UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

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

Date of report (Date of earliest event reported): January 16, 2018

SEMGROUP CORPORATION
(Exact Name of Registrant as Specified in Its Charter)

Delaware		
(State or Other Jurisdiction of Incorporation)		
1-34736		**20-3533152**
(Commission File Number)		(IRS Employer Identification No.)

Two Warren Place
6120 S. Yale Avenue, Suite 1500
Tulsa, OK 74136-4231
(Address of Principal Executive Offices) (Zip Code)

(918) 524-8100
(Registrant's Telephone Number, Including Area Code)

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2). Emerging growth company ☐

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

Item 1.01. Entry into a Material Definitive Agreement.

Securities Purchase Agreement

On January 16, 2018, SemGroup Corporation, a Delaware corporation (the " Company "), entered into a Securities Purchase Agreement (the " Purchase Agreement ") with WP SemGroup Holdings, L.P. (" Warburg "), an entity controlled by funds affiliated with Warburg Pincus LLC; Atlas Point Energy Infrastructure Fund, LLC, an affiliate of CIBC Atlantic Trust; and several affiliates of Tortoise Capital Advisors, L.L.C. (each of the foregoing, collectively, the " Purchasers "), to issue and sell to the Purchasers, in a private placement (the " Private Placement "), an aggregate of 350,000 shares of Series A Cumulative Perpetual Convertible Preferred Stock, par value $0.01 per share, of the Company (the " Preferred Stock "), convertible into 10,606,061 shares (subject to adjustment) of the Company's Class A Common Stock, par value $0.01 per share (the " Common Stock "), for a cash purchase price of $1,000 per share of Preferred Stock and aggregate gross proceeds to the Company of $350,000,000, which proceeds will be utilized (i) to repay amounts borrowed under the Company's revolving credit facility, (ii) to fund growth capital expenditures and (iii) for general corporate purposes. The closing of the Private Placement (the " Closing " and the date of the Closing, the " Issue Date ") occurred January 19, 2018.

Dividend Payments

Pursuant to the Purchase Agreement, the Company executed and filed with the Office of the Secretary of State of Delaware a Certificate of Designations (the " Certificate of Designations ") to, among other things, authorize and establish the rights and preferences of the shares of Preferred Stock (the " Preferred Shares "). The Preferred Shares are a new class of equity security that ranks senior to the Common Stock with respect to distribution rights and rights upon liquidation. Subject to certain exceptions, so long as any Preferred Shares remain outstanding, no dividend or distribution will be declared or paid on, and no redemption or repurchase will be agreed to or consummated of, stock on a parity with the Preferred Shares (" Parity Stock "), Common Stock or any other shares of stock junior to the Preferred Shares, unless all accumulated and unpaid dividends for all preceding full fiscal quarters have been declared and paid with respect to the Preferred Shares. In addition, no dividend or distribution or redemption or repurchase shall be paid on Parity Stock, Common Stock or any other shares of stock junior to the Preferred Shares for any period unless the Preferred Stock has been paid full cash dividends in respect of the same period; provided , however , that the Company may pay dividends on Common Stock in respect of any fiscal quarter ending on or prior to June 30, 2020 (the " PIK Period ").

PIK Dividends

The holders of Preferred Shares (the " Holders ") will receive quarterly distributions equal to an annual rate of 7.0% ($70.00 per share annualized) of $1,000 per Preferred Share, subject to certain adjustments (the " Liquidation Preference "). With respect to any quarter ending on or prior to the PIK Period, the Company may elect, in lieu of paying a distribution in cash, to have the amount that would have been payable if such dividend had been paid in cash added to the Liquidation Preference.

Holder Conversion

On or after the eighteen month anniversary of the Issue Date, the Holders may convert their Preferred Shares into a number of shares of Common Stock equal to, per Preferred Share, the quotient of the Liquidation Preference divided by $33.00 (the " Conversion Price "), subject to certain adjustments including customary anti-dilution adjustments (such quotient, the " Conversion Rate "). Holders may elect to convert the Preferred Shares, in whole or in part, so long as the aggregate value of Common Stock to be issued pursuant to such partial conversion is not for less than $50,000,000 or a lesser amount if such conversion relates to all of a Holder's remaining Preferred Shares.

