Item 5. Other Information — Verde Membership Interest and Stock Purchase Agreement" in Part II of this Quarterly Report on Form 10-Q.

Residential Customer Equivalents

The following table shows activity of our residential customer equivalents ("RCEs") during the three months ended March 31, 2017 :

RCEs:					
(In thousands)	**December 31, 2016**	**Additions**	**Attrition**	**March 31, 2017**	**% Increase (Decrease)**
Retail Electricity	571	89	(68)	592	4%
Retail Natural Gas	203	15	(21)	197	(3)%
Total Retail	**774**	**104**	**(89)**	**789**	**2%**

The following table details our count of RCEs by geographical location as of March 31, 2017 :

RCEs by Geographic Location:						
(In thousands)	**Electricity**	**% of Total**	**Natural Gas**	**% of Total**	**Total**	**% of Total**
East	471	80%	114	58%	585	74%
Midwest	50	8%	53	27%	103	13%
Southwest	71	12%	30	15%	101	13%
Total	**592**	**100%**	**197**	**100%**	**789**	**100%**

The geographical regions noted above include the following states:

- East - Connecticut, Florida, Maine, Maryland (including the District of Columbia), Massachusetts, New Hampshire, New Jersey, New York and Pennsylvania;
- Midwest - Illinois, Indiana, Michigan and Ohio; and
- Southwest - Arizona, California, Colorado, Nevada and Texas.

Drivers of our Business

Customer Growth

Customer growth is a key driver of our operations. Our customer growth strategy includes acquiring customers through acquisitions as well as organically. We expect an emphasis on growth through acquisition to continue in 2017.

Acquisitions. Our acquisition strategy has two components. We independently acquire companies and portfolios of companies through some combination of cash, borrowings under the Acquisition Line of the Senior Credit Facility, or through the issuance of common or preferred stock or through financing arrangements with our Founder and his affiliates. Additionally, our Founder formed NG&E in 2015 for the purpose of purchasing retail energy companies and retail customer books that could ultimately be resold to us. We currently expect that we would fund any future transaction with some combination of cash, subordinated debt, or the issuance of Class A common stock or Class B common stock (and corresponding Spark HoldCo units) to NG&E. However, actual consideration will depend, among other things, on our capital structure and liquidity at the time of any transaction. There is no guarantee that NG&E will continue to offer us opportunities. Additionally, as we grow our access to capital and opportunities improves, we may rely less upon NG&E as a source of acquisitions and seek to enter into more transactions directly with third parties.

Our ability to grow at historic levels may be constrained if the market for acquisition candidates is limited and we are unable to make acquisitions of portfolios of customers and retail energy companies on commercially reasonable terms.

Organic Growth. Our organic sales strategies are used to both maintain and grow our customer base by offering competitive pricing, price certainty and/or green product offerings. We manage growth on a market-by-market basis by developing price curves in each of the markets we serve and comparing the market prices to the price the local regulated utility is offering. We then determine if there is an opportunity in a particular market based on our ability to create a competitive product on economic terms that satisfies our profitability objectives and provides customer value. We develop marketing campaigns using a combination of sales channels, with an emphasis on door-to-door marketing and outbound telemarketing given their flexibility and historical effectiveness. We identify and acquire customers through a variety of additional sales channels, including our inbound customer care call center, online marketing, email, direct mail, affinity programs, direct sales, brokers and consultants. As we continue to grow our customer count, it is more difficult to achieve higher growth rates organically. Our marketing team continuously evaluates the effectiveness of each customer acquisition channel and makes adjustments in order to achieve desired growth and profitability targets.

We believe we can continue to grow organically, however achieving significant organic growth rates have become increasingly more difficult given our size, much of which is attributable to recent acquisitions. Additionally, increasing regulatory pressure on marketing channels, such as door-to-door and outbound telemarketing and the ability to manage customer acquisition costs, are significant factors in our ability to grow organically.

Customer Acquisition Costs Incurred

Management of customer acquisition costs is a key component to our profitability. Customer acquisition costs are spending for organic customer acquisitions and do not include customer acquisitions through acquisitions of businesses or portfolios of customer contracts, which are recorded as customer relationships.

We attempt to maintain a disciplined approach to recovery of our customer acquisition costs within defined periods. We capitalize and amortize our customer acquisition costs over a two year period, which is based on the expected average length of a customer relationship. We factor in the recovery of customer acquisition costs in determining which markets we enter and the pricing of our products in those markets. Accordingly, our results are significantly influenced by our customer acquisition spending.

Customer acquisition cost for the three months ended March 31, 2017 was approximately $7.7 million . During the first quarter of 2017, we were able to both replace customers lost through attrition and achieve a net RCE increase of 15,000 through organic growth.

Our Ability to Manage Customer Attrition

Customer attrition is primarily due to: (i) customer initiated switches; (ii) residential moves and (iii) disconnection for customer payment defaults.

Customer attrition for the three months ended March 31, 2017 was 3.8% . Our customer attrition has been lower in recent quarters as we have increased our focus on the acquisition of higher lifetime value customers. We have also increased our customer win-back efforts, and have more aggressively pursued proactive renewals and other customer relationship strategies to maintain a low level of customer attrition.

Customer Credit Risk

Our bad debt expense for the three months ended March 31, 2017 was less than 1.0% of non-POR market retail revenues. An increased focus on collection efforts and timely billing along with tighter credit requirements for new enrollments in non-POR markets have led to a reduction in the bad debt expense over the past several months. We have also been able to collect on debts that were previously written off, which have further reduced our bad debt expense during the three months ended March 31, 2017 .

Weather Conditions

Weather conditions directly influence the demand for natural gas and electricity and affect the prices of energy commodities. Our hedging strategy is based on forecasted customer energy usage, which can vary substantially as a result of weather patterns deviating from historical norms. We are particularly sensitive to this variability because of our current substantial concentration and focus on growth in the residential customer segment in which energy usage is highly sensitive to weather conditions that impact heating and cooling demand. During the three months ended March 31, 2017 , we experienced a milder than anticipated winter season, which negatively impacted overall customer usage that was offset by variations in customer mix.

Asset Optimization

Our natural gas business includes opportunistic transactions in the natural gas wholesale marketplace in conjunction with our retail procurement and hedging activities. Asset optimization opportunities primarily arise during the winter heating season when demand for natural gas is the highest. As such, the majority of our asset optimization profits are made in the winter. Given the opportunistic nature of these activities, we experience variability in our earnings from our asset optimization activities from year to year. As these activities are accounted for using mark to-market fair value accounting, the timing of our revenue recognition often differs from the actual cash settlement.

Net asset optimization results were a loss of $0.2 million for the three months ended March 31, 2017 , primarily due to $0.4 million of our annual legacy demand charges allocated to the quarter, offset by arbitrage opportunities we captured during the three months ended March 31, 2017 . During the full year 2017 , we are obligated to pay demand charges of approximately $2.6 million under certain long-term legacy transportation assets that our predecessor entity acquired prior to 2013.

How We Evaluate Our Operations

(in thousands)	Three Months Ended March 31, 2017	2016
Adjusted EBITDA	$ 34,188	$ 21,061
Retail Gross Margin	$ 64,304	$ 39,562

Adjusted EBITDA . We define "Adjusted EBITDA" as EBITDA less (i) customer acquisition costs incurred in the current period, (ii) net gain (loss) on derivative instruments, and (iii) net current period cash settlements on derivative instruments, plus (iv) non-cash compensation expense, and (v) other non-cash and non-recurring operating items. EBITDA is defined as net income (loss) before provision for income taxes, interest expense and depreciation and amortization.

We deduct all current period customer acquisition costs (representing spending for organic customer acquisitions) in the Adjusted EBITDA calculation because such costs reflect a cash outlay in the period in which they are incurred, even though we capitalize such costs and amortize them over two years in accordance with our accounting policies. The deduction of current period customer acquisition costs is consistent with how we manage our business, but the comparability of Adjusted EBITDA between periods may be affected by varying levels of customer acquisition costs. For example, our Adjusted EBITDA is lower in periods of customer growth reflecting larger customer acquisition spending.

We do not deduct the cost of customer acquisitions through acquisitions of businesses or portfolios of customers in calculating Adjusted EBITDA.

We deduct our net gains (losses) on derivative instruments, excluding current period cash settlements, from the Adjusted EBITDA calculation in order to remove the non-cash impact of net gains and losses on derivative instruments. We also deduct non-cash compensation expense as a result of restricted stock units that are issued under our long-term incentive plan.

We believe that the presentation of Adjusted EBITDA provides information useful to investors in assessing our liquidity and financial condition and results of operations and that Adjusted EBITDA is also useful to investors as a financial indicator of our ability to incur and service debt, pay dividends and fund capital expenditures. Adjusted EBITDA is a supplemental financial measure that management and external users of our condensed consolidated financial statements, such as industry analysts, investors, commercial banks and rating agencies, use to assess the following:

- our operating performance as compared to other publicly traded companies in the retail energy industry, without regard to financing methods, capital structure or historical cost basis;
- the ability of our assets to generate earnings sufficient to support our proposed cash dividends; and
- our ability to fund capital expenditures (including customer acquisition costs) and incur and service debt.

Retail Gross Margin. We define retail gross margin as operating income (loss) plus (i) depreciation and amortization expenses and (ii) general and administrative expenses, less (i) net asset optimization revenues, (ii) net gains (losses) on non-trading derivative instruments, and (iii) net current period cash settlements on non-trading derivative instruments. Retail gross margin is included as a supplemental disclosure because it is a primary performance measure used by our management to determine the performance of our retail natural gas and electricity business by removing the impacts of our asset optimization activities and net non-cash income (loss) impact of our economic hedging activities. As an indicator of our retail energy business' operating performance, retail gross margin should not be considered an alternative to, or more meaningful than, operating income (loss), its most directly comparable financial measure calculated and presented in accordance with GAAP.

We believe retail gross margin provides information useful to investors as an indicator of our retail energy business's operating performance.

The GAAP measures most directly comparable to Adjusted EBITDA are net income (loss) and net cash provided by operating activities. The GAAP measure most directly comparable to Retail Gross Margin is operating income (loss). Our non-GAAP financial measures of Adjusted EBITDA and Retail Gross Margin should not be considered as alternatives to net income (loss), net cash provided by operating activities, or operating income (loss). Adjusted EBITDA and Retail Gross Margin are not presentations made in accordance with GAAP and have important limitations as analytical tools. You should not consider Adjusted EBITDA or Retail Gross Margin in isolation or as a substitute for analysis of our results as reported under GAAP. Because Adjusted EBITDA and Retail Gross Margin exclude some, but not all, items that affect net income (loss) and net cash provided by operating activities, and are defined differently by different companies in our industry, our definition of Adjusted EBITDA and Retail Gross Margin may not be comparable to similarly titled measures of other companies.

Management compensates for the limitations of Adjusted EBITDA and Retail Gross Margin as analytical tools by reviewing the comparable GAAP measures, understanding the differences between the measures and incorporating these data points into management's decision-making process.

The following table presents a reconciliation of Adjusted EBITDA to net income (loss) for each of the periods indicated.

	Three Months Ended March 31,	
(in thousands)	**2017**	**2016**
Reconciliation of Adjusted EBITDA to Net Income (Loss):		
Net income	$ 11,386	$ 15,741
Depreciation and amortization	9,232	6,789
Interest expense	3,445	753
Income tax expense	2,406	988
EBITDA	26,469	24,271
Less:		
Net, Losses on derivative instruments	(21,456)	(9,749)
Net, Cash settlements on derivative instruments	7,414	11,272
Customer acquisition costs	7,690	2,305
Plus:		
Non-cash compensation expense	1,367	618
Adjusted EBITDA	$ 34,188	$ 21,061

The following table presents a reconciliation of Adjusted EBITDA to net cash provided by (used in) operating activities for each of the periods indicated.

	Three Months Ended March 31,	
(in thousands)	**2017**	**2016**
Reconciliation of Adjusted EBITDA to net cash provided by operating activities:		
Net cash provided by operating activities	$ 24,380	$ 25,502
Amortization of deferred financing costs	(248)	(117)
Allowance for doubtful accounts and bad debt expense	(356)	(907)
Interest expense	3,445	753
Income tax expense	2,406	988
Changes in operating working capital		
Accounts receivable, prepaids, current assets	(1,729)	(3,607)
Inventory	(3,322)	(3,484)
Accounts payable and accrued liabilities	9,906	5,391
Other	(294)	(3,458)
Adjusted EBITDA	$ 34,188	$ 21,061
Cash Flow Data:		
Cash flows provided by operating activities	$ 24,380	$ 25,502
Cash flows used in investing activities	(9,612)	(833)
Cash flows used in financing activities	(8,797)	(26,194)

The following table presents a reconciliation of Retail Gross Margin to operating income (loss) for each of the periods indicated.

	Three Months Ended March 31,	
(in thousands)	**2017**	**2016**
Reconciliation of Retail Gross Margin to Operating Income (Loss):		
Operating income	$ 17,038	$ 17,577
Depreciation and amortization	9,232	6,789
General and administrative	24,377	17,380
Less:		
Net asset optimization (expenses) revenues	(194)	527
Net, Losses on non-trading derivative instruments	(21,037)	(9,620)
Net, Cash settlements on non-trading derivative instruments	7,574	11,277
Retail Gross Margin	$ 64,304	$ 39,562
Retail Gross Margin - Retail Natural Gas Segment	$ 27,828	$ 24,156
Retail Gross Margin - Retail Electricity Segment	$ 36,476	$ 15,406

Consolidated Results of Operations

Three Months Ended March 31, 2017 Compared to Three Months Ended March 31, 2016

(In Thousands)	Three Months Ended March 31,		
	2017	2016	Change
Revenues:			
Retail revenues	$ 194,539	$ 110,019	$ 84,520
Net asset optimization (expense)/revenues	(194)	527	(721)
Total Revenues	194,345	110,546	83,799
Operating Expenses:			
Retail cost of revenues	143,698	68,800	74,898
General and administrative	24,377	17,380	6,997
Depreciation and amortization	9,232	6,789	2,443
Total Operating Expenses	177,307	92,969	84,338
Operating income (loss)	17,038	17,577	(539)
Other (expense)/income:			
Interest expense	(3,445)	(753)	(2,692)
Interest and other income	199	(95)	294
Total other expenses/(income)	(3,246)	(848)	(2,398)
Income (loss) before income tax expense	13,792	16,729	(2,937)
Income tax expense (benefit)	2,406	988	1,418
Net income (loss)	$ 11,386	$ 15,741	$ (4,355)
Adjusted EBITDA [1]	$ 34,188	$ 21,061	$ 13,127
Retail Gross Margin [1]	64,304	39,562	24,742
Customer Acquisition Costs	7,690	2,305	5,385
RCE Attrition	3.8%	4.3%	(0.5)%

(1) Adjusted EBITDA and Retail Gross Margin are non-GAAP financial measures. See "—How We Evaluate Our Operations" for a reconciliation of Adjusted EBITDA and Retail Gross Margin to their most directly comparable financial measures presented in accordance with GAAP.

Total Revenues. Total revenues for the three months ended March 31, 2017 were approximately $194.3 million , an increase of approximately $83.8 million , or 76% , from approximately $110.5 million for the three months ended March 31, 2016 , as indicated in the table below (in millions). This increase was primarily due to an increase in electricity and natural gas volumes driven by the acquisitions of the Provider Companies and Major Energy Companies, partially offset by decreased electricity pricing and natural gas pricing.

Change in electricity volumes sold	$ 81.7
Change in natural gas volumes sold	16.1
Change in electricity unit revenue per MWh	(11.9)
Change in natural gas unit revenue per MMBtu	(1.4)
Change in net asset optimization revenue	(0.7)
Change in total revenues	$ 83.8

Retail Cost of Revenues . Total retail cost of revenues for the three months ended March 31, 2017 was approximately $143.7 million , an increase of approximately $74.9 million , or 109% , from approximately $68.8 million for the three months ended March 31, 2016 , as indicated in the table below (in millions). This increase was primarily due to an increase in electricity and natural gas volumes driven by the acquisitions of the Provider Companies and Major Energy Companies, partially offset by decreased electricity pricing.

Change in electricity volumes sold	$	61.4
Change in natural gas volumes sold		8.0
Change in electricity unit cost per MWh		(12.7)
Change in natural gas unit cost per MMBtu		3.0
Change in value of retail derivative portfolio		15.2
Change in retail cost of revenues	$	74.9

General and Administrative Expense . General and administrative expense for the three months ended March 31, 2017 was approximately $24.4 million , an increase of approximately $7.0 million , or 40% , as compared to $17.4 million for the three months ended March 31, 2016 . This increase was primarily attributable to increased billing and other variable costs associated with increased RCEs as a result of the acquisitions of the Provider Companies and the Major Energy Companies and increased stock-based compensation associated with higher stock prices and additional equity awards, partially offset by a reduction in bad debt expense as we had better than anticipated collections as a result of new collection initiatives.

Depreciation and Amortization Expense . Depreciation and amortization expense for the three months ended March 31, 2017 was approximately $9.2 million , an increase of approximately $2.4 million , or 35% , from approximately $6.8 million for the three months ended March 31, 2016 . This increase was primarily due to the increased amortization expense associated with customer intangibles from the acquisitions of the Provider Companies and the Major Energy Companies.

Customer Acquisition Cost . Customer acquisition cost for the three months ended March 31, 2017 was approximately $7.7 million , an increase of approximately $5.4 million , or 235% , from approximately $2.3 million for the three months ended March 31, 2016 . This increase was primarily due to customer acquisition costs of the Major Energy Companies and Provider Companies of $3.1 million and $0.2 million , respectively, and increased organic sales of $2.1 million .

Operating Segment Results

	Three Months Ended March 31,	
	2017	**2016**
	(in thousands, except volume and per unit operating data)	
Retail Natural Gas Segment		
Total Revenues	$ 62,612	$ 48,613
Retail Cost of Revenues	36,918	22,500
Less: Net Asset Optimization (Expenses) Revenues	(194)	527
Less: Net Gains on non-trading derivatives, net of cash settlements	(1,940)	1,430
Retail Gross Margin [1] — Gas	$ 27,828	$ 24,156
Volumes — Gas (MMBtus)	8,158,966	6,112,431
Retail Gross Margin [2] — Gas per MMBtu	*$ 3.41*	*$ 3.95*
Retail Electricity Segment		
Total Revenues	$ 131,733	$ 61,933
Retail Cost of Revenues	106,780	46,300
Less: Net Gains (Losses) on non-trading derivatives, net of cash settlements	(11,523)	227
Retail Gross Margin [1] — Electricity	$ 36,476	$ 15,406
Volumes — Electricity (MWhs)	1,360,430	586,677
Retail Gross Margin [2] — Electricity per MWh	*$ 26.81*	*$ 26.26*

(1) Reflects the Retail Gross Margin attributable to our Retail Natural Gas Segment or Retail Electricity Segment, as applicable. Retail Gross Margin is a non-GAAP financial measure. See "How We Evaluate Our Operations" for a reconciliation of Adjusted EBITDA and Retail Gross Margin to their most directly comparable financial measures presented in accordance with GAAP.
(2) Reflects the Retail Gross Margin for the Retail Natural Gas Segment or Retail Electricity Segment, as applicable, divided by the total volumes in MMBtu or MWh, respectively.

Three Months Ended March 31, 2017 Compared to Three Months Ended March 31, 2016

Retail Natural Gas Segment

Total revenues for the Retail Natural Gas Segment for the three months ended March 31, 2017 were approximately $62.6 million , an increase of approximately $14.0 million , or 29% , from approximately $48.6 million for the three months ended March 31, 2016 . This increase was primarily attributable to an increase in customer sales volumes resulting from the acquisition of Major Energy Companies, which increased total revenues by $16.1 million . This increase was partially offset by lower rates driven by the lower commodity pricing environment, which resulted in a decrease in total revenues of $1.4 million , and a decrease of $0.7 million in net asset optimization revenues.

Retail cost of revenues for the Retail Natural Gas Segment for the three months ended March 31, 2017 were approximately $36.9 million , an increase of $14.4 million , or 64% , from approximately $22.5 million for the three months ended March 31, 2016 . This increase was primarily due to the addition of customers through our Major Energy Companies acquisition, which resulted in an increase of $8.0 million , increased supply costs, which resulted in an increase of $3.0 million , and a change in the value of our retail derivative portfolio used for hedging, which resulted in an increase of $3.4 million .

Retail gross margin for the Retail Natural Gas Segment for the three months ended March 31, 2017 was approximately $27.8 million , an increase of approximately $3.6 million , or 15% , from approximately $24.2 million for the three months ended March 31, 2016 , as indicated in the table below (in millions).

Change in volumes sold	$	8.1
Change in unit margin per MMBtu		(4.5)
Change in retail natural gas segment retail gross margin	$	3.6

Retail Electricity Segment

Total revenues for the Retail Electricity Segment for the three months ended March 31, 2017 were approximately $131.7 million , an increase of approximately $69.8 million , or 113% , from approximately $61.9 million for the three months ended March 31, 2016 . This increase was largely because of an increase in volumes, primarily due to our acquisition of the Major Energy Companies and the Provider Companies, as well as organic growth in the East, resulting in an increase of $81.7 million . This increase was partially offset by lower customer pricing, driven by the lower commodity pricing environment from milder than anticipated weather, which resulted in a decrease of $11.9 million .

Retail cost of revenues for the Retail Electricity Segment for the three months ended March 31, 2017 were approximately $106.8 million , an increase of approximately $60.5 million , or 131% , from approximately $46.3 million for the three months ended March 31, 2016 . This increase was primarily due to an increase in volume as a result of the acquisitions of the Major Energy Companies and the Provider Companies, as well as organic growth in the East, resulting in an increase of $61.4 million . We additionally recognized a change in the value of our retail derivative portfolio used for hedging, which resulted in an increase of $11.8 million . These increases were partially offset by decreased supply costs, which resulted in a decrease of $12.7 million .

Retail gross margin for the Retail Electricity Segment for the three months ended March 31, 2017 was approximately $36.5 million , an increase of approximately $21.1 million , or 137% , from approximately $15.4 million for the three months ended March 31, 2016 , as indicated in the table below (in millions).

Change in volumes sold	$	20.3
Change in unit margin per MWh		0.8
Change in retail electricity segment retail gross margin	$	21.1

Liquidity and Capital Resources

Our liquidity requirements fluctuate with our customer acquisition costs, acquisitions, collateral posting requirements on our derivative instruments portfolio, distributions, the effects of the timing between payments of payables and receipts of receivables, including bad debt receivables, and our general working capital needs for ongoing operations. Our borrowings under the Senior Credit Facility are also subject to material variations on a seasonal basis due to the timing of commodity purchases to satisfy required natural gas inventory purchases and to meet customer demands during periods of peak usage. Moreover, estimating our liquidity requirements is highly dependent on then-current market conditions, including forward prices for natural gas and electricity, and market volatility.

Our primary sources of liquidity are cash generated from operations and borrowings under our Senior Credit Facility. We believe that cash generated from these sources will be sufficient to sustain current operations and to pay required taxes and quarterly cash distributions including the quarterly dividend to the holders of the Class A common stock for the next twelve months.

We amended and restated the Senior Credit Facility on July 8, 2015. The amended covenants under the Senior Credit Facility require us to hold increasing levels of net working capital over time. The Senior Credit Facility, as amended, includes a $25 million secured revolving line of credit ("Acquisition Line") for the purpose of financing permitted acquisitions, which enables us to pursue growth through mergers and acquisitions. We are obligated to make payments outstanding under the Acquisition Line of 25% per year, which in turn increases availability under the line, with the balance due at maturity. We will be constrained in our ability to grow through acquisitions using financing under the Senior Credit Facility to the extent we have utilized the capacity under this Acquisition Line. In addition, the Senior Credit Facility requires us to finance permitted acquisitions with at least 25% of either cash on hand, equity contributions or subordinated debt. In order to finance the acquisitions of Oasis and CenStar, we have
issued convertible subordinated notes to an affiliate of our Founder and majority shareholder. There can be no assurance that our Founder and majority shareholder and their affiliates will continue to finance our acquisition activities through such notes. The Senior Credit Facility will mature on July 8, 2017. We are in the process of negotiating a new credit facility, which we expect to have similar terms as our current Senior Credit Facility, however this cannot be assured.

On October 7, 2016, we filed a registration statement under the Securities Act on Form S-3 covering offers and sales, from time to time, by us of up to $200,000,000 of Class A common stock, preferred stock, depositary shares and warrants, and by the selling stockholders named therein of up to 11,339,563 shares of Class A common stock. The registration statement was declared effective on October 20, 2016.

On December 27, 2016, we entered into the $25.0 million Subordinated Facility with Retailco, which is wholly owned by our Founder. Please see "—Subordinated Debt Facility" for a description of the Subordinated Facility.

On March 8, 2017, the Company entered into an underwriting agreement, pursuant to which the Company agreed to sell up to 1,610,000 shares of Series A Preferred Stock, par value $0.01 per share and $25.00 per share liquidation preference, plus accumulated and unpaid dividends, at a price of $25.00 per share to the public ($24.21 per share of Series A Preferred Stock to the Company, net of underwriting discounts and commissions). The Company issued 1,610,000 shares of Series A Preferred Stock in exchange for $39.0 million (net of underwriting discounts and commissions) on March 15, 2017.

Based upon our current plans, level of operations and business conditions, we believe that our cash on hand, cash generated from operations, and available borrowings under the Senior Credit Facility (including any renegotiation

thereof) and Subordinated Debt Facility will be sufficient to meet our capital requirements and working capital needs. We believe that the financing of any additional growth through acquisitions in 2017 may require further equity financing and/or further expansion of our Senior Credit Facility to accommodate such growth.

The following table details our total liquidity as of the date presented:

($ in thousands)		**March 31, 2017**
Cash and cash equivalents	$	24,931
Senior Credit Facility Working Capital Line Availability [(1)]		43,172
Senior Credit Facility Acquisition Line Availability [(2)]		2,763
Subordinated Debt Availability		25,000
Total Liquidity	**$**	**95,866**

(1) Subject to Senior Credit Facility borrowing base restrictions. See "—Cash Flows—Senior Credit Facility."
(2) Subject to Senior Credit Facility covenant restrictions. See "—Cash Flows—Senior Credit Facility."

Capital expenditures for the three months ended March 31, 2017 included approximately $7.7 million for customer acquisitions and $0.1 million related to information systems improvements.

The Spark HoldCo, LLC Agreement provides, to the extent cash is available, for distributions to the holders of Spark HoldCo units such that we receive an amount of cash sufficient to cover the estimated taxes payable by us, the targeted quarterly dividend we intend to pay to holders of our Class A common stock, the quarterly dividends on our Series A Preferred Stock, and payments under the Tax Receivable Agreement we have entered into with Spark HoldCo, Retailco and NuDevco Retail.

During the three months ended March 31, 2017 , we paid dividends to holders of our Class A common stock for the three months ended December 31, 2016 of approximately $0.3625 per share or $2.4 million in the aggregate. On April 19, 2017 , our Board of Directors declared a quarterly dividend of $0.3625 per share for the first quarter of 2017 to holders of the Class A common stock on May 30, 2017 . This dividend will be paid on June 14, 2017 . The dividends that we anticipate paying on an annualized basis equal approximately $1.45 per share or $9.4 million in the aggregate on an annualized basis based on the Class A common stock outstanding at March 31, 2017 . Our ability to pay dividends in the future will depend on many factors, including the performance of our business in the future and restrictions under our Senior Credit Facility. The financial covenants included in the Senior Credit Facility require the Company to retain increasing amounts of working capital over time, which may have the effect of restricting our ability to pay dividends. Management does not currently believe that the financial covenants in the Senior Credit Facility will cause any such restrictions.

In order to pay our stated dividends to holders of our Class A common stock and corresponding distributions to holders of our non-controlling interest, Spark HoldCo generally is required to distribute approximately $15.6 million on an annualized basis to holders of its Spark HoldCo units. If our business does not generate enough cash for Spark HoldCo to make such distributions, we may have to borrow to pay our dividend. If our business generates cash in excess of the amounts required to pay an annual dividend of $1.45 per share of Class A common stock, we currently expect to reinvest any such excess cash flows in our business and not increase the dividends payable to holders of our Class A common stock. However, our future dividend policy is within the discretion of our Board of Directors and will depend upon various factors, including the results of our operations, our financial condition, capital requirements and investment opportunities.

In accordance with the terms of the Series A Preferred Stock, our Board of Directors declared an initial cash dividend for the period from the date of issuance of the Series A Preferred Stock through June 30, 2017 in the amount of $0.72917 per share of the Series A Preferred Stock. The dividend will be paid on July 15, 2017 to holders of record on July 1, 2017 of the Company's Series A Preferred Stock. The Company anticipates Series A Preferred Stock dividends paid and declared for the year ended December 31, 2017 of $1.85 per share or $3.0 million based on the Series A Preferred Stock outstanding as of March 31, 2017.

We expect to make payments pursuant to the Tax Receivable Agreement that we have entered into with Retailco LLC (as assignee of NuDevco Retail Holdings), NuDevco Retail and Spark HoldCo in connection with our IPO. Except in cases where we elect to terminate the Tax Receivable Agreement early (or the Tax Receivable Agreement is terminated early due to certain mergers or other changes of control) or we have available cash but fail to make payments when due, generally we may elect to defer payments due under the Tax Receivable Agreement for up to five years if we do not have available cash to satisfy our payment obligations under the Tax Receivable Agreement or if our contractual obligations limit our ability to make these payments. Any such deferred payments under the Tax Receivable Agreement generally will accrue interest. If we were to defer substantial payment obligations under the Tax Receivable Agreement on an ongoing basis, the accrual of those obligations would reduce the availability of cash for other purposes, but we would not be prohibited from paying dividends on our Class A common stock.

We did not meet the threshold coverage ratio required to fund the first payment to NuDevco Retail Holdings under the Tax Receivable Agreement during the four-quarter period ending September 30, 2015. As such, the initial payment under the Tax Receivable Agreement due in late 2015 was deferred pursuant to the terms thereof.

We met the threshold coverage ratio required to fund the first TRA Payment to Retailco and NuDevco Retail under the Tax Receivable Agreement during the four-quarter period ending September 30, 2016, resulting in an initial TRA Payment of $1.4 million becoming due in December 2016. On November 6, 2016, Retailco and NuDevco Retail granted us the right to defer the TRA Payment until May 2018. During the period of time when we have elected to defer the TRA Payment, the outstanding payment amount will accrue interest at a rate calculated in the manner provided for under the Tax Receivable Agreement. The liability has been classified as non-current in our condensed consolidated balance sheet at March 31, 2017 . See Note 13 "Transactions with Affiliates" in the notes to our condensed consolidated financial statements for additional details on the Tax Receivable Agreement. See also “Risk Factors—Risks Related to our Class A Common Stock” in our Annual Report on Form 10-K for the year ended December 31, 2016 for risks related to the Tax Receivable Agreement.

We do not expect to meet the threshold coverage ratio required to fund the payment to Retailco, LLC under the Tax Receivable Agreement during the four-quarter period ending September 30, 2017. As such the payment of $1.9 million under the Tax Receivable Agreement due in late 2017 will be deferred pursuant to the terms thereof.

Pacific Summit Energy LLC

Prior to March 31, 2017 , the Major Energy Companies were party to three trade credit arrangements with Pacific Summit Energy LLC (“Pacific Summit”), which consisted of purchase agreements, operating agreements relating to purchasing terms, security agreements, lockbox agreements and guarantees, and provided for the exclusive supply of gas and electricity on credit by Pacific Summit to the Major Energy Companies for resale to end users.

The arrangements allowed the Major Energy Companies to purchase gas and electricity on credit at fixed prices or prices to be determined at the time of the transaction confirmation. Under the arrangements, when the costs that Pacific Summit paid to procure and deliver the gas and electricity exceeded the payments that the Major Energy Companies made attributable to the gas and electricity purchased, the Major Energy Companies incurred interest on the difference at the floating 90-day LIBOR rate plus 300 basis points. The outstanding balance of the difference may not have exceeded $15.0 million for Major Energy Services, LLC, and $20.0 million for each of Major Energy Electric Services, LLC and Respond Power, LLC. The operating agreements also allowed Pacific Summit to provide credit support, with a limit of $10.0 million for Major Energy Services, LLC and $20.0 million for each of Major Energy Electric Services, LLC and Respond Power, LLC, which also incurred interest at the floating 90-day LIBOR rate plus 300 basis points (except for certain credit support guaranties that do not bear interest). In connection with these arrangements, the Major Companies granted first liens to Pacific Summit on a substantial portion of the Major Companies’ assets, including present and future accounts receivable, inventory, liquid assets, and control agreements relating to bank accounts. As of March 31, 2017 , we had aggregate outstanding payables under these arrangements of approximately $8.2 million , bearing an interest rate of 4.2% . We were also the beneficiary of various credit support guarantees issued by Pacific Summit under these arrangements as of such date.

Pursuant to the operating agreements and the lockbox agreements, payments from the Major Energy Companies were placed into a secured lockbox. The Major Energy Companies were required to maintain a minimum balance in the lockbox accounts, and payments from the lockbox were made to Pacific Summit prior to any payment to the Major Energy Companies. To secure the payment obligations of the Major Energy Companies under the arrangements, Pacific Summit had a security interest, in among other things, funds in the lockbox account, certain accounts receivable and inventory supplied by Pacific Summit. Each of the Major Energy Companies had also guaranteed the payment obligations of the other Major Energy Companies under these arrangements.

On March 31, 2017, the Pacific Summit arrangements were terminated, and the credit requirements of Major Energy Companies were funded from our working capital.

Cash Flows

Our cash flows were as follows for the respective periods (in thousands):

	Three Months Ended March 31,		
	2017	2016	Change
Net cash provided by operating activities	$ 24,380	$ 25,502	$ (1,122)
Net cash used in investing activities	$ (9,612)	$ (833)	$ (8,779)
Net cash used in financing activities	$ (8,797)	$ (26,194)	$ 17,397

Three Months Ended March 31, 2017 Compared to the Three Months Ended March 31, 2016

Cash Flows Provided by Operating Activities . Cash flows provided by operating activities for the three months ended March 31, 2017 decreased by $1.1 million compared to the three months ended March 31, 2016 . The decrease was primarily the result of a decrease in net income, increased customer acquisition cost spending, and a decrease in the changes in working capital for the three months ended March 31, 2017 as compared to the three months ended March 31, 2016 .

Cash Flows Used in Investing Activities . Cash flows used in investing activities increased by $8.8 million for the three months ended March 31, 2017 , which was primarily due to earnout payments made during the three months ended March 31, 2017 related to the Provider Companies and the Major Energy Companies.

Cash Flows Used in Financing Activities . Cash flows used in financing activities decreased by $17.4 million for the three months ended March 31, 2017 . The decrease in cash flows used in financing activities was primarily due to proceeds received from the issuance of our Series A Preferred Stock offset by additional dividends and distributions made to holders of our Class A and Class B common stock, respectively, and increased net payments under our Senior Credit Facility.

Senior Credit Facility

The Company, as guarantor, and Spark HoldCo (the “Borrower,” and together with Spark Energy, LLC, Spark Energy Gas, LLC, CenStar Energy Corp, CenStar Operating Company, LLC, Oasis Power Holdings, LLC and Oasis Power, LLC, Electricity Maine, LLC, Electricity N.H., LLC and Provider Power Mass, LLC, each a subsidiary of Spark HoldCo, the “Co-Borrowers”) are party to a senior secured revolving credit facility, as amended (“Senior Credit Facility”).

On June 1, 2016, the Company and the Co-Borrowers entered into Amendment No. 3 to the Senior Credit Facility to, among other things, increase the Working Capital Line from $60.0 million to $82.5 million in accordance with the Co-Borrowers' right to increase under the existing terms of the Senior Credit Facility. Amendment No. 3 also provides for the addition of new lenders and re-allocates working capital and revolving commitments among

existing and new lenders. Amendment No. 3 also provides for additional representations of the Co-Borrowers and additional protections of the lenders of the Senior Credit Facility.

The Company and the Co-Borrowers entered into Amendment No. 4 to the Senior Credit Facility, effective August 1, 2016, to, among other things, provide for the acquisition of the Provider Companies and certain additional amendments automatically upon the closing of the acquisition of the Major Energy Companies. Upon the closing of the acquisition of the Major Energy Companies, the Major Energy Companies were designated unrestricted subsidiaries, as that term is defined in the Senior Credit Facility. Amendment No. 4 also raised the minimum availability under the Working Capital Line to $40.0 million .

At the Borrower's election, the interest rate under the Working Capital Line is generally determined by reference to:

- the Eurodollar rate plus an applicable margin of up to 3.00% per annum (based upon the prevailing utilization); or
- the alternate base rate plus an applicable margin of up to 2.00% per annum (based upon the prevailing utilization). The alternate base rate is equal to the highest of (i) Société Générale's prime rate, (ii) the federal funds rate plus 0.50% per annum, or (iii) the reference Eurodollar rate plus 1.00% ; or
- the rate quoted by Société Générale as its cost of funds for the requested credit plus up to 2.50% per annum (based upon the prevailing utilization).

The interest rate is generally reduced by 25 basis points if utilization under the Working Capital Line is below fifty percent.

Borrowings under the Acquisition Line are generally determined by reference to:

- the Eurodollar rate plus an applicable margin of up to 3.75% per annum (based upon the prevailing utilization); or
- the alternate base rate plus an applicable margin of up to 2.75% per annum (based upon the prevailing utilization). The alternate base rate is equal to the highest of (i) Société Générale's prime rate, (ii) the federal funds rate plus 0.50% per annum, or (iii) the reference Eurodollar rate plus 1.00% .

The Co-Borrowers pay an annual commitment fee of 0.375% or 0.50% on the unused portion of the Working Capital Line, depending upon the unused capacity, and 0.50% on the unused portion of the Acquisition Line. The lending syndicate under the Senior Credit Facility is entitled to several additional fees including an upfront fee, annual agency fee, and fronting fees based on a percentage of the face amount of letters of credit payable to any syndicate member that issues a letter a credit.

The Company has the ability to elect the availability under the Working Capital Line between $40.0 million to $82.5 million . On September 30, 2016, the Company and the Co-Borrowers elected to reduce the capacity of the Working Capital Line from $82.5 million to $60.0 million . At December 31, 2016, we elected up to the $70.0 million level. At March 31, 2017 , the Company and the Co-Borrowers elected an availability of $82.5 million under the Working Capital Line. Availability under the working capital line is subject to borrowing base limitations. The borrowing base is calculated primarily based on 80% to 90% of the value of eligible accounts receivable and unbilled product sales (depending on the credit quality of the counterparties) and inventory and other working capital assets. The Co-Borrowers must generally seek approval of the agent or the lenders for permitted acquisitions to be financed under the Acquisition Line.

The Senior Credit Facility is secured by pledges of the equity of the portion of Spark HoldCo owned by the Company and of the equity of Spark HoldCo's subsidiaries (excluding the Major Energy Companies) and the Co-Borrowers' present and future subsidiaries, all of the Co-Borrowers' and their subsidiaries' present and future property and assets, including accounts receivable, inventory and liquid investments, and control agreements relating to bank accounts. The Major Energy Companies are excluded from the definition of "Borrowers" under the Senior Credit Facility. Accordingly, we do not factor in their working capital into our working capital covenants.

The Senior Credit Facility also contains covenants that, among other things, require the maintenance of specified ratios or conditions as follows:

- *Minimum Net Working Capital* . The Co-Borrowers must maintain minimum consolidated net working capital equal to the greater of $5.0 million or 15% of the elected availability under the Working Capital Line
- *Minimum Adjusted Tangible Net Worth* . The Co-Borrowers must maintain a minimum consolidated adjusted tangible net worth at all times equal to the net cash proceeds from equity issuances occurring after the date of the Senior Credit Facility plus the greater of (i) 20% of aggregate commitments under the Working Capital Line plus 33% of borrowings under the Acquisition Line and (ii) $18.0 million .
- *Minimum Fixed Charge Coverage Ratio* . Spark Energy, Inc. must maintain a minimum fixed charge coverage ratio of 1.25 to 1.00. The Fixed Charge Coverage Ratio is defined as the ratio of (a) Adjusted EBITDA to (b) the sum of consolidated interest expense (other than interest paid-in-kind in respect of any Subordinated Debt), letter of credit fees, commitment fees, acquisition earn-out payments, distributions and scheduled amortization payments.
- *Maximum Total Leverage Ratio* . Spark Energy, Inc. must maintain a ratio of total indebtedness (excluding the Working Capital Facility and qualifying subordinated debt) to Adjusted EBITDA of a maximum of 2.50 to 1.00.

The Senior Credit Facility contains various negative covenants that limit the Company's ability to, among other things, do any of the following:

- incur certain additional indebtedness;
- grant certain liens;
- engage in certain asset dispositions;
- merge or consolidate;
- make certain payments, distributions, investments, acquisitions or loans;
- enter into transactions with affiliates.

Spark Energy, Inc. is entitled to pay cash dividends to the holders of the Class A common stock and Series A Preferred Stock, and Spark HoldCo is entitled to make cash distributions to us, NuDevco Retail Holdings, LLC so long as: (a) no default exists or would result from such a payment; (b) the Co-Borrowers are in pro forma compliance with all financial covenants before and after giving effect to such payment and (c) the outstanding amount of all loans and letters of credit does not exceed the borrowing base limits. Spark HoldCo's inability to satisfy certain financial covenants or the existence of an event of default, if not cured or waived, under the Senior Credit Facility could prevent the Company from paying dividends to holders of the Class A common stock.

The Senior Credit Facility contains certain customary representations and warranties and events of default. Events of default include, among other things, payment defaults, breaches of representations and warranties, covenant defaults, cross-defaults and cross-acceleration to certain indebtedness, change in control in which affiliates of our Founder own less than 40% of the outstanding voting interests in the Company, certain events of bankruptcy, certain events under ERISA, material judgments in excess of $5.0 million , certain events with respect to material contracts, actual or asserted failure of any guaranty or security document supporting the Senior Credit Facility to be in full force and effect and changes of control. If such an event of default occurs, the lenders under the Senior Credit Facility would be entitled to take various actions, including the acceleration of amounts due under the facility and all actions permitted to be taken by a secured creditor.

Master Service Agreement with Retailco Services, LLC

We entered into a Master Service Agreement (the “Master Service Agreement”), effective January 1, 2016, with Retailco Services, LLC ("Retailco Services"), which is wholly owned by our Founder. The Master Service Agreement is for a one-year term and renews automatically for successive one-year terms unless the Master Service Agreement is terminated by either party. On January 31, 2017, the Master Service Agreement renewed automatically pursuant to its terms for a one year period ending on December 31, 2017.

Retailco Services provides us with operational support services such as: enrollment and renewal transaction services; customer billing and transaction services; electronic payment processing services; customer services and information technology infrastructure and application support services under the Master Service Agreement.

During the three months ended March 31, 2017 , the Company recorded general and administrative expense of $7.3 million , in connection with the Master Service Agreement. For the three months ended March 31, 2017 , Penalty Payments totaled $0.1 million and Damage Payments totaled zero .

Additionally, under the Master Service Agreement, we capitalized $0.1 million during the three months ended March 31, 2017 of property and equipment for software and consultant time used in the application, development and implementation of various systems including customer billing and resource management systems.

Ongoing Obligations in Connection with Acquisitions

The Company is obligated to make earnout and installment payments in connection with the acquisitions of the Major Energy Companies and Provider Companies as more fully described in this Quarterly Report on Form 10-Q. In the case of the Major Energy Companies acquisition, these payments could be as much as $35 million depending upon operating results and the customer counts through 2019. See further discussion related to the valuation of the earnouts in Note 9 "Fair Value Measurements."

Convertible Subordinated Notes to Affiliate

The Company from time to time issues subordinated debt to affiliates of Retailco, which owns a majority of the Company’s outstanding common stock and is indirectly owned by our Founder, who serves as the Chairman of the Board of Directors of the Company. The Company’s Senior Credit Facility requires that at least 25% of permitted acquisitions thereunder be financed with either cash on hand or subordinated debt.

On July 8, 2015, the Company issued a convertible subordinated note to Retailco Acquisition Co, LLC ("RAC"), which is wholly owned by our Founder, for $2.1 million . The convertible subordinated note was scheduled to mature on July 8, 2020, and carried interest at an annual rate of 5% , payable semiannually. The convertible subordinated note was convertible into shares of the Company’s Class B common stock (and a related unit of Spark HoldCo) at a conversion price of $16.57 , at any time following the eighteen month anniversary of issuance. Shares of Class A common stock resulting from the conversion of the shares of Class B common stock issued as a result of the conversion right under the convertible subordinated note are entitled to registration rights identical to the registration rights currently held by Retailco on shares of Class A common stock it receives upon conversion of its existing shares of Class B common stock. On October 5, 2016, RAC issued to the Company an irrevocable commitment to convert the convertible subordinated note into 134,731 shares of Class B common stock. RAC assigned the convertible subordinated note to Retailco on January 4, 2017, and on January 8, 2017, the convertible subordinated note was converted into 134,731 shares of Class B common stock.

On July 31, 2015, the Company issued a convertible subordinated note to RAC for $5.0 million . The convertible subordinated note was scheduled to mature on July 31, 2020, and carried interest at a rate of 5% per annum, payable semi-annually. The convertible subordinated note was convertible into shares of Class B common stock (and a related unit of Spark HoldCo) at a conversion rate of $14.00 per share, at any time following the eighteen month anniversary of issuance. Shares of Class A common stock resulting from the conversion of the shares of Class B common stock issued as a result of the conversion right under the convertible subordinated note are entitled to registration rights identical to the registration rights currently held by Retailco on shares of Class A common stock

it receives upon conversion of its existing shares of Class B common stock. On October 5, 2016, RAC issued to the Company an irrevocable commitment to convert the convertible subordinated note into 383,090 shares of Class B common stock. RAC assigned the convertible subordinated note to Retailco on January 4, 2017, and on January 31, 2017, the convertible subordinated note was converted into 383,090 shares of Class B common stock.

Subordinated Debt Facility

On December 27, 2016, the Company and Spark HoldCo jointly issued to Retailco, an entity owned by our Founder, a 5% subordinated note in the principal amount of up to $25.0 million . The subordinated note allows us and Spark HoldCo to draw advances in increments of no less than $1.0 million per advance up to the maximum principal amount of the subordinated note. The subordinated note matures approximately 3 ½ years following the date of issuance, and advances thereunder accrue interest at 5% per annum from the date of the advance. We have the right to capitalize interest payments under the subordinated note. The subordinated note is subordinated in certain respects to our Senior Credit Facility pursuant to a subordination agreement. We may pay interest and prepay principal on the subordinated note so long as we are in compliance with our covenants under the Senior Credit Facility, are not in default under the Senior Credit Facility and have minimum availability of $5.0 million under our borrowing base under the Senior Credit Facility. Payment of principal and interest under the subordinated note is accelerated upon the occurrence of certain change of control transactions.

We plan to use the Subordinated Facility to enhance working capital, for growth initiatives, and for capital optimization. As of March 31, 2017 , there was zero in outstanding borrowings under the subordinated note.

Investment in ESM

The Company and Spark HoldCo, together with eREX Co., Ltd., a Japanese company, are joint venture partners in eREX Spark Marketing Co., Ltd ("ESM"). Operations for ESM began on April 1, 2016 in connection with the deregulation of the Japanese power market. As of March 31, 2017 , the Company has contributed 156.4 million Japanese Yen, or $1.4 million , for 20% ownership of ESM. As of March 31, 2017 , ESM has approximately 50,000 customers, which are currently excluded from our RCEs.

