

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

FORM 8-K

CURRENT REPORT

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

May 16, 2017

Date of Report (Date of earliest event reported)

ABRAXAS PETROLEUM CORPORATION
(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction of
incorporation)

1-16071
(Commission File Number)

74-2584033
(I.R.S. Employer Identification
Number)

18803 Meisner Drive
San Antonio, Texas 78258
(210) 490-4788

(Address of principal executive offices and Registrant's telephone number, including area code)

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement.

On May 16, 2017, Abraxas Petroleum Corporation (the “Company”) entered Amendment No.3 to the Third Amended and Restated Credit Facility (the “the Amendment”) with Société Générale, as administrative agent and issuing lender, and certain other lenders, which we refer to as our credit facility. The full text of the Amendment is attached as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated into this Item 1.01 by reference..

Under the terms of the Amendment and subject to earlier termination rights and events of default, the stated maturity date of the credit facility is May 11, 2021. The amendment provides for a borrowing base of \$115.0 million effective April 1, 2017. Our borrowing base is determined semi-annually by the lenders based upon our reserve reports, one of which must be prepared by our independent petroleum engineers and one of which may be prepared internally. The amount of the borrowing base will be calculated by the lenders based upon their valuation of our proved reserves utilizing these reserve reports and their own internal decisions. Outstanding borrowings in excess of the borrowing base must be repaid immediately or we must pledge additional oil and gas properties or other assets as collateral. We do not currently have any substantial unpledged assets and we may not have the financial resources to make any mandatory principal payments. In addition, the lenders, in their sole discretion, will be able to make one additional borrowing base redetermination during any six-month period between scheduled redeterminations and we will be able to request one redetermination during any six-month period between scheduled redeterminations. The borrowing base will be reduced in connection with any sales of producing properties with a market value of 5% or more of our then-current borrowing base and in connection with any hedge termination which could reduce the collateral value by 5% or more. Our borrowing base can never exceed the \$300.0 million maximum commitment amount. Outstanding amounts under the credit facility bear interest (a) at any time an event of default exists, at 3% per annum plus the amounts set forth below, and (b) at all other times, at the greater of (x) the reference rate announced from time to time by Société Générale, (y) the Federal Funds Rate plus 0.5%, and (z) a rate determined by Société Générale as the daily one-month LIBOR plus, in each case, (i) 0.75%-1.75%, depending on the utilization of the borrowing base, or (ii), if we elect, LIBOR plus, in each case, 1.75%-2.75% depending on the utilization of the borrowing base.

Under the terms of the Amendment, we are subject to customary covenants, including certain financial covenants and reporting requirements. We are required to maintain a current ratio, as of the last day of each quarter of not less than 1.00 to 1.00 and an interest coverage ratio of not less than 2.50 to 1.00. We are also required as of the last day of each quarter to maintain a total debt to EBITDAX ratio of not more than 3.50 to 1.00. The current ratio is defined as the ratio of consolidated current assets to consolidated current liabilities. For the purposes of this calculation, current assets include the portion of the borrowing base which is undrawn but excludes any cash deposited with a counter-party to a hedging arrangement and any assets representing a valuation account arising from the application of ASC 815 and ASC 410-20 and current liabilities exclude the current portion

of long-term debt and any liabilities representing a valuation account arising from the application of ASC 815 and ASC 410-20. The interest coverage ratio is defined as the ratio of consolidated EBITDAX to consolidated interest expense for the four fiscal quarters ended on the calculation date. For the purposes of this calculation, EBITDAX is defined as the sum of consolidated net income plus interest expense, oil and gas exploration expenses, income, franchise or margin taxes, depreciation, amortization, depletion and other non-cash charges including non-cash charges resulting from the application of ASC 718, ASC 815 and ASC 410-20 plus all realized net cash proceeds arising from the settlement or monetization of any hedge contracts plus expenses incurred in connection with the negotiation, execution, delivery and performance of the credit facility plus expenses incurred in connection with any acquisition permitted under the credit facility plus expenses incurred in connection with any offering of senior unsecured notes, subordinated debt or equity plus up to \$1.0 million of extraordinary expenses in any 12-month period plus extraordinary losses minus all non-cash items of income which were included in determining consolidated net loss, including all non-cash items resulting from the application of ASC 815 and ASC 410-20. Interest expense includes total interest, letter of credit fees and other fees and expenses incurred in connection with any debt. The total debt to EBITDAX ratio is defined as the ratio of total debt to consolidated EBITDAX for the four fiscal quarters ended on the calculation date. For the purposes of this calculation, total debt is the outstanding principal amount of debt, excluding debt associated with the headquarters building and obligations with respect to surety bonds and derivative contracts.