Company Conversion

On or after the three year anniversary of the Issue Date, if the Holders have not elected to convert all of their shares of Preferred Stock, the Company may cause the outstanding Preferred Shares to be converted into a number of shares of Common Stock equal to, per Preferred Share, the quotient of the Liquidation Preference divided by the Conversion Price, subject to certain adjustments including customary anti-dilution adjustments; provided , that in order

for the Company to exercise such conversion right, (w) the closing sale price of the Common Stock during a designated period be greater than or equal to $47.85, (x) the resale of the shares of Common Stock issuable upon conversion shall be registered and available for resale by the Holders pursuant to a registration statement declared effective by the Securities and Exchange Commission covering such resales, (y) the Common Stock is listed on a national securities exchange, and (z) certain average daily trading volume minimum requirements are met. The Company may elect to convert the Preferred Shares, in whole or in part, so long as the aggregate value of Common Stock to be issued pursuant to such partial conversion is not for less than $50,000,000 or such lesser amount if such conversion relates to the aggregate amount of all remaining Preferred Shares.

Change of Control

Upon a change of control that involves consideration that is at least 90% cash, Holders are required to convert their shares of Preferred Stock into Common Stock at a rate equal to the greater of (i) the product of the Conversion Rate and the quotient of (a) the product of the Conversion Price and the Cash Change of Control Conversion Premium (as defined below), divided by (b) the average volume weighted average price of the Common Stock during a designated period and (ii) the Conversion Rate otherwise in effect at such time. The " Cash Change of Control Conversion Premium " equals (i) on or prior to the first anniversary of the Issue Date, 130%, (ii) after the first anniversary of the Issue Date, but on or prior to the second anniversary of the Issue Date, 120%, (iii) after the second anniversary of the Issue Date, but on or prior to the third anniversary of the Issue Date, 105%, and (iv) thereafter, 101%.

Upon a change of control that involves consideration that is less than 90% cash, Holders may elect to: (i) convert all, but not less than all, outstanding shares of Preferred Stock into Common Stock at the then-applicable Conversion Rate; (ii) except as described below, if the Company will not be the surviving person upon the consummation of such change of control, require the Company to use its commercially reasonable efforts to deliver to the Holders a security in the surviving person or the parent of the surviving person that has rights, preferences and privileges substantially similar to the Preferred Stock; provided , however , that, if the Company is unable to do so, such Holders shall be entitled to: (A) instead elect to convert shares of Preferred Stock pursuant to the mechanics described in clause (i) above or (B) require the Company to redeem all (but not less than all) of such Holder's Preferred Stock at a price per share equal to 101% of the Liquidation Preference, with the redemption price being paid (at the Company's option): (1) in cash or (2) in Common Stock; (iii) if the Company is the surviving person upon the consummation of such change of control, continue to hold such Holders' shares of Preferred Stock; or (iv) require the Company to redeem all (but not less than all) of such Holder's Preferred Stock at a cash price per share equal to the Liquidation Preference.

Voting Rights

Holders shall be entitled to vote on all matters on which the holders of shares of Common Stock are entitled to vote and, except as otherwise provided in the Certificate of Incorporation, or by law, the Holders shall vote together with the holders of shares of Common Stock as a single class. Each Holder shall be entitled to a number of votes equal to the number of votes such Holder would have had if all shares of Preferred Stock held by such Holder had been converted into shares of Common Stock.

So long as any Preferred Shares are outstanding, the affirmative vote or consent of the Holders of at least 66 2/3% of the outstanding Preferred Shares, voting together as a separate class, will be necessary for effecting or validating: (i) any issuance of stock senior to the Preferred Shares, (ii) any issuance by the Company of Parity Stock, subject to certain exceptions described below, (iii) any repurchase by the Company of any Preferred Stock, other than on a pro rata basis among all Holders of Preferred Stock, (iv) any special, one-time dividend or distribution with respect to any class of junior stock and (v) any spinoff or other distribution of any equity securities or assets of any of the Company's subsidiaries to its stockholders in which the consideration received by the Company in such transaction is less than fair market value, subject to certain exceptions. However, the foregoing rights of the Holders will not restrict any of the following actions, subject to certain terms: (i) the Company and any of its controlled affiliates entering into joint ventures with third parties, (ii) the issuance of securities, capital contributions or incurrence of intercompany indebtedness among the Company or any of its subsidiaries, or (iii) the issuance of securities, capital contributions or incurrence of intercompany indebtedness among the Company and any joint ventures, partnerships or other minority owned entities in which the Company or its subsidiaries have an equity or other interest, in each case, which exist as of the Issue Date.