Off-Balance Sheet Arrangements

As of March 31, 2017 , we had no material off-balance sheet arrangements.

Related Party Transactions

For a discussion of related party transactions, see Note 13 "Transactions with Affiliates" in the unaudited condensed consolidated financial statements.

Critical Accounting Policies and Estimates

Our critical accounting policies and estimates are described in “Management's Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Estimates” in our Annual Report on Form 10-K for the year ended December 31, 2016 . There have been no changes to these policies and estimates since the date of our Annual Report on Form 10-K for the year ended December 31, 2016 .

Recent Accounting Pronouncements

Adopted Standards

In March 2016, the FASB issued ASU No. 2016-09, *Compensation - Stock Compensation (Topic 718)* ("ASU 2016-09"). ASU 2016-09 includes provisions intended to simplify various aspects of accounting for shared-based payments, including income tax consequences, classification of awards as either equity or liability and classification on the statement of cash flows. This guidance is effective for annual and interim reporting periods of public entities

beginning after December 15, 2016, with early adoption permitted. The Company adopted ASU 2016-09 in the first quarter of 2017.

The new standard requires prospective recognition of excess tax benefits resulting from stock-based compensation vesting and exercises to be recognized as a reduction of income taxes and reflected in operating cash flows. Previously, these amounts were recognized in additional paid-in capital and presented as a financing activity on the statement of cash flows. No net excess tax benefits were recognized as a reduction of income taxes for the three months ended March 31, 2017. Prior periods have not been adjusted.

The Company has elected to continue to estimate the number of stock-based awards expected to vest, as permitted by ASU 2016-09, rather than electing to account for forfeitures as they occur.

ASU 2016-09 requires that employee taxes paid when an employer withholds shares for tax-withholding purposes to be reported as financing activities in the statement of cash flows. Previously, these cash flows were included in operating activities. The Company has elected to adopt this prospectively, as permitted by ASU 2016-09. This change resulted in no impact on the statement of cash flow for the three months ended March 31, 2017.

In October 2016, the FASB issued ASU No. 2016-17, *Consolidation (Topic 810): Interests Held through Related Parties that Are under Common Control* ("ASU 2016-17"). ASU 2016-17 amends the consolidation guidance on how a reporting entity that is the single decision maker of a variable interest entity ("VIE") should treat indirect interests in the entity held through related parties that are under common control with the reporting entity when determining whether it is the primary beneficiary of that VIE. Under ASU 2016-17, a single decision maker of a VIE is required to consider indirect economic interests in the entity held through related parties on a proportionate basis when determining whether it is the primary beneficiary of that VIE. If a single decision maker and its related party are under common control, the single decision maker is required to consider indirect interests in the entity held through those related parties to be the equivalent of direct interests in their entirety. The amendments are effective for public business entities for fiscal years beginning after December 15, 2016 (the Company's first quarter of fiscal 2017), including interim periods within those fiscal years. Early adoption is permitted. The standard may be applied retrospectively or through a cumulative effect adjustment to retained earnings as of the beginning of the fiscal year of adoption. The Company adopted ASU 2016-17 effective January 1, 2017, and the adoption did not have a material impact on the Company's consolidated financial statements.

Standards Being Evaluated/Standards Not Yet Adopted

In May 2014, the FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers* , which requires an entity to recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. The standard permits the use of either the retrospective or cumulative effect transition method. In August 2015, the FASB issued ASU No. 2015-14, *Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date* , which deferred the effective date to periods beginning after December 15, 2017. Early adoption is permitted only as of annual reporting periods beginning after December 15, 2016. In December 2016, the FASB further issued ASU No. 2016-20, *Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers,* to increase stakeholders' awareness of the proposals and to expedite improvements to ASU 2014-09. After assessing the new standard, the Company expects that there will be no material impacts to our revenue recognition procedures.

The FASB issued additional amendments to ASU No. 2014-09, as amended by ASU No. 2015-14:

- March 2016 - ASU No. 2016-08, *Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)* ("ASU 2016-08"). ASU 2016-08 clarifies the implementation guidance on principal versus agent considerations. The guidance includes indicators to assist an entity in determining whether it controls a specified good or service before it is transferred to customers.

- April 2016 - ASU No. 2016-10, *Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing* ("ASU 2016-10"). ASU 2016-10 covers two specific topics: performance obligations and licensing. This amendment includes guidance on immaterial promised goods or services, shipping or handling activities, separately identifiable performance obligations, functional or symbolic intellectual property licenses, sales-based and usage-based royalties, license restrictions (time, use, geographical) and licensing renewals.
- May 2016 - ASU No. 2016-12, *Revenue from Contracts with Customers (Topic 606): Narrow Scope Improvements and Practical Expedients* ("ASU 2016-12"). ASU 2016-12 clarifies certain core recognition principles including collectability, sales tax presentation, noncash consideration, contract modifications and completed contracts at transition and disclosures no longer required if the full retrospective transition method is adopted.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* ("ASU 2016-02") . ASU 2016-02 amends the existing accounting standards for lease accounting by requiring entities to include substantially all leases on the balance sheet by requiring the recognition of right-of-use assets and lease liabilities for all leases. Entities may elect to not recognize leases with a maximum possible term of less than 12 months. For lessees, a lease is classified as finance or operating and the asset and liability are initially measured at the present value of the lease payments. For lessors, accounting for leases is largely unchanged from previous guidance. ASU 2016-02 also requires qualitative disclosures along with certain specific quantitative disclosures for both lessees and lessors. The amendments in this ASU are effective for fiscal years beginning after December 15, 2018, with early adoption permitted, and are effective for interim periods in the year of adoption. The ASU should be applied using a modified retrospective approach, which requires lessees and lessors to recognize and measure leases at the beginning of the earliest period presented. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"). ASU 2016-13 requires entities to use a current expected credit loss ("CECL") model, which is a new impairment model based on expected losses rather than incurred losses. The model requires financial assets measured at amortized cost be presented at the net amount expected to be collected. The allowance for credit losses is a valuation account that is deducted from the amortized cost basis. The income statement reflects the measurement of credit losses for newly recognized financial assets, as well as the expected credit losses during the period. The measurement of expected losses is based upon historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the reported amount. This guidance is effective for interim and annual reporting periods beginning after December 15, 2019, with early adoption permitted for annual reporting periods beginning after December 15, 2018. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, *Statement of Cash Flows (Topic 230), Classification of Certain Cash Receipts and Cash Payments* ("ASU 2016-15") . ASU 2016-15 provides guidance on the presentation and classification of eight specific cash flow issues in the statement of cash flows. Those issues are cash payment for debt prepayment or debt extinguishment costs; settlement of zero-coupon debt instrument or other debt instrument with coupon interest rates that are insignificant in relation to the effective interest rate of the borrowing; contingent consideration payments made after a business combination; cash proceeds from the settlement of insurance claims, cash received from settlement of corporate-owned life insurance policies; distribution received from equity method investees; beneficial interest in securitization transactions; and classification of cash receipts and payments that have aspects of more than one class of cash flows. The guidance is effective for interim and annual reporting periods beginning after December 15, 2017, with early adoption permitted. This ASU should be applied using a retrospective transition method for each period presented. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In October 2016, the FASB issued ASU No. 2016-16, *Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other Than Inventory* (“ASU 2016-16”). ASU 2016-16 requires immediate recognition of the current and deferred income tax consequences of intercompany asset transfers other than inventory. Current U.S. GAAP prohibits the

recognition of current and deferred income taxes for an intra-entity asset transfer until the asset has been sold to an outside party. This guidance is effective for annual and interim reporting periods of public entities beginning after December 15, 2017, with early adoption permitted as of the beginning of an annual reporting period for which financial statements (interim or annual) have not been issued or made available for issuance. This ASU should be applied using a modified retrospective basis through a cumulative-effect adjustment directly to retained earnings as of the beginning of the period of adoption. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash* ("ASU 2016-18"). ASU 2016-18 is intended to add and clarify guidance on the classification and presentation of restricted cash on the statement of cash flows. ASU 2016-18 requires that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Therefore, amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The amendments are effective for public business entities for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business* ("ASU 2017-01"). ASU 2017-01 clarifies the definition of a business with the objective of adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. The definition of a business affects many areas of accounting, including acquisitions, disposals, goodwill, and consolidation. ASU 2017-01 is effective for annual periods beginning after December 15, 2017, including interim periods within those periods, and the amendments should be applied prospectively on or after the effective date. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-03, *Accounting Changes and Error Corrections (Topic 250) and Investments - Equity Method and Joint Ventures (Topic 323)* ("ASU 2017-03"). ASU 2017-03 offers amendments to SEC paragraphs pursuant to staff announcements at the September 22, 2016 and November 17, 2016 EITF meetings for clarification purposes. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment* ("ASU 2017-04"). ASU 2017-04 simplifies the subsequent measurement of goodwill by eliminating Step 2 from the goodwill impairment test. Under the amendments in this update, an entity should perform its annual or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value. However, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. ASU 2017-04 should be applied on a prospective basis and is effective for annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

In February 2017, the FASB issued ASU No. 2017-05, *Other Income - Gains and Losses from the Derecognition of Nonfinancial Assets* (Subtopic 610-20) : *Clarifying the Scope of Asset Derecognition Guidance and Accounting for Partial Sales of Nonfinancial Assets* ("ASU 2017-05"). ASU 2017-05 clarifies the scope of Subtopic 610-20 and adds guidance for partial sales of nonfinancial assets. Subtopic 610-20 was issued in May 2014 as part of ASU No. 2014-09, *Revenue from Contracts with Customers (Topic 606)* and provides guidance for recognizing gains and losses from the transfer of nonfinancial assets in contracts with noncustomers. The amendments in ASU 2017-05 clarify that a financial asset is within the scope of Subtopic 610-20 if it meets the definition of an in substance nonfinancial asset. The amendments also clarify that nonfinancial assets within the scope of Subtopic 610-20 may

include nonfinancial assets transferred within a legal entity to a counterparty. The amendments in ASU 2017-05 are effective at the same time as the amendments in ASU 2014-09, which are effective for annual reporting periods beginning after December 15, 2017, including interim reporting periods within that reporting period. Early adoption is permitted for interim or annual reporting periods beginning after December 15, 2016. An entity may elect to apply the amendments in ASU 2017-05 either retrospectively to each period presented in the financial statements in accordance with the guidance on accounting changes (retrospective approach) or retrospectively with a cumulative-effect adjustment to retained earnings as of the beginning of the fiscal year of adoption (modified retrospective approach). The Company is currently evaluating the impact of adopting this guidance on its consolidated financial statements.

Contingencies

In the ordinary course of business, we may become party to lawsuits, administrative proceedings and governmental investigations, including regulatory and other matters. As of March 31, 2017 , management does not believe that any of our outstanding lawsuits, administrative proceedings or investigations could result in a material adverse effect.

Liabilities for loss contingencies arising from claims, assessments, litigation, fines, penalties and other sources are recorded when it is probable that a liability has been incurred and the amount can be reasonably estimated.

For a discussion of the status of current litigation and governmental investigations, see Note 12 "Commitments and Contingencies" in the Company’s unaudited condensed consolidated financial statements.

Emerging Growth Company Status

We are an “emerging growth company” within the meaning of the federal securities laws. For as long as we are an emerging growth company, we will not be required to comply with certain requirements that are applicable to other public companies that are not “emerging growth companies” including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, the reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements and the exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. In addition, Section 107 of the JOBS Act provides that an emerging growth company can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards, but we have irrevocably opted out of the extended transition period and, as a result, we will adopt new or revised accounting standards on the relevant dates on which adoption of such standards is required for other public companies.

We intend to take advantage of these exemptions until we are no longer an emerging growth company. We will cease to be an “emerging growth company” upon the earliest of: (i) the last day of the fiscal year in which we have $1.0 billion or more in annual revenues; (ii) the date on which we become a “large accelerated filer” (the fiscal year-end on which the total market value of our common equity securities held by non-affiliates is $700 million or more as of June 30); (iii) the date on which we issue more than $1.0 billion of non-convertible debt over a three-year period; or (iv) the last day of 2019.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market risks relating to our operations result primarily from changes in commodity prices and interest rates, as well as counterparty credit risk. We employ established policies and procedures to manage our exposure to these risks.

Commodity Price Risk

We hedge and procure our energy requirements from various wholesale energy markets, including both physical and financial markets and through short and long term contracts. Our financial results are largely dependent on the margin we are able to realize between the wholesale purchase price of natural gas and electricity plus related costs and the retail sales price we charge our customers. We actively manage our commodity price risk by entering into various derivative or non-derivative instruments to hedge the variability in future cash flows from fixed-price forecasted sales and purchases of natural gas and electricity in connection with our retail energy operations. These instruments include forwards, futures, swaps, and option contracts traded on various exchanges, such as NYMEX and Intercontinental Exchange, or ICE, as well as over-the-counter markets. These contracts have varying terms and durations, which range from a few days to a few years, depending on the instrument. Our asset optimization group utilizes similar derivative contracts in connection with its trading activities to attempt to generate incremental gross margin by effecting transactions in markets where we have a retail presence. Generally, any of such instruments that are entered into to support our retail electricity and natural gas business are categorized as having been entered into for non-trading purposes, and instruments entered into for any other purpose are categorized as having been entered into for trading purposes. Our net (loss) gain on non-trading derivative instruments net of cash settlements was $(13.5) million and $1.7 million for the three months ended March 31, 2017 and 2016 , respectively.

We have adopted risk management policies to measure and limit market risk associated with our fixed-price portfolio and our hedging activities. For additional information regarding our commodity price risk and our risk management policies, see “Item 1A—Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2016 .

We measure the commodity risk of our non-trading energy derivatives using a sensitivity analysis on our net open position. As of March 31, 2017 , our Gas Non-Trading Fixed Price Open Position (hedges net of retail load) was a long position of 961,465 MMBtu. An increase of 10% in the market prices (NYMEX) from their March 31, 2017 levels would have increased the fair market value of our net non-trading energy portfolio by $0.3 million . Likewise, a decrease of 10% in the market prices (NYMEX) from their March 31, 2017 levels would have decreased the fair market value of our non-trading energy derivatives by $0.3 million . As of March 31, 2017 , our Electricity Non-Trading Fixed Price Open Position (hedges net of retail load) was a long position of 20,378 MWhs. An increase of 10% in the forward market prices from their March 31, 2017 levels would have increased the fair market value of our net non-trading energy portfolio by $0.2 million . Likewise, a decrease of 10% in the forward market prices from their March 31, 2017 levels would have decreased the fair market value of our non-trading energy derivatives by $0.2 million .

We measure the commodity risk of our trading energy derivatives using a sensitivity analysis on our net open position. As of March 31, 2017 , we did not have a Gas Trading Fixed Price Open Position.

Credit Risk

In many of the utility services territories where we conduct business, POR programs have been established, whereby the local regulated utility purchases our receivables, and becomes responsible for billing the customer and collecting payment from the customer. This service results in substantially all of our credit risk being linked to the applicable utility and not to our end-use customer in these territories. Approximately 63% of our retail revenues were derived from territories in which substantially all of our credit risk was directly linked to local regulated utility companies for three months ended March 31, 2017 , all of which had investment grade ratings as of such date. During the same period, we paid these local regulated utilities a weighted average discount of approximately 1.31% of total revenues for customer credit risk protection. In certain of the POR markets in which we operate, the utilities

limit their collections exposure by retaining the ability to transfer a delinquent account back to us for collection when collections are past due for a specified period.

If our collection efforts are unsuccessful, we return the account to the local regulated utility for termination of service. Under these service programs, we are exposed to credit risk related to payment for services rendered during the time between when the customer is transferred to us by the local regulated utility and the time we return the customer to the utility for termination of service, which is generally one to two billing periods. We may also realize a loss on fixed-price customers in this scenario due to the fact that we will have already fully hedged the customer's expected commodity usage for the life of the contract.

In non-POR markets (and in POR markets where we may choose to direct bill our customers), we manage customer credit risk through formal credit review in the case of commercial customers, and credit score screening, deposits and disconnection for non-payment, in the case of residential customers. Economic conditions may affect our customers' ability to pay bills in a timely manner, which could increase customer delinquencies and may lead to an increase in bad debt expense. Our bad debt expense for the three months ended March 31, 2017 was approximately less than 1.0% of non-POR market retail revenues. See "Management's Discussion and Analysis of Financial Condition and Results of Operations — Drivers of Our Business" for an analysis of our bad debt expense related to non-POR markets during the three months ended March 31, 2017 .

We are exposed to wholesale counterparty credit risk in our retail and asset optimization activities. We manage this risk at a counterparty level and secure our exposure with collateral or guarantees when needed. At March 31, 2017 , approximately 88% of our total exposure of $8.5 million was either with an investment grade customer or otherwise secured with collateral or a guarantee.

Interest Rate Risk

We are exposed to fluctuations in interest rates under our variable-price debt obligations. At March 31, 2017 , we were co-borrowers under the Senior Credit Facility, under which $22.2 million of variable rate indebtedness was outstanding. Based on the average amount of our variable rate indebtedness outstanding during the three months ended March 31, 2017 , a 1% percent increase in interest rates would have resulted in additional annual interest expense of approximately $0.2 million . We do not currently employ interest rate hedges, although we may choose to do so in the future.

ITEM 4. CONTROLS AND PROCEDURES

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this Quarterly Report on Form 10-Q. The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost benefit relationship of possible controls and procedures. Based on this evaluation, management concluded that our disclosure controls and procedures were effective as of March 31, 2017 at the reasonable assurance level.

Management believes the unaudited condensed consolidated financial statements included in this Quarterly Report on Form 10-Q fairly represent in all material respects our financial condition, results of operations and cash flows at and for the periods presented in accordance with GAAP.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the three months ended March 31, 2017 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

We are the subject of lawsuits and claims arising in the ordinary course of business from time to time. Management cannot predict the ultimate outcome of such lawsuits and claims. While the lawsuits and claims are asserted for amounts that may be material, should an unfavorable outcome occur, management does not currently expect that any currently pending matters will have a material adverse effect on our financial position or results of operations except as described below. See Note 12 "Commitments and Contingencies" to the unaudited consolidated financial statements for a description of certain other proceedings.

The Company is the subject of the following lawsuits:

John Melville et al v. Spark Energy Inc. and Spark Energy Gas, LLC is a purported class action filed on December 17, 2015 in the United States District Court for the District of New Jersey alleging, among other things, that (i) sales representatives engaged as independent contractors for Spark Energy Gas, LLC engaged in deceptive acts in violation of the New Jersey Consumer Fraud Act, (ii) Spark Energy Gas, LLC breach its contract with plaintiff, including a breach of the covenant of good faith and fair dealing. Plaintiffs are seeking unspecified compensatory and punitive damages for the purported class, injunctive relief and/or declaratory relief, disgorgement of revenues and/or profits and attorneys' fees. Initial discovery is ongoing. Spark Energy Inc. and Spark Energy Gas, LLC intend to vigorously defend this matter and the allegations asserted therein. Given the early stages of this matter, we cannot predict the outcome or consequences of this case at this time.

Halifax-American Energy Company, LLC et al v. Provider Power, LLC, Electricity N.H., LLC, Electricity Maine, LLC, Emile Clavet and Kevin Dean is a lawsuit initially filed on June 12, 2014, in the Rockingham County Superior Court, State of New Hampshire, alleging various claims related to the Provider Companies' employment of a sales contractor formerly employed with one or more of the plaintiffs, including misappropriation of trade secrets and tortious interference with a contractual relationship. The dispute occurred prior to the Company's acquisition of the Provider Companies. Portions of the original claim proceeded to trial and on January 19, 2016, a jury found in favor of the plaintiff. Damages totaling approximately $0.6 million and attorney's fees totaling approximately $0.3 million were awarded to the plaintiff. On May 4, 2016, following post-verdict motions, the defendants filed an appeal in the State of New Hampshire Supreme Court, appealing, among other things the failure of the trial court to direct a verdict for the defendants, to set aside the verdict, or grant judgment for the defendants, and the trial court's award of certain attorneys' fees. As of December 31, 2016 and March 31, 2017 , respectively, the Company has accrued approximately $1.0 million in contingent liabilities related to this litigation. Initial damages and attorney's fees have been factored into the purchase price for the Provider Companies, and the Company has full indemnity coverage and set-off rights against future price installments for any actual exposure in the appeal.

Katherine Veilleux and Jennifer Chon, individually and on behalf of all other similarly situated v. Electricity Maine. LLC, Provider Power, LLC, Spark Holdco, LLC, Kevin Dean and Emile Clavet is a purported class action lawsuit filed on November 18, 2016 in the United States District Court of Maine, alleging that Electricity Maine, LLC, an entity acquired by Spark Holdco, LLC in mid 2016, enrolled customers through fraudulent and misleading advertising and promotions prior to the acquisition. Plaintiffs allege the following claims against all Defendants: violation of the Maine Unfair Trade Practices Act, violation of RICO, negligence, negligent misrepresentation, fraudulent misrepresentation, unjust enrichment and breach of contract. Plaintiffs seek unspecified damages for themselves and the purported class, rescission of contracts with Electricity Maine, injunctive relief, restitution, and attorney's fees. Discovery has not yet commenced in this matter. Spark HoldCo intends to vigorously defend this matter and the allegations asserted therein. Given the early stages of this matter, we cannot predict the outcome or consequences of this case at this time. Under the terms of the acquisition, Spark HoldCo is indemnified for losses and expenses in connection with this action subject to certain limits.

Gillis et al. v. Respond Power, LLC is a purported class action lawsuit that was originally filed on May 21, 2014 in the Philadelphia Court of Common Pleas. On June 23, 2014, the case was removed to the United States District

Court for the Eastern District of Pennsylvania. On September 15, 2014, the plaintiffs filed an amended class action complaint seeking a declaratory judgment that the disclosure statement contained in Respond Power, LLC's variable rate contracts with Pennsylvania consumers limited the variable rate that could be charged to no more than the monthly rate charged by the consumers' local utility company. The plaintiffs also allege that Respond Power, LLC (i) breached its variable rate contract with Pennsylvania consumers, and the covenant of good faith and fair dealing therein, by charging rates in excess of the monthly rate charged by the consumers' local utility company; (ii) engaged in deceptive conduct in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law; and (iii) engaged in negligent misrepresentation and fraudulent concealment in connection with purported promises of savings. The amount of damages sought is not specified. By order dated August 31, 2015, the district court denied class certification. The plaintiffs appealed the district court's denial of class certification to the United States Court of Appeals for the Third Circuit. The United States Court of Appeals for the Third Circuit vacated the district court's denial of class certification and remanded the matter to the district court for further proceedings.
We currently cannot predict the outcome or consequences of this case at this time. The Company is indemnified for Major litigation matters, subject to certain limitations by original owners of the Major Energy Companies.

Item 1A. Risk Factors.

Security holders and potential investors in our securities should carefully consider the risk factors under "Risk Factors" in our 2016 Annual Report on Form 10-K. Except as provided below, there has been no material change in our risk factors from those described in the 2016 Annual Report on Form 10-K. These risks are not the sole risks for investors. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition or results of operations.

Risks Related to the Series A Preferred Stock

The Series A Preferred Stock represent perpetual equity interests in us, and investors should not expect us to redeem the Series A Preferred Stock on the date the Series A Preferred Stock becomes redeemable by us or on any particular date afterwards.

The Series A Preferred Stock represent perpetual equity interests in us, and they have no maturity or mandatory redemption date and are not redeemable at the option of investors under any circumstances. As a result, unlike our indebtedness, the Series A Preferred Stock do not give rise to a claim for payment of a principal amount at a particular date. As a result, holders of the Series A Preferred Stock may be required to bear the financial risks of an investment in the Series A Preferred Stock for an indefinite period of time. In addition, the Series A Preferred Stock rank junior to all our current and future indebtedness (including indebtedness outstanding under our Senior Credit Facility) and other liabilities. The Series A Preferred Stock also rank junior to any other senior securities we may issue in the future with respect to assets available to satisfy claims against us.

The Series A Preferred Stock have not been rated.

We have not sought to obtain a rating for the Series A Preferred Stock, and the Series A Preferred Stock may never be rated. It is possible, however, that one or more rating agencies might independently determine to assign a rating to the Series A Preferred Stock or that we may elect to obtain a rating of the Series A Preferred Stock in the future. In addition, we may elect to issue other securities for which we may seek to obtain a rating. If any ratings are assigned to the Series A Preferred Stock in the future or if we issue other securities with a rating, such ratings, if they are lower than market expectations or are subsequently lowered or withdrawn, could adversely affect the market for or the market value of the Series A Preferred Stock. Ratings only reflect the views of the issuing rating agency or agencies and such ratings could at any time be revised downward or withdrawn entirely at the discretion of the issuing rating agency. A rating is not a recommendation to purchase, sell or hold any particular security, including the Series A Preferred Stock. Ratings do not reflect market prices or suitability of a security for a particular investor and any future rating of the Series A Preferred Stock may not reflect all risks related to us and our business, or the structure or market value of the Series A Preferred Stock.

We could be prevented from paying cash dividends on the Series A Preferred Stock.

Holders of shares of Series A Preferred Stock do not have a right to dividends on such shares unless declared or set aside for payment by our Board of Directors. Under Delaware law, cash dividends on capital stock may only be paid from "surplus" or, if there is no "surplus," from the corporation's net profits for the then-current or the preceding fiscal year. Unless we operate profitably, our ability to pay cash dividends on the Series A Preferred Stock would require the availability of adequate "surplus," which is defined as the excess, if any, of net assets (total assets less total liabilities) over capital. Our business may not generate sufficient cash flow from operations to enable us to pay dividends on the Series A Preferred Stock when payable. Further, even if adequate surplus is available to pay cash dividends on the Series A Preferred Stock, we may not have sufficient cash to pay dividends on the Series A Preferred Stock.

Furthermore, no dividends on Series A Preferred Stock shall be authorized by our board of directors or paid, declared or set aside for payment by us at any time when the authorization, payment, declaration or setting aside for payment would be unlawful under Delaware law or any other applicable law, or when the terms and provisions of any agreement of ours, including any agreement relating to our indebtedness, prohibit the authorization, payment, declaration or setting aside for payment thereof or provide that the authorization, payment, declaration or setting aside for payment thereof would constitute a breach of such document or a default under such document.

The Series A Preferred Stock are subordinated to our existing and future debt obligations, and your interests could be diluted by the issuance of additional shares, including additional Series A Preferred Stock, and by other transactions.

The Series A Preferred Stock are subordinated to all of our existing and future indebtedness (including indebtedness outstanding under our Senior Credit Facility). Therefore, if we become bankrupt, liquidate our assets, reorganize or enter into certain other transactions, our assets will be available to pay our obligations with respect to the Series A Preferred Stock only after we have paid all of our existing and future indebtedness in full. There may be insufficient assets remaining following such payments to make any payments to holders of the Series A Preferred Stock then outstanding.

The issuance of additional equity on a parity with or senior to the Series A Preferred Stock would dilute the interests of the holders of shares of Series A Preferred Stock, and any issuance of equity on parity with or senior to the Series A Preferred Stock, or additional indebtedness could affect our ability to pay distributions on, redeem or pay the liquidation preference on the Series A Preferred Stock. Only the limited conversion right upon a change of control relating to the Series A Preferred Stock protects the holders of the Series A Preferred Stock in the event of a highly leveraged or other transaction, including a merger or the sale, lease or conveyance of all or substantially all our assets or business, which might adversely affect the holders of the Series A Preferred Stock.

We are a holding company. Our sole material asset is our equity interest in Spark Holdco and we are accordingly dependent upon distributions from Spark Holdco to pay dividends on the Series A Preferred Stock.

We are a holding company and have no material assets other than our equity interest in Spark Holdco. We have no independent means of generating revenue. None of our subsidiaries has guaranteed or otherwise become obligated with respect to the Series A Preferred Stock. As a result, the Series A Preferred Stock effectively rank junior to all existing and future indebtedness and other liabilities of our subsidiaries, including our operating subsidiaries, CenStar Energy Corp., SEG, SE, Oasis Power Holdings, LLC, the Provider Companies and the Major Energy Companies, and any capital stock of our subsidiaries not held by us. Accordingly, our right to receive assets from any of our subsidiaries upon our bankruptcy, liquidation or reorganization, and the right of holders of Series A Preferred Stock to participate in those assets, is structurally subordinated to claims of that subsidiary's creditors, including trade creditors. Even if we were a creditor of any of our subsidiaries, our rights as a creditor would be subordinate to any security interest in the assets of that subsidiary and any indebtedness of that subsidiary senior to that held by us.

Holders of Series A Preferred Stock have extremely limited voting rights.

Your voting rights as a holder of shares of Series A Preferred Stock are extremely limited. Our Class A common stock and our Class B common stock are the only classes of our securities carrying full voting rights. Holders of the Series A Preferred Stock generally have no voting rights except for certain limited protective voting rights if the Series A Preferred Stock is delisted or there is a dividend penalty event as specified in the Certificate of Designations relating to the Series A Preferred Stock.

Future issuances of preferred stock, including future issuances of shares of Series A Preferred Stock, may reduce the value of the Series A Preferred Stock.

We may sell additional shares of preferred stock, including shares of Series A Preferred Stock, on terms that may differ from those previously offered. Such shares could rank on parity with or, subject to the voting rights referred to above, senior to the Series A Preferred Stock as to distribution rights or rights upon liquidation, winding up or dissolution. The subsequent issuance of additional shares of Series A Preferred Stock, or the creation and subsequent issuance of additional classes of preferred stock on parity with the Series A Preferred Stock, could dilute the interests of the holders of Series A Preferred Stock. Any issuance of preferred stock that is senior to the Series A Preferred Stock would not only dilute the interests of the holders of Series A Preferred Stock, but also could affect our ability to pay distributions on, redeem or pay the liquidation preference on the Series A Preferred Stock.

The Series A Preferred Stock are a new issuance and do not have an established trading market, which may negatively affect their market value and your ability to transfer or sell your Series A Preferred Stock. In addition, the lack of a fixed redemption date for the Series A Preferred Stock increase your reliance on the secondary market for liquidity purposes.

The Series A Preferred Stock is a new issue of securities. An active trading market on the NASDAQ for the Series A Preferred Stock may not develop or, even if it develops, may not last, in which case the trading price of the Series A Preferred Stock could be adversely affected and your ability to transfer your Series A Preferred Stock would be limited. If an active trading market does develop on the NASDAQ, the Series A Preferred Stock may trade at prices lower than the price at which you purchase Series A Preferred Stock. In addition, since the securities have no stated maturity date, investors seeking liquidity are limited to selling their shares of Series A Preferred Stock in the secondary market absent redemption by us.

The trading price of the Series A Preferred Stock would depend on many factors, including:

- prevailing interest rates;
- the market for similar securities;
- general economic and financial market conditions;
- our issuance of debt or other preferred equity securities; and
- our financial condition, results of operations and prospects.

Market interest rates may adversely affect the value of the Series A Preferred Stock.

One of the factors that influence the price of the Series A Preferred Stock is the distribution yield on the Series A Preferred Stock (as a percentage of the price of the Series A Preferred Stock) relative to market interest rates. An increase in market interest rates, which are currently at low levels relative to historical rates, may lead prospective purchasers of shares of Series A Preferred Stock to expect a higher distribution yield, and higher interest rates would likely increase our borrowing costs and potentially decrease funds available for distribution. Accordingly, higher market interest rates could cause the market price of the Series A Preferred Stock to decrease.

The limited conversion right upon a change of control may make it more difficult for a party to acquire us or discourage a party from acquiring us.

The limited conversion rights upon a change of control as provided in the Certificate of Designations may have the effect of discouraging a third party from making an acquisition proposal for us or of delaying, deferring or preventing certain change of control transactions under circumstances that otherwise could provide the holders of our Series A Preferred Stock with the opportunity to realize a premium over the then-current market price of such equity securities or that stockholders may otherwise believe is in their best interests.

If we are unable to redeem the Series A Preferred Stock on or after April 15, 2022, a substantial increase in the Three-Month LIBOR Rate could negatively impact our ability to pay dividends on the Series A Preferred Stock.

If we do not repurchase or redeem our Series A Preferred Stock on or after April 15, 2022, a substantial increase in the Three-Month LIBOR Rate could negatively impact our ability to pay distributions on such stock. We cannot assure you that we will have adequate sources of capital to repurchase or redeem the Series A Preferred Stock on or after April 15, 2022. If we are unable to repurchase or redeem the Series A Preferred Stock and our ability to pay dividends on the Series A Preferred Stock is negatively impacted, the market value of the Series A Preferred Stock could be materially adversely impacted.

We may not have sufficient earnings and profits in order for dividends on the Series A Preferred Stock to be treated as dividends for U.S. federal income tax purposes.

The dividends payable by us on the Series A Preferred Stock may exceed our current and accumulated earnings and profits, as calculated for U.S. federal income tax purposes. If that occurs, it will result in the amount of the dividends that exceed such earnings and profits being treated for U.S. federal income tax purposes first as a return of capital to the extent of the beneficial owner's adjusted tax basis in the Series A Preferred Stock, and the excess, if any, over such adjusted tax basis as capital gain. Such treatment will generally be unfavorable for corporate beneficial owners and may also be unfavorable to certain other beneficial owners.

You may be subject to tax if we make or fail to make certain adjustments to the conversion rate of the Series A Preferred Stock even though you do not receive a corresponding cash distribution.

The conversion rate for the Series A Preferred Stock as provided in the Certificate of Designations is subject to adjustment in certain circumstances. A failure to adjust (or to adjust adequately) the conversion rate after an event that increases your proportionate interest in us could be treated as a deemed taxable dividend to you. If you are a non-U.S. holder (as defined in "Material U.S. federal income tax considerations"), any deemed dividend may be subject to U.S. federal withholding tax at a 30% rate, or such lower rate as may be specified by an applicable treaty, which may be set off against subsequent payments on the Series A Preferred Stock. In April 2016, the Internal Revenue Service issued new proposed income tax regulations in regard to the taxability of changes in conversion rights that will apply to the Series A Preferred Stock when published in final form and may be applied to us before final publication in certain instances.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

Verde Membership Interest and Stock Purchase Agreement

On May 5, 2017, the Company and CenStar Energy Corp., a New York corporation ("CenStar") entered into a Membership Interest and Stock Purchase Agreement (the "Verde Purchase Agreement") with Verde Energy USA Holdings, LLC (the "Seller"), as a seller of all interests in and to the companies listed therein (the "Verde Companies"). Pursuant to the terms of the Verde Purchase Agreement, CenStar has agreed to purchase, and the Seller has agreed to sell, all of the outstanding membership interests and stock in the Verde Companies. The Company acts as a guarantor of CenStar's obligations under the Verde Purchase Agreement. The transactions under the Verde Purchase Agreement are expected to close on or before August 31, 2017, subject to the satisfaction of customary closing conditions, and subject to extension.

The aggregate purchase price, subject to adjustment as provided in the Verde Purchase Agreement, is approximately $65 million, plus working capital and potential earnout payments. Spark will pay cash of $45.0 million at closing and installment payments totaling $20 million over 18 months, a portion of which will be paid into an escrow account to satisfy any claims by CenStar over the 18 months subsequent to closing. Additionally, CenStar will pay 100% of the Adjusted EBITDA earned by the Verde Companies for the 18 months after closing that exceeds certain thresholds, subject to the Verde Companies' ability to achieve defined customer count criteria over the 18 months subsequent to closing.

CenStar and the Seller have made customary representations, warranties and covenants in the Verde Purchase Agreement. The Seller has made certain additional customary covenants, including, among others, covenants to conduct the Verde Companies' business in the ordinary course between the execution of the Verde Purchase Agreement and the closing and not to engage in certain kinds of transactions during that period, subject to certain exceptions.

Consummation of the transactions contemplated by the Verde Purchase Agreement is subject to various conditions, including, among others, (1) the accuracy of representations and warranties of the parties as of the closing date, including the absence of any seller material adverse effect, (2) receipt of all required approvals, (3) the negotiation and execution of certain ancillary documents and (4) other customary closing conditions. The Verde Purchase Agreement also contains termination provisions and indemnification provisions.

The Verde Purchase Agreement has been filed as an exhibit to this quarterly report on Form 10-Q to provide investors and security holders with more complete information regarding its terms, and the description herein is qualified by reference to the full text of the Verde Purchase Agreement. The Verde Purchase Agreement is not intended to provide any other factual information about CenStar or the Company. The representations, warranties and covenants contained in the Verde Purchase Agreement were made only for purposes of the Verde Purchase Agreement and as of specific dates, were solely for the benefit of the parties to the respective agreements, and may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures exchanged between the parties in connection with the execution of the Verde Purchase Agreement. The representations and warranties may have been made for the purposes of allocating contractual risk between the parties 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 Verde Purchase 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 Company, CenStar or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Verde Purchase Agreement, which subsequent information may or may not be fully reflected in the public disclosures of the Company.

Item 6. Exhibits

Exhibit	Exhibit Description	Incorporated by Reference			
		Form	Exhibit Number	Filing Date	SEC File No.
2.1#	Membership Interest Purchase Agreement, by and among Spark Energy, Inc., Spark HoldCo, LLC, Provider Power, LLC, Kevin B. Dean and Emile L. Clavet, dated as of May 3, 2016.	10-Q	2.1	5/5/2016	001-36559
2.2#	Membership Interest Purchase Agreement, by and among Spark Energy, Inc., Spark HoldCo, LLC, Retailco, LLC and National Gas & Electric, LLC, dated as of May 3, 2016.	10-Q	2.2	5/5/2016	001-36559
2.3#	Amendment No. 1 to the Membership Interest Purchase Agreement, dated as of July 26, 2016, by and among Spark Energy, Inc., Spark HoldCo, LLC, Provider Power, LLC, Kevin B. Dean and Emile L. Clavet.	8-K	2.1	8/1/2016	001-36559
2.4*#	Membership Interest and Stock Purchase Agreement, by and among Spark Energy, Inc., CenStar Energy Corp. and Verde Energy USA Holdings, LLC, dated as of May 5, 2017.				
3.1	Amended and Restated Certificate of Incorporation of Spark Energy, Inc.	8-K	3.1	8/4/2014	001-36559
3.2	Amended and Restated Bylaws of Spark Energy, Inc.	8-K	3.2	8/4/2014	001-36559
3.3	Certificate of Designations of Rights and Preferences of 8.75% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock	8-A	5	3/11/2017	001-36559
4.1	Class A Common Stock Certificate	S-1	4.1	6/30/2014	333-196375
10.1*	Spark HoldCo. Third Amended and Restated Limited Liability Agreement, dated as of March 15, 2017, by and among Spark Energy, Inc., Retailco, LLC and NuDevco Retail, LLC.				
31.1*	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934.				
31.2*	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934.				
32**	Certifications pursuant to 18 U.S.C. Section 1350.				
101.INS*	XBRL Instance Document.				
101.SCH*	XBRL Schema Document.				
101.CAL*	XBRL Calculation Document.				
101.LAB*	XBRL Labels Linkbase Document.				
101.PRE*	XBRL Presentation Linkbase Document.				
101.DEF*	XBRL Definition Linkbase Document.				

* Filed herewith

** Furnished herewith

The registrant agrees to furnish supplementally a copy of any omitted schedule to the Commission upon request

† Compensatory plan or arrangement or managerial contract

APPENDIX A

CFTC. The Commodity Futures Trading Commission.

ERCOT . The Electric Reliability Council of Texas, the independent system operator and the regional coordinator of various electricity systems within Texas.

FERC. The Federal Energy Regulatory Commission, a regulatory body that regulates, among other things, the transmission and wholesale sale of electricity and the transportation of natural gas by interstate pipelines in the United States.

ISO. An independent system operator. An ISO manages and controls transmission infrastructure in a particular region.

MMBtu. One million British Thermal Units, a standard unit of heating equivalent measure for natural gas. A unit of heat equal to 1,000,000 Btus, or 1 MMBtu, is the thermal equivalent of approximately 1,000 cubic feet of natural gas.

MWh. One megawatt hour, a unit of electricity equal to 1,000 kilowatt hours (kWh), or the amount of energy equal to one megawatt of constant power expended for one hour of time.

Non-POR Market. A non-purchase of accounts receivable market.

NYPSC. Public Service Commission of the State of New York.

POR Market. A purchase of accounts receivable market.

RCE. A residential customer equivalent, refers to a natural gas customer with a standard consumption of 100 MMBtus per year or an electricity customer with a standard consumption of 10 MWhs per year.

REP . A retail electricity provider.

RTO. A regional transmission organization. A RTO, similar to an ISO, is a third party entity that manages transmission infrastructure in a particular region.

SIGNATURES

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

Spark Energy, Inc.

May 8, 2017

/s/ Robert Lane

Robert Lane

Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)

Execution Version

MEMBERSHIP INTEREST AND STOCK PURCHASE AGREEMENT

BY AND AMONG

CENSTAR ENERGY CORP., AS BUYER,

SPARK ENERGY, INC., AS GUARANTOR

AND

VERDE ENERGY USA HOLDINGS, LLC, AS SELLER OF ALL INTERESTS IN:

VERDE ENERGY USA, INC.;
VERDE ENERGY USA COMMODITIES, LLC;
VERDE ENERGY USA CONNECTICUT, LLC;
VERDE ENERGY USA DC, LLC;
VERDE ENERGY USA ILLINOIS, LLC;
VERDE ENERGY USA MARYLAND, LLC;
VERDE ENERGY USA MASSACHUSETTS, LLC;
VERDE ENERGY USA NEW JERSEY, LLC;
VERDE ENERGY USA NEW YORK, LLC;
VERDE ENERGY USA OHIO, LLC;
VERDE ENERGY USA PENNSYLVANIA, LLC;
VERDE ENERGY USA TEXAS HOLDINGS, LLC;
VERDE ENERGY USA TRADING, LLC; AND
VERDE ENERGY SOLUTIONS, LLC.

May 5, 2017

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Schedules

MEMBERSHIP INTEREST AND STOCK PURCHASE AGREEMENT

This **MEMBERSHIP INTEREST AND STOCK PURCHASE AGREEMENT** (this " ***Agreement*** "), dated as of May 5, 2017 (the " ***Execution Date*** "), is entered into by and among CenStar Energy Corp., a New York corporation (" ***Buyer*** "), Spark Energy, Inc., a Delaware corporation, as Guarantor (" ***Guarantor*** ") and Verde Energy USA Holdings, LLC, a Delaware limited liability company (" ***Seller*** "), as the direct owner of all Interests in and to: Verde Energy USA, Inc., a Delaware corporation (" ***Verde Inc.*** "); Verde Energy USA Commodities, LLC (" ***Verde Commodities*** "); Verde Energy USA Connecticut, LLC (" ***Verde Connecticut*** "); Verde Energy USA DC, LLC (" ***Verde DC*** "); Verde Energy USA Illinois, LLC (" ***Verde Illinois*** "); Verde Energy USA Maryland, LLC (" ***Verde Maryland*** "); Verde Energy USA Massachusetts, LLC (" ***Verde Massachusetts*** "); Verde Energy USA New Jersey, LLC (" ***Verde New Jersey*** "); Verde Energy USA New York, LLC (" ***Verde New York*** "); Verde Energy USA Ohio, LLC (" ***Verde Ohio*** "); Verde Energy USA Pennsylvania, LLC (" ***Verde Pennsylvania*** "); Verde Energy USA Texas Holdings, LLC (" ***Verde Texas Holdings*** "); Verde Energy USA Trading, LLC (" ***Verde Trading*** "); and Verde Energy Solutions, LLC (" ***Energy Solutions*** " and, together with Verde Inc., Verde Commodities, Verde Connecticut, Verde DC, Verde Illinois, Verde Maryland, Verde Massachusetts, Verde New Jersey, Verde New York, Verde Pennsylvania, Verde Texas Holdings and Verde Trading, the " ***Direct Subsidiaries*** " and each a " ***Direct Subsidiary*** "). Seller is also the indirect owner of all Interests in and to Verde Energy USA Texas, LLC (fka Potentia Energy, LLC) (" ***Verde Texas*** "), a Subsidiary of Verde Texas Holdings. Verde Texas and the Direct Subsidiaries are referred to individually as a " ***Company*** " and, collectively, the " ***Companies*** ," and each of Seller and Buyer are referred to as a " ***Party*** " and, together, the " ***Parties*** ").

R E C I T A L S

WHEREAS, Seller directly or indirectly owns all of the issued and outstanding Interests of the Companies, which constitute all of the issued and outstanding Interests of each of the Companies; and

WHEREAS, upon the Closing, Seller will sell, transfer, assign and convey to Buyer all of the outstanding Interests in the Direct Subsidiaries, and through such transaction, all of its Interests in the Companies (the " ***Company Interests*** "), in exchange for the consideration and on the terms and conditions set forth in this Agreement.

A G R E E M E N T S

NOW, THEREFORE, in consideration of the representations, warranties, agreements and covenants contained in this Agreement, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties undertake and agree as follows:

Article I
DEFINITIONS AND INTERPRETATIONS

1.1 ***Definitions*** . Capitalized terms used in this Agreement but not defined in the body of this Agreement shall have the meanings ascribed to them in Exhibit A .

1.2 ***Interpretations*** . In this Agreement, unless a clear contrary intention appears: (a) the singular includes the plural and vice versa; (b) reference to a Person includes such Person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity; (c) reference to any gender includes each other gender; (d) references to any Exhibit, Schedule, Section, Article, Annex, subsection and other subdivision refer to the corresponding Exhibits, Schedules, Sections, Articles, Annexes, subsections and other subdivisions of this Agreement unless expressly provided otherwise; (e) references in any Section or Article or definition to any clause means such clause of such Section, Article or definition; (f) "hereunder," "hereof," "hereto" and words of similar import are references to this Agreement as a whole and not to any particular provision of this Agreement; (g) the word "or" is not exclusive, and the word "including" (in its various forms) means "including without limitation"; (h) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP; (i) references to "days" are to calendar days, and when calculating the period of time before which, within which or following which any act is to be done or any step is to be taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded, and, if the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day; and (j) all references to money refer to the lawful currency of the United States. The Table of Contents and the Article and Section titles (and the titles of other subdivisions of this Agreement) and headings in this Agreement are inserted for convenience of reference only and are not intended to be a part of, or to affect the meaning or interpretation of this Agreement.

ARTICLE II
TRANSFER OF COMPANIES

2.1 ***Transfer of Membership Interest and Common Stock in Direct Subsidiaries*** . At the Closing, on the terms and subject to the conditions of this Agreement, (a) Seller shall transfer, convey, assign and deliver to Buyer all of its right, title and interest in and to the Direct Subsidiaries, constituting all outstanding Interests in the Direct Subsidiaries, free and clear of all Liens (other than Permitted Liens), in exchange for the consideration set forth in Section 2.2 , as adjusted in accordance with this Agreement, and (b) Buyer shall purchase all outstanding Interests in the Direct Subsidiaries from Seller. As of the Closing Date, the Company Interests shall be free and clear of all Liens (other than Permitted Liens) or other Indebtedness, other than trade payables incurred in the ordinary course of business that are not past due for more than thirty (30) days, which trade payables will be included in determining the Estimated Working Capital and the Closing Date Working Capital.