The credit facility, as amended by the Amendment contains representations and warranties that we made as of specific dates. Except for its status as a contractual document that establishes and governs the legal relations among the parties, the credit facility, as amended by the Amendment is not intended to be a source of factual, business or operational information about any of the parties thereto. The representations and warranties were made as of specific dates, only for purposes of the proposed transactions, and solely for the benefit of the parties to the credit facility, as amended by the Amendment. These representations and warranties may be subject to limitations agreed between the parties, including being qualified by disclosures between the parties. The representations and warranties may have been made to allocate risks among the parties, including where the parties do not have complete knowledge of all facts, instead of establishing matters as facts. Furthermore, those representations and warranties may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, investors and security holders should not rely on such representations and warranties as characterizations of the actual state of facts or circumstances, since they were only made as of the date of the credit facility, as amended by the Amendment. Moreover, information concerning the subject matter of such representations and warranties may change after the date of these representations and warranties, which may or may not be fully reflected in the parties' public disclosures.

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

To the extent required by Item 2.03 of Form 8-K, the information set forth under Item 1.01 above hereby is incorporated into this Item 2.03 by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Number Description

10.1	Amendment No. 3 to Third Amended and Restated Credit Agreement dated as of May 16, 2017 among Abraxas Petroleum, as Borrower, the lenders party thereto and Société Générale, as Administrative Agent and as Issuing Lender.
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Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ABRAXAS PETROLEUM CORPORATION

By: /s/ Geoffrey R. King
Geoffrey R. King
Vice President and Chief Financial Officer

Dated: May 17, 2017

AMENDMENT NO. 3 TO THIRD AMENDED AND RESTATED CREDIT AGREEMENT

This Amendment No. 3 to Third Amended and Restated Credit Agreement dated as of May 16, 2017 (this "Agreement") is among **Abraxas Petroleum Corporation**, a Nevada corporation (the "Borrower"), the undersigned Guarantors (the "Guarantors"), the financial institutions party to the Credit Agreement described below as Lenders (the "Lenders"), and **Société Générale**, as Administrative Agent for the Lenders (the "Administrative Agent") and Issuing Lender.

INTRODUCTION

A. The Borrower, the Lenders, the Issuing Lender, and the Administrative Agent have entered into the Third Amended and Restated Credit Agreement dated as of June 11, 2014, as amended by Amendment No. 1 to Third Amended and Restated Credit Agreement dated as of September 22, 2014 and Amendment No. 2 to Third Amended and Restated Credit Agreement dated as of April 20, 2016 (as so amended and as further amended, supplemented or otherwise modified, the "Credit Agreement").

B. Reference is made to that certain Third Amended and Restated Guaranty Agreement made by the Guarantors in favor of the Administrative Agent dated as of June 11, 2014 (as amended, supplemented or otherwise modified, the "Guaranty").

C. The Borrower has requested, and the Administrative Agent and the Lenders party hereto have agreed, subject to the terms and conditions hereof, to amend the Credit Agreement as set forth herein.

D. Raven Drilling, LLC is required to grant an Acceptable Security Interest in the Oilwell E-2000 drilling rig and the equipment necessary to refurbish it (collectively, the "Raven Rig") pursuant to Section 5.08 of the Credit Agreement.

E. The Guarantors wish to reaffirm their guarantees of the Obligations as amended by this Agreement.

THEREFORE, in fulfillment of the foregoing, the Borrower, the Guarantors, the Administrative Agent, and the Lenders hereby agree as follows:

Section 1. Definitions; References. All capitalized terms not otherwise defined in this Agreement that are defined in the Credit Agreement shall have the meanings assigned to such terms by the Credit Agreement.