Notwithstanding the vote or consent of the Holders described above, after the Issue Date, the Company may issue certain amounts of Parity Stock without the approval of the Holders if: (A) the aggregate amount of such issuances is less than or equal to $250,000,000 (excluding the aggregate amount of any additional shares of Preferred Stock issued to Warburg); or (B) the aggregate initial purchase price of the then outstanding Preferred Stock is less than $100,000,000.

Transfer Restrictions

Prior to the first anniversary of the Issue Date, no Holder may transfer any Preferred Shares without the prior written consent of the Company. Prior to the second anniversary of the Issue Date, Holders and their affiliates are prohibited from directly or indirectly engaging in any short sales or other hedging transactions involving the Preferred Shares and Common Stock underlying such Holder's Preferred Shares.

Preemptive Rights

For so long as Warburg and its affiliates collectively own 75% or more of the outstanding Preferred Shares acquired by Warburg and its affiliates on the Issue Date, the Company, prior to any issuance of Parity Stock, is required to provide Warburg with a reasonable opportunity to purchase all or any portion of such shares of Parity Stock to be issued by the Company on substantially the same terms offered to the other purchasers of such securities.

Representations and Warranties

The Purchase Agreement contains customary representations, warranties and covenants of the Company and the Purchasers made as of the date of the Purchase Agreement and as of the Issue Date, and the parties have agreed to indemnify each other against certain losses resulting from breaches of their respective representations, warranties and covenants.

Board Observer Rights

Pursuant to the Purchase Agreement, the Company has granted to Warburg, until Warburg no longer owns at least 50% of the Preferred Shares issued to Warburg and its affiliates on the Issue Date, certain rights to designate an observer (the " Board Observer ") to the board of directors of the Company (the " Board "), who shall have the right to attend full meetings of the Board (including any executive session and certain committees thereof) and receive such materials as other members of the Board receive.

Registration Rights

In addition, pursuant to the Purchase Agreement, the Company also granted Warburg and its affiliates rights to require the Company to file and maintain, subject to the penalties described in the Purchase Agreement, registration statements with respect to the resale of the Common Stock issuable upon conversion of the Preferred Shares. The Company is required to file or cause to be filed a registration statement (the " Preferred Registration Statement ") for the resale of registrable securities and is required to cause the Preferred Registration Statement to become effective no later than the eighteen month anniversary of the Issue Date. In certain circumstances, Warburg and its affiliates will have piggyback registration rights on offerings initiated by the Company or other persons who have been granted registration rights, and Warburg has the right to request two underwritten offerings upon certain terms and conditions set forth in the Purchase Agreement. Holders of registrable securities will cease to have registration rights under the Purchase Agreement on the earlier of (i) the second anniversary of the date on which shares Preferred Stock are first converted into shares of Common Stock and (ii) the date on no registrable securities remain outstanding; provided , that the Company shall use reasonable best efforts to maintain the effectiveness of the Preferred Registration Statement during all periods in which Warburg (A) is deemed to be an affiliate of the Company pursuant to Rule 144 under the Securities Act of 1933, as amended (the " Securities Act "), or (B) together with its affiliates, owns more than 5% of the Company's Common Stock (including Common Stock it would own on an as-converted basis).

The summaries of the Certificate of Designations and the Purchase Agreement are qualified by reference to the full text of such documents, which are included as Exhibits 3.1 and 10.1 hereto, respectively, and incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities

The information regarding the Private Placement set forth in Item 1.01 of this Current Report is incorporated by reference into this Item 3.02. The Private Placement of the Preferred Shares pursuant to the Purchase Agreement will be undertaken in reliance upon an exemption from the registration requirements of the Securities Act, pursuant to Section 4(a)(2) thereof. The Common Stock issuable upon conversion of the Preferred Stock may not be re-offered or sold in the United States absent an effective registration statement or an exemption from the registration requirements under applicable federal and state securities laws.