2.2 ***Consideration for the Company Interests Transfer*** . In consideration for the transfer of all outstanding Company Interests as provided in Section 2.1 , Buyer shall pay to Seller total aggregate consideration of: (1) Forty-Five Million and No/100s Dollars ($45,000,000.00) (such amount, the " ***Cash Consideration*** ") plus (2) Closing Date Working Capital (as defined below), (3) plus a promissory note in the principal amount of Twenty Million and No/100s Dollars ($20,000,000.00) in the form attached hereto as Exhibit B (the " ***Buyer Note*** "), plus (4) the Earnout Payments, if any, as provided in Section 2.6 .

2.3 ***Consideration to be Delivered at Closing*** . Buyer shall deliver the following consideration at Closing:

(a) an amount equal to the Cash Consideration *plus* positive Estimated Working Capital or *less* negative Estimated Working Capital (each as calculated in accordance with this Agreement), by wire transfer to an account designated by Seller in writing prior to the Closing; and

(b) the Buyer Note.

2.4 ***Working Capital Adjustment*** .

(a) At least five (5) Business Days prior to Closing, Seller shall deliver to Buyer the Estimated Closing Statement setting forth Seller's good faith estimate of the Working Capital of the Companies that will exist as of the Closing Date (the " ***Estimated Working Capital*** "), which Estimated Working Capital will be calculated in accordance with this Agreement and with GAAP and in the same manner as the Example Calculation of Working Capital in Schedule 2.4(a) . Seller shall make available to Buyer and its Representatives, as reasonably requested by Buyer, all Records and

other documents used by Seller in preparing the Estimated Closing Statement and personnel of Seller and/or the Companies responsible for preparing or maintaining such Records and documents. Seller and Buyer shall meet prior to Closing to resolve any differences concerning the Estimated Working Capital.

(b) The Estimated Working Capital, if positive, shall be added to the Cash Consideration and paid at Closing in accordance with Section 2.3(a) . If the final Estimated Working Capital is negative, such amount will be deducted from the Cash Consideration as set forth in Section 2.3(a) .

2.5 ***Post-Closing Adjustment*** .

(a) As soon as reasonably practicable, but in no event later then one hundred and twenty (120) days after the Closing Date, Buyer will deliver to Seller a preliminary closing statement (the " ***Preliminary Closing Statement*** ") setting forth Buyer's good faith estimate of the Working Capital of the Companies, together with supporting records as of the Closing Date (the " ***Closing Date Working Capital*** "). This calculation shall be prepared in accordance with GAAP and in the same manner as the statement of Estimated Working Capital that was used for purposes of the Closing pursuant to Section 2.4 and the Example Calculation of Working Capital set forth on in Schedule 2.4(a) and shall be updated to reflect receipts, disbursements and other activity based on the Records, data and information received subsequent to the Closing Date covering the period prior to the Closing Date. Buyer will make available to the Seller and its Representatives, as reasonably requested by Seller, all Records and other documents used by Buyer in preparing the Preliminary Closing Statement and personnel of Buyer responsible for preparing or maintaining such Records and documents.

(b) As soon as reasonably practicable, but in no event later than thirty (30) days after the Seller receives the Preliminary Closing Statement (the " ***Objection Period*** "), the Seller shall deliver to Buyer a written report containing all changes (if any) that the Seller proposes to be made to such Preliminary Closing Statement (the " ***Objection Notice*** "). Such changes shall be specified in reasonable detail with reasonable supporting documentation, if applicable, and include Seller's calculation of the Closing Date Working Capital. All items on the Preliminary Closing Statement for which Seller does not propose changes in the Objection Notice shall be deemed to be final and binding on the Parties. If the Seller fails to deliver to Buyer the Objection Notice within the Objection Period, the Preliminary Closing Statement as delivered by Buyer will be deemed to be final and binding on the Parties.

(c) As soon as reasonably practicable, but in no event later than fifteen (15) days after Buyer receives the Objection Notice, the senior management of Buyer and Seller shall meet and undertake to agree on the final adjustments to the Preliminary Closing Statement and, specifically, the Closing Date Working Capital. If the Buyer and Seller fail to agree on the final adjustments within fifteen (15) days after Buyer's receipt of the Objection Notice, the Buyer or the Seller may submit the disputed items to the Independent Accountant for resolution. The Buyer and Seller shall direct the Independent Accountant to resolve the disputes within thirty (30) days after the relevant materials are submitted for review. Buyer and Seller shall each be entitled to submit supporting arguments and work papers to the Independent Accountant in support of their respective positions. The Independent Accountant shall consider only those items or amounts in the Preliminary Closing Statement as to which Seller proposed changes in the Objection Notice and that remain in dispute between the Buyer and Seller, shall render its decision based solely on written materials submitted by the Buyer and Seller and the terms of this Agreement, and shall not assign a value to any item greater than the greatest value for such item claimed by the Buyer or Seller or less than the smallest value for such item claimed by the Buyer or Seller. The Independent Accountant shall have exclusive jurisdiction over, and resort to the Independent Accountant as provided in this Section 2.5(c) shall be the sole recourse and remedy of the Parties against one another or any other Person with respect to, any disputes arising out of or relating to the Preliminary Closing Statement. The decisions of the Independent Accountant regarding the Preliminary Closing Statement and the Closing Date Working Capital will be binding on and non-appealable by the Parties, absent manifest error, and shall be enforceable in a court of law. The fees and disbursements of the Independent Accountant shall be allocated between Buyer and Seller in the same proportion that the aggregate amount of unsuccessfully disputed items submitted by each such Party (as finally determined by the Independent Accountant) bears to the total amount of disputed items so submitted.

(d) The Preliminary Closing Statement shall become final and binding on the Buyer and Seller with respect to the determination of the Closing Date Working Capital upon the earliest of (i) written acceptance by Seller

of Buyer's Preliminary Closing Statement, (ii) if no Objection Notice has been given within the Objection Period and Seller has not provided written notice of acceptance, the expiration of the Objection Period, (iii) if an Objection Notice has been given during the Objection Period, upon the agreement by the Buyer and Seller that such Preliminary Closing Statement, together with any modifications thereto agreed to in writing by the Buyer and Seller, is final and binding and (iv) if an Objection Notice has been given but there is no agreement between the Buyer and Seller regarding Seller's proposed changes, the date on which the Independent Accountant issues a valid decision with respect to any dispute referred to the Independent Accountant in accordance with Section 2.5(c) , giving effect to any items reflected in the Objection Notice as to which the Buyer and Seller were able to reach agreement prior to such referral. The Preliminary Closing Statement, as adjusted, if applicable, pursuant to any agreement between the Buyer and Seller or pursuant to the decision of the Independent Accountant, when final and binding with respect to the determination of the Closing Date Working Capital, is herein referred to as the " ***Final Closing Statement*** ."

(e) If the Final Closing Statement indicates that the Closing Date Working Capital is less than the Estimated Working Capital (such amount, a " ***Final Deficiency*** "), Seller shall pay the amount of the Final Deficiency to Buyer within five (5) Business Days after the determination of the Final Closing Statement by wire transfer of immediately available funds to a bank account designated in writing by Buyer; provided , that: (i) Seller, in its sole discretion, may satisfy its obligation under this Section 2.5(e) to pay the Final Deficiency, or any portion thereof, by directing Buyer in writing to reduce the principal and interest amount of the Buyer Note by such amount, and (ii) to the extent Seller fails to either pay the Final Deficiency or direct Buyer in writing to reduce the principal and interest amount of the Buyer Note by such amount, Buyer, in its sole discretion, may elect to reduce the principal and interest amount of the Buyer Note by such amount in satisfaction of Seller's obligation to pay the Final Deficiency, or any portion thereof, under this Section 2.5(e) , or withhold and offset the Final Deficiency from any Earnout Payment as provided in Section 2.6(i) . Any reduction of principal or interest of the Buyer Note pursuant to this Section 2.5(e) shall be made first to accrued and unpaid interest and then to principal of the Buyer Note.

(f) If the Final Closing Statement indicates that the Closing Date Working Capital is greater than the Estimated Working Capital (such amount, a " ***Final Surplus*** "), Buyer shall pay the Final Surplus to the Seller within five (5) Business Days after the determination of the Final Closing Statement by wire transfer of immediately available funds to a bank account designated in writing by Seller.

2.6 ***Earnout*** .

(a) As additional consideration for the Companies, and at such times as provided in Section 2.6(f) , Buyer shall pay to Seller the following amounts, if any (the " ***Earnout Payments*** "): (i) an amount equal to one hundred percent (100%) of Adjusted EBITDA in excess of Fourteen Million and No/100s Dollars ($14,000,000.00) of the Companies for the twelve full calendar months following Closing (the " ***First Earnout Period*** "), and (ii) an amount equal to one hundred percent (100%) of Adjusted EBITDA in excess of Six Million and No/100s Dollars ($6,000,000.00) of the Companies for the six full calendar months following the First Earnout Period (the " ***Second Earnout Period*** " and, together with the First Earnout Period, the " ***Earnout Periods*** " and each, an " ***Earnout Period*** "). Each of the Earnout Payments will be calculated in accordance with this Agreement and in the same manner as the Example Calculation of the Earnout Payment in Schedule 2.6(a) . To the extent that the Companies' actual RCE count falls below 160,000 RCEs as of the last day of the First Earnout Period, the amount of the Earnout Payment for the First Earnout Period shall be reduced by the product of: (i) $110, and (ii) the difference between (a) 160,000 and (b) the actual RCE count as of the last day of the First Earnout Period. To the extent that the Companies' actual RCE count as of the last day of the Second Earnout Period falls below the lesser of (x) the number equal to the actual RCE count as of the last day of the First Earnout Period, plus 10,000 and (y) 170,000 (the " ***Second Earnout Period Target*** "), the amount of the Earnout Payment for the Second Earnout Period shall be reduced by the product of: (i) $110, and (ii) the difference between (a) the Second Earnout Period Target and (b) the actual RCE count as of the last day of the Second Earnout Period.

(b) Within ninety (90) days after the end of each Earnout Period, Buyer will deliver to the Seller a preliminary calculation statement (the " ***Earnout Calculation Statement*** ") setting forth Buyer's good faith estimate of the Earnout Payment, together with supporting records. Buyer will make available to the Seller and its Representatives, as reasonably requested by Seller, all Records and other documents used by Buyer in preparing the Earnout Calculation Statement as well as the personnel that prepared the statement. Buyer will prepare and provide to Seller within sixty

(60) days after (i) the end of each of the three (3) three-month periods after the Closing, and (ii) the first three-month period during the Second Earnout Period, a quarterly earnout calculation statement (a " ***Quarterly Earnout Calculation Statement*** ") showing the calculation of Adjusted EBITDA for that three-month period using the same methodology as would be used to calculate the Earnout Calculation Statement pursuant to this Section 2.6(b) . Buyer shall make available to Seller and its Representatives all Records and other documents used by Buyer in preparing each Quarterly Earnout Calculation Statement as well as the personnel that prepared the statement.

(c) Within forty-five (45) days after Seller receives an Earnout Calculation Statement (the " ***Earnout Objection Period*** "), Seller shall deliver to Buyer a written report containing all changes (if any) that Seller proposes to be made to such Earnout Calculation Statement (an " ***Earnout Objection Notice*** "). Such changes shall be specified in reasonable detail with reasonable supporting documentation, if applicable, and include Seller's calculation of the Earnout Payment. All items on the Earnout Calculation Statement for which Seller does not propose changes in the Earnout Objection Notice shall be deemed to be final and binding on the Parties. If Seller fails to deliver to Buyer the Earnout Objection Notice within the Earnout Objection Period, the Earnout Calculation Statement as delivered by Buyer will be deemed to be final and binding on the Parties.

(d) Within fifteen (15) days after Buyer receives an Earnout Objection Notice, the senior management of Buyer and Seller shall meet and undertake to agree on the final Earnout Payment. If the Buyer and Seller fail to agree on the final Earnout Payment to which the Earnout Objection Notice relates within the fifteen (15) day period after Buyer's receipt of such Earnout Objection Notice, the Buyer or Seller may submit the disputed items to the Independent Accountant for resolution. The Buyer and Seller shall direct the Independent Accountant to resolve the disputes within thirty (30) days after the relevant materials are submitted for review. Buyer and Seller shall each be entitled to submit supporting arguments and work papers to the Independent Accountant in support of their respective positions. The Independent Accountant shall consider only those items or amounts in the Earnout Calculation Statement as to which Seller proposed changes in the Earnout Objection Notice and that remain in dispute between the Buyer and Seller, shall render its decision based solely on written materials submitted by the Buyer and Seller and the terms of this Agreement and shall not assign a value to any item greater than the greatest value for such item claimed by the Buyer and Seller or less than the smallest value for such item claimed by the Buyer and Seller. The Independent Accountant shall have exclusive jurisdiction over, and resort to the Independent Accountant as provided in this Section 2.6(d) shall be the sole recourse and remedy of the Parties against one another or any other Person with respect to, any disputes arising out of or relating to the Earnout Calculation Statement. Absent manifest error, the decisions of the Independent Accountant regarding the Earnout Calculation Statement and the Earnout Payment will be binding on and non-appealable by the Parties, and shall be enforceable in a court of law. The fees and disbursements of the Independent Accountant shall be allocated between Buyer and Seller in the same proportion that the aggregate amount of unsuccessfully disputed items submitted by each such Party (as finally determined by the Independent Accountant) bears to the total amount of disputed items so submitted.

(e) Each Earnout Calculation Statement shall become final and binding on the Buyer and Seller with respect to the determination of the Earnout Payment upon the earliest of (i) written acceptance by Seller, (ii) if no Earnout Objection Notice has been given within the Earnout Objection Period and Seller has not provide written acceptance, the expiration of the Earnout Objection Period, (iii) if an Earnout Objection Notice has been given during the Earnout Objection Period, upon the agreement by the Buyer and Seller that such Earnout Calculation Statement, together with any modifications thereto agreed to in writing by the Buyer and Seller, is final and binding and (iv) if an Earnout Objection Notice has been given but there is no agreement between the Buyer and Seller regarding Seller's proposed changes, the date on which the Independent Accountant issues its decision with respect to any dispute referred to the Independent Accountant pursuant to Section 2.6(d) , giving effect to any items reflected in the Earnout Objection Notice as to which the Buyer and Seller were able to reach agreement prior to such referral.

(f) Subject to Section 2.6(i) , any Earnout Payment that Buyer is required to pay shall be paid in full no later than five (5) days following (i) with respect to any portion of the Earnout Payment that is not disputed, the expiration of the Earnout Objection Period, and (ii) with respect to any portion of the Earnout Payment that is disputed, the date upon which the Earnout Calculation Statement becomes final and binding upon the Buyer and Seller as provided in Section 2.6(e) , and Buyer shall make all payments with respect to the Earnout Payment to Seller in cash by wire transfer of immediately available funds to the bank account designated by Seller. Subject to Section 2.6(i) , if the Earnout

Payment is not paid in full within three (3) Business Days after the date when it is due and payable hereunder, the full amount of the Earnout Payment shall bear interest at the Default Rate from such due date until the payment in full of the Earnout Payment and all accrued interest.

(g) Except with respect to energy supply and certain finance and treasury functions which shall be provided by Buyer, following Closing Buyer shall (i) operate the Verde Business as a separate, standalone entity, in the ordinary course and in such manner as to not commingle any other business, operations or liabilities, except as may be approved in advance by Seller in writing; (ii) provide prompt access to capital reasonably necessary for Buyer's operation of the Verde Business as had been required in the ordinary course of business prior to the Closing; (iii) use Reasonable Efforts to maintain true, complete, accurate and separate accounting records (from the Buyer and its other Affiliates) in order to accurately calculate Adjusted EBITDA for purposes of this Section 2.6 ; (iv) provide the current members of the senior management of the Verde Parties (the " ***Verde Parties' Senior Management*** ") with the authority to manage the ordinary course business and affairs of the Companies, including the general authority to make all material decisions pertaining to the ordinary course of the operation of the Companies (which ordinary course operation shall not include, among other actions, (x) material changes in the strategic direction of the Companies, including entry into new markets or sales channels or decisions that would reasonably be expected to materially and negatively impact, or materially and negatively impact the perception of, the renewable, sustainable or "green" nature of the Companies' products, (y) acquisitions or dispositions of material assets outside the ordinary course of business; or (z) launch door-to-door or telemarketing campaigns with new vendors); (v) consult with Seller prior to taking any material action over which the Verde Parties' Senior Management would not have authority pursuant to clause (iv); (vi) maintain in place, and operate the Companies in accordance with, the risk policies currently in effect for the Companies as specified in the Risk Policy and Risk Process & Procedure Guidelines pursuant to which the Companies operate under the Energy Supply Agreements as such policy and guidelines are in effect as of the date of this Agreement (the " ***Seller Risk Policies*** "); (vii) refrain from taking actions, the primary purpose of which is to, or are intended to, diminish the amount of the Earnout Payment, including postponing to any periods following the Earnout Period any revenues that would otherwise be expected to occur during the Earnout Period or accelerating to any periods prior to the expiration of the Earnout Period any costs or expenses that would otherwise be expected to occur, or that otherwise relate to the period, after the expiration of the Earnout Period; and (viii) consult with Seller prior to taking any action that would reasonably be expected to materially diminish the amount of the Earnout Payment. The Parties will use good faith efforts to agree on the treatment of non-ordinary course acquisitions of new business into the Verde Business during the Earnout Periods. Buyer will operate the Companies consistent with the Integration Framework set forth in Schedule 2.6(g) of the Company Disclosure Schedules, as such framework may be modified by additional discussions between the Parties from the date of this Agreement to the Closing. For the avoidance of doubt, the Buyer's accounting system will become the system of record for financial and internal reporting, accounts payable and treasury and invoice approval and payment; and Buyer shall control all bank accounts and payments. In all other respects, Buyer shall have sole discretion with regard to all matters relating to the operation of the Companies, and other than as provided above, Buyer has no obligation to operate the Companies in order to achieve or maximize any Earnout Payment.

(h) At Buyer's request and subject to termination at Buyer's sole discretion, and for the period following the Closing until the end of the Earnout Periods, the Companies shall implement and manage on behalf of Buyer the lead generation opportunities described on Schedule 2.6(h) of the Company Disclosure Schedules and any other lead generation opportunities upon which Buyer and Seller shall mutually agree (" ***Lead Generation Opportunities*** "). Buyer shall credit the Companies Ten and No/100s Dollars ($10.00) for each new customer acquired by Buyer or its Affiliates who remains on flow for sixty (60) days through the Lead Generation Opportunities from the Closing until the end of the Earnout Periods for purposes of calculating Adjusted EBITDA for the Earnout Periods. During the Earnout Period, Buyer shall not pursue any of the Lead Generation Opportunities, or other lead generation vendors used by the Companies as of the date of this Agreement, through any of its Affiliates (other than the Companies) without the prior consent of the Seller, which consent will not be unreasonably withheld.

(i) Buyer shall have the right to withhold and set off against any amount otherwise due to be paid pursuant to this Section 2.6 the amount of (i) any Final Deficiency owed to it pursuant to Section 2.5(e) , (ii) any Losses for which Buyer is entitled to indemnity under Article X or Section 6.10 of this Agreement or any other Transaction Document and Indemnified Litigation Claims and Tax Claims, and (iii) Indeterminate Loss Amounts. Seller shall have the right to name a replacement for any member of the Verde Parties' Senior Management whose position is vacated

prior to the end of the Earnout period, subject to the consent of Buyer, which consent may not be unreasonably withheld, conditioned or delayed.

2.7 ***Escrow.***

(a) As provided in the Buyer Note, Buyer shall deposit the Escrow Amount to be held in an escrow account (the " ***Escrow Account*** ") held by Compass Bank (BBVA) N.A., as escrow agent (the " ***Escrow Agent*** ") on behalf of Buyer and Seller in accordance with the escrow agreement attached hereto as Exhibit C (the " ***Escrow Agreement*** "). The Escrow Amount shall serve as security for the Seller's payment of any claims for indemnification under Section 6.10 (the " ***Tax Claims*** ") and any Indemnified Litigation Claims under Section 10.1(d) .

(b) Subject to the terms and conditions of the Escrow Agreement, the Escrow Agent shall release the Escrow Amount as specified on Schedule 2.7 .

(c) Buyer shall have the option, in its sole discretion, upon notice to Seller, to offset any or all of its Losses for Indemnified Litigation Claims and Tax Claims, and Indeterminate Loss Amounts, against the unpaid principal of, and all accrued and unpaid interest under, the Buyer Note and/or any Earnout Payment on a dollar for dollar basis, provided that any such setoff under the Buyer Note shall be made first against accrued and unpaid interest and then against principal.

(d) If any Indemnified Litigation Claim or the Tax Claims are resolved or settled prior to the eighteen month anniversary of the Closing Date and the Buyer has been indemnified for all such Losses related to the resolved or settled matter or claim, or has offset the Buyer Note for all such Losses, Buyer shall not fund any additional payments under the Buyer Note into the Escrow Account related to such resolved or settled claim (as determined by reference to the portion of each payment into the Escrow Account for such settled claim or matter bears to the total payments into the Escrow Account), but only to the extent the balance in the Escrow Account would exceed the amount necessary for a full funding of the remaining matters and claims that have not been resolved and settled, and shall instead make that payment directly to the Seller pursuant to the terms of the Buyer Note.

2.8 ***Payoff of Indebtedness at Closing*** . Seller shall payoff all Indebtedness of the Companies outstanding at Closing (excluding indebtedness for current trade payables properly included in Estimated Working Capital). All outstanding Liens (excluding Permitted Liens) on the Companies or to which the Verde Assets and Company Interests are subject shall be released.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Seller Disclosure Schedules attached hereto, Seller hereby represents and warrants to Buyer as of the Execution Date and the Closing Date as follows:

3.1 ***Organization; Qualification*** . Seller is duly formed, validly existing and in good standing under the laws of its state of organization and has all necessary limited liability company power and authority to own and hold the properties and assets it now owns and holds and to carry on its business as and where such properties are now owned or held and such business is now conducted. Seller is duly licensed or qualified to do business as a limited liability company (either foreign or domestic) and is in good standing in the states in which the character of the properties and assets now owned or held by it or the nature of its business now conducted by it requires it to be so licensed or qualified, except where the failure to be so qualified or in good standing would not have a Seller Material Adverse Effect. Seller has made available to Buyer true and complete copies of its Organizational Documents as in effect on the Execution Date.

3.2 ***Authority; Enforceability*** .

(a) Seller has the requisite power and authority to execute and deliver the Transaction Documents to which it is, or will be, a party, to consummate the transactions contemplated thereby and to perform all the terms and conditions thereof to be performed by it. The execution and delivery by Seller of the Transaction Documents to which it is, or will be, a party, the consummation by Seller of the transactions contemplated thereby and the performance by Seller of all of the terms and conditions thereof to be performed by it have been duly and validly authorized by Seller (including by obtaining the approval of all of its members, managers, and shareholders, as required), and no other proceeding on the part of Seller is necessary to enter into the Transaction Documents to which it is, or will be, a party, to consummate the transactions contemplated by the Transaction Documents to which it is, or will be, a party or to perform all of the terms and conditions thereof to be performed by it.

(b) The Transaction Documents to which Seller is, or will be, a party have been (or will be, when executed and delivered at the Closing) duly executed and delivered by Seller, and, assuming the due authorization, execution and delivery by the other parties thereto, each Transaction Document to which Seller is, or will be, a party constitutes (or will constitute, when executed and delivered at the Closing) the valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws relating to or affecting creditors' rights generally and subject, as to enforceability, to legal principles of general applicability governing the availability of equitable remedies, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether such enforceability is considered in a proceeding in equity or at law) (collectively, " ***Creditors' Rights*** ").

3.3 ***Non-Contravention*** . Except as set forth on Schedule 3.3 of the Seller Disclosure Schedules, the execution, delivery and performance of the Transaction Documents to which Seller is, or will be, a party and the consummation by Seller of the transactions contemplated thereby do not and will not: (a) conflict with, or require the consent of any Person under, or result in any breach of, any provision of the Organizational Documents of Seller; (b) conflict with, or require the consent of any Person under, or constitute a default (or an Event that with the giving of notice or passage of time or both would give rise to a default) or cause any material obligation under, or give rise to any right of termination, cancellation, amendment, preferential purchase right or acceleration (with or without the giving of notice, or the passage of time or both) under any of the terms, conditions or provisions of, any Contract to which Seller is a party or by which any property or asset of Seller is bound or affected; (c) assuming compliance with the matters referred to in Section 3.4 , conflict with or violate any Law to which Seller is subject or by which any property or asset of Seller is bound; (d) constitute (with or without the giving of notice or the passage of time or both) an Event which would result in the creation of, or afford any Person the right to obtain, any Lien (other than Permitted Liens) on any asset of Seller or (e) result in the revocation, cancellation, suspension, or material modification, individually or in the aggregate, of any Contract or Governmental Approval that is necessary or desirable for the ownership, lease or operation of Seller as now conducted, except, in the cases of clauses (b), (c), (d) and (e), for such defaults or rights of termination, cancellation, amendment, acceleration, violations or Liens as would not reasonably be expected to have a Seller Material Adverse Effect or to prevent or materially delay the consummation of the transactions contemplated by the Transaction Documents to which Seller is, or will be, a party or to materially impair Seller's ability to perform its obligations under the Transaction Documents to which it is, or will be, a party.

3.4 ***Governmental Approvals*** . Except as set forth on Schedule 3.4 of the Seller Disclosure Schedules and for such filings as may be required under the HSR Act, no declaration, filing or registration with, or notice to, or authorization, consent or approval of, any Governmental Authority, is necessary for (i) the consummation by Seller of the transactions contemplated by the Transaction Documents to which it is, or will be, a party or (ii) the enforcement against Seller of its obligations under the Transaction Documents except in the cases of clauses (i) and (ii), other than such declarations, filings, registrations, notices, authorizations, consents or approvals that have been obtained or made or that would in the ordinary course be made or obtained after the Closing, or which, if not obtained or made, would not reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by the Transaction Documents to which Seller is, or will be, a party or to materially impair Seller's ability to perform its obligations under the Transaction Documents to which it is, or will be, a party.

3.5 ***Capitalization*** .

(a) The capitalization of Seller is set forth on Schedule 3.5(a) . All of the membership interests of the Seller are duly authorized and validly issued in accordance with its Organizational Documents, and are fully paid (to the extent required under the Organizational Documents of the Seller) and nonassessable and have not been issued in violation of any preemptive rights, rights of first refusal or other similar rights of any Person.

(b) Except as set forth on Schedule 3.5(b) , there are no preemptive rights, rights of first refusal or other outstanding rights, options, warrants, conversion rights, equity appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, subscription agreements, commitments or rights of any kind that obligate Seller to issue or sell any equity interests of Seller or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any equity interests in Seller, and no securities or obligations evidencing such rights are authorized, issued or outstanding.

(c) Seller does not have any outstanding bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for securities having the right to vote) with the holders of equity interests in Seller on any matter.

(d) Seller is not a party to any agreements, arrangements, or commitments obligating Seller to grant, deliver or sell, or cause to be granted, delivered or sold, any interest in Seller or any Company by sale, lease, license or otherwise, other than this Agreement.

(e) There are no voting trusts, proxies or other agreements or understandings to which Seller is bound with respect to the voting of the membership interests of Seller or the Company Interests.

(f) Other than the Company Interests, Seller owns no other equity or other ownership interest in any other Person or any assets used in the Verde Business.

3.6 ***Legal Proceedings*** . Except as set forth on Schedule 3.6 of the Seller Disclosure Schedules, there are no Proceedings pending or, to the Knowledge of Seller, threatened against or by the Seller that questions or involves the validity or enforceability of the obligations of Seller under this Agreement or the other Transaction Documents, or seeks to prevent or delay, or seeks damages in connection with, the consummation of the transactions contemplated by this Agreement.

3.7 ***Brokers' Fee*** . Except as set forth on Schedule 3.7 of the Seller Disclosure Schedules, neither Seller nor any of its Affiliates have entered (directly or indirectly) into any agreement with any broker, investment banker, financial advisor or other Person that would obligate Buyer or any of its Affiliates to pay any broker's, finder's, financial advisor's or other similar fee or commission in connection with this Agreement or the transactions contemplated herein.

3.8 ***Bankruptcy*** . There are no bankruptcy, reorganization or arrangement proceedings pending against, being contemplated by, or to the Knowledge of Seller, threatened against Seller.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANIES

Except as set forth in the Company Disclosure Schedules, Seller hereby represents and warrants to Buyer regarding the Companies as of the Execution Date and the Closing Date as follows:

4.1 ***Organization; Qualification*** . Each Company is a limited liability company or corporation, as applicable, duly formed, validly existing and in good standing under the laws of its state of formation or incorporation, as applicable. Each Company has full limited liability company or corporate power and authority to own and hold the properties and assets it now owns and holds and to carry on its business as and where such business is now conducted.

Each Company is duly licensed or qualified to do business as a foreign limited liability company or corporation, as applicable, and is in good standing in the states in which the character of the properties and assets now owned or held by it or the nature of the business now conducted by it requires it to be so licensed or qualified, except where the failure to be so qualified or in good standing would not have a Company Material Adverse Effect. Seller has made available to Buyer true and complete copies of the Organizational Documents of each Company as in effect on the Execution Date.

4.2 ***Capitalization*** .

(a) All of the Interests in the Direct Subsidiaries are owned directly by Seller, and all of the Interests in Verde Texas are owned directly by Verde Texas Holdings, in each case free and clear of all Liens other than transfer restrictions imposed by federal and state securities laws. No Person owns any Interest in the Companies, other than Seller and Verde Texas Holdings as described in the preceding sentence.

(b) The Company Interests directly or indirectly owned by the Seller are duly authorized and validly issued in accordance with the respective Organizational Documents of the Companies and are fully paid and nonassessable and have not been issued in violation of any preemptive rights, rights of first refusal or other similar rights of any Person.

(c) Except as set forth in the Organizational Documents of the Companies, there are no preemptive rights, rights of first refusal or other outstanding rights, options, warrants, conversion rights, equity appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, subscription agreements, commitments or rights of any kind that obligate any of the Companies to issue or sell any equity interests of any such party or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any equity interests in any of the Companies, and no securities or obligations evidencing such rights are authorized, issued or outstanding.

(d) No Company has any outstanding bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for securities having the right to vote) with the holders of equity interests in the Companies on any matter.

(e) There are no agreements, arrangements, or commitments obligating Seller or any of the Companies to grant, deliver or sell, or cause to be granted, delivered or sold, any Interest in any Company by sale, lease, license or otherwise, other than this Agreement.

(f) There are no voting trusts, proxies or other agreements or understandings to which Seller or any Company is bound with respect to the voting of the Interests of any Company.

(g) Other than the Interest in Verde Texas owned by Verde Texas Holdings, none of the Companies own, directly or indirectly, any equity, Interests, or long-term debt securities of any Person and do not own any Subsidiaries.

4.3 ***Financial Statements*** .

(a) Seller has made available to the Buyer (i) audited consolidated balance sheets of Seller as of December 31, 2015 and 2016 and the related audited income statements and statements of cash flows, for the twelve-month periods of operations of Seller, ending as of December 31, 2015 and 2016, together with the footnotes thereto, if any (the " ***Verde Audited Annual Financial Statements*** "); and (ii) unaudited consolidated balance sheets of Seller as of March 31, 2017 and 2016, and the related unaudited consolidated income statements and statements of cash flows, for the three-month periods of operations of Seller then ended, together with the footnotes thereto, if any (the " ***Verde Unaudited Interim Financial Statements*** " and, together with the Verde Audited Annual Financial Statements, the " ***Verde Financial Statements*** "). The Verde Financial Statements: (A) have been prepared in accordance with GAAP and (B) present fairly, in all material respects, the consolidated financial position and operating results, equity and cash flows of Seller as of, and for the periods ended on, the respective dates thereof, except that the unaudited statements of Seller included

in the Financial Statements are subject to customary year-end adjustments and do not include all of the notes thereto which may be required by GAAP.

(b) Neither Seller nor any Company has any liabilities, whether accrued, contingent, absolute, unliquidated or otherwise, whether due or to become due, or any unrealized or unanticipated loss, which was then or will be material to Seller and the Verde Assets and Verde Business and that would be required to be included in the Verde Financial Statements under GAAP (including the footnotes thereto) except for (i) liabilities accrued or reserved as set forth in the Verde Financial Statements and (ii) liabilities relating to the Verde Business that have arisen since March 31, 2017, in the ordinary course of business consistent with past practice.

4.4 ***Absence of Certain Changes*** . Except as set forth on Schedule 4.4 of the Company Disclosure Schedules or as expressly contemplated by this Agreement, since December 31, 2016, (a) the Companies have conducted their business in the ordinary course and in a manner consistent with past practice, (b) the Verde Assets have been operated or utilized in the ordinary course and in substantially the same manner consistent with past practices, (c) there has not been any Event, occurrence or development which would be reasonably expected to have a Company Material Adverse Effect, (d) there have been no changes or modifications to the organizational documents of either Seller or any Company, (e) neither of the Seller nor any Company has incurred any Indebtedness (other than pursuant to the Energy Supply Agreements), (f) neither of the Seller nor any Company has issued any equity other than pursuant to employee warrants, (g) neither of the Seller nor any Company has allowed to be placed any Liens (other than Permitted Liens) on the Verde Assets or any portion of the Verde Business (other than pursuant to the Shell Agreement), (h) there have been no changes in the accounting methods utilized by either of the Seller or any Company, (i) neither of the Seller nor any Company has made any loans to or capital investments in another Person or to any of its members or employees and (j) except in the ordinary course of business consistent with past practice, no bonuses have been paid or have been committed to be paid to any employees of either of the Seller or any Company.

4.5 ***Compliance with Law*** . Except as set forth on Schedule 4.5 and since December 31, 2013 (a) each of the Seller and each Company has complied, and is in material compliance, with Laws applicable to the conduct of the Verde Business as currently or previously conducted or the ownership or use of the Verde Assets, (b) none of the Seller nor any Company has received written notice from any Governmental Authority of any material violation of any Laws applicable to the conduct of the Verde Business as currently conducted or the ownership or use of the Verde Assets and (c) to the Knowledge of Seller, neither the Seller nor any Company is under investigation by any Governmental Authority for potential material non-compliance with any Law applicable to the conduct of the Verde Business as currently conducted or the ownership or use of the Verde Assets.

4.6 ***Legal Proceedings*** . Except as is set forth on Schedule 4.6 of the Company Disclosure Schedules there are no Proceedings pending or, to the Knowledge of Seller, threatened against or by any Company (a) relating to or affecting the Verde Business or Verde Assets or (b) that questions or involves the validity or enforceability of this Agreement or the Transaction Documents or seeks to prevent or delay, or seeks damages in connection with, the consummation of the transactions contemplated by this Agreement.

4.7 ***Assets*** .

(a) Seller has good and valid title to the Verde Assets which it purports to own free and clear of all Liens except (i) such as are set forth on Schedule 4.7 of the Company Disclosure Schedules that will be released in full at Closing or (ii) for Permitted Liens.

(b) All the Verde Assets have been maintained in accordance with generally accepted industry practice and are in reasonable repair and operating condition, ordinary wear and tear excepted.

(c) Except as set forth on Schedule 4.7 of the Company Disclosure Schedules, all of the assets, interests and other rights necessary to own the Verde Assets and conduct the operations of the Companies and carry on the Verde Business in the ordinary course and in substantially the same manner as currently being conducted and consistent with past practice, are owned or leased by the Companies.

4.8 ***Leases*** . Other than as set forth to the contrary on Schedule 4.8 of the Company Disclosure Schedules, the Companies have such office and other leases (the " ***Leases*** ") as are sufficient to operate the Verde Business as such business is being conducted on the Execution Date. Either the Seller or the Companies have fulfilled and performed all the material obligations with respect to Leases and, to the Knowledge of Seller, 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 Leases, except for such revocations, terminations and impairments that would not reasonably be expected to have a Company Material Adverse Effect. Neither the Seller nor any Company owns any interest in any real property.

4.9 ***Material Contracts*** .

(a) Except as set forth on Schedule 4.9 of the Company Disclosure Schedules, as of the Execution Date, none of the Seller nor any Company is a party to or bound by any Contract used in the Verde Business or included in the Verde Assets that:

(i) contains any change of control, acceleration obligation or other similar provision that would be triggered upon the sale, transfer or conveyance of the Companies, the Company Interests, Verde Business, Verde Assets or the transactions contemplated by this Agreement and the Transaction Documents;

(ii) contains any provision or covenant which materially restricts any of the Seller or any Company or any Affiliates thereof from engaging in any lawful business activity or competing with any Person or operate at any location, including any preferential rights, rights of first refusal or rights of first offer granted to third parties;

(iii) (A) relates to the creation, incurrence, assumption, or guarantee of any Indebtedness for borrowed money, or any similar liability or obligation by any Company (including so-called take-or-pay or keepwell agreements) or (B) creates a capitalized lease obligation, in each case, in excess of Fifty Thousand and No/100 Dollars ($50,000.00);

(iv) relates to the formation of any partnership, joint venture or other arrangement or otherwise relates to the joint ownership or operation of the Verde Business or the Verde Assets or requires any of the Companies to invest funds in or make loans to, or purchase any securities of, another Person;

(v) relates to any commodity or interest rate swap, cap or collar agreements or other similar hedging or derivative transactions;

(vi) is a bond, letter of credit, guarantee or security deposit posted (or supported) by or on behalf of any Company in an amount in excess of $50,000 individually;

(vii) includes the acquisition of assets or properties or the sale of assets or properties, in each case with a book value in excess of $50,000 (whether by merger, sale of stock, sale of assets or otherwise);

(viii) involves a sharing of profits, losses, costs or liabilities by Seller or any Company with any other Person;

(ix) relates as of the Execution Date to (A) the purchase of materials, supplies, goods, services, equipment or other assets, (B) the purchase or sale of electrical power, (C) the purchase, sale, transportation, or storing of natural gas or the purchase, or storing of, natural gas or the provision of services related thereto (D) the construction of capital assets, (E) outsourced management agreements relating to any part of the Verde Business or Verde Assets, (F) services provided to or in connection with, the Verde business, (G) the paying of commissions related to the Verde Business, (H) advertising contracts and (I) other similar types of Contracts of the kind listed in (A) through (H) above, in each case that provides for payments by or to the Companies in excess of $50,000 in any calendar year;

(x) provides for indemnification of one or more Persons by Seller or any Company (excluding customary indemnification provisions in any Contract);

(xi) governs the employment relationship of any employee of any Company or provides for any severance, bonus, retention or other similar payment to any employee; and

(xii) otherwise involves the payment by or to Seller or any Company in excess of $100,000 in any calendar year or $250,000 in the aggregate, and that cannot be terminated on 90 days or less notice without payment by the Companies of any penalty in excess of $150,000.

(b) Seller has made available to Buyer a true and correct copy of each Contract required to be disclosed on Schedule 4.9 of the Company Disclosure Schedules (all such Contracts being referred to as the " ***Verde Contracts*** "). For the avoidance of doubt, Verde Contracts do not include customer contracts (commercial or residential) for the sale of electricity, natural gas or related services.

(c) Each Verde Contract is a valid and binding obligation of each Company that is a party thereto, and is in full force and effect and enforceable in accordance with its terms against such entity and, to the Knowledge of Seller, the other parties thereto, except, in each case, as enforcement may be limited by Creditors' Rights, and no defenses, off-sets or counterclaims have been asserted or, to the Knowledge of Seller, threatened by any other party thereto nor has any Company executed any waiver that waives any material rights thereunder.

(d) None of the Companies, Seller nor, to the Knowledge of Seller, any other party to any Verde Contract is in default or breach in any material respect under the terms of any Verde Contract and no Event has occurred that with the giving of notice or the passage of time or both would constitute a breach or default in any material respect by the Seller or any Company or, to the Knowledge of Seller, any other party to any Verde Contract, or would permit termination, modification or acceleration under any Verde Contract.

(e) None of Seller nor any Company (i) has received any material prepayment, advance payment, deposits or similar payments, and has no refund obligation, with respect to electric power or natural gas purchased, sold or transported by or on behalf of any Company with respect to the Verde Business; and (ii) none of the Companies has received any material compensation or deposits for the sale of electric power or natural gas that would be subject to any refund or create any repayment obligation by any Company, and to the Knowledge of Seller, there is no basis for a claim that a material refund is due with respect to the Verde Business.

4.10 ***Energy Supply Agreements*** . The Energy Supply Agreements set forth on Schedule 4.10 will be terminated at the Closing Date, and all amounts required to be paid by Seller and the Companies in connection with such termination will have been paid by Seller or the Companies at or prior to the Closing subject to customary transition and true up payments until Buyer's applicable replacement supply arrangements or other Contracts are in effect and any residual balance is paid off to Shell.

4.11 ***Permits*** . The Companies have all Permits as are necessary for the ownership and operation of the Verde Business and Verde Assets except for those the failure of which to have would not reasonably be expected to have a Company Material Adverse Effect.

4.12 ***Intellectual Property*** . Schedule 4.12 of the Company Disclosure Schedules sets forth all patents, registered trademarks and registered copyrights, trade names, "DBAs," and applications therefor (collectively, " ***Registered Intellectual Property*** ") included among the Verde Assets that is material to the operation of the Verde Business. With respect to registered trademarks included among the Registered Intellectual Property, Schedule 4.12 of the Company Disclosure Schedules sets forth a list of all jurisdictions in which such trademarks are registered or applied for or will be registered or applied for as of the Closing Date, and all registration and application numbers. Except as set forth on Schedule 4.12 of the Company Disclosure Schedules, the Companies own or will own as of the Closing Date, and will have as of the Closing Date, the right to use without claim of infringement by any other Person, all intellectual property that is material to the operation of the Verde Business as currently conducted. The consummation of the transactions contemplated hereby will not impair or require the consent of any Person with respect to any such

rights, in each case, except as would not, individually or in the aggregate, have, or reasonably be expected to have, a Company Material Adverse Effect.

4.13 ***Taxes*** .

(a) All Tax Returns required to be filed with respect to the Verde Business and Verde Assets (taking into account any valid extension of the due date for filing) have been timely filed, all such Tax Returns are complete and correct in all material respects and all Taxes due relating to the Verde Business and Verde Assets have been paid in full.

(b) Except as set forth in Schedule 4.13(b) , no Tax audits or administrative or judicial proceedings are being conducted or are pending with respect to any portion of the Verde Business or Verde Assets.

(c) All Taxes required to be withheld, collected or deposited by or with respect to the Verde Business have been timely withheld, collected or deposited as the case may be, and to the extent required, have been paid to the relevant taxing authority.

(d) There are no outstanding agreements or waivers extending the applicable statutory periods of limitation for any material Taxes associated with the ownership or operation of the Verde Business and the Verde Assets for any period.

(e) None of the Verde Parties is a party to any Tax sharing agreement, Tax indemnity agreement Tax allocation agreement or similar agreement (excluding customary Tax indemnification provisions in commercial Contracts not primarily relating to Taxes).

(f) None of the Verde Parties has been a party to a transaction that is a "reportable transaction," as such term is defined in Treasury Regulations Section 1.6011-4(b)(1).

(g) Except as set forth on Schedule 4.13(g) of the Company Disclosure Schedules, each Company is currently, and has been since its formation an entity disregarded as separate from its owner for U.S. federal income tax purposes and none of the Companies has elected to be treated as a corporation for federal Tax purposes.

(h) Except as set forth on Schedule 4.13(h) of the Company Disclosure Schedules, none of the Verde Parties has been a member of or is a successor to an entity that has been a member of an affiliated group filing a consolidated federal income Tax Return or has any liability for the Taxes of any Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, by contract, or otherwise (excluding customary Tax indemnification provisions in commercial Contracts not primarily relating to Taxes).

(i) Notwithstanding any other provision of this Agreement (including for the avoidance of doubt, Sections 4.5 and 4.6), this Section 4.13 and Section 4.14 contain the sole and exclusive representations and warranties of any of the Verde Parties with respect to any Tax matters.

4.14 ***Employee Benefits; Employment and Labor Matters*** .

(a) Except as set forth on Schedule 4.14(a) of the Company Disclosure Schedules, none of the Seller nor any Company, nor any ERISA Affiliate of any such Party, sponsors, maintains, contributes to or is required to contribute to, or has sponsored, maintained, contributed to or been required to contribute to within the past six years any of the following:

(i) any "employee benefit plan," as such term is defined in Section 3(3) of ERISA (including, but not limited to, employee benefit plans, such as foreign plans, which are not subject to the provisions of ERISA) or

(ii) any material equity-based plan (including, but not limited to, unit option plans, unit purchase plans, unit appreciation rights and phantom unit plans), collective bargaining agreement, bonus plan or arrangement, incentive award plan or arrangement, vacation policy, severance pay or retention plan or arrangement, change in control policy or agreement, deferred compensation agreement or arrangement, executive compensation or supplemental income arrangement, consulting agreement, employment agreement or any other employee benefit plan, agreement, arrangement, program, practice or understanding which is not described in Section 4.14(a)(i) (collectively, along with the plans described in Section 4.14(a)(i) above, the " ***Verde Benefit Plans*** ").

True, correct and complete copies of each of the Verde Benefit Plans, including all amendments thereto, have been made available to Buyer. Except as identified on Schedule 4.14(a) of the Company Disclosure Schedules, none of the Verde Benefit Plans are sponsored, maintained or contributed to, or have been sponsored, maintained or contributed to, by any of the Verde Parties.

(b) Except as disclosed on Schedule 4.14(b) of the Company Disclosure Schedules and except as to matters that would not reasonably be expected to have a Company Material Adverse Effect:

(i) each Verde Benefit Plan has been administered in compliance with its terms, the applicable provisions of ERISA, the Code and all other applicable Laws and the terms of all applicable collective bargaining agreements;

(ii) there are no actions, suits or claims pending (other than routine claims for benefits) or, to the Knowledge of Seller, threatened, with respect to any Verde Benefit Plan and no Verde Benefit Plan is under audit or is subject to an investigation by the Internal Revenue Service, the U.S. Department of Labor or any other federal or state Governmental Authority nor, to the Knowledge of Seller, is any such audit or investigation pending; and

(iii) each Verde Benefit Plan intended to be qualified under Section 401 of the Code has received a favorable determination letter from the Internal Revenue Service (or has pending or has time remaining in which to file an application for such a determination letter) or is the subject of an opinion letter issued by the Internal Revenue Service on which it can rely.

(c) In connection with the consummation of the transactions contemplated by this Agreement, no payments, acceleration of benefits or provision of other rights have or will be made under the Verde Benefit Plans or otherwise which, in the aggregate, would result in the loss of deduction or the imposition any excise tax under sections 280G and 4999 of the Code, whether or not some other subsequent action or event would be required to cause such payment, acceleration or provision to be triggered.

(d) Except as disclosed on Schedule 4.14(d) of the Company Disclosure Schedules, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby (whether alone or in conjunction with a subsequent event) will result in the acceleration or creation of any rights of any person to payments or benefits or increases in or funding of any payments or benefits or any loan forgiveness.

(e) No Verde Benefit Plan is a Multiemployer Plan, Multiple Employer Plan or other pension plan subject to Title IV of ERISA, and no Verde Party nor any ERISA Affiliate of any Verde Party has sponsored or contributed to or been required to contribute to a Multiemployer Plan, Multiple Employer Plan or other pension plan subject to Title IV of ERISA at any time within the previous six (6) years. No Verde Benefit Plan provides compensation or benefits to any employee or service provider who resides or performs services primarily outside of the United States.