Section 2. Amendments to Credit Agreement. On the Effective Date (as defined below), the Credit Agreement is amended as follows:

(a) Section 1.01 of the Credit Agreement is hereby amended by adding the following definition in the appropriate alphabetical order:

“Third Amendment Effective Date” means May 16, 2017.

(b) Section 1.01 of the Credit Agreement is hereby amended by restating the grid in the definition of “Applicable Margin” in its entirety as follows:

Utilization	Eurodollar Advances	Rate	Reference Advances	Rate	Commitment Rate	Fee
Less than 25%		2.50%		1.50%		0.50%
Equal to or greater than 25% but less than 50%		2.75%		1.75%		0.50%
Equal to or greater than 50% but less than 75%.		3.00%		2.00%		0.50%
Equal to or greater than 75% but less than 90%		3.25%		2.25%		0.50%
Equal to or greater than 90%		3.50%		2.50%		0.50%

(a) Section 1.01 of the Credit Agreement is hereby amended by deleting the definition of “Canadian Abraxas” in its entirety.

(b) Section 1.01 of the Credit Agreement is hereby amended by restating the definition of “Excluded Accounts” to read in its entirety as follows:

“Excluded Accounts” means (a) accounts held at PlainsCapital Bank (or successor bank) holding certificates of deposit supporting letters of credit in an aggregate amount not to exceed at any time the undrawn face amount of such letters of credit, and provided (x) such letters of credit are permitted under Section 6.02(g) and (y) a Lien on such accounts or the amounts held therein is permitted under Section 6.01(k) and (b) one or more petty cash operating accounts held at PlainsCapital Bank (or successor bank) in an aggregate amount not to exceed \$50,000 at any time.

(c) Section 1.01 of the Credit Agreement is hereby amended by restating the definition of “Fee Letter” to read in its entirety as follows:

“Fee Letters” means that certain fee letter dated June 11, 2014 among the Borrower, Société Générale, and SG Americas Securities, LLC, and that certain fee letter dated May 16, 2017 among the Borrower, Société Générale, and SG Americas Securities, LLC.

(d) Section 1.01 of the Credit Agreement is hereby amended by replacing the dates “December 31, 2013” and “March 31, 2014” in the definition of “Financial Statements” with “December 31, 2016” and “March 31, 2017” respectively.

(e) Section 1.01 of the Credit Agreement is hereby amended by deleting the words “other than Canadian Abraxas” from the definition of “Guarantor”.

(f) Section 1.01 of the Credit Agreement is hereby amended by restating the definition of “Maturity Date” to read in its entirety as follows:

“Maturity Date” means May 16, 2021.

(g) Section 1.01 of the Credit Agreement is hereby amended by replacing the reference to “Section 6.02(n)” in the definition of “Senior Unsecured Notes” with a reference to “Section 6.02(o)”.

(h) Section 1.01 of the Credit Agreement is hereby amended by restating the last sentence of the definition of “Subsidiary” to read in its entirety as follows:

Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

(i) Section 2.02(a) of the Credit Agreement is hereby amended by restating the first sentence of such Section 2.02(a) to read in its entirety as follows:

As of the Third Amendment Effective Date, the Administrative Agent and the Lenders have set and the Borrower has acknowledged the Borrowing Base as \$115,000,000.

(j) Section 2.08(c) of the Credit Agreement is hereby amended by replacing each reference to “Fee Letter” with “Fee Letters”.

(k) Section 4.01 of the Credit Agreement is hereby amended by restating the last sentence of such Section to read in its entirety as follows:

As of the Third Amendment Effective Date, Schedule 4.01 sets forth the capital structure of the Borrower and its Subsidiaries.

(l) Section 4.05(c) of the Credit Agreement is hereby amended by replacing “2013” with “2016.”

(m) Section 4.05(d) of the Credit Agreement is hereby amended and restated to read in its entirety as follows:

(d) As of the Third Amendment Effective Date, neither the Borrower nor any of its Subsidiaries has any Debt other than the Debt listed on Schedule 4.05.

(n) Section 4.13 is hereby amended by replacing “2013” in the second sentence of such Section with “2016.”