Item 3.03 Material Modification to Rights of Security Holders

The information regarding the Preferred Stock, the Purchase Agreement and the Certificate of Designations set forth in Items 1.01 and 5.03 of this Current Report is incorporated by reference into this Item 3.03.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

On and effective as of January 19, 2018, in connection with the Closing, the Company filed with the Secretary of State of Delaware the Certificate of Designations, establishing the rights, preferences, privileges and other terms relating to the Preferred Stock. A summary of the rights, preferences and privileges of the Preferred Stock and other material terms and conditions of the Certificate of Designations is set forth in Item 1.01 of this Current Report and is incorporated by reference into this Item 5.03.

Item 9.01. Financial Statements and Exhibits.

(d) *Exhibits*

The following exhibits are filed herewith.

Exhibit Number	Description
3.1	Certificate of Designations of Series A Cumulative Perpetual Convertible Preferred Stock of SemGroup Corporation, filed with the Secretary of State of the State of Delaware on January 19, 2018
10.1	Securities Purchase Agreement, dated as of January 16, 2018, by and among SemGroup Corporation, WP SemGroup Holdings, L.P., Atlas Point Energy Infrastructure Fund, LLC and several affiliates of Tortoise Capital Advisors, L.L.C.

SIGNATURES

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.

SEMGROUP CORPORATION

Date: January 19, 2018

By: /s/ William H. Gault
William H. Gault
Corporate Secretary

Exhibit 3.1

CERTIFICATE OF DESIGNATIONS OF
SERIES A CUMULATIVE PERPETUAL CONVERTIBLE PREFERRED STOCK
OF SEMGROUP CORPORATION

Pursuant to Section 151 of the General Corporation Law of the State of Delaware:

SEMGROUP CORPORATION, a Delaware corporation, certifies that pursuant to the authority contained in Article Fourth of its Amended and Restated Certificate of Incorporation, and in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware, the Board of Directors duly approved and adopted on January 15, 2018 the following resolution, which resolution remains in full force and effect on the Issue Date:

RESOLVED , that the Board hereby designates a new series of Preferred Stock, consisting of the number of shares set forth herein, with the voting powers, designations, preferences and relative, participating, optional, or other special rights, and the qualifications, limitations, and restrictions relating to such series as set forth as follows:

SECTION 1. *Designation and Amount; Ranking* .

(a) There shall be created from the 4,000,000 shares of preferred stock, par value $0.01 per share, of the Company authorized to be issued pursuant to the Certificate of Incorporation, a series of preferred stock, designated as the "Series A Cumulative Perpetual Convertible Preferred Stock," par value $0.01 per share (the " **Preferred Stock** "), and the authorized number of shares of Preferred Stock shall be 350,000 shares. Shares of the Preferred Stock that are redeemed, purchased or otherwise acquired by the Company, or converted into shares of Class A Common Stock, shall be retired, shall revert to authorized but unissued shares of preferred stock and may be reissued in accordance with Section 4(b)(i)(B).

(b) The Preferred Stock, with respect to dividend rights and rights upon the liquidation, winding-up or dissolution of the Company, ranks: (i) senior in all respects to all Junior Stock; (ii) on a parity in all respects with all Parity Stock; and (iii) junior in all respects to all Senior Stock, in each case as provided more fully herein.

SECTION 2. *Definitions* .

As used herein, the following terms shall have the following meanings:

" **2014 Indenture** " means that certain Indenture, dated as of July 2, 2014, by and among Rose Rock Midstream, L.P., Rose Rock Finance Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee, as supplemented by that First Supplemental Indenture dated as of April 7, 2015 and that Second Supplemental Indenture dated as of September 30, 2016 (as otherwise modified or supplemented prior to the Issue Date).

" **2015 Indenture** " means that certain Indenture, dated as of May 14, 2015, by and among Rose Rock Midstream, L.P., Rose Rock Finance Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee, as supplemented by that First Supplemental Indenture, dated as of September 30, 2016 (as otherwise modified or supplemented prior to the Issue Date).