(f) Except as disclosed on Schedule 4.14(f) and except as would not reasonably be expected to result in a Company Material Adverse Effect, (i) each of the Verde Parties is and has been in compliance with all applicable labor and employment Laws including, without limitation, all Laws, rules, regulations, orders, rulings, decrees, judgments and awards relating to employment discrimination, retaliation, payment of wages, overtime compensation, immigration, recordkeeping, employee leave, occupational health and safety, and wrongful discharge; (ii) no action,

suit, complaint, charge, arbitration, inquiry, proceeding or investigation by or before any Governmental Authority, or brought by or on behalf of any employee, prospective or former employee or labor organization or other representative of the employees or of any prospective or former employees of any of the Verde Parties is pending or, to the Knowledge of Seller, threatened against any of the Verde Parties, any present or former director or employee (including with respect to alleged sexual harassment, unfair labor practices, discrimination, retaliation or wage practices); and (iii) none of the Verde Parties is subject to or otherwise bound by, any material consent decree, order, or agreement with, any Governmental Authority relating to employees or former employees of any of the Verde Parties.

(g) None of the Verde Parties is a party to or otherwise subject to any collective bargaining agreements. None of the employees of the Verde Parties is represented by a labor union and, to the Knowledge of Seller, there has not been any effort to organize any of the employees of the Verde Parties in the past five years. There is no labor dispute, strike, work stoppage or other labor trouble against any of the Verde Parties pending or, to the Knowledge of Seller, threatened.

(h) Except as set forth on Schedule 4.14(h) , neither Seller nor any Company has any employment agreements or commitments regarding employment of any employees who are employed by or otherwise provide services to or on behalf of Seller nor any Company.

(i) Seller has made available to Buyer a list of all persons who, as of the date of this Agreement, are employees, independent contractors or consultants of the Seller and the Companies as of the date hereof, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full or part time); (iii) hire date; (iv) current annual base compensation rate; (v) commission, bonus or other incentive-based compensation; (vi) a description of the fringe benefits (other than pursuant to Verde Benefit Plans) provided to each such individual paid for the calendar year 2016 and such amounts payable as of the date hereof; and (vii) any other amounts due and owing to such Person. Except as set forth on the list made available to Buyer, as of the date hereof, all compensation, including wages, commissions and bonuses, payable to all employees, independent contracts or consultants of any of the Seller or any Company for services performed on or prior to the date hereof have been paid in full (or accrued in full in the Verde Financial Statements and will be included Estimated Closing Statement) and there are no outstanding agreements, understandings or commitments of the Companies with respect to any compensation, commissions or bonuses.

(j) The representations and warranties set forth in this Section 4.14 are Seller's sole and exclusive representations and warranties regarding employee benefit, employment and labor matters.

4.15 ***Regulatory Status*** . None of the Seller nor any Company nor any of their respective Subsidiaries is (a) an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder or (b) a "holding company," a "subsidiary company" of a "holding company," an "affiliate" of a "holding company," a "public utility" or a "public-utility company," as each such term is defined in the Public Utility Holding Company Act of 2005.

4.16 ***Bankruptcy*** . There are no bankruptcy, reorganization or arrangement proceedings pending against, being contemplated by, or to the Knowledge of Seller, threatened against any Company.

4.17 ***Books and Records*** . The books and records of the Verde Business, including the data prepared, processed and delivered through the Companies billing and reporting systems, that are necessary for the ownership and operation of the Verde Business and Verde Assets are complete and correct and have been maintained in accordance with prudent industry practice and such books and records have been made available to Buyer, provided that Seller makes no representation regarding the accuracy of any information provided to it or any Company by any third party, including but not limited to the EDI billing information provided to it by utilities and data received from independent system operators.

4.18 ***Change of Control Payments*** . Except as disclosed on Schedule 4.18 of the Company Disclosure Schedules, there are no Change of Control Payments owed by Seller or any Company that would be owed resulting from the Closing of the transactions contemplated in the Transaction Documents.

4.19 ***Transactions with Affiliates*** . Except as set forth on Schedule 4.19 , there are no loans, leases or other continuing transactions between any Company, on the one hand, and (i) any officer, director, member, manager, employee, family member or Affiliate of any of the Seller or any Company; or (ii) the Seller, on the other hand. Except as set forth on Schedule 4.19 , no officer, director, manager, employee, family member or Affiliate of any of the Seller or any Company possesses, directly or indirectly, any financial interest in, or is an owner, director, officer, member, manager, employee or Affiliate of, any corporation, firm, association or business organization that is a client, supplier, distributor, broker, lessor, lessee, sublessor, sublessee or competitor of any of the Seller or any Company.

4.20 ***Insurance*** . Schedule 4.20 sets forth a list, as of the date hereof, of all insurance policies maintained by any Company (collectively, the " ***Insurance Policies*** "). Such Insurance Policies are in full force and effect on the date of this Agreement and all premiums due on such Insurance Policies have been paid. The Seller has made available to Buyer accurate and complete copies of all current Insurance Policies, in each case, as amended or otherwise modified and in effect. Except as disclosed on Schedule 4.20 , no insurer (a) has denied coverage of any claim pending under any Insurance Policy or (b) has threatened in writing to cancel any Insurance Policy. Except as set forth on Schedule 4.20 , there are no claims relating to the business of any Company under any such Insurance Policies as to which coverage has been questioned, denied or disputed. The Insurance Policies are of the type and in amounts customarily carried by Persons conducting a business similar to the Companies and are sufficient for compliance with all applicable Laws and Contracts to which the Companies are a party or bound, except as would not result in a Company Material Adverse Effect.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF BUYER

Except as set forth in the Buyer Disclosure Schedules, Buyer hereby represents and warrants to Seller as of the Execution Date and the Closing Date as follows:

5.1 ***Organization; Qualification*** . Buyer and Guarantor are duly formed, validly existing and in good standing under the laws of their respective states of organization and have all necessary limited liability company or corporate power and authority to own and hold the properties and assets each now owns and holds and to carry on their respective businesses as and where such properties are now owned or held and such businesses are now conducted. Buyer is duly licensed or qualified to do business as a limited liability company (either foreign or domestic) and is in good standing in the states in which the character of the properties and assets now owned or held by it or the nature of its businesses now conducted by it requires it to be so licensed or qualified, and Guarantor is duly licensed or qualified to do business as a corporation (either foreign or domestic) and is in good standing in the states in which the character of the properties and assets now owned or held by it or the nature of its businesses now conducted by it requires it to be so licensed or qualified, except in each case where the failure to be so qualified or in good standing would not reasonably be expected to have a Buyer Material Adverse Effect.

5.2 ***Authority; Enforceability*** .

(a) Each of Buyer and Guarantor has the requisite corporate and limited liability company power and authority, as applicable, to execute and deliver the Transaction Documents to which it is, or will be, a party, to consummate the transactions contemplated thereby and to perform all the terms and conditions thereof to be performed by it. The execution and delivery by Buyer and Guarantor of the Transaction Documents to which it is, or will be, a party, the consummation by Buyer of the transactions contemplated thereby and the performance by Buyer and Guarantor of all of the terms and conditions thereof to be performed by it have been duly and validly authorized by Buyer and Guarantor, as the case may be, and no other proceeding on the part of Buyer or Guarantor is necessary to authorize the Transaction Documents to which either of them is, or will be, a party, to consummate the transactions contemplated by the Transaction Documents to which either of them is, or will be, a party or to perform all of the terms and conditions thereof to be performed by either of them.

(b) The Transaction Documents to which Buyer and Guarantor is, or will be, a party have been (or will be, when executed and delivered at the Closing) duly executed and delivered by Buyer and Guarantor and, assuming

the due authorization, execution and delivery by the other parties thereto, each Transaction Document to which Buyer or Guarantor is, or will be, a party constitutes (or will constitute, when executed and delivered at the Closing) the valid and binding agreement of Buyer and Guarantor, enforceable against Buyer and Guarantor in accordance with its terms, except as such enforceability may be limited by Creditors' Rights.

5.3 ***Non-Contravention*** . Except as set forth on Schedule 5.3 of the Buyer Disclosure Schedules, the execution, delivery and performance of the Transaction Documents to which Buyer or Guarantor is, or will be, a party and the consummation by Buyer of the transactions contemplated thereby do not and will not: (a) conflict with, or require the consent of any Person under, or result in any breach of, any provision of the Organizational Documents of Buyer or Guarantor; (b) conflict with, or require the consent of any Person under, or constitute a default (or an Event that with the giving of notice or passage of time or both would give rise to a default) or cause any material obligation under, or give rise to any right of termination, cancellation, amendment, preferential purchase right or acceleration (with or without the giving of notice, or the passage of time or both) under any of the terms, conditions or provisions of any Contract to which Buyer, Guarantor or any of their Subsidiaries is a party or by which any property or asset of Buyer, Guarantor or any of their Subsidiaries is bound or affected; ***(c)*** assuming compliance with the matters referred to in this Section 5.3 and Section 5.4 , conflict with or violate any Law to which Buyer, Guarantor or any of their Subsidiaries is subject or by which any property or asset of Buyer, Guarantor or any of their Subsidiaries is bound; (d) constitute (with or without the giving of notice or the passage of time or both) an Event which would result in the creation of, or afford any Person the right to obtain, any Lien (other than Permitted Liens) on any asset of Buyer or Guarantor; or (e) result in the revocation, cancellation, suspension, or material modification, individually or in the aggregate, of any Contract or Governmental Approval that is necessary or desirable for the ownership, lease or operation of Buyer or Guarantor as now conducted, except, in the cases of clauses (b), (c), (d), and (e), for such defaults or rights of termination, cancellation, amendment, acceleration, violations or Liens as would not reasonably be expected to have a Buyer Material Adverse Effect or to prevent or materially delay the consummation of the transactions contemplated by the Transaction Documents to which Buyer or Guarantor is, or will be, a party or to materially impair Buyer's or Guarantor's ability to perform their respective obligations under the Transaction Documents to which either of them is, or will be, a party.

5.4 ***Governmental Approvals*** . Except as set forth on Schedule 5.4 of the Buyer Disclosure Schedules and for such filings as may be required under the HSR Act and FERC approval, no declaration, filing or registration with, or notice to, or authorization, consent or approval of, any Governmental Authority, is necessary for (i) the consummation by Buyer of the transactions contemplated by the Transaction Documents to which it is, or will be, a party or (ii) the enforcement against Buyer and Guarantor of their obligations under the Transaction Documents except in the cases of clauses (i) and (ii), other than such declarations, filings, registrations, notices, authorizations, consents or approvals that have been obtained or made or that would in the ordinary course be made or obtained after the Closing, or which, if not obtained or made, would not reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by the Transaction Documents to which Buyer is, or will be, a party or to materially impair Buyer's ability to perform its obligations under the Transaction Documents to which it is, or will be, a party.

5.5 ***Legal Proceedings*** . Except as set forth on Schedule 5.5 of the Buyer Disclosure Schedules, there are no Proceedings pending or, to the Knowledge of Buyer or Guarantor, threatened against or by Buyer or Guarantor, that questions or involves the validity or enforceability of the obligations of Buyer or Guarantor under this Agreement or the other Transaction Documents or seeks to prevent or delay, or seeks damages in connection with, the consummation of the transactions contemplated by this Agreement.

5.6 ***Brokers' Fee*** . Except as set forth on Schedule 5.6 of the Buyer Disclosure Schedules, neither Buyer nor any of its Affiliates has entered (directly or indirectly) into any agreement with any broker, investment banker, financial advisor or other Person that would obligate Buyer or any of its Affiliates to pay any broker's, finder's, financial advisor's or other similar fee or commission in connection with this Agreement or the transactions contemplated herein.

5.7 ***Bankruptcy*** . There are no bankruptcy, reorganization or arrangement proceedings pending against, being contemplated by, or to the knowledge of Buyer or Guarantor, threatened against Buyer, Guarantor or any of their Subsidiaries.

5.8 ***Investment Purpose*** . Buyer is acquiring the Company Interests solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any distribution thereof. Buyer acknowledges that the Interests are not registered under the Securities Act or under any state securities laws, and that the Interests may not be transferred or sold, except pursuant to the registration provisions of the Securities Act or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable. Buyer is able to bear the economic risk of holding the Interests for an indefinite period (including total loss of its investment), and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment.

5.9 ***Sufficiency of Funds*** . Buyer has or will have sufficient cash on hand or other sources of funds to enable it to make all payments required of it pursuant to this Agreement, including the Cash Consideration, the Working Capital and the Earnout Payment.

5.10 ***Energy Supply Arrangements*** . Buyer has or will have as of the Closing, energy supply arrangements in place sufficient to fully satisfy the energy supply requirements of the Verde Business after taking into account all other energy supply requirements of the Buyer and its Affiliates and sufficient to replace all Energy Supply Agreements to be terminated by Seller in connection with the transactions contemplated by this Agreement (the " ***Replacement Energy Supply Arrangements*** ").

5.11 ***Independent Investigation; Disclaimer Regarding Projections*** .

(a) Buyer has conducted its own independent investigation, review and analysis of the business, results of operations, prospects, condition (financial or otherwise) or assets of the Companies, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of Seller and the Companies for such purpose. Buyer acknowledges and agrees that: (a) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer has relied solely upon its own investigation and the express representations and warranties of Seller and the Companies set forth in Articles III and IV of this Agreement (including the related portions of the Seller Disclosure Schedules and the Company Disclosure Schedules); and (b) none of Seller, the Companies or any other Person has made any representation or warranty as to Seller, the Companies or this Agreement, except as expressly set forth in Articles III and IV of this Agreement (including the related portions of the Seller Disclosure Schedules and the Company Disclosure Schedules).

(b) Buyer may be in possession of certain projections and other forecasts regarding the Companies and the Verde Business, including but not limited to projected financial statements, cash flow items and other data of the Companies and the Verde Business. Buyer acknowledges (i) that there are substantial uncertainties inherent in attempting to make such projections and other forecasts and plans, and accordingly is not relying on them, (ii) that Buyer is familiar with such uncertainties, (iii) that Buyer is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished to it, and (iv) that Buyer shall have no claim against anyone with respect thereto. Accordingly, Buyer acknowledges that neither Seller nor any of its Affiliates, Representatives, agents or advisors has made any representation or warranty with respect to such projections and other forecasts and plans.

ARTICLE VI
COVENANTS OF THE PARTIES

6.1 ***Conduct of Verde Business*** .

(a) From the Execution Date through the Closing, except (i) as expressly permitted or required by the terms of this Agreement, (ii) as described in Schedule 6.1(a) of the Company Disclosure Schedules, (iii) as required by applicable Law or (iv) as consented to or approved in writing by Buyer (which shall not be unreasonably withheld, conditioned or delayed), the Seller and each Company shall, and shall cause their respective Subsidiaries to:

(i) conduct, maintain and preserve the Verde Business in the ordinary course of business consistent with past practice, including with respect to any hedging activities; and

(ii) use Reasonable Efforts to preserve intact their goodwill and relationships with customers, suppliers and others having business dealings with them with respect thereto.

(b) Without limiting the generality of Section 6.1(a) , and except as described in Schedule 6.1(b) of the Company Disclosure Schedules or as expressly permitted or required by the terms of this Agreement, or consented to or approved in writing by Buyer (which shall not be unreasonably withheld, conditioned or delayed), from the Execution Date until the Closing or termination of this Agreement as provided in Section 9.1 , Seller and the Companies shall not:

(i) make any material change or amendment to the Organizational Documents of any of Seller or any Company;

(ii) waive any rights or benefits held by the Seller attributable to Seller's ownership of the Company Interests that would be binding on Buyer or its ownership of the Company Interests after the Closing;

(iii) make any material change to the Tax methods, principles or elections, book accounting procedures, practices and methods of any of the Seller or any Company except as may be required by Law;

(iv) split, combine or reclassify any Company Interests or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for, the Company Interests;

(v) with respect to the Companies, issue, deliver, sell, pledge or dispose of, or authorize the issuance, delivery, sale, pledge or disposition of, any (A) Interests, (B) debt securities having the right to vote on any matters on which holders of capital stock or members or partners of the same issuer may vote or (C) securities convertible into or exercisable for, or any rights, warrants, calls or options to acquire, any such securities;

(vi) sell, mortgage, pledge, create a security interest in, dispose of, or otherwise encumber the Company Interests;

(vii) cause any of Seller or any Company to merge with, or into, or consolidate with, any other Person;

(viii) make any material change in the conduct of the Verde Business;

(ix) terminate or amend or otherwise modify in any material respect any Verde Contract, except in the ordinary course of business consistent with past practice;

(x) enter into any Contract with Seller or either any of the Verde Parties' officers, directors or employees or any Affiliate of the foregoing;

(xi) sell any properties, Contracts or other assets owned by any Verde Party with a value of more than $50,000;

(xii) (A) other than the matters listed on Schedule 4.6 . settle any claims, demands, lawsuits or state or federal regulatory Proceedings with respect to the Verde Business for damages to the extent such settlements assess damages in excess of $100,000 in the aggregate (other than any claims, demands, lawsuits or proceedings to the extent insured (net of deductibles), reserved against in the Verde Financial Statements or covered by an indemnity obligation not subject to dispute or adjustment from a solvent indemnitor) or (B) settle any claims, demands, lawsuits or state or federal regulatory Proceedings seeking an injunction or other equitable relief where such settlements would have or would reasonably be expected to materially impair the Verde Business or the operation thereof;

(xiii) take any action with respect to or in contemplation of any liquidation, dissolution, recapitalization, reorganization, or other winding up;

(xiv) (A) enter into or amend any employment, severance, retention, change of control or other similar agreement with any employee of any Company; (B) increase the compensation payable or to become payable by any Company to any of its independent contractors, employees, officers or directors; or (C) adopt additional or otherwise amend any Verde Benefit Plan or option, bonus, profit sharing, pension, group insurance, severance pay, deferred compensation or other payment or employee compensation plan;

(xv) make any non-cash distributions to the Seller, or any of its Affiliates or related parties; or

(xvi) commit or agree to do any of the foregoing.

6.2 ***Notice to Federal Energy Regulatory Commission*** .

(a) Each of the Buyer and the relevant Companies, as promptly as practicable, shall (i) file an application with the FERC seeking an order authorizing the acquisition by Buyer and disposition by Seller of any jurisdictional facilities, and (ii) use all Reasonable Efforts to obtain, or cause to be obtained, such consents, authorizations, orders and approvals from the FERC that may be or become necessary for the execution and delivery of this Agreement by the Parties and performance of their obligations pursuant to this Agreement and the other Transaction Documents. Each Party shall use all Reasonable Efforts to cooperate fully and in good faith with the other Party in obtaining such consents, authorizations, orders and approval. Following the Closing, Buyer shall provide the requisite notice to FERC of the completion of the transaction in the manner required by Law and FERC's pre-Closing approval.

(b) As promptly as practicable, each of Buyer and Seller shall complete and file with FERC such amendments as are deemed to be reasonably desirable or necessary with respect to each Company's market-based rate authorization for sales of energy, capacity, and certain ancillary services, as promptly as practicable. All costs and expenses incurred by Buyer, Seller or any Company in connection with complying with this Section 6.2 shall be borne and paid by the Party incurring such costs or expenses.

(c) Buyer agrees that neither it nor any of its Affiliates will take any action that would reasonably be expected to result in the denial of, delay of or imposition of conditions in connection with any approval of any Governmental Authority that is required to consummate the transactions contemplated by this Agreement (a " ***Required Approval*** "), provided that this Section 6.2(c) shall not preclude Buyer from entering into a Change of Control Transaction if such transaction would not reasonably be expected to impede or delay in any material respect the ability of the Parties to obtain any Required Approval by October 31, 2017.

6.3 ***Governmental Approvals and Consents*** .

(a) Each Party hereto shall, as promptly as practicable, (i) make, or cause or be made, all filings and submissions required under any Law (including the HSR Act) applicable to such Party or any of its Affiliates, or to the transactions contemplated by this Agreement or any of the other Transaction Documents, (ii) request early termination of any applicable regulatory waiting periods, (iii) use all Reasonable Efforts to obtain, or cause to be obtained, all consents, authorizations, orders and approvals from all Governmental Authorities that may be or become necessary for the execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement and the other Transaction Documents and (iv) supply any additional information, documentation and materials that may be requested by any Governmental Authority pursuant to any such Law. To the extent permitted by applicable Law, each Party shall cooperate and coordinate fully with the other Party and its Affiliates in promptly making appropriate notices to Governmental Authorities and seeking to obtain all such consents, authorizations, orders and approvals, and in exchanging and providing necessary information in obtaining the foregoing. Each Party shall supply such reasonable assistance as may be reasonably requested by any other Party in connection with the foregoing. Each Party may, as it deems advisable and necessary, designate any competitively sensitive materials provided to the other Party as "for outside counsel only", and such materials and the information contained therein shall be provided only to outside counsel and previously-agreed outside economic consultants of the recipient Party and shall not be disclosed by such outside counsel or economic consultants to the employees, officers, or directors of the recipient Party without the advance written approval of the counsel of the Party providing such materials. The Parties hereto shall not willfully

take any action that will have the effect of delaying, impairing or impeding the receipt of any required notices, consents, authorizations, orders and approvals.

(b) Each Party hereto shall promptly inform the other Party of any material communication from any Governmental Authority regarding the transactions contemplated by this Agreement, except where required by Law to keep such communication confidential. If any Party or any Affiliate thereof receives a request for additional information or documentary material from any such Governmental Authority with respect to the Transaction contemplated by this Agreement, then such Party will endeavor in good faith to make, or cause to be made, as soon as reasonably practicable and after consultation with the other Party, an appropriate response in compliance with such request.

6.4 ***Notice of Certain Events*** . From and after the Execution Date until the earlier to occur of (a) the Closing Date and (b) the termination of this Agreement pursuant to Section 9.1 , to the extent it has Knowledge, each Party shall promptly notify the other Party of (i) the occurrence, or non-occurrence, of any Event that would be likely to cause any condition to the obligations of any Party to effectuate the transactions contemplated in this Agreement and the Transaction Documents not to be satisfied or (ii) the failure of any Party to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it pursuant to this Agreement that would reasonably be expected to result in any condition to the obligations of the other Party to the transactions contemplated in this Agreement and the Transaction Documents not to be satisfied; provided , however , that the delivery of any notice pursuant to this Section 6.4 shall not cure the inaccuracy of any representation or warranty, the failure to comply with any covenant, the failure to meet any condition or otherwise limit or affect the remedies available hereunder to the Party receiving such notice; provided , further , that the failure to comply with this Section 6.4 shall not result in the failure of any of the conditions to the Closing in Article VII to be satisfied, or give rise to any right to terminate this Agreement under Section 9.1 , if the underlying Event would not in and of itself give rise to such failure or right.

6.5 ***Access to Information; Confidentiality*** .

(a) From the Execution Date until the Closing Date, Seller shall, and shall cause each of the Companies to, (i) give Buyer and its Affiliates, and their respective Representatives, reasonable access to the offices, properties, books and records of each Verde Party, in each case during normal business hours and (ii) furnish to Buyer and its Representatives such financial and operating data and other information relating to each Verde Party as such Persons may reasonably request, subject to Buyer's and its Representatives' compliance with applicable Law governing the use of such information. Notwithstanding the foregoing provisions of this Section 6.5(a) , no Verde Party shall be required to, or to cause any Verde Party to, grant access or furnish information to Buyer or any of its Representatives to the extent that such information is subject to an attorney/client or attorney work product privilege or that such access or the furnishing of such information is prohibited by law or an existing contract or agreement. To the extent practicable, each Verde Party shall make reasonable and appropriate substitute disclosure arrangements under circumstances in which the restrictions of the preceding sentence apply.

(b) From the Execution Date, Buyer shall furnish to Seller and its Representatives such information of Buyer as reasonably requested by Seller under and in furtherance of this Agreement, subject to Seller's and its Representatives' compliance with applicable Law governing the use of such information. Notwithstanding the foregoing provisions of this Section 6.5(b) , Buyer shall not be required to grant access or furnish information to Seller or any of its Representatives to the extent that such information is subject to an attorney/client or attorney work product privilege or that such access or the furnishing of such information is prohibited by law or an existing contract or agreement. To the extent practicable, Buyer shall make reasonable and appropriate substitute disclosure arrangements under circumstances in which the restrictions of the preceding sentence apply.

6.6 ***Expenses*** .

(a) Except as otherwise provided for in this Agreement, (i) Buyer shall pay all costs and expenses incurred by it in connection with the Transaction Documents and the transactions contemplated thereby and (ii) Seller shall pay all costs and expenses incurred by it in connection with Transaction Documents and the transactions contemplated thereby. Buyer and the Seller shall be responsible for their own filing and other similar fees payable in connection with any filings or submissions under the HSR Act.

(b) Notwithstanding any of the foregoing, if any action at law or equity is necessary to enforce or interpret the terms of the Transaction Documents, the prevailing Party shall be entitled to reasonable attorneys' fees and expenses in addition to any other relief to which such Party may be entitled.

6.7 ***All Reasonable Efforts*** .

(a) Subject to the terms and conditions of this Agreement, each of the Parties shall use all Reasonable Efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under applicable Law to consummate the transactions contemplated by the Transaction Documents. Without limiting the generality of the foregoing, each Party shall use all Reasonable Efforts to timely make all notifications and obtain all authorizations, consents, waivers, permits, orders and approvals of all third parties necessary in connection with the consummation of the transactions contemplated by the Transaction Documents prior to the Closing. The Parties will coordinate and cooperate with each other in exchanging such information and assistance as any of the Parties may reasonably request in connection with the foregoing.

(b) Seller, the Companies and Buyer shall use all Reasonable Efforts to promptly and timely negotiate in advance of Closing a termination agreement relating to the Energy Supply Agreements (the " ***Energy Supply Termination Agreement*** ") in a form reasonably satisfactorily agreed upon by Seller, the Companies, Buyer and Shell.

(c) In the event that any action or proceeding is instituted (or threatened to be instituted) by a Governmental Authority challenging any of the transactions contemplated by this Agreement as being in violation of any antitrust Law, each of the Parties shall cooperate with the other Parties and use its Reasonable Efforts to respond to, contest, and resist any such action or proceeding and to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order, whether temporary, preliminary or permanent, that is in effect and that delays, conditions, prohibits, prevents or restricts consummation of the transactions contemplated by this Agreement. Notwithstanding anything in this Agreement to the contrary, nothing in this Section 6.7(c) or otherwise in this Agreement shall require any Party or any of their respective Affiliates to propose, negotiate, effect or agree to, the sale, divestiture, license or other disposition of any assets or businesses of such Party or any of its Affiliates or otherwise take any action that limits the freedom of action with respect to, or its ability to retain, any of the businesses, product lines or assets of such Party or any of its Affiliates.

6.8 ***Public Statements*** . Unless otherwise required by applicable Law or stock exchange regulation (based upon the reasonable advice of counsel), the Parties shall consult with each other prior to issuing any public announcement, statement or other disclosure with respect to the transactions contemplated by this Agreement or the other Transaction Documents, and neither Seller nor Buyer shall, and Seller and Buyer shall cause their respective Affiliates not to, issue any such public announcement, statement or other disclosure without having first obtained the prior written consent of the non-issuing Parties. In the event that this Agreement or the other Transaction Documents are required to be disclosed pursuant to applicable Law or pursuant to the rules and regulations of a Governmental Authority or other regulatory agency (e.g., FERC), then the disclosing Party will (i) notify the other Party with reasonable advance notice before such disclosure and (ii) cooperate with the other Party to seek confidential treatment with respect to the disclosure if requested by the other Party.

6.9 ***No Solicitation*** . Prior to the earlier of the Closing or the termination of this Agreement, Seller shall not, nor permit its Affiliates or its Representatives to, directly or indirectly, (a) discuss, encourage, negotiate, undertake, initiate, authorize, recommend, propose or enter into, any transaction involving any sale, lease, license, exchange, mortgage, transfer or other disposition, in a single transaction or series of related transactions, of all or a substantial portion of the Verde Business or the Company Interests, whether by merger, consolidation, business combination, purchase or sale of equity interests or other securities, reorganization or recapitalization, loan, issuance of equity interests or other securities or any other transaction, except for the transactions contemplated by the Transaction Documents (" ***Verde Acquisition Transaction*** "), (b) facilitate, encourage, solicit or initiate discussions, negotiations or submissions of proposals or offers in respect of a Verde Acquisition Transaction, (c) furnish or cause to be furnished, to any Person, any information concerning the Verde Business in connection with a Verde Acquisition Transaction or (d) otherwise cooperate in any way with, or assist or participate in, facilitate or encourage, any effort or attempt by any other Person to do or seek any of the foregoing. Upon the execution of this Agreement, Seller shall, and shall cause their Affiliates

and its Representatives to, immediately cease and cause to be terminated any existing discussions or negotiations with any Persons (other than Buyer) conducted heretofore with respect to any Verde Acquisition Transaction.

6.10 ***Tax Matters*** .

(a) Transfer Taxes . Fifty percent (50%) of all transfer, stamp, documentary, sales, use, registration, value-added and other similar Taxes incurred in connection with the transfer, conveyance and delivery of the membership interests and common stock in the Companies (the " ***Transfer Taxes*** ") shall be borne by Seller, and the remainder of such Transfer Taxes shall be borne by Buyer. Notwithstanding anything to the contrary in this Section 6.10 , any Tax Returns that must be filed in connection with Transfer Taxes shall be prepared, filed and paid when due by the Party primarily or customarily responsible under the applicable local law for filing such Tax Returns, and such Party will use all Reasonable Efforts to provide such Tax Returns to the other Party at least ten days prior to the due date for such Tax Returns. Upon the filing of Tax Returns in connection with Transfer Taxes, the filing Party shall provide the other Party with evidence satisfactory to the other Party that such Transfer Taxes have been filed and paid.

(b) Tax Indemnification . Subject to the other limitations in this Article VI ,

(i) Seller shall indemnify each Company, Buyer and each Affiliate of Buyer and hold them harmless from and against, any Loss attributable to (A) any and all Taxes (other than any Transfer Taxes) for any Pre-Closing Date Tax Period imposed on or with respect to any Company or for which any Verde Party may otherwise be liable, including losses, penalties, taxes and interest relating to the tax matters set forth on Schedule 4.13(b) , (B) any Transfer Taxes borne by Seller under the first sentence of Section 6.10(a) ; (C) any breach of or inaccuracy in any of the representations or warranties made in Section 4.13 , and (D) any breach or violation of, or failure to fully perform, any covenant, agreement, undertaking or obligation of Seller or its Affiliates in this Section 6.10 .

(ii) Buyer shall indemnify Seller and each Affiliate of Seller and hold them harmless from and against, any Loss attributable to (A) any and all Taxes (other than any Transfer Taxes) for any Post-Closing Date Tax Period imposed on or with respect to any Company or for which any Company may otherwise be liable, (B) any Transfer Taxes borne by Buyer under the first sentence of Section 6.10(a) and (C) any breach or violation of, or failure to fully perform, any covenant, agreement, undertaking or obligation of Buyer or its Affiliates in this Section 6.10 .

(c) Straddle Period . In the case of any taxable period that includes (but does not end on) the Closing Date (" ***Straddle Period*** "), the amount of any Taxes for such Straddle Period that are treated as belonging to a Pre-Closing Date Tax Period shall, in the case of any Taxes based on or measured by income, receipts or payroll of any Verde Party be determined based on an interim closing of the books as of the close of business on the Closing Date and equal the amount that would be payable if the taxable year ended on the Closing Date, and in the case of any other Taxes of any Verde Party, shall be deemed to be the amount of such Tax for the entire Straddle Period multiplied by a fraction the numerator of which is the number of days in the Straddle Period ending on the Closing Date and the denominator of which is the total number of days in such Straddle Period.

(d) Responsibility for Preparing and Filing Tax Returns and Paying Taxes; Cooperation . Seller shall prepare and timely file or cause to be prepared and timely filed at its sole cost and expense all Tax Returns required to be filed by or with respect to the Companies for periods ending on or before the Closing Date that are filed after the Closing Date and Seller shall be responsible for, and shall cause to be fully paid to the appropriate Governmental Authority, the amounts of Taxes shown as payable with respect to such Tax Returns. Such Tax Returns shall be prepared on a basis consistent with past practice except to the extent otherwise required by applicable Law. Not later than fifteen (15) days prior to the due date for filing any such Tax Return, Seller shall provide Buyer with a copy of such Tax Return for review and comment and shall make such revisions to such Tax Return as reasonably requested by Buyer no later than five (5) days prior to the due date for filing such Tax Return. Buyer shall prepare and file or cause to be prepared and filed all other Tax Returns for the Companies that are required to be filed after the Closing Date, including Tax Returns for Straddle Periods, and shall be responsible for, and shall cause to be fully paid to the appropriate Governmental Authority, the amounts of Taxes shown as payable with respect to such Tax Returns. Not later than fifteen (15) days

prior to the due date for filing any Tax Return for a Straddle Period, Buyer shall provide Seller with a copy of such Tax Return (together with a calculation of the portion of the Taxes for such Straddle Period allocable to the Pre-Closing Date Tax Period under Section 6.10(c)) for review and comment and shall make such revisions to such Tax Return as reasonably requested by Seller no later than five (5) days prior to the due date for filing such Tax Return. For any Tax Return that Buyer is responsible for filing under this Section 6.10(d) , upon request from Buyer (which shall be no earlier than fifteen (15) days before the due date for such Tax Return), Seller shall pay Buyer within seven (7) days thereafter the amount of Taxes owed by the Seller based on its obligations under Section 6.10(b) , including Seller's share of the Taxes for such Straddle Period, as determined in Section 6.10(c) ; provided that, in the case of a Tax Return for a Straddle Period, such payment shall in no case be due earlier than five (5) days prior to the due date for filing such Tax Return. Each of the Parties shall cooperate fully, as and to the extent reasonably requested by the other Party, in connection with the filing of Tax Returns and any Proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other Party's request) the provision of records and information relevant to any such Proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder.

(e) Responsibility for Tax Proceedings . Each Party shall promptly notify the other in writing upon its or its Affiliate's receipt after the Closing Date of notice of any Proceeding relating to Taxes that could result in or affect an indemnification obligation under Section 6.10(b) . Seller shall control any Proceeding relating to Taxes of or with respect to a Company for a period ending on or before the Closing Date and Buyer shall control any other Proceeding relating to Taxes of or with respect to a Company, including those relating to a Straddle Period; provided further, that, with respect to a Straddle Period, Buyer shall allow Seller to participate at Seller's own cost and expense. The Party in control of a Proceeding relating to Taxes under this Section 6.10(e) shall keep the other Party informed of the status of the Proceeding (including providing copies of correspondence and pleadings). Neither Buyer nor Seller shall settle any Proceeding relating to Taxes of or with respect to a Company in a way that would adversely affect the other Party without the other Party's written consent, which the other Party shall not unreasonably withhold, condition, or delay. Buyer and Seller shall each provide the other with all information reasonably necessary to conduct any Proceeding relating to Taxes of or with respect to a Company.

(f) Tax Sharing Agreements . All tax-sharing agreements or similar agreements with respect to or involving any of the Companies (excluding customary Tax indemnification provisions in commercial Contracts not primarily relating to Taxes) shall be terminated as of the Closing Date and, after the Closing Date, none of the Seller nor any Company shall be bound thereby or have any liability thereunder.

(g) Tax Refunds and Overpayments . If, after the Closing Date, Buyer or any of its Affiliates (i) receives any refund (whether by payment, offset, credit or otherwise) or (ii) utilizes any overpayment, in either case, of any Tax which is the responsibility of Seller under Section 6.10(b) , Buyer shall pay to Seller the amount of the refund or the utilized overpayment (including any interest received from the applicable Tax authority but less any reasonable costs and expenses incurred in connection with receiving or utilizing such refund or overpayment). If, after the Closing Date, Seller or any of its Affiliates (a) receives any refund (whether by payment, offset, credit or otherwise) or (b) utilizes any overpayment, in either case, of any Tax which is the responsibility of Buyer under Section 6.10(b) , Seller shall pay to Buyer the amount of the refund or the utilized overpayment (including any interest received from the applicable Tax authority but less any reasonable costs and expenses incurred in connection with receiving or utilizing such refund or overpayment). Each of the Parties agrees (i) to use its commercially reasonable efforts to claim any such refund or to utilize any such overpayment and to furnish to the other such information, records and assistance as reasonably requested to verify the amount of the refund or overpayment and (ii) to notify the other within 15 days following the discovery of a right to claim any such refund or overpayment and the receipt of any such refund or utilization of any such overpayment. Any payment due under this Section 6.10(f) shall be paid within 30 days after the relevant refund is received or the relevant overpayment is utilized.

(h) Tax Treatment and Allocations . With respect to the Companies being acquired hereunder, each of the Parties hereby agrees that the purchase and sale of the Company Interests under this Agreement is properly treated as a taxable purchase of the underlying assets of Seller for federal income Tax purposes. The Parties further agree to prepare and file or cause to be prepared and filed all Tax Returns in all respects and for all purposes consistent with such Tax treatment. No Party shall take any position (whether in Proceedings, Tax Returns or otherwise) that is

inconsistent with such Tax treatment. Since the transaction is treated as an acquisition of assets, the Parties agree that the payments attributable to the Cash Consideration and the Closing Date Working Capital (the " ***Base Consideration*** "), as adjusted, and the liabilities of the Companies (plus other relevant items) will be allocated to the assets of the Companies in a manner consistent with the fair market values set forth in the Base Consideration Allocation Schedule. Within ninety (90) days after the Closing, Buyer shall provide Seller with a proposed allocation of the Base Consideration (and any other items constituting consideration paid by Buyer or received by Seller in connection with the disposition of the membership interests) among the assets of the Companies in a manner consistent with Section 1060 of the Code (" ***Base Consideration Allocation Schedule*** "). If Seller disputes any amount reflected on the Base Consideration Allocation Schedule, Seller shall notify Buyer in writing of Seller's objections in reasonable detail on or before the thirtieth (30th) day after Buyer's delivery to Seller of the Base Consideration Allocation Schedule. If Seller so objects, and if the Parties have not agreed on a resolution of those objections, then within twenty (20) days after the forty-fifth (45th) day following the delivery of Seller's notice of objection pursuant to this Section 6.10(h) , Buyer or Seller may require that the dispute components of the Base Consideration Allocation Schedule be resolved by an Independent Accountant in the same manner as provided in Section 2.5(c) . The costs and expenses of the Independent Accountant shall be shared equally by Buyer and Seller. The Parties shall use their reasonable efforts to cause the Independent Accountant to render a written decision resolving the matter within twenty (20) days following submission thereof. The Base Consideration Allocation Schedule, as agreed upon by the Parties or as determined by the Independent Accountant, will be used by Buyer and Seller as the basis for reporting asset values and other items for all purposes (including financial accounting and Tax purposes) (including any Tax Returns required to be filed under Section 1060(b) of the Code and the Treasury Regulations thereunder). Buyer and Seller shall not assert, in connection with any Proceeding with respect to Taxes, (i) any asset values or other items inconsistent with the allocations set forth on the Base Consideration Allocation Schedule or (ii) any position inconsistent with the tax treatment provided herein. The Parties shall file all Tax Returns, including, in the case of Buyer, IRS Form 8594, in a manner consistent with such values, and no Party shall take any position in any Tax Return that is inconsistent with the Base Consideration Allocation Schedule, as adjusted, unless required to do so by a final determination as defined in Section 1313 of the Code. The Parties agree to promptly advise each other regarding the existence of any Proceeding related to the tax treatment of this transaction or the Base Consideration Allocation Schedule, as mutually agreed upon.

(i) Post-Closing Actions . Except with respect to the initial preparation of a Tax Return for a Straddle Period pursuant to Section 6.10(d) , neither Buyer nor any of its Affiliates shall (i) amend, refile, revoke or otherwise modify any Tax Return or Tax election of any Company with respect to a Pre-Closing Date Tax Period, (ii) make any Tax election that has retroactive effect to any such Pre-Closing Date Tax Period, (iii) take any action to extend the applicable statute of limitations with respect to any Tax Return for any Pre-Closing Date Period, in each case without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned, or delayed or, (iv) for a period of four years following Closing, make application to obtain state sales and income tax clearance certification with regard to the Companies from any state in which the Companies operate (excluding notices and information required by the state taxing authorities).

(j) Conflict . In the event of a conflict between the provisions of this Section 6.10 and any other provision of this Agreement, this Section 6.10 shall control.

6.11 ***Termination of Related Party Transactions*** . Except for the Contracts listed in Schedule 6.11 , the Seller shall cause all Contracts or other arrangements between any Company, the Seller, any Affiliate of any Company and the Seller, and any officers, directors and employees thereof, on the one hand, and any Company, on the other hand (including the transactions set forth on Schedule 4.18 and any amounts due to/from affiliates on the Verde Financial Statements, to be terminated on or prior to the Closing without any loss, liability or expense of any Company paid or remaining thereunder, except for the Transaction Documents.

6.12 ***Resignations*** . At or prior to the Closing, Seller shall cause the officers, employees and directors of the Companies set forth on Schedule 6.12 of the Company Disclosure Schedules to resign or be removed from such positions. All other employees shall remain in place following the Closing. For the avoidance of doubt, the employment agreements specified on Schedule 6.12 shall remain in effect following the Closing.

6.13 ***Release of Liens*** . Prior to, or concurrently with, the Closing, the Seller shall have obtained and provided to Buyer releases of any Liens on any Company or Company Interest and all or any portion of the Verde Business, including the Contracts and Verde Assets, except for Permitted Liens, and shall provide proof of such releases and payment in full in a form and substance reasonably acceptable to Buyer at the Closing.

6.14 ***Financial Statements*** . Seller shall provide reasonable assistance and cooperation to Buyer in connection with the obligations of Guarantor to prepare and file with the Securities and Exchange Commission (the " ***SEC*** ") the financial information of the Companies required to be included by Guarantor in its current and periodic reports filed under the Exchange Act, including Item 9.01 of Form 8-K, and in registration statements and prospectus supplements filed under the Securities Act by providing to Buyer the relevant financial statements and records, documents and information that is available to Seller regarding the Companies and their respective Affiliates, and requesting for PricewaterhouseCoopers (or another mutually agreed upon public accounting firm) to provide such customary reviews, consents, comfort letters and documents that may be required or reasonably necessary in connection therewith; and providing to Buyer's employees and independent accountants such access, information and records as they may reasonably request for purposes of the foregoing; provided , however , that in no case shall Seller be required to deliver any reports, documents or other information outside that which Seller prepares (or causes to be prepared) in the ordinary course of business consistent with past practice; provided , further , that, if, upon the request of Buyer, Seller (in its sole discretion) prepares (or causes to be prepared) any report, document or other information outside of the ordinary course of business consistent with past practice, then Buyer shall reimburse the fees and expenses incurred by Seller in connection with the preparation of such report, document or other information.

6.15 ***Employee Benefits; Employment Agreements*** .

(a) During the period commencing at Closing and ending on the date that is eighteen (18) months from the Effective Date (or if earlier, the date of the employee's termination of employment with the applicable Company or Affiliate thereof), Buyer shall, and shall cause the Companies (as applicable) to, provide each Employee who remains employed immediately after Closing (" ***Company Continuing Employee*** ") with: (i) base salary or hourly wages no less than the base salary or hourly wages provided by such Company (as applicable) immediately prior to the Closing; (ii) target incentive opportunities, if any, that are no less than the target cash incentive opportunities provided by such Company (as applicable) immediately prior to the Closing; and (iii) retirement and welfare benefits under the Buyer Benefit Plans (as defined in Section 6.15(b) below) that are no less favorable in the aggregate than those provided by the Companies immediately prior to the Closing.

(b) With respect to any employee benefit plan maintained by Buyer or its Subsidiaries or Affiliates (collectively, " ***Buyer Benefit Plans*** ") in which any Company Continuing Employees will participate effective as of or after Closing, Buyer shall, or shall cause the applicable Company to, recognize all service of the Company Continuing Employees with such Company, or any predecessor of such Company, as if such service were with Buyer, for all purposes in any Benefit Plan in which such Company Continuing Employees may be eligible to participate after the Closing; provided , however , such service shall not be recognized to the extent that (x) such recognition would result in a duplication of benefits or (y) such service was not recognized under the corresponding Benefit Plan.

(c) This Section 6.15 shall be binding upon and inure solely to the benefit of each of the parties to this Agreement, and nothing in this Section 6.15 , express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 6.15 . Nothing contained herein, express or implied, shall be construed to establish, amend or modify any benefit plan, program, agreement or arrangement. The parties hereto acknowledge and agree that the terms set forth in this Section 6.15 shall not create any right in any Employee or any other Person to any continued employment with the Companies, Buyer or any of their respective Affiliates or compensation or benefits of any nature or kind whatsoever. Notwithstanding any interpretation or construction of any provision herein to the contrary, the Parties acknowledge and agree that any employment of any Company Continuing Employees on and after the Closing Date shall be deemed to be employment "at-will" and subject to termination at any time by either employee or by any of the Companies for any reason or no reason, including without limitation with or without "Cause" or with or without "Good Reason," except as otherwise provided under the Amended and Restated Employment Agreements.

(d) Buyer shall (i) waive, or cause its insurance carriers to waive, all limitations as to pre-existing and at-work conditions, if any, with respect to participation and coverage requirements applicable to Company Continuing Employees under any Buyer Benefit Plan that is a welfare benefit plan (as defined in Section 3(1) of ERISA) and which is made available to Company Continuing Employees following the Closing Date by Buyer or one of its Affiliates to the extent such limitations or conditions would have been satisfied or waived under the terms of the comparable Verde Benefit Plan prior to the Closing Date, and (ii) provide credit to Company Continuing Employees for any co-payments, deductibles and out-of-pocket expenses paid by such employees under the corresponding Verde Benefit Plan during the portion of the relevant plan year including the Closing Date.

(e) Following the Closing, Buyer shall, or shall cause the applicable Company to, honor the Amended and Restated Employment Agreements. Any payments of salary and other compensation including incentives and severance under the Amended and Restated Employment Agreements shall be the responsibility of the Companies and shall be deducted as an expense in the calculation of Adjusted EBITDA for purposes of the calculation of the Earnout Payments.

Notwithstanding the foregoing, nothing contained herein, whether express or implied, shall be treated as an amendment or other modification of any employee benefit plan or arrangement, or shall limit the right of Buyer, the Companies or any of their Affiliates to amend, terminate or otherwise modify any employee benefit plan or arrangement sponsored by Buyer, the Companies or any of their Affiliates following the Closing Date. In the event that (i) a Person not a party to this Agreement makes a claim or takes other action to enforce any provision in this Agreement as an amendment to any employee benefit plan or arrangement sponsored by Buyer, the Companies or any of their Affiliates, and (ii) such provision is deemed to be an amendment to such plan or arrangement even though not explicitly designated as such in this Agreement, then such provision shall lapse retroactively and shall have no amendatory effect. The parties acknowledge and agree that all provisions contained in this Section 6.15 with respect to the Company Continuing Employees are included for the sole benefit of the parties, and that nothing in this Agreement, whether express or implied, shall create any third party beneficiary or other rights (i) in any other Person, including any current or former employees, directors or independent contractors, any participant in any employee benefit plan, or any dependent or beneficiary thereof, or (ii) to continued employment with Buyer, the Companies or any of their Affiliates.

6.16 ***Confidentiality*** .

(a) Buyer acknowledges and agrees that the Confidentiality Agreement remains in full force and effect and, in addition, covenants and agrees to keep confidential, in accordance with the provisions of the Confidentiality Agreement, information provided to Buyer pursuant to this Agreement.