(o) Section 4.17 of the Credit Agreement is hereby amended and restated to read in its entirety as follows:

Section 4.17 Gas Contracts. Other than as set forth in Schedule 4.17 or as disclosed in writing pursuant to Section 5.06(g)(v), neither the Borrower nor any of the Guarantors, as of the Initial Funding Date and as of the date of each redetermination of the Borrowing Base: (a) is obligated in any material respect by virtue of any prepayment made under any contract containing a “take-or-pay” or “prepayment” provision or under any similar agreement to deliver hydrocarbons produced from or allocated to any of the Borrower’s and its Subsidiaries’ Oil and Gas Properties at some future date without receiving full payment therefor at the time of delivery, or (b) has produced gas, in any material amount, subject to, and none of the Borrower’s and the Guarantors’ Oil and Gas Properties is subject to, balancing rights of third parties or subject to balancing duties under governmental requirements, in each case other than in the ordinary course of business and which prepayments and balancing rights, in the aggregate, do not result in the Borrower or any Guarantor having net aggregate liability at any time in excess of an amount equal to 1% of the Proven Reserves categorized as “proved, developed and producing” on the most recently delivered Engineering Report.

(p) Section 4.18 of the Credit Agreement is hereby amended by replacing the words “date of this Agreement” in the second sentence of such Section with the words “Third Amendment Effective Date”.

(q) Section 4.19 of the Credit Agreement is hereby amended by restating the first sentence of such Section 4.19 to read in its entirety as follows:

Before and after giving effect to the making of the initial Advances, and as of the Third Amendment Effective Date, each of the Borrower and its Subsidiaries is Solvent.

(r) Section 4.21 of the Credit Agreement is hereby amended by restating such Section 4.21 to read in its entirety as follows:

Section 4.21 Material Agreements. Schedule 4.21 sets forth a complete and correct list of all material agreements, leases, indentures, purchase agreements, obligations in respect of letters of credit, guarantees, joint venture agreements, and other instruments in effect or to be in effect as of the Third Amendment Effective Date (other than the agreements set forth in Schedule 4.20) providing for, evidencing, securing or otherwise relating to any Debt of the Borrower or any of the Guarantors, and all obligations of the Borrower or any of the Guarantors to issuers of surety or appeal bonds issued for account of the Borrower or any such Guarantor; and such list correctly sets forth the names of the debtor or lessee and creditor or lessor with

respect to the Debt or lease obligations outstanding or to be outstanding and the Property subject to any Lien securing such Debt or lease obligation. Also set forth on Schedule 4.21 is a complete and correct list of all material agreements and other instruments of the Borrower and the Guarantors relating to the purchase, transportation by pipeline, gas processing, marketing, sale and supply of natural gas and other Hydrocarbons. Except as detailed otherwise in Schedule 4.21, the Borrower has heretofore delivered to the Administrative Agent and the Lenders a complete and correct copy of all such material credit agreements, indentures, purchase agreements, contracts, letters of credit, guarantees, joint venture agreements, or other instruments, including any modifications or supplements thereto, as in effect on the Third Amendment Effective Date.

(s) Section 6.01 of the Credit Agreement is hereby amended by deleting the last sentence of such section.

(t) Section 6.02 of the Credit Agreement is hereby amended by deleting the last sentence of such section.

(u) Section 6.04(b)(iv) of the Credit Agreement is hereby amended by adding the following parenthetical immediately after the phrase “any interest therein or Subsidiaries owning Oil and Gas Properties”:

(and related equipment that is located on and necessary for the production of Hydrocarbons from such Oil and Gas Properties)

(v) Section 6.04(b)(vii) of the Credit Agreement is hereby amended by replacing the number “\$1,000,000” with the number “\$2,000,000”.

(w) Section 6.10 of the Credit Agreement is hereby amended by deleting the words “or Canada” from the end of such Section.

(x) Section 6.20 of the Credit Agreement is hereby amended by replacing the number “4.00” with the number “3.50”.

(y) Section 9.01 of the Credit Agreement is hereby amended by restating clause (iii) of the second proviso of such Section 9.01 to read in its entirety as follows:

(iii) no Fee Letter may be amended, or rights or privileges thereunder waived, except in a writing executed by all of the parties thereto.