" **2017 Indentures** " means that certain Indenture, dated as of March 15, 2017, by and among SemGroup Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee, and that certain Indenture, dated as of September 20, 2017, by and among SemGroup Corporation, the guarantors party thereto, and Wilmington Trust, National Association, as trustee.

“ **Accrued Dividends** ” shall mean, with respect to any share of Preferred Stock, as of any date, the accrued and unpaid dividends on such share, whether or not declared, from, but not including, the last day of the most recently preceding fiscal quarter (or from the Issue Date, if such date is prior to the first fiscal quarter Dividend Payment Date) to, but not including, such date, and including, for the sake of clarity, any then accrued and unpaid dividends on such share of Preferred Stock from any prior fiscal quarters of the Company.

“ **Accumulated Dividends** ” shall mean, with respect to any share of Preferred Stock, as of any date, the aggregate amount of accrued and unpaid dividends added to the Liquidation Preference in accordance with Sections 3(b), 3(c) and 3(d).

“ **Affiliate** ” shall have the meaning ascribed to it, on the Issue Date, in Rule 405 under the Securities Act.

“ **Average VWAP** ” per share over a certain period shall mean the arithmetic average of the VWAP per share for each Trading Day in such period.

“ **Board of Directors** ” shall mean the Board of Directors of the Company or, with respect to any action to be taken by the Board of Directors, any committee of the Board of Directors duly authorized to take such action.

“ **Business Day** ” shall mean Monday through Friday of each week, except that a legal holiday recognized as such by the government of the United States of America, the State of Oklahoma or the State of Delaware shall not be regarded as a Business Day.

“ **Cash Change of Control** ” shall mean the occurrence of a Change of Control that involves consideration payable to the Company, or in respect of the Company’s Class A Common Stock, that is comprised of at least 90% cash.

“ **Cash Change of Control Conversion Premium** ” shall mean (i) on or prior to the first anniversary of the Issue Date, 130%, (ii) after the first anniversary of the Issue Date, but on or prior to the second anniversary of the Issue Date, 120%, (iii) after the second anniversary of the Issue Date, but on or prior to the third anniversary of the Issue Date, 105%, and (iv) thereafter, 101%.

“ **Cash Change of Control Conversion Rate** ” shall mean, as of any time of determination, the greater of (i) the product of the Conversion Rate and the quotient of (a) the product of the Conversion Price and the Cash Change of Control Conversion Premium, divided by (b) the Average VWAP of the Class A Common Stock for the 20 Trading Day period ending on, and including, the Trading Day immediately preceding the Business Day on which definitive transaction documents with respect to any transaction that would constitute a Cash Change of Control are executed and (ii) the Conversion Rate otherwise in effect as of such time of determination without giving effect to clause (i).

“ **Cash Dividends** ” shall have the meaning set forth in Section 3(a).

“ **Certificate of Incorporation** ” shall mean the Amended and Restated Certificate of Incorporation of the Company, as modified by this Certificate of Designations, as further amended or restated in accordance with applicable law and this Certificate of Designations.

“ **Certificated Preferred Stock** ” shall have the meaning set forth in Section 10(b)(i).

" **Change of Control** " shall mean the occurrence of any of the following:

(i) the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of a merger or consolidation, which is covered by subsection (v) below), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Subsidiaries, taken as a whole, to any Person;

(ii) more than half of the members of the Company's Board of Directors, as of any time of determination, are not Continuing Directors;

(iii) the Common Stock is no longer listed or admitted for trading on the New York Stock Exchange, the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market (or any of their respective successors);

(iv) any recapitalization or change of the Common Stock as a result of which the Common Stock would be converted into stock, other securities, other property or assets or any share exchange, or any consolidation or merger of the Company pursuant to which the Common Stock will be converted into cash, securities or other property or assets unless the holders of the Common Stock immediately prior to any such transaction own, directly or indirectly, more than 50% of all classes of common stock of the continuing or surviving company following such transaction;

(v) the consummation of any transaction (including, without limitation, pursuant to a merger or consolidation), the result of which is that any person or group (as such terms are defined in Section 13(d) and Section 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 and Rule 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the voting power of the Company or is entitled to elect more than 50% of the members of the Board of Directors; provided , however , solely for purposes of this subsection (v), a "person" or "group" shall include, in connection with a direct merger of any entity with a class of securities traded on a national or regional securities exchange with the Company, the shareholders of such publicly traded entity with whom the Company merges or that become shareholders of the Company in connection with a merger transaction involving the Company or any of its wholly owned Subsidiaries and another entity with a class of securities traded on a national or regional securities exchange; or

(vi) the adoption of a plan relating to the liquidation or dissolution of the Company.