(b) If this Agreement is, for any reason, terminated prior the Closing, the Confidentiality Agreement shall nonetheless continue in full force and effect.

6.17 ***Books and Records*** . In order to facilitate the resolution of any claims made against or incurred by Seller prior to Closing, or for any other reasonable purpose, Buyer shall (i) retain the books and records (including personnel files) of the Companies relating to periods prior to the Closing in accordance with Buyer's record retention policies, GAAP and applicable Law; and (ii) upon reasonable notice, afford Seller and its representatives reasonable access during normal business hours, to such books and records of the Companies.

6.18 ***Replacement Energy Supply; Release of Guarantees and Credit Support Arrangements.***

(a) Buyer shall use Reasonable Efforts to enter into the Replacement Energy Supply Arrangements prior to Closing.

(b) Schedule 6.18(b) of the Company Disclosure Schedules sets forth a complete list of all deposits, cash collateral, guarantees, bonds, letters of credit or other financial assurances related to the Verde Business in place as of the date of this Agreement. From time to time until the Closing, Seller shall update Schedule 6.18(b) for changes to any of the items identified on such schedule. The items set forth on Schedule 6.18(b) are referred to as the " ***Replaced Credit Support"*** . Commencing on the date of this Agreement and continuing until all of the Replaced Credit Support has been replaced, Buyer shall use Reasonable Efforts to make arrangements for any Replaced Credit Support provided for Seller and its Affiliates to be terminated as of the Closing if possible or at the earliest practicable time thereafter if such credit support cannot be replaced effective as of the Closing. Buyer shall use Reasonable Efforts to arrange for Seller and its Affiliates (other than the Companies) to be fully and unconditionally released and discharged from all past, present and future liability under such Replaced Credit Support, and for such Replaced Credit Support to be returned to Seller as soon as reasonably practicable. To the extent that a full and unconditional release cannot be obtained with respect to any such Replaced Credit Support, Buyer shall fully indemnify Seller and its Affiliates against any Losses relating to such Replaced Credit Support.

6.19 ***Non-Parties*** . All claims or causes of action (whether in contract or in tort, in law or in equity) that may be based upon, arise out of, or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any representation or warranty made in connection with this Agreement or as an inducement to enter into this Agreement), may be made only against the Persons that are Parties hereto. No Person who is not a named party to this Agreement, including any Affiliate, agent, attorney, or representative of any Party (such Persons, " ***Non-Party Affiliates*** "), shall have any liability (whether in contract or tort, in law or in equity, or based upon any theory that seeks to impose liability of an entity party against its owners or Affiliates) for any obligations or liabilities arising under this Agreement or for any claim based on this Agreement or its negotiation or execution, and each Party waives and releases all such liabilities, claims, and obligations against any such Non-Party Affiliates. Non-Party Affiliates are expressly intended as third party beneficiaries of this provision of this Agreement.

6.20 ***Plant Closings and Mass Layoffs*** . Buyer shall not, and shall cause the Companies not to, take any action following the Closing that could result in WARN Act liability during the first year following the Closing.

6.21 ***Director and Officer Indemnification and Insurance*** .

(a) Buyer agrees that all rights to indemnification, advancement of expenses, and exculpation by each Company now existing in favor of each Person who is now an officer or director of such Company, as provided in the Organizational Documents of such Company, in each case as in effect on the date of this Agreement, or pursuant to any other agreements in effect on the date hereof and disclosed in Schedule 6.21(a) , shall survive the Closing Date and shall continue in full force and effect in accordance with their respective terms.

(b) The obligations of Buyer under this Section 6.21 shall not be terminated or modified in such a manner as to adversely affect any director or officer to whom this Section 6.21 applies without the consent of such affected director or officer (it being expressly agreed that the directors and officers to whom this Section 6.21 applies shall be third-party beneficiaries of this Section 6.21 , each of whom may enforce the provisions of this Section 6.21).

(c) In the event Buyer, any Company, or any of their respective Affiliates, successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity in such consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any Person, then, and in either such case, proper provision shall be made so that the successors and assigns of Buyer or such Company, as the case may be, shall assume all of the obligations set forth in this Section 6.21 .

(d) Seller or the Companies may obtain on or prior to the Closing Date, "tail" insurance policies with a claims period of six (6) years from the Closing Date with at least the same coverage and amounts, and containing terms and conditions that are not less advantageous to the directors and officers of the each Company, in each case with respect to claims arising out of or relating to Events which occurred on or prior to the Closing Date (including in

connection with the transactions contemplated by this Agreement), provided, however, that the entire cost of any such policies shall be borne by the Seller or the Companies either as a pre-closing expense or an expense taken into account when calculating Adjusted EBITDA.

6.22 ***Name Change.*** Not later than 180 days after the Closing Seller will change its name to eliminate the word "Verde".

ARTICLE VII
CONDITIONS TO CLOSING

7.1 ***Conditions to Obligations of all Parties*** . The respective obligations of each Party to consummate the Closing is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, any one or more of which may be waived in writing, in whole or in part, as to a Party by such Party (in such Party's sole discretion):

(a) Governmental Filings and Consents . The filings of Buyer and Seller pursuant to the HSR Act, if any, shall have been made and the applicable waiting period and any extensions thereof shall have expired or been terminated. All other necessary and material filings with and consents of any Governmental Authority required for the consummation of the transactions contemplated in this Agreement (including any applicable FERC order pursuant to Sections 203(a)(1) and 203(a)(2) of the Federal Power Act authorizing Buyer's acquisition of, and Seller's disposition of, any jurisdictional facilities as submitted by Seller pursuant to Section 6.2) shall have been made and obtained, other than those that are customarily obtained after Closing, and all waiting periods with respect to filings made with Governmental Authorities in contemplation of the consummation of the transactions described herein shall have expired or been terminated.

(b) Legal Constraints . No statute, rule, regulation, executive order, decree, temporary restraining order, preliminary or permanent injunction or other order enacted, entered, promulgated, enforced or issued by any Governmental Authority, or other legal restraint or prohibition preventing the consummation of the transactions contemplated hereby shall be in effect.

7.2 ***Conditions to Obligations of Buyer*** . The obligation of Buyer to consummate the Closing is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, any one or more of which may be waived in writing, in whole or in part, by Buyer (in Buyer's sole discretion):

(a) Representations and Warranties of Seller. (i) The representations and warranties of the Seller contained in Section 3.1 , Section 3.2 , Section 3.3 , Section 3.4 , Section 3.7 , Section 4.1 and Section 4.2 (the " ***Seller Fundamental Representations*** ") shall be true and correct in all respects as of the Execution Date and the Closing Date with the same effect as though made at and as of the Closing (except to the extent such representations and warranties expressly relate to an earlier date, in which case as of such earlier date), and (ii) the other representations and warranties of Seller in Article III and Article IV of this Agreement shall be true and correct (without regard to qualifications as to materiality or any Seller Material Adverse Effect or Company Material Adverse Effect contained therein) as of the Execution Date and the Closing Date with the same effect as though made at and as of the Closing (except to the extent such representations and warranties expressly relate to an earlier date, in which case as of such earlier date), except in the case of clause (ii) where the failure of the representations and warranties to be true and correct would not reasonably be expected to have a Seller Material Adverse Effect or Company Material Adverse Effect.

(b) Performance by Seller . Seller shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by the Seller on or prior to the Closing Date.

(c) Energy Supply Agreements . The Energy Supply Agreements shall have been terminated and the costs associated with such termination shall have been paid in full by either Seller or the Companies. Seller, the Companies, Buyer and Shell shall have entered into the Energy Supply Termination Agreement.

(d) Payment of Indebtedness . Seller shall have paid all Indebtedness of the Companies outstanding at Closing (excluding indebtedness for current trade payables properly included in Estimated Working Capital). All outstanding Liens (excluding Permitted Liens) on the Companies and Company Interests or to which the Verde Assets are subject shall have been released.

(e) Closing Deliverables . Seller shall have delivered or caused to be delivered all of the closing deliveries set forth in Section 8.2 and the other documents contemplated by this Agreement.

(f) Material Adverse Effect . Since the Execution Date, there shall not have occurred any Event or Events which has had, or could be reasonably expected to have, individually or in the aggregate, a Seller Material Adverse Effect or a Company Material Adverse Effect.

7.3 ***Conditions to Obligations of Seller*** . The obligation of the Seller to consummate the Closing is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, any one or more of which may be waived in writing, in whole or in part, by the Seller (in their sole discretion):

(a) Representations and Warranties of Buyer. (i) The representations and warranties of Buyer contained in Section 5.1 , Section 5.2 , Section 5.3 , and Section 5.6 (the " ***Buyer Fundamental Representations*** ") shall be true and correct in all respects as of the Execution Date and the Closing Date with the same effect as though made at and as of the Closing (except to the extent such representations and warranties expressly relate to an earlier date, in which case as of such earlier date), and (ii) the other representations and warranties of Buyer made in this Agreement shall be true and correct (without regard to qualifications as to materiality or any Buyer Material Adverse Effect contained therein) as of the Execution Date and the Closing Date with the same effect as though made at and as of the Closing (except to the extent such representations and warranties expressly relate to an earlier date, in which case as of such earlier date), except in the case of clause (ii) where the failure of the representations and warranties to be true and correct would not reasonably be expected to have a Buyer Material Adverse Effect.

(b) Performance . Buyer shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by Buyer on or prior to the Closing Date.

(c) Closing Deliverables . Buyer shall have delivered or caused to be delivered all of the closing deliveries set forth in Section 8.3 and the other documents contemplated by this Agreement.

(d) Replacement Energy Supply Arrangements . The Replacement Energy Supply Arrangements shall be in full force and effect.

(e) Replacement of Credit Support Arrangements . Buyer shall have replaced, and Seller and its Affiliates shall have been released from any further obligation with respect to, each of the Shell Credit Support Obligations.

ARTICLE VIII
CLOSING

8.1 ***Closing*** . Subject to the terms and conditions of this Agreement and unless otherwise agreed in writing by Buyer and Seller, the closing (the " ***Closing*** ") of the transactions contemplated by this Agreement will be held at the offices of Buyer, 12140 Wickchester Lane, Suite 100, Houston, Texas 77079 at 9:00 a.m., Houston, Texas time on the last Business Day of the calendar month in which the last of the conditions in Article VII are satisfied or waived (in accordance with the provisions hereof and other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the fulfillment or waiver of such conditions) or such other date, place and time as may be mutually agreed upon by the Parties. The date on which the Closing occurs is referred to as the " ***Closing Date*** ." The Closing shall be effective as of the Effective Time.

8.2 ***Deliveries by Seller*** . At or before the Closing, Seller will deliver (or cause to be delivered) to Buyer the following:

(a) a counterpart to that certain assignment of all of the outstanding Interests in the Direct Subsidiaries and certain Registered Intellectual Property to Buyer, dated as of the Closing Date (the " ***Verde Interests and Trademark Assignment*** "), substantially in the form of Exhibit D attached hereto, duly executed by Seller;

(b) stock certificates evidencing the shares of common stock of Verde Inc., free and clear of all Liens, duly endorsed in blank by Seller or accompanied by stock powers or other instruments of transfer duly executed in blank by Seller, with all required stock transfer tax stamps affixed thereto;

(c) a counterpart to the Energy Supply Termination Agreement, executed by the Seller, Shell and the Companies;

(d) a counterpart to the Escrow Agreement, executed by the Seller;

(e) a counterpart to the non-competition and non-solicitation agreement for each of Seller, Lance Lundberg, Thomas FitzGerald and Tony Menchaca in favor of Buyer and the Companies in substantially the form attached as Exhibit E executed by Seller (the " ***Non-Competition Agreements*** ") and Lance Lundberg, Thomas FitzGerald and Tony Menchaca, respectively;

(f) a counterpart to the Amended and Restated Employment Agreement for each of Thomas FitzGerald and Tony Menchaca substantially in the form attached as Exhibit F (the " ***Amended and Restated Employment Agreements*** " executed by Thomas FitzGerald and Tony Menchaca;

(g) the written resignations of the directors, officers and employees of the Companies set forth on Schedule 6.12 of the Company Disclosure Schedules effective as of Closing;

(h) payoff letters evidencing the Seller's payment of all Indebtedness (excluding indebtedness for current trade payables properly included in Estimated Working Capital);

(i) releases of Liens, other than Permitted Liens, evidencing the discharge and removal of all Liens on any assets of the Companies and the Verde Business, including all Liens associated with or arising under the Energy Supply Agreements, including all tangible and intangible Verde Assets and all Verde Contracts and other contracts, if any, other than Permitted Liens;

(j) all books and records relating to the Companies, the Verde Business (including books of account, Tax returns and supporting work papers, Contract files and the like relating to the Companies and the Verde Business) that are not then in the possession of the Companies;

(k) an executed statement described in Treasury regulations section 1.1445-2(b)(2) certifying that Seller is neither a disregarded entity nor a foreign person within the meaning of the Code and the Treasury regulations promulgated thereunder;

(l) a closing certificate, dated as of the Closing Date, duly executed by Responsible Officers of the Seller, certifying that to such officer's Knowledge, the conditions set forth in Section 7.2(a) and Section 7.2(b) , in each case with respect to the Seller, have been satisfied;

(m) an officer's certificate, dated as of the Closing Date, duly executed by a Responsible Officer of the Seller, certifying as to and attaching (i) unanimous written consent of the governing authority of Seller authorizing the execution and delivery of this Agreement and the transactions contemplated hereby and (ii) the incumbency of the officers authorized to execute this Agreement on behalf of Seller;

(n) certificates as of a recent date from the Secretary of State of Delaware and each other State in which each of the Seller and Companies conducts business evidencing that Seller, and such Companies, each is in good standing in such States, as applicable; and

(o) such other documents, certificates and other instruments as may be reasonably requested by Buyer prior to the Closing Date to carry out the intent and purposes of this Agreement.

8.3 ***Deliveries by Buyer*** . At or before the Closing, Buyer will deliver (or cause to be delivered) to Seller the following:

(a) the Cash Consideration and Estimated Working Capital, by wire transfer of immediately available funds to the account specified by the Seller;

(b) the Buyer Note;

(c) if applicable, to those Persons (in accordance with instructions provided in writing by Seller prior to Closing) as shall be necessary to discharge the following liabilities outstanding as of the Closing: (x) any unpaid Change of Control Payment and (y) any unpaid expenses incurred by Seller or the Companies in connection with this Agreement or the transactions contemplated hereby;

(d) a counterpart to the Verde Interests and Trademark Assignment, duly executed by Buyer;

(e) a counterpart to the Escrow Agreement, executed by Buyer;

(f) counterparts to the Non-Competition Agreements signed by Buyer;

(g) counterparts to the Amended and Restated Employment Agreements signed by Buyer;

(h) a counterpart to the Energy Supply Termination Agreement executed by Buyer;

(i) a closing certificate, dated as of the Closing Date, duly executed by a Responsible Officer of Buyer, certifying that to such officer's Knowledge, the conditions set forth in Section 7.3(a) and Section 7.3(b) , in each case with respect to Buyer, have been satisfied;

(j) an officer's certificate, dated as of the Closing Date, duly executed by a Responsible Officer of Buyer, certifying as to and attaching (i) unanimous written consent of the managing member of Buyer authorizing the execution and delivery of this Agreement and the transactions contemplated hereby and (ii) the incumbency of the officers authorized to execute this Agreement on behalf of Buyer;

(k) an executed statement described in Treasury regulations section 1.1445-2(b)(2) certifying that Buyer is neither a disregarded entity nor a foreign person within the meaning of the Code and the Treasury regulations promulgated thereunder;

(l) certificates as of a recent date from the Secretary of State of New York evidencing that Buyer is in good standing in the State of New York; and

(m) such other documents, certificates and other instruments as may be reasonably requested by Buyer prior to the Closing Date to carry out the intent and purposes of this Agreement.

ARTICLE IX
TERMINATION RIGHTS

9.1 ***Termination Rights*** . This Agreement may be terminated at any time prior to the Closing as follows:

(a) by mutual written consent of the Parties;

(b) by any Party if any Governmental Authority of competent jurisdiction shall have issued a final and non-appealable order, decree or judgment prohibiting the consummation of the transactions contemplated by this Agreement or the Transaction Documents;

(c) by any Party in the event that the Closing has not occurred on or prior to August 31, 2017 (the " ***Termination Date*** "); *provided* , *however* , that (i) Buyer may not terminate this Agreement pursuant to this Section 9.1(c) if such failure of the Closing to occur is due to the failure of Buyer to perform and comply in all material respects with the covenants and agreements to be performed or complied with by Buyer under this Agreement, (ii) Seller may not terminate this Agreement pursuant to this Section 9.1(c) if such failure of the Closing to occur is due to the failure of Seller to perform and comply in all material respects with the covenants and agreements to be performed or complied with by Seller under this Agreement, (iii) either Seller or Buyer may elect to extend the Termination Date to October 31, 2017 in the event that the closing condition set forth in Section 7.1(a) has not been satisfied, provided that the extending Party provides written notice of such extension to the other Party prior to the Termination Date, and (iv) Buyer may elect to extend the Termination Date to November 30, 2017 in the event that a closing condition has not been satisfied by Buyer by making payment to Seller of $500,000, if the Buyer provides notice and payment to the Seller prior to the Termination Date then in effect. In the event of an extension of the Termination Date pursuant to clauses (iii) or (iv) of the preceding sentence, the term Termination Date as used in this Agreement shall refer to the Termination Date as extended pursuant to Section 9.1(c)(iii) or (iv) (as the case may be);

(d) by Buyer if there shall have been a breach or inaccuracy of any of the Seller's representations and warranties in this Agreement or a failure by Seller to perform its covenants and agreements in this Agreement, in any such case in a manner that would result in, if occurring and continuing on the Closing Date, the failure of the conditions to the Closing set forth in Section 7.2(a) and Section 7.2(b) , unless such failure is reasonably capable of being cured, and the Seller is using all Reasonable Efforts to cure such failure by the Termination Date; *provided* , *however* , that Buyer may not terminate this Agreement pursuant to this Section 9.1(d) if (i) any of Buyer's representations and warranties shall have become and continue to be untrue in a manner that would cause the condition set forth in Section 7.3(a) not to be satisfied or (ii) there has been, and continues to be, a failure by Buyer to perform its covenants and agreements in such a manner as would cause the condition set forth in Section 7.3(b) not to be satisfied;

(e) by the Seller if there shall have been a breach or inaccuracy of Buyer's representations and warranties in this Agreement or a failure by Buyer to perform its covenants and agreements in this Agreement, in any such case in a manner that would result in, if occurring and continuing on the Closing Date, the failure of the conditions to the Closing set forth in Section 7.3(a) or Section 7.3(b) , unless such failure is reasonably capable of being cured, and Buyer is using all Reasonable Efforts to cure such failure by the Termination Date; *provided* , *however* , that the Seller may not terminate this Agreement pursuant to this Section 9.1(e) if (i) Seller's representations and warranties shall have become and continue to be untrue in a manner that would cause the condition set forth in Section 7.2(a) not to be satisfied or (ii) there has been, and continues to be, a failure by the Seller to perform its covenants and agreements in such a manner as would cause the condition set forth in Section 7.2(b) not to be satisfied;

9.2 ***Effect of Termination*** . In the event of the termination of this Agreement pursuant to Section 9.1 , all rights and obligations of the Parties under this Agreement shall terminate, except for the provisions of this Section 9.2 , Section 6.6 , Section 6.8 , Article XI and Article XII ; provided, however, that no termination of this Agreement shall relieve any Party from any liability for any willful and intentional breach of this Agreement, and all rights and remedies of a non-breaching Party under this Agreement in the case of any such willful and intentional breach, at law and in equity, shall be preserved, including the right to recover reasonable attorneys' fees and expenses. Except to the extent otherwise provided in the immediately preceding sentence, the Parties agree that, if this Agreement is terminated, the Parties shall have no liability to each other under or relating to this Agreement. In the event of any willful and intentional breach of this Agreement by a Party, the waiver provisions set forth in Section 10.6 shall be inapplicable. For purposes of this Section 9.2 and Section 9.3 , "willful and intentional breach" is defined as a Party's deliberate and conscious non-performance of a material contractual obligation.

9.3 ***Remedies for Certain Actions.***

(a) If a Party willfully and intentionally breaches this Agreement on or before the Termination Date, then the other Party shall have the following alternative (*i.e.* , non-cumulative) options and remedies:

(i) to pursue an action in equity seeking the non-performing Party's specific performance of its obligations to consummate the transactions contemplated by this Agreement and, if successful in such action, then the legal fees and expenses incurred by such Party in pursuing the same shall be borne by the non-performing Party; or

(ii) to pursue any and all other damages and remedies otherwise available to such Party under this Agreement or at law or in equity; provided however, that the limitations in Section 10.7 shall apply to such other damages and remedies.

(b) Except as otherwise expressly provided in Section 9.3(a) , the Parties' respective rights and remedies provided in this Agreement shall be deemed cumulative, and any Party's exercise of any one of such Party's rights or remedies shall not preclude such Party's exercise of any other right or remedy then available to it, whether hereunder or at law or in equity; provided , however , that, notwithstanding any provision herein to the contrary, the exercise of such cumulative rights and remedies shall not, separately or in the aggregate, afford Sellers more than a single recovery of their actual, direct damages, subject to Section 10.7 .

(c) For purposes of Section 9.2 and this Section 9.3 , a failure by Buyer to consummate the transactions contemplated by this Agreement because it does not have sufficient funds available to consummate the transactions contemplated hereby shall constitute a willful and intentional breach of this Agreement.

ARTICLE X
INDEMNIFICATION

10.1 ***Indemnification by Seller*** . Subject to the terms of this Article X , from and after the Closing, Seller shall indemnify and hold harmless Buyer and its members, managers, directors, officers, employees, consultants and permitted assigns (collectively, the " ***Buyer Indemnitees*** "), to the fullest extent permitted by Law, from and against any losses, claims, damages, liabilities and costs and expenses (including reasonable attorneys' fees and reasonable expenses of investigating, defending and prosecuting litigation) (collectively, " ***Losses*** ") incurred or suffered by the Buyer Indemnitees as a result of, caused by, arising out of or relating to (other than with respect to Section 4.13 or Section 6.10 it being understood that the sole remedy for any such inaccuracy in or breach thereof shall be pursuant to Section 6.10):

(a) any breach or inaccuracy of the Seller of any of the Seller Fundamental Representations (in each case, when made);

(b) any breach or inaccuracy of any of the other representations or warranties (in each case, when made) of Seller contained in this Agreement;

(c) any breach of any of the covenants or agreements of Seller contained in this Agreement; and

(d) the Indemnified Litigation Claims.

10.2 ***Indemnification by Buyer*** . Subject to the terms of this Article X , from and after the Closing, Buyer shall indemnify and hold harmless Seller and its members, managers, directors, officers, employees, consultants and permitted assigns (collectively, the " ***Seller Indemnitees*** "), to the fullest extent permitted by Law, from and against any Losses incurred or suffered by the Seller Indemnitees as a result of, caused by, arising out of or relating to:

(a) any breach or inaccuracy of Buyer of any of the Buyer Fundamental Representations (in each case, when made);

(b) any breach or inaccuracy of any of the other representations or warranties (in each case, when made) of Buyer contained in this Agreement; and

(c) any breach of any of the covenants or agreements of Buyer contained in this Agreement (other than with respect to Section 6.10 it being understood that the sole remedy for any such inaccuracy in or breach thereof shall be pursuant to Section 6.10).

10.3 ***Limitations and Other Indemnity Claim Matters*** . Notwithstanding anything to the contrary in this Article X or elsewhere in this Agreement (subject to Section 10.3(g)) , from and after the Closing, the following terms shall apply to any claim for monetary damages arising out of this Agreement or related to the transactions contemplated hereby:

(a) De Minimis . No indemnifying party (an " ***Indemnifying Party*** ") will have any liability under this Article X in respect of any individual claim involving Losses arising under Section 10.1(b) or Section 10.2(b) to any Indemnitee of less than $50,000 (each, a " ***De Minimis Claim*** ").

(b) Deductible.

(i) Seller will not have any liability under Section 10.1(b) unless and until the Buyer Indemnitees shall have suffered Losses in excess of $500,000 in the aggregate (the " ***Seller Deductible*** ") arising from Claims under Section 10.1(b) that are not De Minimis Claims and then recoverable Losses claimed under Section 10.1(b) shall be limited to those that exceed the Seller Deductible.

(ii) Buyer will not have any liability under Section 10.2(b) unless and until the Seller Indemnitees shall have suffered Losses in excess of $500,000 in the aggregate (the " ***Buyer Deductible*** ") arising from Claims under Section 10.2(b) that are not De Minimis Claims and then recoverable Losses claimed under Section 10.2(b) shall be limited to those that exceed the Buyer Deductible.

(c) Cap.

(i) Buyer's aggregate liability under Section 10.2(b) shall not exceed $4,000,000.

(ii) Seller's aggregate liability under Section 10.1(b) shall not exceed $4,000,000.

(iii) Under no circumstances shall Seller's liability under this Article X exceed the Base Consideration plus the Earnout Payment.

(d) Survival; Claims Period.

(i) The representations and warranties of the Parties under this Agreement shall survive the execution and delivery of this Agreement and shall continue in full force and effect until the eighteen (18) month anniversary of the Closing Date (the " ***Expiration Date*** "); *provided* that (1) the Buyer Fundamental Representations and the Seller Fundamental Representations shall survive indefinitely (the " ***Fundamental Expiration Date*** ") and (2) the representations and warranties in Section 4.13 shall survive for a period equal to the applicable statute of limitations plus an additional sixty days.

(ii) No action for a breach of any representation or warranty contained herein shall be brought after the Expiration Date or the Fundamental Expiration Date, as applicable, except for claims of which a Party has received a Claim Notice setting forth in reasonable detail the claimed misrepresentation or breach of warranty with reasonable detail, prior to the applicable Expiration Date.

(e) ***Calculation of Losses*** . In calculating amounts payable to any Indemnitee (each such person, an " ***Indemnified Party*** ") for a claim for indemnification hereunder, the amount of any indemnified Losses shall be determined without duplication of any other Loss for which an indemnification claim has been made or could be made

under any other representation, warranty, covenant or agreement and shall be computed net of (i) payments actually recovered by the Indemnified Party under any insurance policy with respect to such Losses and (ii) any indemnity, contribution or other similar payment received by the Indemnified Party from any Person other than the applicable Indemnifying Party with respect to such Losses, and (iii) any Tax benefit that is actually realized by the Indemnified Party or any of its Affiliates arising from the incurrence of, or payment with respect to, such Losses. The Indemnified Party shall use Reasonable Efforts to recover under insurance policies or indemnity contribution or other similar agreements for any Losses under this Agreement.

(f) ***Materiality*** . For purposes of determining whether any representation or warranty has been breached or contains any inaccuracy, any references to Material Adverse Effect, materiality or other similar qualifications contained in the representations and warranties shall not be disregarded. For purposes of calculating the amount of any damages arising as a result of such breach or inaccuracy, any Material Adverse Effect, materiality or other similar qualifications contained in the representations and warranties shall be disregarded.

(g) ***Mitigation*** . Each Party will use its Reasonable Efforts to mitigate (including by causing its respective Indemnified Parties to use Reasonable Efforts to mitigate) any Losses for which such Party is or may become entitled to be indemnified hereunder, including by timely claiming any Tax benefits that may arise as a result of such Losses.

(h) ***Verde Financial Statements*** . With respect to the representations and warranties contained in Section 4.3 regarding the Verde Financial Statements, none of Buyer or any Buyer Indemnitee shall have any claim for indemnification under this Article X in connection with any revaluation of goodwill of the Companies following Closing.

10.4 ***Indemnification Procedures*** .

(a) Each Indemnitee agrees that promptly after it becomes aware of facts giving rise to a claim by it for indemnification pursuant to this Article X , including receipt by it of notice of any Proceeding, by any third party with respect to any matter as to which it claims to be entitled to indemnity under the provisions of this Agreement, such Indemnitee must assert its claim for indemnification under this Article X (each, a " ***Claim*** ") by providing a written notice (a " ***Claim Notice*** ") to the Indemnifying Party allegedly required to provide indemnification protection under this Article X . Such Claim Notice shall (i) specify, in reasonable detail, the nature and basis for such Claim (*e.g.* , the underlying representation, warranty, covenant or agreement alleged to have been breached), (ii) include copies of all material written evidence of such Claim, (iii) indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained and (iv) include a formal demand for indemnification under this Agreement. Notwithstanding the foregoing, an Indemnitee's failure to send or delay in sending a third party Claim Notice will not relieve the Indemnifying Party from liability hereunder with respect to such Claim except to the extent the Indemnifying Party is materially prejudiced by such failure or delay and except as is otherwise provided herein. If the indemnified party knowingly failed to notify the Indemnifying Party thereof in accordance with the provisions of this Agreement in sufficient time to permit the indemnifying party or its counsel to defend against such matter and to make a timely response thereto including any responsive motion or answer to a complaint, petition, notice or other legal, equitable or administrative process relating to the Claim, the Indemnifying Party's indemnity obligation relating to such Claim shall be limited to the extent that such knowing failure to notify the Indemnifying Party has actually resulted in material prejudice or damage to the Indemnifying Party.

(b) In the event of the assertion of any third party Claim for which, by the terms hereof, an Indemnifying Party is obligated to indemnify an Indemnitee, the Indemnifying Party will have the right, at such Indemnifying Party's expense, to assume the defense of same including the appointment and selection of counsel on behalf of the Indemnitee so long as such counsel is reasonably acceptable to the Indemnitee. If the Indemnifying Party elects to assume the defense of any such third party Claim, it shall within 30 days of its receipt of the Claim Notice notify the Indemnitee in writing of its intent to do so. Any such contest may be conducted in the name and on behalf of the Indemnifying Party or the Indemnitee as may be appropriate. The Indemnifying Party will have the right to settle or compromise or take any corrective or remediation action with respect to any such Claim by all appropriate proceedings, which proceedings will be diligently prosecuted by the Indemnifying Party to a final conclusion or settled at the discretion of the Indemnifying Party. The Indemnitee will be entitled, at its own cost, to participate with the Indemnifying Party in the defense of any such Claim. If the Indemnifying Party assumes the defense of any such third-party Claim but fails

to diligently prosecute such Claim, or if the Indemnifying Party does not assume the defense of any such Claim, the Indemnitee may assume control of such defense and in the event it is determined pursuant to the procedures set forth in this Article X that the Claim was a matter for which the Indemnifying Party is required to provide indemnification under the terms of this Article X , the Indemnifying Party will bear the reasonable costs and expenses of such defense (including reasonable attorneys' fees and expenses).

(c) If requested by the Indemnifying Party, the Indemnitee agrees to reasonably cooperate with the Indemnifying Party and its counsel in contesting any Claim that the Indemnifying Party elects to contest or, if appropriate, in making any counterclaim against the Person asserting the Claim, or any cross-complaint against any Person, and the Indemnifying Party will reimburse the Indemnitee for any reasonable expenses incurred by it in so cooperating.

(d) Notwithstanding anything to the contrary in this Agreement, the Indemnifying Party will not be permitted to settle, compromise, take any corrective or remedial action or enter into an agreed judgment or consent decree, in each case, that subjects the Indemnitee to any criminal liability, requires an admission of guilt, wrongdoing or fault on the part of the Indemnitee or imposes any continuing obligation on or requires any payment from the Indemnitee or its Affiliates without the Indemnitee's prior written consent.

(e) Notwithstanding anything in this Article X to the contrary, any indemnification payment to be made to an Indemnitee pursuant to this Article X shall be effected by wire transfer of immediately available funds from the Indemnifying Party to an account designated by the Indemnitee within ten (10) days after the final determination thereof.

(f) For the avoidance of doubt, the Parties acknowledge that Losses relating to potential indemnity claims (including any potential indemnity claims that may be subject to the limitations of Section 10.3) may be funded by the Companies pending final resolution of the amount of any such Losses and determination of whether they are subject to indemnity hereunder.

10.5 ***Tax Treatment*** . Any payments made to any Party pursuant to Article X or Section 6.10 shall constitute an adjustment of the Base Consideration for Tax purposes and shall be treated as such by the Parties on their Tax Returns to the extent permitted by Law.

10.6 ***Sole and Exclusive Remedies*** . Notwithstanding any other term herein and except for remedies that cannot be waived as a matter of applicable Law, but without stating any other limitation, the sole and exclusive remedies of the Parties arising out of or resulting from any breach of any representation, warranty, covenant or agreement in this Agreement will be strictly limited to those contained in this Article X . In furtherance of the foregoing, except for remedies that cannot be waived as a matter of applicable Law, to the maximum extent permitted by applicable Law, Buyer hereby waives and (if necessary to give effect to this Section) will cause each of the Buyer Indemnitees to waive, any and all rights, claims and causes of action of Buyer against the Sellers and their Affiliates as a matter of Contract, equity, under or based upon any applicable Law or other Legal Requirements or otherwise (including for rescission), except and to the extent expressly stated in this Article X .

10.7 ***No Special Losses*** . Notwithstanding any other term herein, no Party will be obligated to any other Party or Person for any consequential, incidental, indirect, special, exemplary or punitive damages or Losses based thereon, including damages or Losses with respect to loss of future revenue, income or profits, diminution of value or loss of business reputation or opportunity, and no Party will be obligated to any other Party or Person for any Losses or damages determined as a multiple of income, revenue or the like, relating to the breach of any representation, warranty, covenant or agreement herein (except and to the extent that the Indemnified Party has been required to pay such damages to any third Person).

10.8 ***No Reliance*** . (a) THE REPRESENTATIONS AND WARRANTIES OF SELLER CONTAINED IN ARTICLE III AND ARTICLE IV CONSTITUTE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES OF SELLER TO BUYER IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. THE REPRESENTATIONS AND WARRANTIES OF BUYER CONTAINED IN ARTICLE V

CONSTITUTE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES OF BUYER TO SELLER IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. NEITHER PARTY IS RELYING ON ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES IN ARTICLES III, IV AND V , NO PARTY OR ANY OTHER PERSON MAKES ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WITH RESPECT TO SUCH PARTY OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, AND EACH PARTY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER MADE BY SUCH PARTY OR ANY OF ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES (INCLUDING WITH RESPECT TO THE DISTRIBUTION OF, OR ANY PERSON'S RELIANCE ON, ANY INFORMATION, DISCLOSURE OR OTHER DOCUMENT OR OTHER MATERIAL MADE AVAILABLE TO ANY PARTY IN ANY DATA ROOM, ELECTRONIC DATA ROOM, MANAGEMENT PRESENTATION OR IN ANY OTHER FORM IN EXPECTATION OF, OR IN CONNECTION WITH, THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT). EXCEPT FOR SUCH REPRESENTATIONS AND WARRANTIES, EACH PARTY DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR ANY REPRESENTATION, WARRANTY, PROJECTION, FORECAST, STATEMENT, OR INFORMATION MADE, COMMUNICATED OR FURNISHED (ORALLY OR IN WRITING) TO ANY OTHER PARTY OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES (INCLUDING ANY OPINION, INFORMATION, PROJECTION, OR ADVICE THAT MAY HAVE BEEN OR MAY BE PROVIDED TO ANY PARTY OR ANY OFFICER, DIRECTOR, EMPLOYEE, AGENT OR REPRESENTATIVE OF SUCH PARTY OR ANY OF ITS AFFILIATES).

10.9 ***Set-Off; No Double Counting*** .

(a) Buyer Indemnitees shall have the option, in their sole discretion, to offset any or all of their Losses for Indemnified Litigation Claims, Tax Claims, other Losses under this Article X (subject to the limitations in this Article X), and the Indeterminate Loss Amounts, against the unpaid principal of, and all accrued and unpaid interest under, the Buyer Note and/or any Earnout Payment on a dollar for dollar basis, provided that any such setoff against the Buyer Note shall be made first against accrued and unpaid interest and then against principal.

(b) No Loss shall be recoverable pursuant to this Article X to the extent it has been taken into account in calculating Closing Date Working Capital

ARTICLE XI
GOVERNING LAW, CONSENT TO JURISDICTION AND JURY TRIAL WAIVER

11.1 ***Governing Law*** . This Agreement shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware, without giving effect to the conflicts of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware.

11.2 ***Consent to Jurisdiction*** . The Parties irrevocably submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware and any state appellate court therefrom within the State of Delaware (or, if under applicable Law exclusive jurisdiction over the applicable matter is vested in the federal courts, any court of the United States located in the State of Delaware) for the purposes of any Proceeding arising out of this Agreement or the transactions contemplated hereby (and each Party agrees that no such Proceeding relating to this Agreement or the transactions contemplated hereby shall be brought by it except in such courts). The Parties irrevocably and

unconditionally waive (and agree not to plead or claim) any objection to the laying of venue of any Proceeding arising out of this Agreement or the transactions contemplated hereby in (i) any state or federal court sitting in the State of Delaware, or (ii) any state appellate court therefrom within the State of Delaware or that any such Proceeding brought in any such court has been brought in an inconvenient forum. Each of the Parties hereto also agrees that any final and non-appealable judgment against a Party hereto in connection with any Proceeding shall be conclusive and binding on such Party and that such award or judgment may be enforced in any court of competent jurisdiction, either within or outside of the United States. A certified or exemplified copy of such award or judgment shall be conclusive evidence of the fact and amount of such award or judgment.

11.3 ***JURY TRIAL WAIVER*** . EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.3 .

ARTICLE XII
GENERAL PROVISIONS

12.1 ***Amendment and Modification*** . This Agreement may be amended, modified or supplemented only by written agreement of the Parties hereto.

12.2 ***Waiver of Compliance; Consents*** . Except as otherwise provided in this Agreement, any failure of any of the Parties to comply with any obligation, covenant, agreement or condition in this Agreement may be waived by the Party or Parties entitled to the benefits thereof only by a written instrument signed by the Party or Parties granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

12.3 ***Notices*** . Any notice, demand or communication required or permitted under this Agreement shall be in writing and delivered personally, by reputable overnight delivery service or other courier or by certified mail, postage prepaid, return receipt requested, and shall be deemed to have been duly given (a) as of the date of delivery if delivered personally or by overnight delivery service or other courier, or (b) on the date receipt is acknowledged if delivered by certified mail, addressed as follows; provided that a notice of a change of address shall be effective only upon receipt thereof:

If to Buyer to:

CenStar Energy Corp.
12140 Wickchester Lane, Suite 100
Houston, TX 77079
Attention: Chief Executive Officer

With a copy to:

Spark Energy, Inc.
12140 Wickchester Lane, Suite 100
Houston, TX 77079
Attention: General Counsel

With a copy to:

Clint H. Smith
Fishman Haygood, LLP
201 St. Charles Avenue, Suite 4600
New Orleans, LA 70170

If to Seller to:

Verde Energy USA Holdings, LLC
101 Merritt 7, Second Floor
Norwalk, CT 06851
Attention: Chief Executive Officer

With a copy to:

Stephen J. Geissler, Esq.
Stephen J. Geissler, Esq., LLC
68 Warren Glen
Burlington, CT 06013

With a copy to:

William S. Lamb
Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112

12.4 ***Assignment*** . This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns. No Party may assign or transfer this Agreement or any of its rights, interests or obligations under this Agreement without the prior written consent of the other Parties; provided that Buyer may assign its rights (but not its obligations) to an Affiliate of Buyer without the consent of Seller, provided, however, that no such assignment shall relieve either Buyer or Guarantor of any of their respective obligations hereunder.

12.5 ***Third Party Beneficiaries*** . Except as provided in Article X and the last sentence of Section 6.22(b) , (a) this Agreement shall be binding upon and inure solely to the benefit of the Parties hereto and their respective successors and permitted assigns; (b) none of the provisions of this Agreement shall be for the benefit of or enforceable by any third party, including any creditor of any Party or any of their Affiliates; and (c) no such third party shall obtain any right under any provision of this Agreement or shall by reasons of any such provision make any claim in respect of any liability (or otherwise) against any other Party.

12.6 ***Entire Agreement*** . This Agreement and the other Transaction Documents constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both oral and written, among the Parties or between any of them with respect to such subject matter.

12.7 ***Severability*** . Whenever possible, each provision or portion of any provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such provision or portion of any provision shall be severable and the invalidity, illegality or unenforceability will not affect any other provision or portion of any provision in such jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

12.8 ***Representation by Counsel*** . Each Party agrees that it cooperated in the drafting and preparation of this Agreement and the documents referred to herein, and any and all drafts relating thereto shall be deemed the work product of the Parties and may not be construed against any Party by reason of its preparation. Therefore, the Parties waive the application of any Law providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

12.9 ***Disclosure Schedules*** . The inclusion of any information (including dollar amounts) in any section of the Seller Disclosure Schedules, the Company Disclosure Schedules or the Buyer Disclosure Schedules shall not be deemed to be an admission or acknowledgment by a Party that such information is required to be listed on such section of the Seller Disclosure Schedules, the Company Disclosure Schedules, or the Buyer Disclosure Schedules or is material to or outside the ordinary course of the business of such Party or the Person to which such disclosure relates. The information contained in this Agreement, the Exhibits and the Schedules is disclosed solely for purposes of this Agreement, and no information contained in this Agreement, the Exhibits or the Schedules shall be deemed to be an admission by any Party to any third Person of any matter whatsoever (including any violation of a legal requirement or breach of contract). The disclosure contained in one disclosure schedule contained in the Seller Disclosure Schedules, the Company Disclosure Schedules, or the Buyer Disclosure Schedules may be incorporated by reference into any other disclosure schedule contained therein, and shall be deemed to have been so incorporated into any other disclosure schedule so long as it is readily apparent on the face of such disclosure that the disclosure is applicable to such other disclosure schedule.

12.10 ***Electronic Signatures; Counterparts*** . This Agreement may be executed by electronic transmission of signatures by any Party (i.e., portable document format or similar method) and such signature shall be deemed binding for all purposes hereof, without delivery of an original signature being thereafter required. This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed to be an original and all of which together shall constitute one and the same document.

12.11 ***Guaranty of Buyer's Obligations*** . Guarantor hereby irrevocably and unconditionally guarantees to Seller (the " ***Guaranty*** ") on the terms and conditions set forth herein, the prompt payment when due (subject to written demand by Seller to Guarantor) of any and all payment obligations owed by Buyer under this Agreement or any of the Transaction Documents, including, but not limited to, any claim for indemnification from Buyer by Seller or a Seller Indemnitee. In addition, Guarantor shall reimburse Seller for all sums (if any) paid to Seller by Buyer, which Seller is subsequently required to return to Buyer (or a representative of Buyer's creditors) as a result of Buyer's bankruptcy, insolvency or any similar proceeding. This Guaranty is an independent guaranty of payment and not of collection. Seller shall not be required to proceed first against Buyer or any other person, firm, corporation or other entity before resorting to Guarantor for payment under this Guaranty. This Guaranty is in no way conditioned on or contingent upon (i) any attempt to enforce (in whole or in part) against Buyer any of the obligations under this Agreement or any of the Transaction Documents, (ii) the existence or continuance of Buyer as a legal entity, (iii) the consolidation or merger of Buyer with or into any other entity, (iv) the sale, lease or disposition by Buyer of all or substantially all of its assets to any other entity, (v) the bankruptcy or insolvency of Buyer, (vi) the admission by Buyer of its inability to pay its debts as they mature, or (vii) the making by Buyer of a general assignment for the benefit of, or entering into a composition or arrangement with, creditors. Each failure by Guarantor to pay or perform any of the obligations under this Guaranty shall give rise to a separate cause of action, and separate suits may be brought hereunder as each cause of action arises. Guarantor reserves the right to assert defenses which Buyer may have to payment or performance of any guaranteed obligation other than defenses arising from the bankruptcy or insolvency of Buyer and other defenses expressly waived hereby. Guarantor is a party to this Agreement solely for the purpose of providing the guaranty under this Section 12.11 and for no other purpose.

[*Signature page follows*]

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its respective duly authorized officers as of the date first above written.

SELLER:

VERDE ENERGY USA HOLDINGS, LLC

By: /s/ Thomas FitzGerald
Name: Thomas FitzGerald
Title: Chief Executive Officer

BUYER:

CENSTAR ENERGY CORP.

By: /s/ Nathan Kroeker
Name: Nathan Kroeker
Title: Chief Executive Officer

GUARANTOR:

SPARK ENERGY, INC.

(solely for the purposes of providing the guaranty in Section 12.11 .)

By: /s/ Nathan Kroeker
Name: Nathan Kroeker
Title: Chief Executive Officer

EXHIBIT A
DEFINITIONS

(a) " ***Adjusted EBITDA*** " means EBITDA, less (i) customer acquisition costs incurred in the current period (notwithstanding any election or mandate under GAAP to amortize such costs over a longer time period), (ii) net gain (loss) on derivative instruments, and (iii) net current period cash settlements on derivative instruments, plus, and (iv) non-cash compensation expense. Buyer shall provide accounting, treasury and finance services to the Companies at no charge to the Companies and the cost of such services as specified in the Integration Framework shall be specifically excluded from the calculation of Adjusted EBITDA hereunder. In calculating Adjusted EBITDA during the Earnout Period, the calculation shall include (A) the Companies' allocable share of the reasonable cost of all services (including, without limitation, customer support services) provided by Buyer or any of its Affiliates during the Earnout Period as specified in the Integration Framework, but only to the extent provided in connection with the operation of the Verde Business and with such changes from time to time as may be mutually agreed upon by Buyer and Seller, (B) the Companies' allocable share of any reasonable out-of-pocket costs for products or services purchased or procured and paid for by Buyer or its Subsidiaries or Affiliates from third parties for the benefit of the Companies but only to the extent purchased or procured and paid for in connection with the operation of the Verde Business *(e.g.* , Buyer or its Affiliate may purchase insurance for all operating Subsidiaries, and allocate a reasonable portion of the cost thereof to the Companies) and (C) the provision of energy supply by Spark Energy, LLC, with respect to electricity, and Spark Energy Gas, LLC, with respect to natural gas, each of which are Affiliates of Buyer, provided , that with respect to the services described in this clause (C), the costs for such products or services shall be equal to or less than the energy supply and other fees and rates that Seller incurred for energy supply immediately prior to the Closing pursuant to the Energy Supply Agreements as described on the Integration Framework. The definitions of Adjusted EBITDA and EBITDA shall exclude earnings (or losses) which are directly attributable to acquisitions of entities or books of business acquired by or with funding supplied by Buyer or its affiliates. In calculating Adjusted EBITDA, the amount of any Losses that are indemnified by the Seller, and any Losses that are excluded from indemnification by Seller as subject to the deductible under Section 10.3(b) , or are subject to caps under Section 10.3(c) , shall be excluded (i.e. added back) in calculating Adjusted EBITDA but only to the extent such Losses would otherwise reduce Adjusted EBITDA during the Earnout Period. Additionally, no Loss shall be included in the calculation of Adjusted EBITDA to the extent such Loss has been taken into account in calculating Closing Date Working Capital. Adjusted EBITDA shall also be increased by the amount of any credits provided to the Companies pursuant to Lead Generation Opportunities as specified in Section 2.6(h) .

"Affiliate " means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified Person. A Person shall be deemed to control another Person if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

" ***Agreement*** " has the meaning given to it in the preamble.

" ***Amended and Restated Employment Agreements*** " has the meaning set forth in Section 8.2(f) .

" ***Base Consideration*** " has the meaning set forth in Section 6.10(h) .

" ***Base Consideration Allocation Schedule*** " has the meaning set forth in Section 6.10(h) .