(z) Exhibit B of the Credit Agreement is hereby amended and replaced in its entirety with Exhibit B attached hereto.

(aa) Schedule 4.01 of the Credit Agreement is hereby amended and replaced in its entirety with Schedule 4.01 attached hereto.

(bb) Schedule 4.05 of the Credit Agreement is hereby amended and replaced in its entirety with Schedule 4.05 attached hereto.

(cc) Schedule 4.17 of the Credit Agreement is hereby amended and replaced in its entirety with Schedule 4.17 attached hereto.

(dd) Schedule 4.20 of the Credit Agreement is hereby amended and replaced in its entirety with Schedule 4.20 attached hereto

(ee) Schedule 4.21 of the Credit Agreement is hereby amended and replaced in its entirety with Schedule 4.21 attached hereto.

Section 3. Reaffirmation of Liens and Grant of Security Interest in the Raven Rig.

(a) Each of the Borrower and the Guarantors (i) is party to certain Security Instruments securing and supporting the Borrower's and Guarantors' obligations under the Loan Documents, (ii) represents and warrants that according to their terms the Security Instruments will continue in full force and effect to secure the Borrower's and Guarantors' obligations under the Loan Documents, as the same may be amended, supplemented, or otherwise modified (including by this Agreement), and (iii) acknowledges, represents, and warrants that the liens and security interests created by the Security Instruments are valid and subsisting and create an Acceptable Security Interest in the Collateral to secure the Borrower's and Guarantors' obligations under the Loan Documents, as the same may be amended, supplemented, or otherwise modified (including by this Agreement).

(b) The delivery of this Agreement does not indicate or establish a requirement that any Guaranty or Security Instrument requires the Borrower's or any Guarantor's approval of amendments to the Credit Agreement.

(c) Raven Drilling, LLC hereby agrees that the Raven Rig shall be subject to the grant of security interest under the Security Agreement and shall constitute "Collateral" as defined therein for all purposes.

Section 4. Reaffirmation of Guaranty. Each Guarantor hereby ratifies, confirms, and acknowledges that its obligations under the Guaranty are in full force and effect and that such Guarantor continues to unconditionally and irrevocably guarantee the full and punctual payment, when due, whether at stated maturity or earlier by acceleration or otherwise, of all of the Obligations, as such Obligations may have been amended by this Agreement. Each Guarantor hereby acknowledges that its execution and delivery of this Agreement do not indicate or establish an approval or consent requirement by such Guarantor under the Guaranty in connection with the execution and delivery of amendments, modifications or waivers to the Credit Agreement, the Notes or any of the other Loan Documents.

Section 5. Representations and Warranties. The Borrower and each Guarantor represents and warrants to the Administrative Agent and the Lenders that:

(a) the representations and warranties set forth in the Credit Agreement, the Guaranties and in the other Loan Documents are true and correct in all material respects as of the date of this Agreement (except to the extent such representations and warranties relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date); *provided that* such materiality qualifier shall not apply if such representation or warranty is already subject to a materiality qualifier in the Credit Agreement or such other Loan Document;

(b) (i) the execution, delivery, and performance of this Agreement are within the corporate, limited liability company or other power and authority of the Borrower or such Guarantor, as applicable, and have been duly authorized by appropriate proceedings and (ii) this Agreement constitutes a legal, valid, and binding obligation of the Borrower or such Guarantor, as applicable, enforceable against the Borrower or such Guarantor in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the rights of creditors generally and general principles of equity; and

(c) as of the effectiveness of this Agreement and after giving effect thereto, no Default or Event of Default has occurred and is continuing.

Section 6. Effectiveness. This Agreement shall become effective and enforceable against the parties hereto, upon the occurrence of the following conditions precedent (such date being the “Effective Date”):

(a) The Administrative Agent shall have received multiple original counterparts, as requested by the Administrative Agent, of this Agreement duly and validly executed and delivered by duly authorized officers of the Borrower, the Guarantors, the Administrative Agent and the Required Lenders.

(b) The Administrative Agent shall have received a secretary’s certificate from each of the Borrower and each Guarantor certifying such Person’s (i) officer’s incumbency, (ii) authorizing resolutions and (iii) organizational and governing documents.