" **close of business** " shall mean 5:00 p.m. (New York City time).

" **Class A Common Stock** " shall mean the shares of Class A Common Stock, par value $0.01 per share, of the Company or any other capital stock of the Company into which such Class A Common Stock shall be reclassified or changed.

" **Class B Common Stock** " shall mean the shares of Class B Common Stock, par value $0.01 per share, of the Company or any other capital stock of the Company into which such Class B Common Stock shall be reclassified or changed.

" **Closing Sale Price** " of the Class A Common Stock shall mean, as of any date, the closing sale price per share (or if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported on the principal National Securities Exchange on which the Class A Common Stock is traded or, if the Class A Common Stock is not listed on a National Securities Exchange, in the over-the-counter market as

reported by OTC Markets Group Inc. or a similar organization. In the absence of such a quotation, the Closing Sale Price shall be an amount determined by the Board of Directors to be the fair market value of a share of Class A Common Stock.

" **Common Stock** " shall mean the Class A Common Stock, the Class B Common Stock and any other capital stock of the Company into which such Class A Common Stock or Class B Common Stock shall be reclassified or changed.

" **Company** " shall mean SemGroup Corporation, a Delaware corporation.

" **Competitor** " means any Person that is both (a) not a financial institution, investment fund, private equity fund, investment manager or investment advisor (or a non-portfolio company Affiliate thereof) and (b) actively engaged as one of its principal businesses in gathering, storing, fractionating, transporting, compressing, treating, processing, terminaling or marketing of crude oil, natural gas liquids, natural gas or refined petroleum products in North America; provided , that, for the avoidance of doubt, a financial institution, investment fund, private equity fund, investment manager or investment advisor (or a non-portfolio company Affiliate thereof) with a portfolio company engaged in any of the activities described in clause (b) of this definition shall not be considered to be a Competitor.

" **Continuing Directors** " means individuals who, on the Issue Date, constitute the members of the Board of Directors; provided that any individual becoming a member of the Board of Directors subsequent to the Issue Date whose election or nomination for election to the Board of Directors was approved by a vote of at least a majority of the Continuing Directors then on the Board of Directors (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for Director without objection to such nomination) shall be a Continuing Director.

" **Conversion Date** " shall mean the Optional Conversion Date or the Forced Conversion Date, as applicable.

" **Conversion Price** " shall mean $33.00, subject to adjustment in accordance with the provisions of this Certificate of Designations.

" **Conversion Rate** " shall have the meaning set forth in Section 6(a).

" **Credit Agreement** " means that certain Amended and Restated Credit Agreement, dated as of September 30, 2016, by and among SemGroup Corporation, as borrower, the lenders party thereto from time to time, the arrangers and agents party thereto and Wells Fargo Bank, National Association, as administrative agent and collateral agent (as modified or supplemented prior to the date hereof).

" **Dividend Payment Date** " shall mean the date that is 60 days after the end of each fiscal quarter of the Company, unless the Board of Directors designates an earlier date that is no earlier than the first day after the end of such fiscal quarter, commencing with the fiscal quarter in which the Issue Date occurs, and no later than the earliest date of payment in respect of any Parity Stock or Junior Stock with respect to any such fiscal quarter.

" **Dividend Rate** " shall mean, as of the date of the determination, the rate per annum of 7.00%; provided that , if at any time Cash Dividends have not been declared and paid in full on the Preferred Stock on the Dividend Payment Date with respect to four consecutive fiscal quarters after the Non-Cash Dividend Period, the Dividend Rate shall be 9.00% per annum from and after the Default Trigger until such time as all the accrued dividends on the Preferred Stock for the most recently completed fiscal quarter and all previously completed fiscal quarters are paid in full in cash.

“ **Dividend Record Date** ” shall mean, with respect to any fiscal quarter and applicable Dividend Payment Date, the record date (which shall be a Business Day) set by the Board of Directors for holders eligible to receive any dividend declared for such fiscal quarter, which date shall be no earlier than the first day after the end of such fiscal quarter and no later than such Dividend Payment Date.