" ***Business Day*** " means any day that is not a Saturday, Sunday or other day on which commercial banks in the State of Delaware are authorized or obligated to be closed by applicable Laws.

“ ***Buyer*** ” has the meaning given to it in the preamble to this Agreement.

“ ***Buyer Benefit Plans*** ” has the meaning set forth in Section 6.15(b) .

“ ***Buyer Deductible*** ” has the meaning set forth in Section 10.3(b)(ii) .

“ ***Buyer Disclosure Schedules*** ” means the disclosure schedules to this Agreement prepared by Buyer and delivered to Seller on the Execution Date.

“ ***Buyer Fundamental Representations*** ” has the meaning set forth in Section 7.3(a) .

“ ***Buyer Indemnitees*** ” has the meaning set forth in Section 10.1 .

“ ***Buyer Material Adverse Effect*** ” means any Event that, individually or in the aggregate, is or would reasonably be expected to materially and adversely affect (i) Buyer’s ability to consummate the transactions contemplated in this Agreement or satisfy any of its other obligations under this Agreement or the other Transaction Documents, or (ii) Guarantor’s ability to satisfy its obligations under this Agreement.

“ ***Buyer Note*** ” has the meaning set forth in Section 2.2 .

“ ***Cash Consideration*** ” has the meaning set forth in Section 2.2 .

“ Change of Control Payment ” means (a) any bonus, severance or other payment or other form of compensation that is created, accelerated, accrues or becomes payable by Seller or any Company to any present or former director, owner, manager, member, employee or consultant thereof, including pursuant to any benefit plan or any other contract, including any Taxes due from any Company payable on or triggered by any such payment, or (b) Seller’s share of any termination, cancellation or breakage fees due and owing to Shell as a result of the termination by the Companies, the Seller or Shell of the Energy Supply Agreements either prior to the execution of this Agreement; or Shell in the event of change of control of the Seller or the Companies, in each case of (a), (b) and (c), as a result of, or in connection with, the consummation of the transactions contemplated hereunder and in the Transaction Documents.

“ Change of Control Transaction ” means any transaction or series of transactions which results or would result in any Person or group of affiliated Persons other than W. Keith Maxwell III and his Affiliates (i) owning, or having the right to vote, more than 40% of the common stock and other voting securities of Guarantor or (ii) having the ability to direct of cause the direction of the management or policies of Guarantor.

“ ***Claim*** ” has the meaning set forth in Section 10.4(a) .

“ ***Claim Notice*** ” has the meaning set forth in Section 10.4(a) .

“ ***Closing*** ” has the meaning set forth in Section 8.1 .

“ ***Closing Date*** ” has the meaning set forth in Section 8.1 .

" ***Closing Date Working Capital*** " has the meaning set forth in Section 2.5(a).

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

" ***Company*** " or " ***Companies*** " has the meaning given to it in the preamble to this Agreement.

" ***Company Continuing Employee*** " has the meaning set forth in Section 6.15(a) .

" ***Company Disclosure Schedules*** " means the disclosure schedules to this Agreement prepared by Seller pertaining to the Companies and delivered to Buyer on the Execution Date.

" ***Company Interests*** " has the meaning given to it in the Recitals to this Agreement.

" ***Company Material Adverse Effect*** " means any Event that, individually or in the aggregate, is or would reasonably be expected to materially and adversely affect the assets, liabilities, business, condition (financial or otherwise), operations or properties of the Companies, taken as a whole; provided that, in determining whether a Company Material Adverse Effect has occurred, any change, Event or development relating to the following shall be excluded: (i) any change or effect resulting from conditions or developments in the economy, industry, financial markets, interest rates, securities markets, commodity and trading markets, credit markets or fuel markets generally applicable to the Verde Business, including (A) any change or effect generally affecting the electric or natural gas industries as a whole, (B) any increases in the costs of commodities or supplies or decreases in the price of electricity or natural gas, including but not limited to the cost and supply of electricity from renewable generation sources and (C) any change or effect resulting from changes in wholesale or retail markets for electric power or natural gas (including changes in the cost of fuels or the pricing of electrical power generally or renewable sources of electricity specifically or the price of natural gas), (ii) any change or effect resulting from (A) any conditions or developments in any local or regional transmission system, distribution system, independent system operator or transmission organization or (B) any action or inaction by any Governmental Authority with respect to any local or regional transmission operator, independent system operator or retail access in the regions in which the Companies operate, (iii) any change or effect resulting from changes in accounting rules or principles (or any interpretations thereof), including changes in U.S. GAAP, (iv) any change or effect resulting from changes in any Laws (including environmental Laws and Laws specifically applicable to retail commodity companies) that apply generally to the Companies, or any changes in the enforcement thereof, (v) any change or effect resulting from legal, regulatory or political conditions generally or in any specific region, including any change or effect resulting from or associated with acts of war or terrorism or changes imposed by a Governmental Authority to address concerns associated with war or terrorism, (vi) any order of or action by any Governmental Authority applicable to providers of generation, transmission, or distribution of electricity generally, or to retail electric providers in the regions in which the Companies operate, that, in any such case, imposes restrictions, regulations, or other requirements, (vii) any change or effect resulting from any hurricane or severe weather, (viii) any change or effect resulting from the announcement of the execution of this Agreement (or the other Transaction Documents), or the pendency of or consummation of the transactions contemplated hereby and thereby, or the identity of Buyer, or consummation of the transactions contemplated hereby, including (A) any actions of competitors or customers, (B) any actions taken by or losses of employees, (C) any delays or cancellations of

orders for product or services, (ix) any change or effect resulting from any actions to be taken at the request of Buyer or pursuant to or in accordance with this Agreement, (x) any change or effect that is cured (including by the payment of money) before the earlier of the Closing and the termination of this Agreement pursuant to Article IX ; and (xi) any matter for which the Buyer Indemnitees would be indemnified hereunder pursuant to Article X hereof to the extent of such indemnification; provided further that any change, Event or development in the foregoing subsections (i), (ii), (iv), (v) and (vi) shall not be excluded for purposes of determining whether a Company Material Adverse Effect has occurred to the extent that it results from any order or action by any Governmental Authority that is specifically applicable to retail electric providers in any state where the Companies operate.

" ***Confidentiality Agreement*** " means the Confidentiality Agreement, effective as of October 21, 2015, between NuDevco Partners Holdings, LLC, an Affiliate of Buyer, and Seller, as the same has been adopted and extended pursuant to the Letter of Intent between the Guarantor and Seller dated as of March 2, 2017.

" ***Contract*** " means any agreements (written or oral), commitments, leases, licenses, notes, evidences of indebtedness, mortgages, security agreements, bonds, or other instruments, obligations or binding arrangements or understandings of any kind or character, whether oral or in writing.

" ***Control*** " means, where used with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of Voting Interests, by contract or otherwise, and the terms " ***Controlling*** " and " ***Controlled*** " have correlative meanings.

" ***Creditors' Rights*** " has the meaning set forth in Section 3.2(b) .

" ***Current Assets*** " means the assets of the Companies, on a consolidated basis, which would be classified as "current assets" under GAAP, as applied by the Seller and the Companies in the preparation of the Financial Statements. Current Assets shall not include revenues from any Hedges.

" ***Current Liabilities*** " means liabilities of the Companies, on a consolidated basis, which would be classified as "current liabilities" under GAAP.

" ***Data Room*** " means the electronic data site established by ShareFile on behalf of Seller.

" ***De Minimis Claim*** " has the meaning set forth in Section 10.3(a).

" ***Default Rate*** " means twelve percent (12%) per annum.

" ***Direct Subsidiary*** " or " ***Direct Subsidiaries*** " has the meaning set forth in the preamble to this Agreement.

" ***Disclosure Schedule*** " means (i) with respect to Seller, the Seller Disclosure Schedules and the Company Disclosure Schedules, (ii) with respect to Buyer, the Buyer Disclosure Schedules.

" ***Earnout Calculation Statement*** " has the meaning set forth in Section 2.6(b) .

" ***Earnout Objection Notice*** " has the meaning set forth in Section 2.6(c) .

" ***Earnout Objection Period*** " has the meaning set forth in Section 2.6(c) .

" ***Earnout Payments*** " has the meaning set forth in Section 2.6(a) .

" ***Earnout Period*** " or " ***Earnout Periods*** " has the meaning set forth in Section 2.6(a) .

" ***EBITDA*** " means earnings (or losses) defined as "net income or (net losses)" under GAAP, before interest and taxes, and excluding depreciation and amortization, as each component is calculated in accordance with GAAP, but subject to the exclusion, if and to the extent applicable, of any earnings (or losses) of any or all of the Companies which are reasonably attributable directly to any new acquisitions of Persons or books of business acquired by, or with funding supplied by, Buyer and consolidated with the Verde Business.

" ***Effective Time*** " means 11:59:59 p.m. eastern prevailing time on the last day of the calendar month in which the Closing Date occurs.

" ***Energy Solutions*** " has the meaning given to it in the preamble to this Agreement.

" ***Energy Supply Agreements*** " mean the energy supply, security agreements, and auxiliary agreements, each as amended and then in force and effect, between and among Seller, on behalf of and joined in by any of the Companies, and Shell with respect to the energy supply and related services for any of the Companies as set forth on Schedule 4.10 .

" ***Energy Supply Termination Agreement*** " has the meaning set forth in Section 6.7(b) .

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

" ***ERISA Affiliate*** " means, with respect to any entity, trade or business, any other entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 4001(b)(1) of ERISA that includes the first entity, trade or business, or that is a member of the same "controlled group" as the first entity, trade or business pursuant to section 4001(a)(14) of ERISA.

" ***Escrow Account*** " has the meaning set forth in Section 2.7(a) .

" ***Escrow Agent*** " has the meaning set forth in Section 2.7(a) .

" ***Escrow Agreement*** " has the meaning set forth in Section 2.7(a) .

" ***Escrow Amount*** " means seven million and No/100s Dollars ($7,000,000.00) to be funded in 18 installment payments as specified in the Buyer Note.

" ***Estimated Closing Statement*** " means the statement setting forth the Estimated Working Capital, calculated in accordance with the Example Calculation of Working Capital in Schedule 2.4(a) .

" ***Estimated Working Capital*** " has the meaning set forth in Section 2.4(a).

" ***Event*** " means any event, change, development, effect, condition, matter, occurrence or state of facts.

" ***Execution Date*** " has the meaning given to it in the preamble to this Agreement.

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

" ***Expiration Date*** " has the meaning set forth in Section 10.3(d)(i) .

" ***FERC*** " means the Federal Energy Regulatory Commission.

" ***Final Closing Statement*** " has the meaning set forth in Section 2.5(d).

" ***Final Deficiency*** " has the meaning set forth in Section 2.5(e) .

" ***Final Surplus*** " has the meaning set forth in Section 2.5(f) .

" ***First Earnout Period*** " has the meaning set forth in Section 2.6(a) .

" ***Fundamental Expiration Date*** " has the meaning set forth in Section 10.3(d)(i) .

" ***GAAP*** " means United States generally accepted accounting principles set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the U.S. accounting profession), which are applicable to the circumstances as of the date of determination, consistently applied.

" ***Governmental Approval*** " means all material notices, reports, filings, approvals, orders, authorizations, consents, licenses, permits, qualifications or registrations or waivers of any of the foregoing, required to be obtained from or made with, or any notice, statement or other communications required to be filed with or delivered to, any Governmental Authority.

" ***Governmental Authority*** " means any executive, legislative, judicial, regulatory or administrative agency, body, commission, department, board, court, tribunal, arbitrating body or authority of the United States or any foreign country, or any state, local or other governmental subdivision thereof.

" ***Guarantor*** " has the meaning set forth in the preamble to this Agreement.

" ***Guaranty*** " has the meaning set forth in Section 12.11 .

" ***Hedges*** " means any swap, option, swaption, hedge, collar, futures or similar Contract involving natural gas or electric power, or any other commodities trading Contract.

" ***HSR Act*** " means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

" ***Indebtedness*** " means, without duplication, all indebtedness, liabilities and obligations, now existing or hereafter arising, for money borrowed by a Person (including accrued and unpaid interest) or the incurrence of an obligation resulting in a monetary liability or obligation, or any contingent liability for or guaranty by a Person of any obligation of any other Person (including the pledge of any collateral or grant of any security interest by a Person in any property as security for any such liability, guaranty or obligation) whether or not any note, indenture, guaranty, bond, debenture, loan agreement or other similar instruments. For the avoidance of doubt, Indebtedness shall not include trade payables or any other amount included in Current Liabilities.

" ***Indemnified Litigation Claims*** " means the indemnified litigation claims specified in Schedule 4.6 .

" ***Indemnified Party*** " has the meaning set forth in Section 10.3(e) .

" ***Indemnifying Party*** " has the meaning set forth in Section 10.3(a) .

" ***Indemnitee*** " means, individually and as a group, the Buyer Indemnitees or the Seller Indemnitees, who are seeking indemnification in accordance with the terms of this Agreement, as applicable.

" ***Independent Accountant*** " means an independent nationally recognized United States based accounting firm that does not have an existing relationship with either of the Parties as is mutually agreed upon by Buyer and Seller, together with any experts such firm may require in order to settle a particular dispute.

" ***Indeterminate Loss Amounts*** " means the amount agreed to in writing by the senior management of Buyer and Seller in good faith from time to time prior to the eighteen month anniversary of the Closing that represents Losses that the Buyer may incur related to Indemnified Litigation Claims, Tax Claims and other Claims under Article X , but which have not yet been occurred. Indeterminate Loss Amounts shall become Losses when the relevant Claim is finally resolved and appropriate adjustment shall be made for any difference between the Indeterminate Loss Amount and the actual Loss.

" ***Insurance Policies*** " has the meaning set forth in Section 4.20 .

" ***Interest*** " or " ***Interests*** " means (i) capital stock, common units, member or limited liability company interests, partnership interests, other equity interests, rights to profits or revenue and any other similar interest, (ii) any security or other interest convertible into or exchangeable or exercisable for any of the foregoing and (iii) any right (contingent or otherwise) to acquire any of the foregoing.

" ***Knowledge*** " means (i) with respect to Seller, the actual knowledge of Lance Lundberg, Thomas FitzGerald or Tony Menchaca, and (ii) with respect to Buyer, the actual knowledge of Nathan Kroeker, Robert Lane or Gil Melman.

" ***Law*** " means any law, statute, code, ordinance, order, rule, rule of common law, regulation, judgment, decree, injunction, franchise, permit, certificate, license or authorization of any Governmental Authority. Such Laws include, without limitation, the Federal Trade Commission Act, the Telephone Consumer Protection Act, the Telemarketing and Consumer Fraud and Abuse Prevention Act, the CAN-SPAM Act and other federal, state and local laws (including state deceptive trade practices acts), and ordinances governing the marketing of services or products by outbound or inbound telephone, text messages, e-mail or direct mail, marketing, promotion and/or sales of goods or services.

" ***Lead Generation Opportunities*** " has the meaning set forth in Section 2.6(h) .

" ***Leases*** " has the meaning set forth in Section 4.8 .

" ***Lien*** " means (i) any mortgage, security interest, deed of trust, pledge, hypothecation, assignment, charge or other encumbrance, lien (statutory or otherwise), right or preferential arrangement of any kind or nature whatsoever in respect of any property or assets (including those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a capital lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming any Verde Party or its Subsidiaries, under the Uniform Commercial Code or any comparable law) or other similar property interest or encumbrance in respect of any property or asset, and (ii) any easements, rights-of-way, restrictions, restrictive covenants, rights, leases and other encumbrances on the title to real or personal property (whether or not of record).

"Losses " has the meaning set forth in Section 10.1 .

" ***Multiemployer Plan*** " has the meaning set forth in Section 3(37) of ERISA.

" ***Multiple Employer Plan*** " means a plan described in Section 4063(a) of ERISA.

" ***Non-Competition Agreements*** " has the meaning set forth in Section 8.2(e) .

" ***Non-Party Affiliates*** " has the meaning set forth in Section 6.19 .

" ***Objection Notice*** " has the meaning set forth in Section 2.5(b).

" ***Objection Period*** " has the meaning set forth in Section 2.5(b).

" ***Organizational Documents*** " means, with respect to any Person, the articles of incorporation, certificate of incorporation, certificate of formation, certificate of limited partnership, bylaws, limited liability company agreement, operating agreement, partnership agreement, stockholders' agreement and all other similar documents, instruments or certificates executed, adopted or filed in connection with the creation, formation or organization of such Person, including any amendments thereto.

" ***Party*** " or " ***Parties*** " has the meaning given to it in the preamble to this Agreement.

“ ***Permits*** ” means all permits, approvals, consents, licenses, franchises, exemptions and other authorizations, consents and approvals of or from Governmental Authorities.

“ ***Permitted Liens*** ” means, with respect to any Person, (a) statutory Liens for current Taxes applicable to the assets or business of such Person or assessments not yet delinquent or the amount or validity of which is being contested in good faith and for which adequate reserves have been established in accordance with GAAP; (b) mechanics’, carriers’, workers’, repairmens’, landlords’ and other similar Liens arising or incurred in the ordinary course of business of such Person relating to obligations as to which there is no default on the part of such Person or the amount or validity of which is being contested in good faith and for which adequate reserves have been established in accordance with GAAP, (c) Liens as may have arisen in the ordinary course of business of such Person, none of which are material to the ownership, use or operation of the assets of such Person and which relate to amounts not yet delinquent; (d) statutory Liens for obligations that are not delinquent or the amount or validity of which is being contested in good faith and for which adequate reserves have been established in accordance with GAAP, (e) zoning and building laws, ordinances and regulations, that do not materially interfere with the use and operation of the assets of such Person in the ordinary course of business, (f) Liens granted to utilities to secure tariff-based purchase of receivables programs and not in connection with the borrowing of money, (g) any Liens with respect to assets of such Person, which, together with all other Permitted Liens, do not materially detract from the value of such Person or materially interfere with the present use of the assets owned by such Person or the conduct of the business of such Person, and (h) Liens under the Energy Supply Agreements, all of which shall be terminated at Closing pursuant to the Energy Supply Termination Agreement.

“ ***Person*** ” means any natural person, corporation, limited partnership, general partnership, limited liability company, joint stock company, joint venture, association, company, estate, trust, bank trust company, land trust, business trust, or other organization, whether or not a legal entity, custodian, trustee-executor, administrator, nominee or entity in a representative capacity and any Governmental Authority.

“ ***Post-Closing Date Tax Period*** ” means (a) any Tax period beginning after the Closing Date and (b) the portion of any Straddle Period beginning after the Closing Date.

“ ***Pre-Closing Date Tax Period*** ” means (a) any Tax period ending on or before the Closing Date and (b) the portion of any Straddle Period ending on and including the Closing Date.

“ ***Preliminary Closing Statement*** ” has the meaning set forth in Section 2.5(a).

“ ***Proceeding*** ” means any action, suit, arbitration proceeding, administrative or regulatory investigation, review, audit, proceeding, citation, summons or subpoena of any nature (civil, criminal, regulatory or otherwise) in law or in equity.

“ ***Quarterly Earnout Calculation Statement*** ” has the meaning set forth in Section 2.6(b) .

“ ***RCE*** ” shall mean a residential customer equivalent, referring to a natural gas customer with a standard consumption of 100 MMBtus per year or an electricity customer with a standard

consumption of 10 MWhs per year. For the purposes of calculating the Earnout, annual consumption will be determined using each individual customer's 12-month historical, weather-normalized data based on historical data from utilities and with mutually agreeable weather-normalization adjustments.

" ***Reasonable Efforts*** " means with respect to a given goal, the efforts that a reasonable person in the position of the promisor would use so as to achieve that goal as expeditiously as possible, provided, however, that an obligation to use Reasonable Efforts under this Agreement does not require the promisor to take any actions that would, individually or in the aggregate, cause the promisor to incur costs, or suffer any other detriment, out of reasonable proportion to the benefits to the promisor under this Agreement.

" ***Records*** " means the books (including books of accounting and minute books), records and files, including Contracts and any and all Tax, financial, human resources, and other information of the Companies.

" ***Registered Intellectual Property*** " has the meaning set forth in Section 4.12 .

" ***Replaced Credit Support*** " has the meaning set forth in Section 6.18(b) .

" ***Replacement Energy Supply Arrangements*** " has the meaning set forth in Section 5.10 .

" ***Representatives*** " means, with respect to any Person, any and all directors, officers, managers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

" ***Required Approval*** " has the meaning set forth in Section 6.2(c) .

" ***Responsible Officer*** " means, with respect to any Person, any vice-president or more senior officer of such Person.

" ***SEC*** " has the meaning set forth in Section 6.14 .

" ***Second Earnout Period*** " has the meaning set forth in Section 2.6(a) .

" ***Second Earnout Period Target*** " has the meaning set forth in Section 2.6(a) .

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

" ***Seller*** " has the meaning set forth in the preamble to this Agreement.

" ***Seller Deductible*** " has the meaning set forth in Section 10.3(b)(i) .

" ***Seller Disclosure Schedules*** " means the disclosure schedules to this Agreement prepared by Seller pertaining to Seller and delivered to Buyer on the Execution Date.

" ***Seller Fundamental Representations*** " has the meaning set forth in Section 7.2(a) .

“ ***Seller Indemnitees*** ” has the meaning set forth in Section 10.2 .

“ ***Seller Material Adverse Effect*** ” means any Event that, individually or in the aggregate, is or would reasonably be expected to adversely affect Seller’s ability to consummate the transactions contemplated in this Agreement or satisfy any of its other obligations under this Agreement or the other Transaction Documents.

“ ***Seller Risk Policies*** ” has the meaning set forth in Section 2.6(g) .

“ ***Shell*** ” means either or both of Shell Energy and Shell Trading, unless the entity is specifically specified otherwise.

“ ***Shell Credit Support Obligations*** ” means each of the credit support obligations relating to the Energy Supply Agreements.

“ ***Shell Energy*** ” means Shell Energy North America (US), L.P.

“ ***Shell Trading*** ” means Shell Trading Risk Management, LLC.

“ ***Straddle Period*** ” has the meaning set forth in Section 6.10(c).

“ ***Subsidiary*** ” means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which a majority of the Voting Interests are at the time owned or Controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof.

“ ***Tax*** ” means any federal, state, local or foreign income, gross receipts, branch profits, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, escheat, environmental, customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, registration, ad valorem, value added, alternative or add-on minimum or estimated tax or other tax of any kind whatsoever, including any interest, penalty or addition thereto, whether disputed or not.

“ ***Tax Claims*** ” has the meaning set forth in Section 2.7(a) .

“ ***Tax Return*** ” means any return, report, information return, declaration, claim for refund or other document (including any related or supporting information or schedules) supplied or required to be supplied to any taxing authority or any Person with respect to Taxes and including any supplement or amendment thereof.

“ ***Termination Date*** ” has the meaning set forth in Section 9.1(c) .

“ ***Transaction Documents*** ” means this Agreement, the Buyer Note, the Verde Interests and Trademark Assignment, the Non-Competition Agreements, the Energy Supply Termination Agreement, the Confidentiality Agreement, the Escrow Agreement, the Amended and Restated Employment Agreements, and the other agreements, instruments, documents and certificates contemplated hereby and thereby.

" ***Transfer Taxes*** " has the meaning set forth in Section 6.10(a).

" ***Treasury Regulations*** " means the regulations (including temporary regulations) promulgated by the United States Department of the Treasury pursuant to and in respect of provisions of the Code. All references herein to sections of the Treasury Regulations shall include any corresponding provision or provisions of succeeding, similar or substitute, temporary or final Treasury Regulations.

" ***Verde Acquisition Transaction*** " has the meaning set forth in Section 6.9 .

" ***Verde Assets*** " means the following assets and properties owned or leased by or on behalf of the Companies:

(i) all tangible personal property of every kind and nature that is used primarily in the ownership and operation of the Verde Business, including furniture, supplies, inventory, materials and other fixtures, improvements and appurtenances thereto, wherever located at and used or necessary in the operation of the Verde Business (collectively, the " ***Verde Personal Property*** ");

(ii) all benefits and rights under permits, licenses, certificates, orders, approvals, authorizations, grants, consents, concessions, waivers, registrations, warrants, franchises and similar rights and privileges that are granted by a Governmental Authority and are necessary for, or are used or held for use primarily for or in connection with, the ownership and operation of the Verde Business and the Verde Personal Property, including the Permits;

(iii) all prepaid rent, lease and security deposits;

(iv) all warranties, representations and guarantees made by suppliers, manufacturers and contractors covering the Verde Business and Contracts;

(v) all benefits and rights under the Contracts;

(vi) all rights and benefits of the following, in each case relating primarily to the Verde Business: (A) all purchase orders, invoices, storage or warehouse receipts, certificates of title and documents, and (B) all keys, lock combinations, computer access codes and other devices or information necessary to gain entry to or take possession of the assets used or useful in connection with the Verde Business;

(vii) copies or originals of all tangible, digital or electronic Contracts, operating, performance, warranty, accounting, and other data, files, documents, instruments, notes, correspondence, equipment, procedures and records, historical data, sales and purchase records, materials relating to suppliers, vendors and other service Verdes, papers, ledgers, journals, reports, books, records, plans, and studies which relate primarily to the Verde Business or which are used or held for use primarily in connection with, the ownership and operation of the Verde Business; provided, however, such material shall not include (A) any proprietary data that is not primarily used in connection with the continued ownership or operations of the Verde Business, (B) any information subject to third Person confidentiality agreements for which a consent or waiver cannot be secured after Reasonable Efforts with no obligation to spend money, or (C) any information which, if disclosed, would violate an attorney-client privilege or would constitute a waiver of rights as to attorney work product or attorney-client privileged communications, unless such information is needed for operation of the Verde Business, and the Parties enter a mutually agreeable joint defense agreement related thereto; and

(viii) the benefits in and rights to enforce all claims, causes of action, indemnities, rights of recovery, rights of set off, rights of recoupment, warranties, covenants, guarantees, and all suretyship agreements (and all proceeds from any of the foregoing) to the extent relating to the Verde Business.

(ix) all cash, accounts receivable and inventory of the Companies.

" ***Verde Audited Financial Statements*** " has the meaning set forth in Section 4.3(a) .

" ***Verde Benefit Plans*** " has the meaning set forth in Section 4.14(a)(ii) .

" ***Verde Business*** " means the Companies' business of retail, residential, commercial and industrial sales of electrical power and natural gas as it is being operated as of the date of this Agreement.

" ***Verde Commodities*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Connecticut*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Contracts*** " has the meaning set forth in Section 4.9(b) .

" ***Verde DC*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Financial Statements*** " has the meaning set forth in Section 4.3(a)

" ***Verde Illinois*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Inc.*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Interests and Trademark Assignment*** " has the meaning set forth in Section 8.2(a) .

" ***Verde Maryland*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Massachusetts*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde New Jersey*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde New York*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Ohio*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Party*** " or " ***Verde Parties*** " means the Seller and the Companies, collectively.

" ***Verde Parties' Senior Management*** " has the meaning set forth in Section 2.6(g) .

" ***Verde Pennsylvania*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Personal Property*** " has the meaning set forth in Exhibit A under the definition "Verde Assets."

" ***Verde Texas*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Texas Holdings*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Trading*** " has the meaning given to it in the preamble to this Agreement.

" ***Verde Unaudited Interim Financial Statements*** " has the meaning set forth in Section 4.3(a) .

" ***Voting Interests*** " of any Person as of any date means the equity interests of such Person pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers, general partners or trustees of such Person (regardless of whether, at the time, equity interests of any other class or classes shall have, or might have, voting power by reason of the occurrence of any contingency) or, with respect to a partnership (whether general or limited), any general partner interest in such partnership.

" ***willful and intentional*** " has the meaning set forth in the last sentence of Section 9.2 .

" ***Working Capital*** " means the difference between the Companies' consolidated Current Assets and Current Liabilities, calculated in accordance with the example of such calculations set forth in Schedule 2.4 attached hereto.

SCHEDULE 2.6(a)

EXAMPLE CALCULATION OF THE EARNOUT PAYMENT

First Earnout Period

Adjusted EBITDA for the twelve full calendar months following closing: $22,000,000.00

Actual RCE count as of the last day of the First Earnout Period 155,000

100% of Adjusted EBITDA in excess of $14,000,000.00 $8,000,000.00

Less $110.00 * (160,000 – 155,000) $550,000.00

First Earnout Period Payment $7,450,000.00

Second Earnout Period

Adjusted EBITDA for the six full calendar months following the First Earnout Period: $12,500,000.00

Actual RCE count as of the last day of the First Earnout Period 165,000

100% of Adjusted EBITDA in excess of $6,000,000.00 $6,500,000.00

Less $110.00 * (165,000 – 165,000) $0.00

$10.00 * (10,000 new customers acquired by Buyer or its Affiliates through the Lead Generation Opportunities from the Closing until the end of the Earnout Periods $100,000.00

Second Earnout Period Payment $6,600,000.00

Total Earnout Payments $14,050,000.00

THIRD AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

OF

SPARK HOLDCO, LLC

DATED AS OF MARCH 15, 2017

THE LIMITED LIABILITY COMPANY INTERESTS IN SPARK HOLDCO, LLC HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, THE SECURITIES LAWS OF ANY STATE, OR ANY OTHER APPLICABLE SECURITIES LAWS, AND ARE BEING SOLD IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH LAWS. SUCH INTERESTS MUST BE ACQUIRED FOR INVESTMENT ONLY AND MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT IN COMPLIANCE WITH (I) THE SECURITIES ACT, ANY APPLICABLE SECURITIES LAWS OF ANY STATE AND ANY OTHER APPLICABLE SECURITIES LAWS; (II) THE TERMS AND CONDITIONS OF THIS THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT; AND (III) ANY OTHER TERMS AND CONDITIONS AGREED TO IN WRITING BETWEEN THE MANAGING MEMBER AND THE APPLICABLE MEMBER. THE LIMITED LIABILITY COMPANY INTERESTS MAY NOT BE TRANSFERRED OF RECORD EXCEPT IN COMPLIANCE WITH SUCH LAWS, THIS THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, AND ANY OTHER TERMS AND CONDITIONS AGREED TO IN WRITING BY THE MANAGING MEMBER AND THE APPLICABLE MEMBER. THEREFORE, PURCHASERS AND OTHER TRANSFEREES OF SUCH LIMITED LIABILITY COMPANY INTERESTS WILL BE REQUIRED TO BEAR THE RISK OF THEIR INVESTMENT OR ACQUISITION FOR AN INDEFINITE PERIOD OF TIME.

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THIRD AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

OF

SPARK HOLDCO, LLC

This THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (as amended, supplemented or restated from time to time, this " ***Agreement*** ") is entered into as of March 15, 2017 (the " ***Effective Date*** "), by and among SPARK HOLDCO, LLC, a Delaware limited liability company (the " ***Company*** "), and each other Person who is or at any time becomes a Member in accordance with the terms of this Agreement and the Act. Capitalized terms used herein and not otherwise defined have the respective meanings set forth in Section 1.1 .

RECITALS

WHEREAS , the Company was formed pursuant to a Certificate of Formation filed in the office of the Secretary of State of the State of Delaware on April 22, 2014;

WHEREAS , in connection with the formation of the Company, Spark Energy Ventures, LLC, a Texas limited liability company, executed that certain Limited Liability Company Agreement of Spark HoldCo, LLC, dated as of April 22, 2014 (the " ***Original Agreement*** ");

WHEREAS , in connection with the execution and delivery of the Transaction Agreement, dated as of June 18, 2014, by and among the Company, Spark Energy Ventures, LLC, a Texas limited liability company (" ***SEV*** "), Spark Energy, Inc., a Delaware corporation (" ***SEI*** "), Spark Energy Holdings, LLC, Texas limited liability company, NuDevco Retail, LLC, a Delaware limited liability company (" ***NuDevco Retail*** ") and NuDevco Retail Holdings, LLC, a Texas limited liability company (" ***NuDevco Retail Holdings*** ") and the consummation of the transactions contemplated thereby, the Original Agreement was amended and restated in its entirety by that certain Limited Liability Company Agreement of the Company, dated as of June 18, 2014, among NuDevco Retail, NuDevco Retail Holdings and SEI (the " ***Restated LLC Agreement*** "), pursuant to which SEI was admitted as the sole managing member of the Company (in its capacity as managing Member as well as in any other capacity, the " ***Managing Member*** ");

WHEREAS , in connection with the initial public offering of Class A Stock and the execution and delivery of the Transaction Agreement II, dated as of July 30, 2014, by and among the Company, SEI, NuDevco Retail, NuDevco Retail Holdings, SEV, NuDevco Partners Holdings, LLC, a Texas limited liability company and Associated Energy Services, LP, a Texas limited partnership, the Restated LLC Agreement was amended and restated in its entirety by that certain Second Amended and Restated Limited Liability Company Agreement, dated as of August 1, 2014, among the Company, the Managing Member, NuDevco Retail Holdings and NuDevco Retail (the " ***Second Restated LLC Agreement*** ");

WHEREAS , SEI has entered into an underwriting agreement with RBC Capital Markets, LLC, as representative of the several underwriters named therein, providing for the offering of 1,400,000 shares of 8.75% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock of SEI (the " ***Series A Preferred Stock Offering*** ");

WHEREAS , immediately after consummation of the Series A Preferred Stock Offering, the Company will issue 1,400,000 Series A Preferred Units to SEI in exchange for SEI's commitment to contribute the net proceeds of the Series A Preferred Stock Offering to the Company as more particularly described in Section 3.5 , and if and to the extent the underwriters exercise their option to purchase additional shares of Series A Preferred Stock in connection with the Series A Preferred Stock Offering, the Company will issue an equal number of Series A Preferred Units to SEI in exchange for SEI's commitment to contribute to the Company the net proceeds from the exercise of such option, as more particularly described in Section 3.5 (collectively, the " ***Series A Preferred Stock Offering Transaction*** ");

WHEREAS , the Company and the Members set forth on Exhibit A attached hereto now wish to amend and restate the Second Restated LLC Agreement as set forth herein to give effect to the Series A Preferred Stock Offering Transaction by, among other things, creating the Series A Preferred Units (as defined below) as a new class of Units, as more fully described herein, and

WHEREAS , this Agreement shall supersede the Second Restated LLC Agreement in its entirety as of the date hereof;

NOW THEREFORE , in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 **Definitions** . (a) As used in this Agreement and the Schedules and Exhibits attached to this Agreement, the following definitions shall apply:

" ***Act*** " means the Delaware Limited Liability Company Act, 6 Del. C. § 18-101, et seq., as amended from time to time (or any corresponding provisions of succeeding law).

" ***Action*** " means any claim, action, suit, arbitration, inquiry, proceeding or investigation by or before any Governmental Entity.

" ***Adjusted Basis*** " has the meaning given such term in Section 1011 of the Code.

" ***Adjusted Capital Account Deficit*** " means the deficit balance, if any, in such Member's Capital Account at the end of any Fiscal Year, with the following adjustments:

(a) credit to such Capital Account any amount that such Member is obligated to restore under Treasury Regulations Section 1.704-1(b)(2)(ii)(c), as well as any addition thereto pursuant

to the next to last sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) after taking into account thereunder any changes during such year in Company Minimum Gain and in the minimum gain attributable to any Member Nonrecourse Debt; and

(b) debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

This definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

" ***Affiliate*** " means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person. For these purposes, "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; provided that, for purposes of this Agreement, (i) no Member shall be deemed an Affiliate of the Company or any of its Subsidiaries and (ii) none of the Company or any of its Subsidiaries shall be deemed an Affiliate of any Member.

" ***Agreement*** " is defined in the preamble.

" ***Assumed Tax Liability*** " means, with respect to any taxable year, an amount equal to (a) the cumulative amount of federal, state and local income taxes (including any applicable estimated taxes), determined taking into account the character of income and loss allocated as it affects the applicable tax rate, due from SEI in all prior taxable years and that the Managing Member estimates as of such Tax Distribution Date would be due from SEI in such taxable year, (i) assuming SEI earned solely the items of income, gain, deduction, loss, and/or credit allocated to it pursuant to Section 4.3 , (ii) after taking proper account of loss carryforwards available to SEI resulting from losses allocated to SEI by the Company, to the extent not taken into account in prior periods, minus (b) prior distributions made pursuant to Section 5.2(a)(i) ; provided , however , that in calculating Assumed Tax Liability, all items of income and gain allocated to SEI pursuant to Section 4.3 (with respect to items of income and gain allocated to SEI pursuant to Section 4.1(a)) shall be excluded. For purposes of determining the Assumed Tax Liability of SEI, adjustments by reason of Sections 734(b) or 743(b) of the Code shall be taken into account.

" ***beneficially own*** " and " ***beneficial owner*** " shall be as defined in Rule 13d-3 of the rules promulgated under the Exchange Act.

" ***Business Day*** " means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the City of Houston, Texas.

" ***Call Election Notice*** " is defined in Section 3.7(g)(ii) .

" ***Call Right*** " has the meaning set forth in Section 3.7(g)(i) .

" ***Capital Account*** " means, with respect to any Member, the Capital Account maintained for such Member in accordance with Section 3.4 .

" ***Capital Contributions*** " means, with respect to any Member, the amount of cash and the initial Gross Asset Value of any property (other than cash) contributed to the Company by such Member. Any reference to the Capital Contributions of a Member will include the Capital Contributions made by a predecessor holder of such Member's Units to the extent the Capital Contribution was made in respect of Units Transferred to such Member.

" ***Cash Election*** " is defined in Section 3.7(a)(ii) .

" ***Cash Election Amount*** " means with respect to a particular Exchange, an amount of cash equal to the value of the shares of Class A Stock that would be received in such Exchange as of the date of receipt by the Company of the Exchange Notice with respect to such Exchange pursuant to Section 3.7 (the " ***Valuation Date*** "), decreased by any distributions received by the Exchanging Member with respect to the Common Units that are the subject of the Exchange following the date of receipt by the Company of the Exchange Notice where the record date for such distribution was after the date of receipt of such notice. For this purpose, the value of a share of Class A Stock shall equal (i) if shares of Class A Stock are then admitted to trading on a National Securities Exchange, the volume weighted average price on such exchange of a share of Class A Stock for the 30 trading days ending on the trading day prior to the Valuation Date or (ii) in the event shares of Class A Stock are not then admitted to trading on a National Securities Exchange, the value, as reasonably determined by the Managing Member in good faith, that would be obtained in an arm's length transaction for cash between an informed and willing buyer and an informed and willing seller, neither of whom is under any compulsion to purchase or sell, respectively, and without regard to the particular circumstances of the buyer or seller.

" ***Class A Stock*** " shall, as applicable, (i) mean the Class A Common Stock, par value $0.01 per share, of SEI or (ii) following any consolidation, merger, reclassification or other similar event involving SEI, mean any shares or other securities of SEI or any other Person or cash or other property that become payable in consideration for the Class A Stock or into which the Class A Stock is exchanged or converted as a result of such consolidation, merger, reclassification or other similar event.

" ***Class B Stock*** " shall, as applicable, (i) mean the Class B Common Stock, par value $0.01 per share, of SEI or (ii) following any consolidation, merger, reclassification or other similar event involving SEI, mean any shares or other securities of SEI or any other Person or cash or other property that become payable in consideration for the Class B Stock or into which the Class B Stock is exchanged or converted as a result of such consolidation, merger, reclassification or other similar event.

" ***Code*** " means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

" ***Commission*** " means the U.S. Securities and Exchange Commission.

" ***Common Unit*** " has the meaning set forth in Section 3.1(a) .

" ***Company*** " is defined in the preamble to this Agreement.

" ***Company Minimum Gain*** " has the meaning of "partnership minimum gain" set forth in Treasury Regulations Sections 1.704-2(b)(2) and -2(d). It is further understood that Company Minimum Gain shall be determined in a manner consistent with the rules of Treasury Regulations Section 1.702-2(b)(2), including the requirement that if the adjusted Gross Asset Value of property subject to one or more Nonrecourse Liabilities differs from its adjusted tax basis, Company Minimum Gain shall be determined with reference to such Gross Asset Value.

" ***Contract*** " means any written agreement, contract, lease, sublease, license, sublicense, obligation, promise or undertaking.

" ***control*** " (including the terms "controlled by" and "under common control with"), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise.

" ***Depreciation*** " means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that (a) with respect to any such property the Gross Asset Value of which differs from its Adjusted Basis for federal income tax purposes and which difference is being eliminated by use of the "remedial method" pursuant to Treasury Regulations Section 1.704-3(d), Depreciation for such Fiscal Year shall be the amount of book basis recovered for such Fiscal Year under the rules prescribed by Treasury Regulations Section 1.704-3(d)(2), and (b) with respect to any other such property the Gross Asset Value of which differs from its Adjusted Basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning Adjusted Basis; *provided* , *however* , that if the Adjusted Basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation with respect to such asset shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Tax Matters Representative.

" ***DGCL*** " means the General Corporation Law of the State of Delaware, as amended from time to time (or any corresponding provisions of succeeding law).

" ***Effective Date*** " has the meaning set forth in the preamble.

" ***Equity Securities*** " means (a) with respect to a partnership, limited liability company or similar Person, any and all units, interests, rights to purchase, warrants, options or other equivalents of, or other ownership interests in, any such Person as well as debt or equity instruments convertible, exchangeable or exercisable into any such units, interests, rights or other ownership interests and (b) with respect to a corporation, any and all shares, interests, participation or other equivalents (however designated) of corporate stock, including all common stock and preferred stock, or warrants, options or other rights to acquire any of the foregoing, including any debt instrument convertible or exchangeable into any of the foregoing.

" ***Exchange*** " has the meaning set forth in Section 3.7(a) .

" ***Exchange Act*** " means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder, as the same may be amended from time to time (or any corresponding provisions of succeeding law).

" ***Exchange Date*** " is defined in Section 3.7(c) .

" ***Exchange Notice*** " is defined in Section 3.7(b) .

" ***Exchanging Member*** " is defined in Section 3.7(b) .

" ***Fair Market Value*** " means the fair market value of any property as determined in good faith by the Managing Member after taking into account such factors as the Managing Member shall deem appropriate.

" ***Fiscal Year*** " means the fiscal year of the Company, which shall end on December 31 of each calendar year unless, for federal income tax purposes, another fiscal year is required. The Company shall have the same fiscal year for federal income tax purposes and for accounting purposes.

" ***GAAP*** " means generally acceptable accounting principles at the time.

" ***Good Faith*** " means a Person having acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to a criminal proceeding, having had no reasonable cause to believe such Person's conduct was unlawful.

" ***Governmental Entity*** " means any federal, national, supranational, state, provincial, local, foreign or other government, governmental, stock exchange, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.

" ***Gross Asset Value*** " means, with respect to any asset, the asset's Adjusted Basis for federal income tax purposes, except as follows:

(a) the initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross Fair Market Value of such asset as of the date of such contribution;

(b) the Gross Asset Values of all Company assets shall be adjusted to equal their respective gross Fair Market Values as of the following times: (i) the acquisition of an interest (or additional interest) in the Company by any new or existing Member in exchange for more than a *de minimis* Capital Contribution to the Company or in exchange for the performance of more than a *de minimis* amount of services to or for the benefit of the Company; (ii) the distribution by the Company to a Member of more than a *de minimis* amount of Company assets as consideration for an interest in the Company; (iii) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(*g*)(1) (other than pursuant to Code Section 708(b)(1)(B)); (iv) the acquisition of an interest in the Company by any new or existing Member upon the exercise

of a noncompensatory option or upon the conversion of a Series A Preferred Unit into Common Units in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(*s*); or (v) any other event to the extent determined by the Managing Member to be permitted and necessary to properly reflect Gross Asset Values in accordance with the standards set forth in Treasury Regulations Section 1.704-1(b)(2)(iv)(*q*); *provided* , *however* , that adjustments pursuant to clauses (i), (ii) and (iv) above shall be made only if the Managing Member reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company. If any noncompensatory options are outstanding upon the occurrence of an event described in this paragraph (b)(i) through (b)(v), the Company shall adjust the Gross Asset Values of its properties in accordance with Treasury Regulations Sections 1.704-1(b)(2)(iv)(*f*)(1) and 1.704-1(b)(2)(iv)(*h*)(2);

(c) the Gross Asset Value of any Company asset distributed to any Member shall be adjusted to equal the gross Fair Market Value of such asset on the date of such distribution;

(d) the Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(*m*) and subparagraph (f) in the definition of "Profits" or "Losses" below or Section 4.2(g) ; *provided* , *however* , that the Gross Asset Value of a Company asset shall not be adjusted pursuant to this subparagraph to the extent the Managing Member determines that an adjustment pursuant to subparagraph (b) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (d) ; and

(e) if the Gross Asset Value of a Company asset has been determined or adjusted pursuant to subparagraphs (a) , (b) or (d) of this definition of Gross Asset Value, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits, Losses and other items allocated pursuant to Article IV .

" ***Indebtedness*** " means (a) all indebtedness for borrowed money (including capitalized lease obligations, sale-leaseback transactions or other similar transactions, however evidenced), (b) any other indebtedness that is evidenced by a note, bond, debenture, draft or similar instrument, (c) notes payable and (d) lines of credit and any other agreements relating to the borrowing of money or extension of credit.

" ***Interest*** " means the entire interest of a Member in the Company, including the Units and all of such Member's rights, powers and privileges under this Agreement and the Act.

" ***Law*** " means any federal, national, supranational, state, provincial, local or similar statute, law, ordinance, regulation, rule, code, order, requirement or rule of law (including common law).

" ***Legal Action*** " is defined in Section 11.7 .

“ ***Liability*** ” means any liability or obligation, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated and whether due or to become due, regardless of when asserted.

“ ***Liquidating Events*** ” is defined in Section 10.1 .

“ ***Loss*** ” means any and all losses, damages, claims, costs and expenses, interest, awards, judgments and penalties (including reasonable attorneys’ fees and expenses, but excluding any allocation of corporate overhead, internal legal department costs and other internal costs and expenses).

“ ***Managing Member*** ” is defined in the recitals to this Agreement.

“ ***Member*** ” means any Person that executes this Agreement as a Member, and any other Person admitted to the Company as an additional or substituted Member, that has not made a disposition of such Person’s entire Interest.

“ ***Member Minimum Gain*** ” has the meaning ascribed to “partner nonrecourse debt minimum gain” set forth in Treasury Regulations Section 1.704-2(i). It is further understood that the determination of Member Minimum Gain and the net increase or decrease in Member Minimum Gain shall be made in the same manner as required for such determination of Company Minimum Gain under Treasury Regulations Sections 1.704-2(d) and -2(g)(3).

“ ***Member Nonrecourse Debt*** ” has the meaning of “partner nonrecourse debt” set forth in Treasury Regulations Section 1.704-2(b)(4).

“ ***Member Nonrecourse Deductions*** ” has the meaning of “partner nonrecourse deductions” set forth in Treasury Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

“ ***National Securities Exchange*** ” means an exchange registered with the Commission under the Exchange Act.

“ ***Nonrecourse Deductions*** ” has the meaning assigned that term in Treasury Regulations Section 1.704-2(b).

“ ***Nonrecourse Liability*** ” is defined in Treasury Regulations Section 1.704-2(b)(3).

“ ***NuDevco Retail*** ” is defined in the recitals to this Agreement.

“ ***NuDevco Retail Holdings*** ” is defined in the recitals to this Agreement.

“ ***Officer*** ” means each Person designated as an officer of the Company pursuant to and in accordance with the provisions of Section 6.2 , subject to any resolution of the Managing Member appointing such Person as an officer or relating to such appointment.