(c) The Administrative Agent shall have received evidence satisfactory to it that the Raven Rig is subject to an Acceptable Security Interest.

(d) The Administrative Agent shall have received certificates of good standing for each of the Borrower and the Guarantors in each state in which each such Person is organized (and to the extent requested by the Administrative Agent, in each state in which such Person is qualified to do business), which certificates shall be dated a date not earlier than 30 days prior to the Effective Date.

(e) The Administrative Agent shall have received a legal opinion from Jackson Walker L.L.P. as counsel to the Borrower and the Guarantors, in form and substance reasonably acceptable to the Administrative Agent, and covering such matters as the Administrative Agent may reasonably request.

(f) The representations and warranties in this Agreement shall be true and correct before and after giving effect to this Agreement.

(g) No Default shall have occurred and be continuing.

(h) The Borrower shall have paid (i) all other costs, expenses, and fees which have been invoiced and are payable pursuant to Section 9.04 of the Credit Agreement or any other written agreement and (ii) all fees required under the Fee Letters.

Section 7. Effect on Loan Documents. Except as amended herein, the Credit Agreement and the Loan Documents remain in full force and effect as originally executed, and nothing herein shall act as a waiver of any of the Administrative Agent's or Lenders' rights under the Loan Documents, as amended. This Agreement is a Loan Document for the purposes of the provisions of the other Loan Documents. Without limiting the foregoing, any breach of representations, warranties, and covenants under this Agreement may be a Default or Event of Default under other Loan Documents.

Section 8. RELEASE. THE BORROWER ACKNOWLEDGES THAT ON THE DATE HEREOF ALL OBLIGATIONS ARE PAYABLE WITHOUT DEFENSE, OFFSET, COUNTERCLAIM OR RECOUPMENT. IN ADDITION, EACH OF THE LOAN PARTIES (FOR THEMSELVES AND THEIR RESPECTIVE SUCCESSORS, AGENTS, ASSIGNS, TRANSFEREES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, ATTORNEYS AND AGENTS) HEREBY RELEASES ANY AND ALL CLAIMS, CAUSES OF ACTION OR OTHER DISPUTES IT MAY HAVE AGAINST THE ADMINISTRATIVE AGENT, ANY OF THE LENDERS, LEGAL COUNSEL TO THE ADMINISTRATIVE AGENT OR ANY OF THE LENDERS, CONSULTANTS HIRED BY ANY OF THE FOREGOING, OR ANY OF THEIR RESPECTIVE AFFILIATES, SUBSIDIARIES, SHAREHOLDERS, AGENTS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, SUCCESSORS OR ASSIGNS OF ANY KIND OR NATURE ARISING OUT OF, RELATED TO, OR IN ANY WAY CONNECTED WITH, THE CREDIT AGREEMENT, THE SECURITY AGREEMENT OR THE LOAN DOCUMENTS, IN EACH CASE WHICH MAY HAVE ARISEN ON OR BEFORE THE DATE OF THIS AGREEMENT. EACH OF THE LOAN PARTIES HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT AND HAS CONFERRED WITH ITS COUNSEL AND ADVISORS REGARDING ITS CONTENT, INCLUDING THIS SECTION 8, AND IS FREELY AND VOLUNTARILY ENTERING INTO THIS AGREEMENT, AND HEREBY AGREES TO WAIVE ANY CLAIM THAT THE TERMS OF THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, THE RELEASES CONTAINED HEREIN) ARE INVALID OR OTHERWISE UNENFORCEABLE.

Section 9. Choice of Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York.

Section 10. Miscellaneous.

(a) Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original. Delivery of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart hereof.

(b) NO ORAL AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

(c) Payment of Expenses. The Borrower agrees to pay or reimburse the Administrative Agent for all of its out-of-pocket costs and expenses incurred in connection with this Agreement, any other documents prepared in connection herewith and the transactions contemplated hereby, including, without limitation, the reasonable fees, charges and disbursements of counsel to the Administrative Agent.

(d) Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, (i) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (ii) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

(e) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

[Remainder of page left blank; signatures follow.]