“ ***Permitted Transferee*** ” means, with respect to any Member, (a) any Affiliate of such Member; (b) any successor entity of such Member; (c) a trust established by or for the benefit of a

Member of which only such Member and his or her immediate family members are beneficiaries; (d) any Person established for the benefit of, and beneficially owned solely by, an entity Member or the sole individual direct or indirect owner of an entity Member; and (e) upon an individual Member's death, an executor, administrator or beneficiary of the estate of the deceased Member.

" ***Person*** " means any individual, partnership, firm, corporation, limited liability company, association, trust, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

" ***Plan Asset Regulations*** " means the regulations issued by the U.S. Department of Labor at Section 2510.3-101 of Part 2510 of Chapter XXV, Title 29 of the Code of Federal Regulations, or any successor regulations as the same may be amended from time to time.

" ***President and Chief Executive Officer*** " is defined in Section 6.2(b) .

" ***Prime Rate*** " means, on any date of determination, a rate per annum equal to the rate of interest most recently published by The Wall Street Journal as the "prime rate" at large U.S. money center banks.

" ***Proceeding*** " is defined in Section 6.4 .

" ***Profits*** " or " ***Losses*** " means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments (without duplication):

(a) any income or gain of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses shall be added to such taxable income or loss;

(b) any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(*i*), and not otherwise taken into account in computing Profits or Losses, shall be subtracted from such taxable income or loss;

(c) in the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraph (b) or (c) of the definition of Gross Asset Value above, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Gross Asset Value of the Company asset) or an item of loss (if the adjustment decreases the Gross Asset Value of the Company asset) from the disposition of such asset and shall, except to the extent allocated pursuant to Section 4.2 , be taken into account for purposes of computing Profits or Losses;

(d) gain or loss resulting from any disposition of Company assets with respect to which gain or loss is recognized for federal income tax purposes shall be computed with reference to the

Gross Asset Value of the asset disposed of, notwithstanding that the adjusted tax basis of such asset differs from its Gross Asset Value;

(e) in lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation;

(f) to the extent an adjustment to the adjusted tax basis of any asset pursuant to Code Sections 734(b) or 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(*m*), to be taken into account in determining Capital Account balances as a result of a distribution other than in liquidation of a Member's interest in the Company, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or an item of loss (if the adjustment decreases such basis) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses; and

(g) any items of income, gain, loss or deduction which are specifically allocated pursuant to the provisions of Section 4.2 shall not be taken into account in computing Profits or Losses for any taxable year, but such items available to be specially allocated pursuant to Section 4.2 will be determined by applying rules analogous to those set forth in subparagraphs (a) through (f) above.

" ***Property*** " means all real and personal property owned by the Company from time to time, including both tangible and intangible property.

" ***Quarterly Distribution Date*** " means the date on which SEI pays a dividend to the holders of its Class A Stock.

" ***Reclassification Event*** " means any of the following: (i) any reclassification or recapitalization of SEI Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination or any transaction subject to Section 3.1(g)), (ii) any merger, consolidation or other combination involving the Managing Member, or (iii) any sale, conveyance, lease, or other disposal of all or substantially all the properties and assets of the Managing Member to any other Person, in each of clauses (i), (ii) or (iii), as a result of which holders of SEI Common Stock shall be entitled to receive cash, securities or other property for their shares of SEI Common Stock.

" ***Regulatory Allocations*** " is defined in Section 4.2(h) .

" ***Restated LLC Agreement*** " is defined in the recitals to this Agreement.

" ***Revocation Notice*** " is defined in Section 3.7(g)(ii) .

" ***Securities Act*** " means the Securities Act of 1933, and the rules and regulations promulgated thereunder, as the same may be amended from time to time (or any corresponding provisions of succeeding law).

" ***SEI*** " is defined in the recitals to this Agreement.

" ***SEI Common Stock*** " means all classes and series of common stock of SEI, including the Class A Stock and Class B Stock.

" ***SEI Offer*** " is defined in Section 3.7(h) .

" ***Series A Preferred Quarterly Distribution Date*** " means the date on which SEI pays a dividend to the holders of its Series A Preferred Stock.

" ***Series A Preferred Stock*** " shall, as applicable, (i) mean the ____% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock of SEI or (ii) following any consolidation, merger, reclassification or other similar event involving SEI, mean any shares or other securities of SEI or any other Person or cash or other property that become payable in consideration for the ____% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock or into which the ____% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock is exchanged or converted as a result of such consolidation, merger, reclassification or other similar event.

" ***Series A Preferred Stock Offering*** " has the meaning set forth in the recitals to this Agreement.

" ***Series A Preferred Stock Offering Transaction*** " has the meaning set forth in the recitals to this Agreement.

" ***Series A Preferred Unit*** " has the meaning set forth in Section 3.1(a) .

" ***Special Assumed Tax Liability*** " means, with respect to any taxable year, an amount equal to (a) the cumulative amount of federal, state and local income taxes (including any applicable estimated taxes), determined taking into account the character of income and loss allocated as it affects the applicable tax rate, due from SEI in all prior taxable years and that the Managing Member estimates as of such Tax Distribution Date would be due from SEI in such taxable year, assuming SEI earned solely the items of income and gain allocated to SEI pursuant to Section 4.3 , minus (b) prior distributions made pursuant to Section 5.2(a) . For purposes of determining the Special Assumed Tax Liability of SEI, adjustments by reason of Sections 734(b) or 743(b) of the Code shall be taken into account.

" ***Subsidiary*** " means, with respect to any specified Person, any other Person with respect to which such specified Person (a) has, directly or indirectly, the power, through the ownership of securities or otherwise, to elect a majority of directors or similar managing body or (b) beneficially owns, directly or indirectly, a majority of such Person's Equity Securities.

" ***Target Distribution*** " is defined in the Tax Receivable Agreement.

" ***Tax Advance*** " has the meaning set forth in Section 5.2(d) .

" ***Tax Distribution Date*** " means any date that is two Business Days prior to the date on which estimated federal income tax payments are required to be made by calendar year corporate taxpayers

and the due date for federal income tax returns of corporate calendar year taxpayers (without regard to extensions).

" ***Tax Matters Representative*** " is defined in Section 9.4 .

" ***Tax Receivable Agreement*** " means the Tax Receivable Agreement dated as of August 1, 2014, by and among the Company, SEI, NuDevco Retail, NuDevco Retail Holdings and W. Keith Maxwell III, as the same may be amended, supplemented or restated from time to time.

" ***Transfer*** " means, as a noun, any voluntary or involuntary, direct or indirect (whether through a change of control of the Transferor or any Person that controls the Transferor, the issuance or transfer of Equity Securities of the Transferor, by operation of law or otherwise), transfer, sale, pledge or hypothecation or other disposition and, as a verb, voluntarily or involuntarily, directly or indirectly (whether through a change of control of the Transferor or any Person that controls the Transferor, the issuance or transfer of Equity Securities of the Transferor or any Person that controls the Transferor, by operation of law or otherwise), to transfer, sell, pledge or hypothecate or otherwise dispose of. The terms "Transferee," "Transferor," "Transferred," and other forms of the word "Transfer" shall have the correlative meanings.

" ***TRA Payment Date*** " means each "Payment Date," as defined in the Tax Receivable Agreement. For the avoidance of doubt, each TRA Payment Date shall be determined without taking into account any payment deferrals to which SEI is entitled under the terms of the Tax Receivable Agreement.

" ***Transfer Agent*** " is defined in Section 3.7(b) .

" ***Treasury Regulations*** " means pronouncements, as amended from time to time, or their successor pronouncements, which clarify, interpret and apply the provisions of the Code, and which are designated as "Treasury Regulations" by the United States Department of the Treasury.

" ***Units*** " means the Common Units and Series A Preferred Units issued hereunder and shall also include any equity security issued in respect of or in exchange for any such Common Units or Series A Preferred Units, whether by way of dividend or other distribution, split, recapitalization, merger, rollup transaction, consolidation, conversion or reorganization.

" ***Unpaid Excess Cash Amounts*** " shall mean the total amount of any unpaid excess cash payment amounts excused from payment as a dividend on the Series A Preferred Stock due to restrictions in credit facilities or other indebtedness or legal requirements as set forth in Section 4(d) of the Certificate of Designations related to the Series A Preferred Stock.

" ***Valuation Date*** " is defined in the definition of "Cash Election Amount."

" ***Winding-Up Member*** " is defined in Section 10.3(a) .

Section 1.2 **Interpretive Provisions** . For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in Section 1.1 have the meanings assigned to them in Section 1.1 and are applicable to the singular as well as the plural forms of such terms;

(b) all accounting terms not otherwise defined herein have the meanings assigned under GAAP;

(c) all references to currency, monetary values and dollars set forth herein shall mean United States (U.S.) dollars and all payments hereunder shall be made in United States dollars;

(d) when a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference is to an Article or Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated;

(e) whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation";

(f) "or" is not exclusive;

(g) pronouns of either gender or neuter shall include, as appropriate, the other pronoun forms; and

(h) the words "hereof", "herein" and "hereunder" and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement.

ARTICLE II

ORGANIZATION OF THE LIMITED LIABILITY COMPANY

Section 2.1 **Formation**. The Company was formed on April 22, 2014 as a limited liability company subject to the provisions of the Act upon the terms, provisions and conditions set forth in this Agreement.

Section 2.2 **Filing**. The Company's Certificate of Formation has been filed with the Secretary of State of the State of Delaware in accordance with the Act. The Members shall execute such further documents (including amendments to such Certificate of Formation) and take such further action as is appropriate to comply with the requirements of Law for the formation or operation of a limited liability company in Delaware and in all states and counties where the Company may conduct its business.

Section 2.3 **Name**. The name of the Company is "SPARK HOLDCO, LLC" and all business of the Company shall be conducted in such name or, in the discretion of the Managing Member, under any other name.

Section 2.4 **Registered Office; Registered Agent**. The location of the registered office of the Company in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, or at such other place as the Managing Member from time to time may select. The name

and address for service of process on the Company in the State of Delaware are Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, or such other qualified Person as the Managing Member may designate from time to time and its business address.

Section 2.5 **Principal Place of Business**. The principal place of business of the Company shall be located in such place as is determined by the Managing Member from time to time.

Section 2.6 **Purpose; Powers**. The nature of the business or purposes to be conducted or promoted by the Company is to engage in any lawful act or activity for which limited liability companies may be formed under the Act. The Company shall have the power and authority to take any and all actions and engage in any and all activities necessary, appropriate, desirable, advisable, ancillary or incidental to the accomplishment of the foregoing purpose.

Section 2.7 **Term**. The term of the Company commenced on the date of filing of the Certificate of Formation of the Company with the office of the Secretary of State of the State of Delaware in accordance with the Act and shall continue indefinitely. The Company may be dissolved and its affairs wound up only in accordance with Article X.

Section 2.8 **Intent**. It is the intent of the Members that the Company be operated in a manner consistent with its treatment as a "partnership" for federal and state income tax purposes. It is also the intent of the Members that the Company not be operated or treated as a "partnership" for purposes of Section 303 of the Federal Bankruptcy Code. Neither the Company nor any Member shall take any action inconsistent with the express intent of the parties hereto as set forth in this Section 2.8.

ARTICLE III

OWNERSHIP AND CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS

Section 3.1 **Authorized Units; General Provisions With Respect to Units**.

(a) Subject to the provisions of this Agreement, the Company shall be authorized to issue from time to time such number of Units and such other Equity Securities as the Managing Member shall determine in accordance with Section 3.3. Each authorized Unit may be issued pursuant to such agreements as the Managing Member shall approve, including pursuant to options and warrants. The Company may reissue any Units that have been repurchased or acquired by the Company. As of the Effective Date, the Company shall have two authorized classes of Units, consisting of units of limited liability company interest denominated as " ***Common Units*** " and " ***Series A Preferred Units*** ."

(b) All Common Units shall have identical rights and privileges in all respects, and all Series A Preferred Units shall have identical rights and privileges in all respects. (except in all cases with respect to vesting).

(c) Initially, none of the Units will be represented by certificates. If the Managing Member determines that it is in the interest of the Company to issue certificates representing the

Units, certificates will be issued and the Units will be represented by those certificates, and this Agreement shall be amended as necessary or desirable to reflect the issuance of certificated Units for purposes of the Uniform Commercial Code. Nothing contained in this Section 3.1(c) shall be deemed to authorize or permit any Member to Transfer its Units except as otherwise permitted under this Agreement.

(d) The total number of Units issued and outstanding and held by the Members is set forth on Exhibit A (as amended from time to time in accordance with the terms of this Agreement) as of the date set forth therein.

(e) If at any time SEI issues a share of its Class A Stock, Series A Preferred Stock or any other Equity Security of SEI (other than shares of Class B Stock), (i) the Company shall issue to SEI one Common Unit (if SEI issues a share of Class A Stock), one Series A Preferred Unit (if SEI issues a share of Series A Preferred Stock) or such other Equity Security of the Company (if SEI issues Equity Securities other than Class A Stock or Series A Preferred Stock) corresponding to the Equity Securities issued by SEI, and with substantially the same rights to dividends and distributions (including distributions upon liquidation) and other economic rights as those of such Equity Securities issued by SEI and (ii) the net proceeds received by SEI with respect to such corresponding share of Class A Stock, Series A Preferred Stock or other Equity Security, if any, shall be concurrently transferred to the Company; *provided* , *however* , that if SEI issues any shares of Class A Stock in order to purchase or fund the purchase from a Member of a number of Common Units (and shares of Class B Stock) equal to the number of shares of Class A Stock so issued, then the Company shall not issue any new Common Units in connection therewith and SEI shall not be required to transfer any net proceeds of such issuance to the Company (it being understood that any such net proceeds shall instead be transferred to the selling Member as consideration for such purchase). Notwithstanding the foregoing, this Section 3.1(e) shall not apply to the issuance and distribution to holders of shares of Common Stock of rights to purchase Equity Securities of SEI under a "poison pill" or similar shareholders rights plan (it being understood that upon exchange of Common Units for Class A Stock, such Class A Stock will be issued together with a corresponding right), or to the issuance under SEI's employee benefit plans of any warrants, options, other rights to acquire Equity Securities of SEI or rights or property that may be converted into or settled in Equity Securities of SEI, but shall in each of the foregoing cases apply to the issuance of Equity Securities of SEI in connection with the exercise or settlement of such rights, warrants, options or other rights or property. Except pursuant to Section 3.7 , (x) the Company may not issue any additional Common Units or Series A Preferred Units to SEI or any of its Subsidiaries unless simultaneously SEI or such Subsidiary issues or sells an equal number of shares of Class A Stock or Series A Preferred Stock, as applicable, to another Person, and (y) the Company may not issue any other Equity Securities of the Company to SEI or any of its Subsidiaries unless simultaneously SEI or such Subsidiary issues or sells, to another Person, an equal number of shares of a new class or series of Equity Securities of SEI or such Subsidiary with substantially the same rights to dividends and distributions (including distributions upon liquidation) and other economic rights as those of such Equity Securities of the Company.

(f) SEI or any of its Subsidiaries may not redeem, repurchase or otherwise acquire (i) any shares of Class A Stock (including upon forfeiture of any unvested shares of Class A

Stock) unless simultaneously the Company redeems, repurchases or otherwise acquires from SEI an equal number of Common Units for the same price per security, (ii) any shares of Series A Preferred Stock unless simultaneously the Company redeems, repurchases or otherwise acquires from SEI an equal number of Series A Preferred Units for the same consideration that is to be paid by SEI in accordance with Section 3.8(d) , or (iii) any other Equity Securities of SEI unless simultaneously the Company redeems, repurchases or otherwise acquires from SEI an equal number of Equity Securities of the Company of a corresponding class or series with substantially the same rights to dividends and distributions (including distributions upon liquidation) and other economic rights as those of such Equity Securities of SEI for the same price per security. Except pursuant to Section 3.7 or Section 3.8 , as applicable, the Company may not redeem, repurchase or otherwise acquire (A) any Common Units from SEI or any of its Subsidiaries unless simultaneously SEI or such Subsidiary redeems, repurchases or otherwise acquires an equal number of shares of Class A Stock for the same price per security from holders thereof, (B) any Series A Preferred Units from SEI or any of its Subsidiaries unless simultaneously SEI or such Subsidiary redeems, repurchases or otherwise acquires an equal number of shares of Series A Preferred Stock for the same consideration to be paid by SEI, or (C) any other Equity Securities of the Company from SEI or any of its Subsidiaries unless simultaneously SEI or such Subsidiary redeems, repurchases or otherwise acquires for the same price per security an equal number of Equity Securities of SEI of a corresponding class or series with substantially the same rights to dividends and distributions (including distribution upon liquidation) and other economic rights as those of such Equity Securities of SEI. Notwithstanding the foregoing, to the extent that any consideration payable by SEI in connection with the redemption or repurchase of any shares of Class A Stock, Series A Preferred Stock or other Equity Securities of SEI or any of its Subsidiaries consists (in whole or in part) of shares of Class A Stock, Series A Preferred Stock, or such other Equity Securities (including, for the avoidance of doubt, in connection with the cashless exercise of an option or warrant), as applicable, then the redemption or repurchase of the corresponding Common Units, Series A Preferred Units or other Equity Securities of the Company shall be effectuated in an equivalent manner.

(g) The Company shall not in any manner effect any subdivision (by any stock split, stock dividend, reclassification, recapitalization or otherwise) or combination (by reverse stock split, reclassification, recapitalization or otherwise) of an outstanding class or series of corresponding Units unless accompanied by an identical subdivision or combination, as applicable, of the corresponding outstanding class or series of Equity Securities of SEI, with corresponding changes made with respect to any other exchangeable or convertible securities. SEI shall not in any manner effect any subdivision (by any stock split, stock dividend, reclassification, recapitalization or otherwise) or combination (by reverse stock split, reclassification, recapitalization or otherwise) of an outstanding class or series of Equity Securities of SEI unless accompanied by an identical subdivision or combination, as applicable, of the corresponding outstanding class or series of Units or other Equity Securities of the Company, with corresponding changes made with respect to any other exchangeable or convertible securities.

Section 3.2 **Voting Rights** . No Member has any voting right except with respect to those matters specifically reserved for a Member vote under the Act and for matters expressly requiring the approval of all Members or of the holders of a particular class of Units or other Equity Securities

under this Agreement. Except as otherwise required by the Act, each Unit will entitle the holder thereof to one vote on all matters to be voted on by that holder. Except as otherwise expressly provided in this Agreement, the holders of Units having voting rights will vote together as a single class on all matters to be approved by the Members.

Section 3.3 **Capital Contributions; Unit Ownership** .

(a) *Capital Contributions* . Each Member named on Exhibit A has been credited in its Capital Account the amount of its respective Capital Contribution in respect of its Interest specified thereon. No Member shall be required to make additional Capital Contributions.

(b) *Issuance of Additional Units or Interests* . Except as otherwise expressly provided in this Agreement, the Managing Member shall have the right to authorize and cause the Company to issue on such terms (including price) as may be determined by the Managing Member (i) subject to the limitations of Section 3.1 , additional Units or other Equity Securities in the Company (including creating preferred interests or other classes or series of securities having such rights, preferences and privileges as determined by the Managing Member), and (ii) obligations, evidences of Indebtedness or other securities or interests convertible or exchangeable for Units or other Equity Securities in the Company; provided that, at any time following the date hereof, in each case the Company shall not issue Equity Securities in the Company to any Person unless such Person shall have executed a counterpart to this Agreement and all other documents, agreements or instruments deemed necessary or desirable in the discretion of the Managing Member. In that event, the Managing Member shall amend Exhibit A to reflect such additional issuances.

Section 3.4 **Capital Accounts** . A Capital Account shall be maintained for each Member in accordance with the provisions of Treasury Regulations Section 1.704-1(b)(2)(iv) and, to the extent consistent with such regulations, the other provisions of this Agreement. The Capital Account balance of each of the Members as of the Effective Date shall be (a) increased by (i) allocations to such Member of Profits pursuant to Section 4.1 and any other items of income or gain allocated to such Member pursuant to Section 4.2 , (ii) the amount of additional cash or the initial Gross Asset Value of any asset (net of any Liabilities assumed by the Company and any Liabilities to which the asset is subject) contributed to the Company by such Member, and (iii) any other increases allowed or required by Treasury Regulations Section 1.704-1(b)(2)(iv), and (b) decreased by (i) allocations to such Member of Losses pursuant to Section 4.1 and any other items of deduction or loss allocated to such Member pursuant to the provisions of Section 4.2 , (ii) the amount of any cash or the Gross Asset Value of any asset (net of any Liabilities assumed by the Company and any Liabilities to which the asset is subject) distributed to such Member, and (iii) any other decreases allowed or required by Treasury Regulations Section 1.704-1(b)(2)(iv). In the event of a Transfer of Units made in accordance with this Agreement, the Capital Account of the Transferor that is attributable to the Transferred Units shall carry over to the Transferee Member in accordance with the provisions of Treasury Regulations Section 1.704-1(b)(2)(iv)(*l*). For purposes of applying the rules in this Section 3.4 , at the time SEI contributes the net proceeds from the Series A Preferred Stock Offering Transaction to the Company pursuant to Section 3.5 , SEI shall be treated as making a capital contribution to the Company in an amount equal to the gross proceeds received by SEI in the Series A Preferred Stock Offering Transaction, and the Company shall be treated as having paid the

underwriter's fees and other costs of the Series A Preferred Stock Offering Transaction that are paid out of the proceeds of those offerings.

Section 3.5 **Issuance of Series A Preferred Units in Series A Preferred Stock Offering Transaction**. Immediately after consummation of the Series A Preferred Stock Offering, the Company will issue 1,400,000 Series A Preferred Units to SEI in exchange for SEI's commitment to contribute the net proceeds of the Series A Preferred Stock Offering to the Company. If and to the extent the underwriters exercise their option to purchase additional shares of Series A Preferred Stock in connection with the Series A Preferred Stock Offering, the Company will immediately thereafter issue an equal number of Series A Preferred Units to SEI in exchange for SEI's commitment to contribute to the Company the net proceeds from the exercise of such option. SEI agrees to satisfy the capital commitment obligations described in this Section 3.5 by contributing to the Company 100% of the net proceeds received by SEI in the Series A Preferred Stock Offering (including 100% of the net proceeds received from the exercise by the underwriters of their option to purchase additional shares of Series A Preferred Stock, if any).

Section 3.6 **Other Matters**.

(a) No Member shall demand or receive a return on or of its Capital Contributions or withdraw from the Company without the consent of the Managing Member. Under circumstances requiring a return of any Capital Contributions, no Member has the right to receive property other than cash.

(b) No Member shall receive any interest, salary, compensation, draw or reimbursement with respect to its Capital Contributions or its Capital Account, or for services rendered or expenses incurred on behalf of the Company or otherwise in its capacity as a Member, except as otherwise provided in or contemplated by this Agreement.

(c) The Liability of each Member shall be limited as set forth in the Act and other applicable Law and, except as expressly set forth in this Agreement or required by Law, no Member (or any of its Affiliates) shall be personally liable, whether to the Company, to any of the other Members, to the creditors of the Company, or to any other third party, for any debt or Liability of the Company, whether arising in contract, tort or otherwise, solely by reason of being a Member of the Company.

(d) Except as otherwise required by the Act, a Member shall not be required to restore a deficit balance in its Capital Account, to lend any funds to the Company or to make any additional contributions or payments to the Company.

(e) The Company shall not be obligated for the repayment of any Capital Contributions of any Member.

Section 3.7 **Exchange of Common Units**.

(a) (i) Subject to adjustment as provided in Section 3.7(d) and subject to SEI's rights described in Section 3.7(g), each of the Members other than SEI shall be entitled to exchange

with the Company, at any time and from time to time, any or all of such Member's Common Units (together with the same number of shares of Class B Stock) for an equivalent number of shares of Class A Stock (an " ***Exchange*** ") or, at the Company's election made in accordance with Section 3.7(a)(ii) , cash equal to the Cash Election Amount calculated with respect to such Exchange. Each Exchange shall be treated for federal income tax purposes as a sale of the Exchanging Member's Common Units (together with the same number of shares of Class B Stock) to SEI in exchange for shares of Class A Stock or cash, as applicable.

(i) Upon receipt of an Exchange Notice, the Company shall be entitled to elect (a " ***Cash Election*** ") to settle the Exchange by the delivery to the Exchanging Member, in lieu of the applicable number of shares of Class A Stock that would be received in such Exchange, an amount of cash equal to the Cash Election Amount for such Exchange. In order to make a Cash Election with respect to an Exchange, the Company must provide written notice of such election to the Exchanging Member prior to 1:00 pm, Houston time, on the third Business Day after the date on which the Exchange Notice shall have been received by the Company. If the Company fails to provide such written notice prior to such time, it shall not be entitled to make a Cash Election with respect to such Exchange.

(ii) Each Exchanging Member shall be permitted to effect an exchange of Common Units and shares of Class B Stock pursuant to this Section 3.7 that involves less than 1,000,000 Common Units no more frequently than on a quarterly basis; *provided* , *however* , that if an Exchanging Member provides an Exchange Notice with respect to all of the Common Units and shares of Class B Stock held by such Exchanging Member, such Exchange may occur at any time, subject to this Section 3.7 .

(b) In order to exercise the exchange right under Section 3.7(a) , the exchanging Member (the " ***Exchanging Member*** ") shall provide written notice (the " ***Exchange Notice*** ") to the Company and SEI, stating that the Exchanging Member elects to exchange with the Company a stated (and equal) number of Common Units and shares of Class B Stock represented, if applicable, by a certificate or certificates, to the extent specified in such notice, and if the shares of Class A Stock to be received are to be issued other than in the name of the Exchanging Member, specifying the name(s) of the Person(s) in whose name or on whose order the shares of Class A Stock are to be issued, and shall present and surrender the certificate or certificates representing such Common Units and shares of Class B Stock (in each case, if certificated) during normal business hours at the principal executive offices of the Company, or if any agent for the registration or transfer of Class A Stock is then duly appointed and acting (the " ***Transfer Agent*** "), at the office of the Transfer Agent with respect to such Class A Stock.

(c) If required by SEI, any certificate for Common Units and shares of Class B Stock (in each case, if certificated) surrendered for exchange with the Company shall be accompanied by instruments of transfer, in form reasonably satisfactory to SEI and the Transfer Agent (if then duly appointed and acting), duly executed by the Exchanging Member or the Exchanging Member's duly authorized representative. If the Company has not made a valid Cash Election, then as promptly as practicable after the receipt of the Exchange Notice and the surrender to the Company of the certificate or certificates, if any, representing such Common Units and shares

of Class B Stock (but in any event by the Exchange Date, as defined below), SEI shall issue and contribute to the Company, and the Company shall deliver to the Exchanging Member, or on the Exchanging Member's written order, a certificate or certificates, if applicable, for the number of shares of Class A Stock issuable upon the Exchange, and the Company shall deliver such Common Units and shares of Class B Stock to SEI in exchange for no additional consideration. If the Company has made a valid Cash Election, then as promptly as practicable after the receipt of the Exchange Notice (but in no event more than three Business Days after receipt of the Exchange Notice), upon surrender to the Company of the certificate or certificates, if any, representing such Common Units and shares of Class B Stock, the Company shall deliver to the Exchanging Member as directed by the Exchanging Member by wire transfer of immediately available funds the Cash Election Amount payable upon the Exchange, and the Company shall deliver such Common Units and shares of Class B Stock to SEI for no additional consideration. Each Exchange shall be deemed to have been effected on (i) (x) the Business Day after the date on which the Exchange Notice shall have been received by the Company, SEI or the Transfer Agent, as applicable (subject to receipt by the Company, SEI or the Transfer Agent, as applicable, within three Business Days thereafter of any required instruments of transfer as aforesaid) if the Company has not made a valid Cash Election with respect to such Exchange or (y) if the Company has made a valid Cash Election with respect to such Exchange, the first Business Day on which the Company has available funds to pay the Cash Election Amount (but in no event more than three Business Days after receipt of the Exchange Notice), or (ii) such later date specified in or pursuant to the Exchange Notice (such date identified in clause (i) or (ii), as applicable, the " ***Exchange Date*** "). If the Company has not made a valid Cash Election, and the Person or Persons in whose name or names any certificate or certificates for shares of Class A Stock (which certificates shall bear any legends as may be required in accordance with applicable Law) shall be issuable upon such Exchange as aforesaid shall be deemed to have become, on the Exchange Date, the holder or holders of record of the shares represented thereby. Notwithstanding anything herein to the contrary, unless the Company has made a valid Cash Election, any Exchanging Member may withdraw or amend an Exchange request, in whole or in part, prior to the effectiveness of the applicable Exchange, at any time prior to 5:00 p.m., Houston time, on the Business Day immediately preceding the Exchange Date (or any such later time as may be required by applicable Law) by delivery of a written notice of withdrawal to the Company, SEI or the Transfer Agent, specifying (1) the certificate numbers of the withdrawn Common Units (if any) and shares of Class B Stock, (2) if any, the number of Common Units and shares of Class B Stock as to which the Exchange Notice remains in effect and (3) if the Exchanging Member so determines, a new Exchange Date or any other new or revised information permitted in an Exchange Notice. An Exchange Notice may specify that the Exchange is to be contingent (including as to timing) upon the consummation of a purchase by another Person (whether in a tender or exchange offer, an underwritten offering or otherwise) of the shares of Class A Stock into which the Common Units and shares of Class B Stock are exchangeable, or contingent (including as to timing) upon the closing of an announced merger, consolidation or other transaction or event in which the shares of Class A Stock would be exchanged or converted or become exchangeable for or convertible into cash or other securities or property, provided that the foregoing shall not apply to any Exchange with respect to which the Company has made a valid Cash Election.

(d) If (i) there is any reclassification, reorganization, recapitalization or other similar transaction pursuant to which the shares of Class A Stock are converted or changed into

another security, securities or other property, or (ii) SEI shall, by dividend or otherwise, distribute to all holders of the shares of Class A Stock evidences of its indebtedness or assets, including securities (including shares of Class A Stock and any rights, options or warrants to all holders of the shares of Class A Stock to subscribe for or to purchase or to otherwise acquire shares of Class A Stock, or other securities or rights convertible into, exchangeable for or exercisable for shares of Class A Stock) but excluding any cash dividend or distribution as well as any such distribution of indebtedness or assets received by SEI from the Company in respect of the Common Units, then upon any subsequent Exchange, in addition to the shares of Class A Stock or the Cash Election Amount, as applicable, each Member shall be entitled to receive the amount of such security, securities or other property that such Member would have received if such Exchange had occurred immediately prior to the effective date of such reclassification, reorganization, recapitalization, other similar transaction dividend or other distribution, taking into account any adjustment as a result of any subdivision (by any split, distribution or dividend, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse split, reclassification, recapitalization or otherwise) of such security, securities or other property that occurs after the effective time of such reclassification, reorganization, recapitalization or other similar transaction. For the avoidance of doubt, if there is any reclassification, reorganization, recapitalization or other similar transaction in which the shares of Class A Stock are converted or changed into another security, securities or other property, or any dividend or distribution (other than an excluded dividend or distribution, as described above), this Section 3.7 shall continue to be applicable, mutatis mutandis, with respect to such security or other property. This Agreement shall apply to the Common Units held by the Members and their Permitted Transferees as of the date hereof, as well as any Common Units hereafter acquired by a Member and his or her or its Permitted Transferees.

(e) SEI shall at all times keep available, solely for the purpose of issuance upon an Exchange, such number of shares of Class A Stock that shall be issuable upon the Exchange of all such outstanding Common Units and shares of Class B Stock; provided, that nothing contained herein shall be construed to preclude SEI from satisfying its obligations with respect of an Exchange by delivery of shares of Class A Stock that are held in the treasury of SEI. SEI covenants that all shares of Class A Stock that shall be issued upon an Exchange shall, upon issuance thereof, be validly issued, fully paid and non-assessable. In addition, for so long as the shares of Class A Stock are listed on a National Securities Exchange, SEI shall use its commercially reasonable efforts to cause all shares of Class A Stock issued upon an Exchange to be listed on such National Securities Exchange at the time of such issuance.

(f) The issuance of shares of Class A Stock upon an Exchange shall be made without charge to the Exchanging Member for any stamp or other similar tax in respect of such issuance; *provided* , *however* , that if any such shares are to be issued in a name other than that of the Exchanging Member, then the Person or Persons in whose name the shares are to be issued shall pay to SEI the amount of any tax that may be payable in respect of any transfer involved in such issuance or shall establish to the satisfaction of SEI that such tax has been paid or is not payable.

(g) (h) Notwithstanding anything to the contrary in this Section 3.7 , but subject to Section 3.7(h) , an Exchanging Member shall be deemed to have offered to sell its Common Units and shares of Class B Stock as described in the Exchange Notice to SEI, and SEI may, in its sole

discretion, by means of delivery of Call Election Notices and/or Revocation Notices in accordance with, and subject to the terms of, this Section 3.7(g), elect to purchase directly and acquire such Common Units and shares of Class B Stock on the Exchange Date by paying to the Exchanging Member (or, on the Exchanging Member's written order, its designee) that number of shares of Class A Stock the Exchanging Member (or its designee) would otherwise receive pursuant to Section 3.7(a) or, at SEI's election, an amount of cash equal to the Cash Election Amount of such shares of Class A Stock (the " ***Call Right*** "), whereupon SEI shall acquire the Common Units and shares of Class B Stock offered for exchange by the Exchanging Member and shall be treated for all purposes of this Agreement as the owner of such Common Units and shares of Class B Stock. In the event SEI shall exercise the Call Right, each of the Exchanging Member, the Company and SEI, as the case may be, shall treat the transaction between the Company and the Exchanging Member for federal income tax purposes as a sale of the Exchanging Member's Common Units and shares of Class B Stock to SEI.

(i) SEI may at any time in its sole discretion deliver written notice (a " ***Call Election Notice*** ") to each other Member setting forth its election to exercise its Call Right as contemplated by Section 3.7(g) with respect to future Exchanges (without needing to provide further notice of its intention to exercise its Call Right). Subject to the remainder of this Section 3.7(g)(ii), a Call Election Notice will be effective until SEI amends its Call Election Notice with a superseding Call Election Notice or revokes such Call Election Notice by delivery of a written notice of revocation delivered to each other Member or, with respect to a particular Exchange, the Company exercises its Cash Election (a " ***Revocation Notice*** "). A Call Election Notice may be amended or revoked by SEI at any time; provided that any Exchange Notice delivered by a Member will not, without such Member's written consent, be affected by the subsequent delivery of a Revocation Notice or by an Exchange Notice that is not effective until after the Exchange Date. Following delivery of a Revocation Notice, SEI may deliver a new Call Election Notice pursuant to this Section 3.7(g). Any amendment of a Call Election Notice will not be effective until the Business Day after its delivery to each Member (other than SEI). Each Call Election Notice shall specify the date from which it shall be effective (which shall be no earlier than the Business Day after delivery).

(i) In the event that a tender offer, share exchange offer, issuer bid, take-over bid, recapitalization or similar transaction with respect to shares of Class A Stock (an " ***SEI Offer*** ") is proposed by SEI or is proposed to SEI or its stockholders and approved by the board of directors of SEI or is otherwise effected or to be effected with the consent or approval of the board of directors of SEI, the Members (other than SEI) shall be permitted to participate in such SEI Offer by delivery of a contingent Exchange Notice in accordance with the last sentence of Section 3.7(c). In the case of an SEI Offer proposed by SEI, SEI will use its commercially reasonable efforts to take all such actions and do all such things as are necessary or desirable to enable and permit the Members to participate in such SEI Offer to the same extent or on an economically equivalent basis as the holders of shares of Members without discrimination; provided that, without limiting the generality of this sentence, SEI will use its commercially reasonable efforts to ensure that such Members may participate in each such SEI Offer without being required to exchange Common Units and shares of Class B Stock (or, if so required, to ensure that any such Exchange shall be effective only upon,

and shall be conditional upon, the closing of such SEI Offer and only to the extent necessary to tender or deposit to SEI Offer in accordance with the last sentence of Section 3.7(c) , or, as applicable, to the extent necessary to exchange the number of Common Units and shares of Class B Stock being repurchased). For the avoidance of doubt, in no event shall Members (other than SEI) be entitled to receive in such SEI Offer aggregate consideration for each Unit and corresponding share of Class B Stock that is greater than the consideration payable in respect of each share of Class A Stock in connection with an SEI Offer.

(j) No Exchange shall impair the right of the Exchanging Member to receive any distributions payable on the Common Units so exchanged in respect of a record date that occurs prior to the Exchange Date for such Exchange. For the avoidance of doubt, no Exchanging Member, or a Person designated by an Exchanging Member to receive shares of Class A Stock, shall be entitled to receive, with respect to the same fiscal quarter, distributions or dividends both on Common Units exchanged by such Exchanging Member and on shares of Class A Stock received by such Exchanging Member, or other Person so designated, if applicable, in such Exchange.

Section 3.8 **Rights of Series A Preferred Units** . The Series A Preferred Units shall have the following rights, preferences and privileges and shall be subject to the following duties and obligations:

(a) *Distributions* . SEI shall be entitled to receive liquidating distributions in respect of the Series A Preferred Units in the manner set forth in Section 10.3(b)(iii)(x) . SEI shall be entitled to receive distributions other than liquidating distributions in respect of the Series A Preferred Units in the manner set forth in Section 5.2(e) .

(b) *Voting Rights* . Except as provided in the following sentence, the holders of the Series A Preferred Units shall not be entitled to vote on any matters requiring the approval or vote of the holders of Units, except as required by applicable Law. Notwithstanding any other provision of this Agreement, in addition to all other requirements imposed by the Act, and all other voting rights granted under this Agreement, the affirmative vote of the holder of a majority of the outstanding Series A Preferred Units, voting separately as a class based upon one vote per Series A Preferred Unit, shall be necessary on any matter that (i) adversely affects any of the rights, preferences and privileges of the Series A Preferred Units or (ii) amends or modifies any of the terms of the Series A Preferred Units.

(c) *Conversion* . Each time that a share of Series A Preferred Stock is converted into one or more shares of Class A Stock, an equal number of Series A Preferred Units shall automatically convert (without any further action of the Company or SEI) into Common Units at the same conversion ratio as applied to the conversion of the Series A Preferred Stock into Class A Stock. For example, if 5,000 shares of Series A Preferred Stock are converted into 45,000 shares of Class A Stock, then 5,000 Series A Preferred Units shall automatically convert into 45,000 Common Units. If a share of Series A Preferred Stock is converted into an alternative form of consideration (other than Class A Stock) the provisions of Section 3.8(d) shall apply.

(d) *Repurchase and Redemption* . Immediately prior to the time that a share of Series A Preferred Stock is to be repurchased or redeemed by SEI, the Company shall repurchase

or redeem an equal number of Series A Preferred Units in exchange for the same consideration that is to be paid by SEI in the repurchase or redemption of the Series A Preferred Stock. For example, if 100,000 shares of Series A Preferred Stock are to be repurchased by SEI in exchange for $3,000,000 in cash and 400,000 shares of Class A Stock, then 100,000 Series A Preferred Units shall be repurchased by the Company from SEI in exchange for $3,000,000 in cash and 400,000 Common Units.

(e) *Exceptions* . Notwithstanding subsections (c) and (d) , no repurchase, redemption or conversion shall be effected to the extent such repurchase, redemption or conversion would render the Company insolvent or violate applicable Law or any restrictions contained in any agreement to which the Company is a party. For purposes of the preceding sentence, insolvency means the inability of the Company to meet its payment obligations when due. Notwithstanding subsection (d) , no repurchase or redemption of the Series A Preferred Units shall be required or effected if such redemption would cause the Series A Preferred Units to be treated as "disqualified stock," "disqualified capital stock" or any equivalent term under any credit agreement, loan agreement, indenture or other credit facility to which the Company is a party at the time of the repurchase or redemption.

(f) *Tax Treatment* . It is intended that the conversion right applicable to the Series A Preferred Units will be treated as a noncompensatory option within the meaning of Treasury Regulations Section 1.721-2(f). Consistent with such intention, the Company shall comply with the allocation provisions set forth in Treasury Regulations Sections 1.704-1(b)(2)(iv)(*s*) and 1.704-1(b)(4)(x) (including making any required "corrective" allocations in accordance with those Treasury Regulations).

ARTICLE IV

ALLOCATIONS OF PROFITS AND LOSSES

Section 4.1 **Profits and Losses** .

(a)

(i) After giving effect to the allocations under Section 4.2 and prior to any allocation made pursuant to Section 4.1(b) , items of gross income and gain shall be allocated to SEI until the cumulative amount of items of income and gain so allocated to SEI for the current and prior fiscal years or other relevant periods equals the cumulative amount of distributions received by SEI pursuant to Section 5.2(a)(ii) for the current and all prior fiscal years or other relevant periods.

(ii) After giving effect to the allocations under Section 4.2 and prior to any allocation made pursuant to Section 4.1(b) , items of gross income and gain shall be allocated to SEI in respect of the Series A Preferred Units until the cumulative amount of items of income and gain so allocated to SEI for the current and prior fiscal years or other relevant periods equals the sum of (i) the cumulative amount of distributions received by SEI pursuant to Section 5.2(e) in respect of the Series A Preferred Units for the current and

all prior fiscal years or other relevant periods, plus (ii) the sum of the accrued and unpaid dividends and Unpaid Excess Cash Amounts on all the outstanding shares of Series A Preferred Stock as of the end of the current fiscal year or other relevant period.

(iii) After giving effect to the allocations under Section 4.2 and prior to any allocation made pursuant to Section 4.1(b) , items of gross income and gain shall be allocated to SEI in respect of its Common Units until the cumulative amount of items of income and gain so allocated to SEI for the current and prior fiscal years or other relevant periods equals the cumulative amount of distributions received by SEI pursuant to Section 5.2(f) in respect of its Common Units for the current and all prior fiscal years or other relevant periods.

(b) After giving effect to the allocations under Section 4.1(a) and Section 4.2 , Profits and Losses (and, to the extent determined by the Managing Member to be necessary and appropriate to achieve the resulting Capital Account balances described below, any allocable items of income, gain, loss, deduction or credit includable in the computation of Profits and Losses) for each Fiscal Year shall be allocated among the Members during such Fiscal Year in a manner such that, after giving effect to the special allocations set forth in Section 4.1(a) and Section 4.2 and all distributions through the end of such Fiscal Year, the Capital Account balance of each Member, immediately after making such allocation, is, as nearly as possible, equal to (i) the amount such Member would receive pursuant to Section 10.3(b)(iii) if all assets of the Company on hand at the end of such Fiscal Year were sold for cash equal to their Gross Asset Values, all liabilities of the Company were satisfied in cash in accordance with their terms (limited with respect to each nonrecourse liability to the Gross Asset Value of the assets securing such liability), and all remaining or resulting cash was distributed, in accordance with Section 10.3(b)(iii) , to the Members immediately after making such allocation, minus (ii) such Member's share of Company Minimum Gain and Member Minimum Gain, computed immediately prior to the hypothetical sale of assets.

Section 4.2 **Special Allocations** .

(a) Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Members in the manner excess nonrecourse liabilities of the Company are allocated pursuant to Section 4.4(c) . The amount of Nonrecourse Deductions for a Fiscal Year shall equal the excess, if any, of the net increase, if any, in the amount of Company Minimum Gain during that Fiscal Year over the aggregate amount of any distributions during that Fiscal Year of proceeds of a Nonrecourse Liability that are allocable to an increase in Company Minimum Gain, determined in accordance with the provisions of Treasury Regulations Section 1.704-2(d).

(b) Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Member who bears economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i). If more than one Member bears the economic risk of loss for such Member Nonrecourse Debt, the Member Nonrecourse Deductions attributable to such Member Nonrecourse Debt shall be allocated among the Members according to the ratio in which they bear the economic risk of loss. This Section 4.2(b) is intended to comply with the provisions of Treasury Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(c) Notwithstanding any other provision of this Agreement to the contrary, if there is a net decrease in Company Minimum Gain during any Fiscal Year (or if there was a net decrease in Company Minimum Gain for a prior Fiscal Year and the Company did not have sufficient amounts of income and gain during prior periods to allocate among the Members under this Section 4.2(c), each Member shall be specially allocated items of Company income and gain for such Fiscal Year in an amount equal to such Member's share of the net decrease in Company Minimum Gain during such year (as determined pursuant to Treasury Regulations Section 1.704-2(g)(2)). This section is intended to constitute a minimum gain chargeback under Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(d) Notwithstanding any other provision of this Agreement except Section 4.2(c), if there is a net decrease in Member Minimum Gain during any Fiscal Year (or if there was a net decrease in Member Minimum Gain for a prior Fiscal Year and the Company did not have sufficient amounts of income and gain during prior periods to allocate among the Members under this Section 4.2(d)), each Member shall be specially allocated items of Company income and gain for such year in an amount equal to such Member's share of the net decrease in Member Minimum Gain (as determined pursuant to Treasury Regulations Section 1.704-2(i)(4)). This section is intended to constitute a partner nonrecourse debt minimum gain chargeback under Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(e) Notwithstanding any provision hereof to the contrary except Section 4.2(c) and Section 4.2(d), in the event any Member unexpectedly receives any adjustment, allocation or distribution described in paragraph (4), (5) or (6) of Treasury Regulations Section 1.704-1(b)(2)(ii)(*d*), items of income and gain (consisting of a *pro rata* portion of each item of income, including gross income, and gain for the Fiscal Year) shall be specially allocated to such Member in an amount and manner sufficient to eliminate any Adjusted Capital Account Deficit of that Member as quickly as possible; provided that an allocation pursuant to this Section 4.2(e) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article IV have been tentatively made as if this Section 4.2(e) were not in this Agreement. This Section 4.2(e) is intended to constitute a qualified income offset under Treasury Regulations Section 1.704-1(b)(2)(ii)(*d*) and shall be interpreted consistently therewith.

(f) If any Member has a deficit balance in its Capital Account at the end of any Fiscal Year that is in excess of the sum of (i) the amount that such Member is obligated to restore and (ii) the amount that the Member is deemed to be obligated to restore pursuant to the penultimate sentence of Treasury Regulations Sections 1.704-2(g)(1) and (i)(5), that Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 4.2(f) shall be made only if and to the extent that such Member would have a deficit balance in its Capital Account in excess of such sum after all other allocations provided for in this Article IV have been made as if Section 4.2(e) and this Section 4.2(f) were not in this Agreement.

(g) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Sections 734(b) or 743(b) is required, pursuant to Treasury Regulations

Section 1.704-1(b)(2)(iv)(*m*)(2) or 1.704-1(b)(2)(iv)(*m*)(4), to be taken into account in determining Capital Accounts as a result of a distribution to any Member in complete liquidation of such Member's Interest in the Company, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such item of gain or loss shall be allocated to the Members in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(*m*)(2) if such section applies or to the Member to whom such distribution was made if Treasury Regulations Section 1.704-1(b)(2)(iv)(*m*)(4) applies.

(h) For the proper administration of the Company, the Managing Member may (i) adopt such conventions as it deems appropriate in determining the amount of depreciation, amortization and cost recovery deductions; (ii) make special allocations of income, gain, loss, deduction, Unrealized Gain or Unrealized Loss; and (iii) amend the provisions of this Agreement as appropriate (x) to reflect the proposal or promulgation of Treasury Regulations under Section 704(b) or Section 704(c) of the Code. The General Partner may adopt such conventions, make such allocations and make such amendments to this Agreement as provided in this Section 4.2(h) only if such conventions, allocations or amendments would not have a material adverse effect on any holder of Units.

(i) The allocations set forth in Sections 4.2(a) through 4.2(g) (the " ***Regulatory Allocations*** ") are intended to comply with certain requirements of Treasury Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding any other provision of this Article IV (other than the Regulatory Allocations), the Regulatory Allocations (and anticipated future Regulatory Allocations) shall be taken into account in allocating other items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocation of other items and the Regulatory Allocations to each Member should be equal to the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred. This Section 4.2(h) is intended to minimize to the extent possible and to the extent necessary any economic distortions which may result from application of the Regulatory Allocations and shall be interpreted in a manner consistent therewith.

Section 4.3 **Allocations for Tax Purposes in General** .

(a) Except as otherwise provided in this Section 4.3 , each item of income, gain, loss and deduction of the Company for federal income tax purposes shall be allocated among the Members in the same manner as such item is allocated under Sections 4.1 and 4.2 .

(b) In accordance with Code Section 704(c) and the Treasury Regulations thereunder (including the Treasury Regulations applying the principles of Code Section 704(c) to changes in Gross Asset Values), items of income, gain, loss and deduction with respect to any Company property having a Gross Asset Value that differs from such property's adjusted U.S. federal income tax basis shall, solely for U.S. federal income tax purposes, be allocated among the Members to account for any such difference using the "traditional method with curative allocations," with the curative allocations applied only to sale gain under Treasury Regulations Section 1.704-3(c) or such other method or methods as determined by the Managing Member to be appropriate and in accordance with the applicable Treasury Regulations.

(c) Any (i) recapture of depreciation or any other item of deduction shall be allocated, in accordance with Treasury Regulations Sections 1.1245-1(e) and 1.1254-5, to the Members who received the benefit of such deductions (taking into account the effect of remedial allocations), and (ii) recapture of grants credits shall be allocated to the Members in accordance with applicable Law.

(d) Allocations pursuant to this Section 4.3 are solely for purposes of federal, state and local taxes and shall not affect or in any way be taken into account in computing any Member's Capital Account or share of Profits, Losses, other items or distributions pursuant to any provision of this Agreement.

Section 4.4 **Other Allocation Rules** .

(a) The Members are aware of the income tax consequences of the allocations made by this Article IV and the economic impact of the allocations on the amounts receivable by them under this Agreement. The Members hereby agree to be bound by the provisions of this Article IV in reporting their share of Company income and loss for income tax purposes.

(b) All items of income, gain, loss, deduction and credit allocable to an interest in the Company that may have been Transferred shall be allocated between the Transferor and the Transferee based on the portion of the Fiscal Year during which each was recognized as the owner of such interest, without regard to the results of Company operations during any particular portion of that year and without regard to whether cash distributions were made to the Transferor or the Transferee during that year; *provided* , *however* , that this allocation must be made in accordance with a method permissible under Code Section 706 and the Treasury Regulations thereunder.

(c) The Members' proportionate shares of the "excess nonrecourse liabilities" of the Company, within the meaning of Treasury Regulations Section 1.752-3(a)(3), shall be allocated to the Members in any manner determined by the Managing Member and permissible under the Treasury Regulations.

Section 4.5 **Indemnification and Reimbursement for Payments on Behalf of a Member** . If the Company is required by applicable law to make any payment to a Governmental Entity that is specifically attributable to a Member or a Member's status as such (including (i) federal withholding taxes, (ii) federal income taxes, interest and penalties pursuant Sections 6225, 6232 and 6233 of the Code as amended by Section 1101(c) of the Bipartisan Budget Act of 2015, (iii) state or local personal property taxes and (iv) state or local unincorporated business taxes), then such Member shall indemnify the Company in full for the entire amount paid (including interest, penalties and related expenses). The Managing Member may offset distributions to which a Person is otherwise entitled under this Agreement against such Person's obligation to indemnify the Company under this Section 4.5 . A Member's obligation to indemnify the Company under this Section 4.5 shall survive termination, dissolution, liquidation and winding up of the Company, and for purposes of this Section 4.5 , the Company shall be treated as continuing in existence. The Company may pursue and enforce all rights and remedies it may have against each Member under this Section 4.5 , including instituting a lawsuit to collect such indemnification, with interest

calculated at a rate equal to 10 percentage points per annum (but not in excess of the highest rate per annum permitted by applicable Law).

ARTICLE V

DISTRIBUTIONS

Section 5.1 **Distributions** .

(a) *Distributions* . To the extent permitted by applicable Law and hereunder, distributions to the holders of Common Units may be declared by the Managing Member out of funds legally available therefor in such amounts and on such terms (including the payment dates of such distributions) as the Managing Member shall determine using such record date as the Managing Member may designate; such distribution shall be made to the holders of Common Units as of the close of business on such record date on a *pro rata* basis (except that repurchases or redemptions made in accordance with Section 3.1(f) or payments made in accordance with Section 6.4 need not be on a *pro rata* basis), in accordance with the number of Common Units owned by each Member as of the close of business on such record date; *provided* , *however* , that the Managing Member shall have the obligation to make distributions as set forth in Sections 3.1(f) , 5.2 and 6.4 ; and provided further that, notwithstanding any other provision in this agreement to the contrary, no distributions shall be made to any Member to the extent such distribution would render the Company insolvent or violate applicable Law. For purposes of the foregoing sentence, insolvency means the inability of the Company to meet its payment obligations when due. Promptly following the designation of a record date and the declaration of a distribution pursuant to this Section 5.1 , the Managing Member shall give notice to each holder of Common Units of the record date, the amount and the terms of the distribution and the payment date thereof.

(b) *Successors* . For purposes of determining the amount of distributions, each Member shall be treated as having made the Capital Contributions and as having received the distributions made to or received by its predecessors in respect of any of such Member's Units.

(c) *Distributions In-Kind* . Except as otherwise provided in this Agreement, any distributions may be made in cash or in kind, or partly in cash and partly in kind, as determined by the Managing Member. To the extent that the Company distributes property in-kind to the Members, the Company shall be treated as making a distribution equal to the Fair Market Value of such property for purposes of Section 5.1(a) and such property shall be treated as if it were sold for an amount equal to its Fair Market Value. Any resulting gain or loss shall be allocated to the Member's Capital Accounts in accordance with Section 4.1 and Section 4.2 .

Section 5.2 **Certain Distributions and Advances** . Subject to the availability of funds and to any restrictions contained in any agreement to which the Company is bound,

(a) On each Tax Distribution Date, the Company shall, make distributions

(i) to the Members holding Common Units *pro rata* in proportion to their respective Common Units in an amount sufficient to cause SEI to receive a distribution of cash equal to its Assumed Tax Liability, if any; and

(ii) to SEI in an amount sufficient to cause SEI to receive a distribution of cash equal to its Special Assumed Tax Liability, if any.

(b) On or immediately prior to each Quarterly Distribution Date, the Company shall make distributions to the Members *pro rata* in proportion to their respective Common Units in an amount determined by the Managing Member in its sole discretion, to be sufficient to cause SEI to receive a distribution of cash equal to the dividend declared by SEI with respect to Class A Stock for such Quarterly Distribution Date.

(c) On each TRA Payment Date, the Company shall make distributions to the Members *pro rata* in proportion to their respective Common Units in an amount sufficient to cause SEI to receive a distribution of cash equal to its required payments under the Tax Receivable Agreement, subject to any deferral required under the Tax Receivable Agreement.

(d) If the cumulative amount of actual federal, state and local income taxes due from SEI for the current taxable year and all prior taxable years as of the due date for SEI's federal income tax return for such taxable year exceeds the sum of the cumulative amount of distributions pursuant to Sections 5.1 and 5.2(a) and any Tax Advances (as defined below) made to SEI through such date, the Company shall, to the extent permitted by applicable Law, but subject to the Act, the availability of funds and any restrictions contained in any agreement to which the Company is bound, make advances to SEI in an amount equal to such excess (a " ***Tax Advance*** "). Any such Tax Advance shall be treated as an advance against and, thus, shall reduce (without duplication), any future distributions that would otherwise be made to SEI pursuant to Section 5.1 .

(e) Immediately prior to each Series A Preferred Stock Quarterly Distribution Date, the Company shall make a cash distribution to SEI in respect of the Series A Preferred Units in an amount equal to the amount of cash dividends to be paid by SEI in respect of the Series A Preferred Stock for such Series A Preferred Stock Quarterly Distribution Date.

(f) Upon receipt of the written consent of all of the holders of Common Units, the Company may make a cash distribution to SEI in respect of its Common Units in an amount determined at the sole discretion of the Managing Member without making a corresponding distribution to other Members holding Common Units.

Section 5.3 **Distribution Upon Withdrawal** . No withdrawing Member shall be entitled to receive any distribution or the value of such Member's Interest in the Company as a result of withdrawal from the Company prior to the liquidation of the Company, except as specifically provided in this Agreement.

ARTICLE VI

MANAGEMENT

Section 6.1 **The Managing Member; Fiduciary Duties**.

(a) SEI shall be the sole Managing Member of the Company. Except as otherwise required by Law, (i) the Managing Member shall have full and complete charge of all affairs of the Company, (ii) the management and control of the Company's business activities and operations shall rest exclusively with the Managing Member, and the Managing Member shall make all decisions regarding the business, activities and operations of the Company (including the incurrence of costs and expenses) in its sole discretion without the consent of any other Member and (iii) the Members other than the Managing Member (in their capacity as such) shall not participate in the control, management, direction or operation of the activities or affairs of the Company and shall have no power to act for or bind the Company.

(b) In connection with the performance of its duties as the Managing Member of the Company, the Managing Member acknowledges that it will owe to the Members the same fiduciary duties as it would owe to the stockholders of a Delaware corporation if it were a member of the board of directors of such a corporation and the Members were stockholders of such corporation. The parties acknowledge that the Managing Member will take action through its board of directors, and that the members of the Managing Member's board of directors will owe comparable fiduciary duties to the stockholders of the Managing Member. The Managing Member will use commercially reasonable efforts, as determined in good faith by the Managing Member, to minimize any conflict of interest between the Members, on the one hand, and the stockholders of the Managing Member, on the other hand, and to effectuate any transaction that involves or affects any of the Company, the Managing Member, the Members and/or the stockholders of the Managing Member in a manner that does not (i) disadvantage the Members or their interests relative to the stockholders of the Managing Member or (ii) advantage the stockholders of the Managing Member relative to the Members or (iii) treats the Members and the stockholders of the Managing Member differently.

Section 6.2 **Officers**.

(a) The Managing Member may appoint, employ or otherwise contract with any Person for the transaction of the business of the Company or the performance of services for or on behalf of the Company, and the Managing Member may delegate to any such Persons such authority to act on behalf of the Company as the Managing Member may from time to time deem appropriate.

(b) Except as otherwise set forth herein, the president and chief executive officer of the Company (the " ***President and Chief Executive Officer*** ") will be responsible for the general and active management of the business of the Company and its Subsidiaries and will see that all orders of the Managing Member are carried into effect. The President and Chief Executive Officer will report to the Managing Member and have the general powers and duties of management usually vested in the office of president and chief executive officer of a corporation organized under the DGCL, subject to the terms of this Agreement, and will have such other powers and duties as may be prescribed by the Managing Member or this Agreement. The President and Chief Executive Officer will have the power to execute bonds, mortgages and other contracts requiring a seal, under the seal of the Company, except where required or permitted by Law to be otherwise signed and executed, and except where the signing and execution thereof will be expressly delegated by the Managing Member to some other Officer or agent of the Company.

(c) Except as set forth herein, the Managing Member may appoint Officers at any time, and the Officers may include one or more vice presidents, a secretary, one or more assistant secretaries, a chief financial officer, a general counsel, a treasurer, one or more assistant treasurers, a chief operating officer, an executive chairman, and any other officers that the Managing Member deems appropriate. Except as set forth herein, the Officers will serve at the pleasure of the Managing Member, subject to all rights, if any, of such Officer under any contract of employment. Any individual may hold any number of offices, and an Officer may, but need not, be a Member of the Company. The Officers will exercise such powers and perform such duties as specified in this Agreement or as determined from time to time by the Managing Member.

(d) Subject to this Agreement and to the rights, if any, of an Officer under a contract of employment, any Officer may be removed, either with or without cause, by the Managing Member. Any Officer may resign at any time by giving written notice to the Managing Member. Any resignation will take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation will not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Company under any contract to which the Officer is a party. A vacancy in any office because of death, resignation, removal, disqualification or any other cause will be filled in the manner prescribed in this Agreement for regular appointments to that office.

Section 6.3 **Warranted Reliance by Officers on Others** . In exercising their authority and performing their duties under this Agreement, the Officers shall be entitled to rely on information, opinions, reports, or statements of the following persons or groups unless they have actual knowledge concerning the matter in question that would cause such reliance to be unwarranted:

(a) one or more employees or other agents of the Company or subordinates whom the Officer reasonably believes to be reliable and competent in the matters presented; and

(b) any attorney, public accountant, or other person as to matters which the Officer reasonably believes to be within such person's professional or expert competence.

Section 6.4 **Indemnification** . Subject to the limitations and conditions provided in this Section 6.4 , each Person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or arbitrative (each, a " ***Proceeding*** "), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact the, she or it, or a Person of which he, she or it is the legal representative, is or was a Member or an Officer, in each case, shall be indemnified by the Company to the fullest extent permitted by applicable Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than such law permitted the Company to provide prior to such amendment) against all judgment, penalties (including excise and similar taxes and punitive damages), fines, settlement and reasonable expenses (including reasonable attorneys' fees and expenses) actually incurred by such person in connection with such Proceeding, appeal, inquiry or investigation, if such Person acted in Good Faith. Reasonable expenses incurred by a Person of the type entitled to be indemnified under this Section

6.4 who was, is or is threatened to be made a named defendant or respondent in a Proceeding shall be paid by the Company in advance of the final disposition of the Proceeding upon receipt of an undertaking by or on behalf of such Person to repay such amount if it shall ultimately be determined that he, she or it is not entitled to be indemnified by the Company. Indemnification under this Section 6.4 shall continue as to a Person who has ceased to serve in the capacity which initially entitled such Person to indemnity hereunder. The rights granted pursuant to this Section 6.4 shall be deemed contract rights, and no amendment, modification or repeal of this Section 6.4 shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings, appeals, inquiries or investigations arising prior to any amendment, modification or repeal. It is expressly acknowledged that the indemnification provided in this Section 6.4 could involve indemnification for negligence or under theories of strict liability.

Section 6.5 **Maintenance of Insurance or Other Financial Arrangements**. In compliance with applicable Law, the Company (with the approval of the Managing Member) may purchase and maintain insurance or make other financial arrangements on behalf of any Person who is or was a Member, employee or agent of the Company, or at the request of the Company is or was serving as a manager, director, officer, employee or agent of another limited liability company, corporation, partnership, joint venture, trust or other enterprise, for any Liability asserted against such Person and Liability and expenses incurred by such Person in such Person's capacity as such, or arising out of such Person's status as such, whether or not the Company has the authority to indemnify such Person against such Liability and expenses.

Section 6.6 **Resignation or Termination of Managing Member**. SEI shall not, by any means, resign as, cease to be or be replaced as Managing Member except in compliance with this Section 6.6. No termination or replacement of SEI as Managing Member shall be effective unless proper provision is made, in compliance with this Agreement, so that the obligations of SEI, its successor (if applicable) and any new Managing Member and the rights of all Members under this Agreement and applicable Law remain in full force and effect. No appointment of a Person other than SEI (or its successor, as applicable) as Managing Member shall be effective unless SEI (or its successor, as applicable) and the new Managing Member (as applicable) provide all other Members with contractual rights, directly enforceable by such other Members against SEI (or its successor, as applicable) and the new Managing Member (as applicable), to cause (a) SEI to comply with all SEI's obligations under this Agreement (including its obligations under Section 3.7) other than those that must necessarily be taken in its capacity as Managing Member and (b) the new Managing Member to comply with all the Managing Member's obligations under this Agreement.

Section 6.7 **No Inconsistent Obligations**. The Managing Member represents that it does not have any contracts, other agreements, duties or obligations that are inconsistent with its duties and obligations (whether or not in its capacity as Managing Member) under this Agreement and covenants that, except as permitted by Section 6.1, it will not enter into any contracts or other agreements or undertake or acquire any other duties or obligations that are inconsistent with such duties and obligations.

Section 6.8 **Reclassification Events of SEI**. If a Reclassification Event occurs, the Managing Member or its successor, as the case may be, shall, as and to the extent necessary, amend

this Agreement in compliance with Section 11.1 , and enter into any necessary supplementary or additional agreements, to ensure that, following the effective date of the Reclassification Event: (i) the exchange rights of holders of Common Units set forth in Section 3.7 provide that each Common Unit and share of Class B Stock is exchangeable for the same amount and same type of property, securities or cash (or combination thereof) that one share of Class A Stock becomes exchangeable for or converted into as a result of the Reclassification Event and (ii) SEI or the successor to SEI, as applicable, is obligated to deliver such property, securities or cash upon such exchange. SEI shall not consummate or agree to consummate any Reclassification Event unless the successor Person, if any, becomes obligated to comply with the obligations of SEI (in whatever capacity) under this Agreement.

Section 6.9 **Certain Costs and Expenses** . The Company shall (i) pay, or cause to be paid, all costs, fees, operating expenses and other expenses of the Company (including the costs, fees and expenses of attorneys, accountants or other professionals and the compensation of all personnel providing services to the Company) incurred in pursuing and conducting, or otherwise related to, the activities of the Company, and (ii) in the sole discretion of the Managing Member, bear and/or reimburse the Managing Member for any costs, fees or expenses incurred by it in connection with serving as the Managing Member. To the extent that the Managing Member determines in its sole discretion that such expenses are related to the business and affairs of the Managing Member that are conducted through the Company and/or its Subsidiaries (including expenses that relate to the business and affairs of the Company and/or its Subsidiaries and that also relate to other activities of the Managing Member), the Managing Member may cause the Company to pay or bear all expenses of the Managing Member, including, without limitation, costs of securities offerings not borne directly by members, board of directors compensation and meeting costs, cost of periodic reports to its stockholders, litigation costs and damages arising from litigation, accounting and legal costs and franchise taxes and any other general and administrative expenses incurred as a result of the Managing Member being a publicly traded company, provided that the Company shall not pay or bear any income tax obligations of the Managing Member.

Section 6.10 **Waiver of Business Opportunities** .

(a) To the fullest extent permitted by applicable Law, the Company, on behalf of itself and its subsidiaries, and each of the Members, renounces any interest or expectancy in, or in being offered an opportunity to participate in, any business opportunities that are from time to time presented to NuDevco Partners, LLC, NuDevco Partners Holdings, LLC and W. Keith Maxwell III (collectively, the " ***Sponsors*** ") or any of their respective affiliates or any of their respective agents, shareholders, members, partners, directors, officers, employees, affiliates or subsidiaries (other than the Company, SEI and their respective subsidiaries), including any director or officer of the Company who is also an agent, shareholder, member, partner, director, officer, employee, affiliate or subsidiary of any Sponsor (each, a " ***Business Opportunities Exempt Party*** "), even if the business opportunity is one that the Company or its subsidiaries might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so, and no Business Opportunities Exempt Party shall have any duty to communicate or offer any such business opportunity to the Company or any other Member or be liable to the Company, any other Member or their respective subsidiaries or any Member, including for breach of any fiduciary or other duty, and the Company shall indemnify

each Business Opportunities Exempt Party against any claim that such person is liable to the Company or the Members for breach of any fiduciary duty, by reason of the fact that such person (i) participates in, pursues or acquires any such business opportunity, (ii) directs any such business opportunity to another person or (iii) fails to present any such business opportunity, or information regarding any such business opportunity, to the Company, any other Member or their respective subsidiaries, unless, in the case of a person who is a director or officer of the Company, such business opportunity is expressly offered to such director or officer in writing solely in his capacity as a director or officer of the Company.

(b) Neither the amendment nor repeal of this Section 6.10 , nor the amendment of the Certificate of Formation of the Company, nor, to the fullest extent permitted by applicable Law, any modification of Law, shall eliminate, reduce or otherwise adversely affect any right or protection of any Person granted pursuant hereto existing at, or arising out of or related to any event, act or omission that occurred prior to, the time of such amendment, repeal, adoption or modification (regardless of when any proceeding (or part thereof) relating to such event, act or omission arises or is first threatened, commenced or completed).

(c) If any provision or provisions of this Section 6.10 shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever, (a) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Section 6.10 (including, without limitation, each portion of any paragraph of this Section 6.10 containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (b) to the fullest extent possible, the provisions of this Section 6.10 (including, without limitation, each such portion of any paragraph of this Section 6.10 containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit the Company to protect its directors, officers, employees and agents from personal liability in respect of their good faith service to or for the benefit of the Corporation to the fullest extent permitted by applicable Law.

ARTICLE VII

ROLE OF MEMBERS

Section 7.1 **Rights or Powers** . Other than the Managing Member, the Members, acting in their capacity as Members, shall not have any right or power to take part in the management or control of the Company or its business and affairs or to act for or bind the Company in any way. Notwithstanding the foregoing, the Members have all the rights and powers specifically set forth in this Agreement and, to the extent not inconsistent with this Agreement, in the Act. A Member, any Affiliate thereof or an employee, stockholder, agent, director or officer of a Member or any Affiliate thereof, may also be an employee or be retained as an agent of the Company. The existence of these relationships and acting in such capacities will not result in the Member (other than the Managing Member) being deemed to be participating in the control of the business of the Company or otherwise affect the limited liability of the Member. Except as specifically provided herein, a Member (other than the Managing Member) shall not, in its capacity as a Member, take part in the operation, management or control of the Company's business, transact any business in the Company's name or have the power to sign documents for or otherwise bind the Company.

Section 7.2 **Voting**.

(a) Meetings of the Members holding Common Units may be called upon the written request of Members holding at least 50% of the outstanding Common Units. Such request shall state the location of the meeting and the nature of the business to be transacted at the meeting. Written notice of any such meeting shall be given to all Members not less than two Business Days nor more than 30 days prior to the date of such meeting. Members may vote in person, by proxy or by telephone at any meeting of the Members and may waive advance notice of such meeting. Whenever the vote or consent of Members is permitted or required under this Agreement, such vote or consent may be given at a meeting of the Members or may be given in accordance with the procedure prescribed in this Section 7.2. Except as otherwise expressly provided in this Agreement, the affirmative vote of the Members holding a majority of the outstanding Common Units shall constitute the act of the Members.

(b) Each Member may authorize any Person or Persons to act for it by proxy on all matters in which such Member is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by such Member or its attorney-in-fact. No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it.

(c) Each meeting of Members shall be conducted by an Officer designated by the Managing Member or such other individual person as the Managing Member deems appropriate.

(d) Any action required or permitted to be taken by the Members may be taken without a meeting if the requisite Members whose approval is necessary consent thereto in writing.

Section 7.3 **Various Capacities**. The Members acknowledge and agree that the Members or their Affiliates will from time to time act in various capacities, including as a Member and as the Tax Matters Representative.

ARTICLE VIII

TRANSFERS OF INTERESTS

Section 8.1 **Restrictions on Transfer**.

(a) Except as provided in Section 3.7 and except for the Transfers by a Member to Permitted Transferee, no Member shall Transfer all or any portion of its Interest without the prior written consent of the Managing Member in its sole discretion. If, notwithstanding the provisions of this Section 8.1(a), all or any portion of a Member's Interests are Transferred in violation of this Section 8.1(a), involuntarily, by operation of law or otherwise, then without limiting any other rights and remedies available to the other parties under this Agreement or otherwise, the Transferee of such Interest (or portion thereof) shall not be admitted to the Company as a Member or be entitled to any rights as a Member hereunder, and the Transferor will continue to be bound by all obligations hereunder, unless and until the Managing Member consents in writing to such admission, which

consent shall be granted or withheld in the Managing Member's sole discretion. Any attempted or purported Transfer of all or a portion of a Member's Interests in violation of this Section 8.1(a) shall be null and void and of no force or effect whatsoever. No Common Units may be Transferred by a Member that also holds Class B Stock unless a corresponding number of shares of Class B Stock are transferred therewith. For the avoidance of doubt, the restrictions on Transfer contained in this Article VIII shall not apply to the Transfer of any capital stock of the Managing Member; provided that no shares of Class B Stock may be Transferred unless a corresponding number of Common Units are Transferred therewith in accordance with this Agreement.

(b) In addition to any other restrictions on Transfer herein contained, including the provisions of this Article VIII, in no event may any Transfer or assignment of Interests by any Member be made (i) to any Person who lacks the legal right, power or capacity to own Interests; (ii) if in the opinion of legal counsel or a qualified tax advisor to the Company such Transfer presents a material risk that such Transfer would cause the Company to cease to be classified as a partnership or to be classified as a "publicly traded partnership" within the meaning of Section 7704(b) of the Code for federal income tax purposes; (iii) if such Transfer would cause the Company to become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in Section 3(14) of ERISA) or a "disqualified person" (as defined in Section 4975(e)(2) of the Code); (iv) if such Transfer would, in the opinion of counsel to the Company, cause any portion of the assets of the Company to constitute assets of any employee benefit plan pursuant to the Plan Asset Regulation or otherwise cause the Company to be subject to regulation under ERISA; (v) if such Transfer requires the registration of such Interests or any Equity Securities issued upon any exchange of such Interests, pursuant to any applicable federal or state securities Laws; (vi) if such Transfer subjects the Company to regulation under the Investment Company Act or the Investment Advisors Act of 1940, each as amended (or any succeeding law); or (vii) by the Managing Member, if such Transfer would result in the Managing Member holding less than 2% of the outstanding Common Units.

Section 8.2 **Notice of Transfer**. Other than in connection with Transfers made pursuant to Section 3.7, each Member shall, after complying with the provisions of this Agreement, but in any event no later than three Business Days following any Transfer of Interests, give written notice to the Company of such Transfer. Each such notice shall describe the manner and circumstances of the Transfer.

Section 8.3 **Transferee Members**. A Transferee of Interests pursuant to this Article VIII shall have the right to become a Member only if (i) the requirements of this Article VIII are met, (ii) such Transferee executes an instrument reasonably satisfactory to the Managing Member agreeing to be bound by the terms and provisions of this Agreement and assuming all of the Transferor's then existing and future Liabilities arising under or relating to this Agreement, (iii) such Transferee represents that the Transfer was made in accordance with all applicable securities Laws, (iv) the Transferor or Transferee shall have reimbursed the Company for all reasonable expenses (including attorneys' fees and expenses) of any Transfer or proposed Transfer of a Member's Interest, whether or not consummated and (v) if such Transferee or his or her spouse is a resident of a community property jurisdiction, then such Transferee's spouse shall also execute an instrument reasonably satisfactory to the Managing Member agreeing to be bound by the terms

and provisions of this Agreement to the extent of his or her community property or quasi-community property interest, if any, in such Member's Interest. Unless agreed to in writing by the Managing Member, the admission of a Member shall not result in the release of the Transferor from any Liability that the Transferor may have to each remaining Member or to the Company under this Agreement or any other Contract between the Managing Member, the Company or any of its Subsidiaries, on the one hand, and such Transferor or any of its Affiliates, on the other hand. Written notice of the admission of a Member shall be sent promptly by the Company to each remaining Member. Notwithstanding anything to the contrary in this Section 8.3, and except as otherwise provided in this Agreement, following a Transfer by one or more Members (or a transferee of the type described in this sentence) to an Permitted Transferee of all or substantially all of their Interests, such transferee shall succeed to all of the rights of such Member(s) under this Agreement.

Section 8.4 **Legend**. Each certificate representing a Unit, if any, will be stamped or otherwise imprinted with a legend in substantially the following form:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933.

THESE SECURITIES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION THEREFROM UNDER SUCH ACT.

THE TRANSFER AND VOTING OF THESE SECURITIES IS SUBJECT TO THE CONDITIONS SPECIFIED IN THE THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF SPARK HOLDCO, LLC DATED AS OF MARCH 15, 2017, AMONG THE MEMBERS LISTED THEREIN, AS IT MAY BE AMENDED, SUPPLEMENTED AND/OR RESTATED FROM TIME TO TIME, AND NO TRANSFER OF THESE SECURITIES WILL BE VALID OR EFFECTIVE UNTIL SUCH CONDITIONS HAVE BEEN FULFILLED. COPIES OF SUCH AGREEMENT MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE ISSUER OF SUCH SECURITIES."

ARTICLE IX

ACCOUNTING

Section 9.1 **Books of Account**. The Company shall maintain true books and records of account in which full and correct entries shall be made of all its business transactions pursuant to a system of accounting established and administered in accordance with GAAP, and shall set aside on its books all such proper accruals and reserves as shall be required under GAAP.

Section 9.2 **Tax Elections**. The Company shall make the following elections on the appropriate forms or tax returns:

(a) to adopt the calendar year as the Company's Fiscal Year, if permitted under the Code;

(b) to adopt the accrual method of accounting for U.S. federal income tax purposes;

(c) to elect to amortize the organizational expenses of the Company as permitted by Code Section 709(b);

(d) to make an election described in Section 754 of the Code (which the Company shall ensure that it has in effect at all times); and

(e) any other election the Managing Member may deem appropriate and in the best interests of the Company.

Section 9.3 **Tax Returns; Information**. The Tax Matters Representative shall arrange for the preparation and timely filing of all income and other tax and informational returns of the Company. The Tax Matters Representative shall furnish to each Member a copy of each approved return and statement, together with any schedules or other information which each Member may require in connection with such Member's own tax affairs as soon as practicable (but in no event more than 60 days after the end of each Fiscal Year).

Section 9.4 **Tax Matters Representative**. For any taxable year during which the new partnership audit rules (which are set forth in Subchapter C of Chapter 63 of Subtitle F of the Code (Sections 6221 through 6241 of the Code as amended by the Bipartisan Budget Act of 2015) that are generally effective for tax years beginning after December 31, 2017) are not in effect the Managing Member is designated as the "tax matters partner" (within the meaning of Section 6231(a)(7) of the Code prior to amendment by Section 1101(c) of the Bipartisan Budget Act of 2015) of the Company and for any taxable year during which the new partnership audit rules (which are set forth in Subchapter C of Chapter 63 of Subtitle F of the Code (Sections 6221 through 6241 of the Code as amended by the Bipartisan Budget Act of 2015) that are generally effective for tax years beginning after December 31, 2017), the Managing Member shall be the "partnership representative" (within the meaning of Section 6223(a) of the Code as amended by Section 1101(c) of the Bipartisan Budget Act of 2015), of the Company (in each such capacity, the " ***Tax Matters Representative*** "). The Tax Matters Representative may retain, at the Company's expense, such outside counsel, accountants and other professional consultants as it may reasonably deem necessary in the course of fulfilling its obligations as Tax Matters Representative.

Section 9.5 **Withholding Tax Payments and Obligations**. If withholding taxes are paid or required to be paid in respect of payments made to or by the Company, such payments or obligations shall be treated as follows:

(a) If the Company receives proceeds in respect of which a tax has been withheld, the Company shall be treated as having received cash in an amount equal to the amount of such withheld tax, and, for all purposes of this Agreement but subject to Section 9.5(d), each Member shall be treated as having received a distribution pursuant to Section 5.1 equal to the portion of the withholding tax allocable to such Member, as determined by the Managing Member in its discretion.

(b) The Company is authorized to withhold from any payment made to, or any distributive share of, a Member any taxes required by Law to be withheld.

(c) Neither the Company nor the Managing Member shall be liable for any excess taxes withheld in respect of any Member, and, in the event of overwithholding, a Member's sole recourse shall be to apply for a refund from the appropriate Governmental Entity.

(d) Any taxes withheld pursuant to Section 9.5(a) or (b) shall be treated as if distributed to the relevant Member to the extent an amount equal to such withheld taxes would then be distributable to such Member, and, to the extent in excess of such distributable amounts, as a demand loan payable by the Member to the Company with interest at the Prime Rate in effect from time to time, compounded annually. The Managing Member may, in its discretion, either demand payment of the principal and accrued interest on such demand loan at any time, and enforce payment thereof by legal process, or may withhold from one or more distributions to a Member amounts sufficient to satisfy such Member's obligations under any such demand loan.

(e) If the Company is required by Law to make any payment to a Governmental Entity that is specifically attributable to a Member or a Member's status as such (including federal withholding taxes, state personal property taxes, and state unincorporated business taxes), then such Member shall indemnify and contribute to the Company in full for the entire amount of taxes paid (plus interest, penalties and related expenses if the failure of the Company to make such payment is due to the fault of the Member) (which payment shall not be deemed a Capital Contribution for purposes of this Agreement). The Managing Member may offset distributions to which a Person is otherwise entitled under this Agreement against such Person's obligation to indemnify the Company under this Section 9.5(e) .

ARTICLE X

DISSOLUTION AND TERMINATION

Section 10.1 **Liquidating Events** . The Company shall dissolve and commence winding up and liquidating upon the first to occur of the following (" ***Liquidating Events*** "):

(a) The sale of all or substantially all of the assets of the Company; and

(b) The determination of the Managing Member to dissolve, wind up, and liquidate the Company.

The Members hereby agree that the Company shall not dissolve prior to the occurrence of a Liquidating Event and that no Member shall seek a dissolution of the Company, under Section 18-802 of the Act or otherwise, other than based on the matters set forth in subsections (a) and (b) above. If it is determined by a court of competent jurisdiction that the Company has dissolved prior to the occurrence of a Liquidating Event, the Members hereby agree to continue the business of the Company without a winding up or liquidation. In the event of a dissolution pursuant to Section 10.1(b) , the relative economic rights of each class or series of Units immediately prior to such dissolution shall be preserved to the greatest extent practicable with respect to distributions

made to Members pursuant to Section 10.3 in connection with such dissolution, taking into consideration tax and other legal constraints that may adversely affect one or more parties to such dissolution and subject to compliance with applicable Laws and regulations, unless, with respect to any class or series of Units, holders of a majority of the Units of such class or series consent in writing to a treatment other than as described above.

Section 10.2 **Bankruptcy**. For purposes of this Agreement, the "bankruptcy" of a Member shall mean the occurrence of any of the following: (a) any Governmental Entity shall take possession of any substantial part of the property of that Member or shall assume control over the affairs or operations thereof, or a receiver or trustee shall be appointed, or a writ, order, attachment or garnishment shall be issued with respect to any substantial part thereof, and such possession, assumption of control, appointment, writ or order shall continue for a period of 90 consecutive days; or (b) a Member shall admit in writing of its inability to pay its debts when due, or make an assignment for the benefit of creditors; or apply for or consent to the appointment of any receiver, trustee or similar officer or for all or any substantial part of its property; or shall institute (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debts, dissolution, liquidation, or similar proceeding under the Laws of any jurisdiction; or (c) a receiver, trustee or similar officer shall be appointed for such Member or with respect to all or any substantial part of its property without the application or consent of that Member, and such appointment shall continue undischarged or unstayed for a period of 90 consecutive days or any bankruptcy, insolvency, reorganization, arrangements, readjustment of debt, dissolution, liquidation or similar proceedings shall be instituted (by petition, application or otherwise) against that Member and shall remain undismissed for a period of 90 consecutive days.

Section 10.3 **Procedure**.

(a) In the event of the dissolution of the Company for any reason, the Members shall commence to wind up the affairs of the Company and to liquidate the Company's investments; provided that if a Member is in bankruptcy or dissolved, another Member, who shall be the Managing Member (" ***Winding-Up Member*** ") shall commence to wind up the affairs of the Company and, subject to Section 10.4(a), such Winding-Up Member shall have full right and unlimited discretion to determine in good faith the time, manner and terms of any sale or sales of the Property or other assets pursuant to such liquidation, having due regard to the activity and condition of the relevant market and general financial and economic conditions. The Members shall continue to share profits, losses and distributions during the period of liquidation in the same manner and proportion as though the Company had not dissolved. The Company shall engage in no further business except as may be necessary, in the reasonable discretion of the Managing Member or the Winding-Up Member, as applicable, to preserve the value of the Company's assets during the period of dissolution and liquidation.

(b) Following the payment of all expenses of liquidation and the allocation of all Profits and Losses as provided in Article IV, the proceeds of the liquidation and any other funds of the Company shall be distributed in the following order of priority:

(i) First, to the payment and discharge of all of the Company's debts and Liabilities to creditors (whether third parties or Members), in the order of priority as provided by Law, except any obligations to the Members in respect of their Capital Accounts;

(ii) Second, to set up such cash reserves which the Managing Member reasonably deems necessary for contingent or unforeseen Liabilities or future payments described in Section 10.3(b)(i) (which reserves when they become unnecessary shall be distributed in accordance with the provisions of subsection (iv) , below); and

(iii) Third, subject to Section 5.2(a)(ii) , Section 5.2(b) and Section 5.2(e) , the balance (x) first, to SEI in respect of the Series A Preferred Units, until SEI has received an amount equal to the total amount that would then be required to distributed by SEI in respect of all outstanding shares of Series A Preferred Stock if SEI were to then liquidate, dissolve or wind up and (y) thereafter to the Members holding Common Units, *pro rata* in proportion to their respective Common Units.

(c) Except as provided in Section 10.4(a) , no Member shall have any right to demand or receive property other than cash upon dissolution and termination of the Company.

(d) Upon the completion of the liquidation of the Company and the distribution of all Company funds, the Company shall terminate and the Managing Member or the Winding-Up Member, as the case may be, shall have the authority to execute and record a certificate of cancellation of the Company, as well as any and all other documents required to effectuate the dissolution and termination of the Company.

Section 10.4 **Rights of Members** .

(a) Each Member irrevocably waives any right that it may have to maintain an action for partition with respect to the property of the Company.

(b) Except as otherwise provided in this Agreement, (i) each Member shall look solely to the assets of the Company for the return of its Capital Contributions, and (ii) no Member shall have priority over any other Member as to the return of its Capital Contributions, distributions or allocations.

Section 10.5 **Notices of Dissolution** . In the event a Liquidating Event occurs or an event occurs that would, but for provisions of Section 10.1 , result in a dissolution of the Company, the Company shall, within 30 days thereafter, (a) provide written notice thereof to each of the Members and to all other parties with whom the Company regularly conducts business (as determined in the discretion of the Managing Member), and (b) comply, in a timely manner, with all filing and notice requirements under the Act or any other applicable Law.

Section 10.6 **Reasonable Time for Winding Up** . A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets in order to minimize any losses that might otherwise result from such winding up.

Section 10.7 **No Deficit Restoration**. No Member shall be personally liable for a deficit Capital Account balance of that Member, it being expressly understood that the distribution of liquidation proceeds shall be made solely from existing Company assets.

ARTICLE XI

GENERAL

Section 11.1 **Amendments; Waivers**.

(a) The terms and provisions of this Agreement may be waived, modified or amended (including by means of merger, consolidation or other business combination to which the Company is a party) only with the approval of the Managing Member; *provided* , *however* , that no amendment to this Agreement may:

(i) modify the limited liability of any Member, or increase the liabilities or obligations of any Member, in each case, without the consent of each such affected Member; or

(ii) materially alter or change any rights, preferences or privileges of any Interests in a manner that is different or prejudicial relative to any other Interests, without the approval of a majority in interest of the Members holding the Interests affected in such a different or prejudicial manner.

(b) Notwithstanding the foregoing subsection (a), the Managing Member, acting alone, may amend this Agreement, including Exhibit A, to reflect the admission of new Members, Transfers of Interests, the issuance of additional Units or Equity Securities, as provided by the terms of this Agreement, and, subject to Section 11.1(a), subdivisions or combinations of Units made in compliance with Section 3.1(g).

(c) No waiver of any provision or default under, nor consent to any exception to, the terms of this Agreement or any agreement contemplated hereby shall be effective unless in writing and signed by the party to be bound and then only to the specific purpose, extent and instance so provided.

Section 11.2 **Further Assurances**. Each party agrees that it will from time to time, upon the reasonable request of another party, execute such documents and instruments and take such further action as may be required to accomplish the purposes of this Agreement.

Section 11.3 **Successors and Assigns**. All of the terms and provisions of this Agreement shall be binding upon the parties and their respective successors and assigns, but shall inure to the benefit of and be enforceable by the successors and assigns of any Member only to the extent that they are permitted successors and assigns pursuant to the terms hereof. No party may assign its rights hereunder except as herein expressly permitted.

Section 11.4 **Entire Agreement**. This Agreement, together with all Exhibits and Schedules hereto and all other agreements referenced therein and herein, constitute the entire

agreement between the parties hereto pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein and therein.

Section 11.5 **Rights of Members Independent**. The rights available to the Members under this Agreement and at Law shall be deemed to be several and not dependent on each other and each such right accordingly shall be construed as complete in itself and not by reference to any other such right. Any one or more and/or any combination of such rights may be exercised by a Member and/or the Company from time to time and no such exercise shall exhaust the rights or preclude another Member from exercising any one or more of such rights or combination thereof from time to time thereafter or simultaneously.

Section 11.6 **Governing Law**. This Agreement, the legal relations between the parties and any Action, whether contractual or non-contractual, instituted by any party with respect to matters arising under or growing out of or in connection with or in respect of this Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware applicable to contracts made and performed in such State and without regard to conflicts of law doctrines, except to the extent that certain matters are preempted by federal Law or are governed as a matter of controlling Law by the Law of the jurisdiction of organization of the respective parties.

Section 11.7 **Jurisdiction and Venue**. The parties hereto hereby agree and consent to be subject to the jurisdiction of any federal court of the District of Delaware or the Delaware Court of Chancery over any action, suit or proceeding (a " ***Legal Action*** ") arising out of or in connection with this Agreement. The parties hereto irrevocably waive the defense of an inconvenient forum to the maintenance of any such Legal Action. Each of the parties hereto further irrevocably consents to the service of process out of any of the aforementioned courts in any such Legal Action by the mailing of copies thereof by registered mail, postage prepaid, to such party at its address set forth in this Agreement, such service of process to be effective upon acknowledgment of receipt of such registered mail. Nothing in this Section 11.7 shall affect the right of any party hereto to serve legal process in any other manner permitted by law.

Section 11.8 **Headings**. The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only and do not constitute a part of this Agreement.

Section 11.9 **Counterparts**. This Agreement and any amendment hereto or any other agreement (or document) delivered pursuant hereto may be executed in one or more counterparts and by different parties in separate counterparts. All of such counterparts shall constitute one and the same agreement (or other document) and shall become effective (unless otherwise provided therein) when one or more counterparts have been signed by each party and delivered to the other party.

Section 11.10 **Notices**. Any notice or other communication hereunder must be given in writing and (a) delivered in person, (b) transmitted by facsimile or telecommunications mechanism, provided, that any notice so given is also mailed as provided in clause (c), or (c) mailed by certified or registered mail, postage prepaid, receipt requested as follows:

If to the Company or the Managing Member, addressed to it at:

c/o Spark Energy, Inc.
12140 Wickerchester Ln, Suite 100
Houston, Texas 77079
Telephone: 281.833.4154
Facsimile: 832.320.2943
Attention: Gil Melman, General Counsel

With copies (which shall not constitute notice) to:

Andrews Kurth Kenyon LLP.
600 Travis Suite 4200
Houston, Texas 77002
Telephone: 713.220.4301
Facsimile: 713.220.4285
Attention: David C. Buck

or to such other address or to such other person as either party shall have last designated by such notice to the other parties. Each such notice or other communication shall be effective (i) if given by telecommunication, when transmitted to the applicable number so specified in (or pursuant to) this Section 11.10 and an appropriate answerback is received or, if transmitted after 4:00 p.m. local time on a Business Day in the jurisdiction to which such notice is sent or at any time on a day that is not a Business Day in the jurisdiction to which such notice is sent, then on the immediately following Business Day, (ii) if given by mail, on the first Business Day in the jurisdiction to which such notice is sent following the date three days after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid or (iii) if given by any other means, on the Business Day when actually received at such address or, if not received on a Business Day, on the Business Day immediately following such actual receipt.

Section 11.11 **Representation By Counsel; Interpretation** . The parties acknowledge that each party to this Agreement has been represented by counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule of Law, or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the party that drafted it has no application and is expressly waived.

Section 11.12 **Severability** . If any provision of this Agreement is determined to be invalid, illegal or unenforceable by any Governmental Entity, the remaining provisions of this Agreement, to the extent permitted by Law shall remain in full force and effect, provided, that the essential terms and conditions of this Agreement for all parties remain valid, binding and enforceable.

Section 11.13 **Expenses** . Except as otherwise provided in this Agreement, each party shall bear its own expenses in connection with the transactions contemplated by this Agreement.

Section 11.14 **No Third Party Beneficiaries** . Except as expressly provided in Section 6.4 and Section 9.2 , nothing in this Agreement, express or implied, is intended to confer upon any party,

other than the parties hereto and their respective successors and permitted assigns, any rights or remedies under this Agreement or otherwise create any third party beneficiary hereto.

[Signatures on Next Page]

IN WITNESS WHEREOF, each of the parties hereto has caused this Third Amended and Restated Limited Liability Company Agreement to be executed by its duly authorized officers as of the day and year first above written.

COMPANY :

SPARK HOLDCO, LLC

By: /s/ Nathan Kroeker
Name: Nathan Kroeker
Title: President and Chief Executive Officer

MANAGING MEMBER :

SPARK ENERGY, INC.

By: /s/ Nathan Kroeker
Name: Nathan Kroeker
Title: President and Chief Executive Officer

NUDEVCO RETAIL, LLC

By: /s/ W. Keith Maxwell III
Name: W. Keith Maxwell III
Title: President and Chief Executive Officer

RETAILCO, LLC

By: /s/ W. Keith Maxwell III
Name: W. Keith Maxwell III
Title: President and Chief Executive Officer

EXHIBIT A

MEMBERS AND INTERESTS

Members	Common Units	Percentage of Class of Common Units	Series A Preferred Units
Spark Energy, Inc.	6,496,559	37.7%	1,610,000
Retailco, LLC	10,605,063	61.5%	0
NuDevco Retail, LLC	137,500	0.8%	0
Total	17,239,122	100.0%	1,610,000

EXHIBIT 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO RULE 13A-14(A) AND RULE 15D-14(A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

I, Nathan Kroeker, certify that:

1. I have reviewed this Quarterly Report (the "report") on Form 10-Q of Spark Energy, Inc. (the "registrant");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 8, 2017

/s/ Nathan Kroeker
Nathan Kroeker
Chief Executive Officer and President

EXHIBIT 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO RULE 13A-14(A) AND RULE 15D-14(A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

I, Robert Lane, certify that:

1. I have reviewed this Quarterly Report (the "report") on Form 10-Q of Spark Energy, Inc. (the "registrant");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 8, 2017

/s/ Robert Lane
Robert Lane
Chief Financial Officer

EXHIBIT 32

Certification by the Chief Executive Officer and Chief Financial Officer
Pursuant to 18 U.S.C. Section 1350,
Adopted Pursuant to
Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Quarterly Report on Form 10-Q for the quarter ended March 31, 2017 (the "Report") of Spark Energy, Inc., a Delaware corporation (the "Company"), as filed with the Securities and Exchange Commission on the date hereof, Nathan Kroeker, Chief Executive Officer of the Company and Robert Lane, Chief Financial Officer of the Company, each certify, pursuant 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to his knowledge:

1. This Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 8, 2017

/s/ Nathan Kroeker
Nathan Kroeker
Chief Executive Officer

/s/ Robert Lane
Robert Lane
Chief Financial Officer