“ **Election Notice** ” shall have the meaning set forth in Section 4(b)(ii)(A).

“ **Equity Securities** ” means, with respect to the Company or any Subsidiary of the Company, as applicable, (i) any capital stock or other equity securities, (ii) any securities directly or indirectly convertible into or exchangeable for any capital stock or other equity securities or containing any profit participation features, (iii) any rights, options or incentive units, directly or indirectly, to subscribe for or to purchase any capital stock, other equity securities or securities containing any profit participation features or, directly or indirectly, to subscribe for or to purchase any securities, directly or indirectly, convertible into or exchangeable for any capital stock, other equity securities or securities containing any profit participation features, or (iv) any stock appreciation rights, phantom stock rights or other similar rights.

“ **Exchange Act** ” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“ **Ex-Date** ” shall mean when used with respect to any issuance of or distribution in respect of, the Common Stock or any other securities, the first date on which the Common Stock or such other securities trade without the right to receive such issuance or distribution.

“ **Forced Conversion Date** ” shall have the meaning set forth in Section 6(b).

“ **Forced Conversion Notice** ” shall have the meaning set forth in Section 6(b).

“ **Forced Conversion Notice Date** ” shall have the meaning set forth in Section 6(b).

“ **Holder** ” and, unless the context requires otherwise, “ **holder** ” shall each mean a holder of record of a share of Preferred Stock.

“ **Indentures** ” means each of the 2014 Indenture, the 2015 Indenture and the 2017 Indentures.

“ **Issue Date** ” shall mean the original date of issuance of the Preferred Stock, which shall be the date that this Certificate of Designations is filed with the Secretary of State of the State of Delaware.

“ **Issuance Notice** ” shall have the meaning set forth in Section 4(b)(ii)(A).

“ **Junior Stock** ” shall mean the Common Stock and all other classes of the Company’s common stock and each other class of capital stock or series of preferred stock established after the Issue Date by the Board of Directors, the terms of which do not expressly provide that such class or series ranks senior to or on a parity with the Preferred Stock as to dividend rights or rights upon the liquidation, winding-up or dissolution of the Company.

“ **Liquidation Preference** ” shall mean, with respect to each share of Preferred Stock, $1,000.00, as adjusted pursuant to Sections 3(b), 3(c) and 3(d), plus, without duplication, any Accrued Dividends on such share of Preferred Stock that are added to the Liquidation Preference in accordance with the terms hereof and any Accumulated Dividends on such share of Preferred Stock, in each case to the date of payment of the Liquidation Preference, the Conversion Date or the date of redemption under Section 8(a)(ii)(D), as applicable.

“ **Market Value** ” shall mean the Average VWAP during a 20 consecutive Trading Day period ending on, and including, the Trading Day immediately prior to the date of determination.

“ **Maximum Holding Amount** ” shall have the meaning set forth in Section 6(b).

“ **Measurement Period** ” shall have the meaning set forth in Section 6(b).

“ **National Securities Exchange** ” shall mean an exchange registered with the SEC under Section 6(a) of the Exchange Act.

“ **Non-Cash Dividend Amount** ” shall have the meaning set forth in Section 3(b).

“ **Non-Cash Dividend Election** ” shall have the meaning set forth in Section 3(b).

“ **Non-Cash Dividend Period** ” shall have the meaning set forth in Section 3(b).

“ **Offered Shares** ” shall have the meaning set forth in Section 4(b)(ii)(A).

“ **Officer** ” shall mean the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, the Secretary, any Assistant Secretary or any Assistant Treasurer of the Company.

“ **opening of business** ” shall mean 9:00 a.m. (New York City time).

“ **Optional Conversion Date** ” shall have the meaning set forth in Section 6(a).

“ **Optional Conversion Notice** ” shall have the meaning set forth in Section 6(a).

“ **Optional Conversion Notice Date** ” shall have the meaning set forth in Section 6(a).

“ **Ownership Notice** ” shall mean the notice of ownership of capital stock of the Company containing the information required to be set forth or stated on certificates pursuant to the Delaware General Corporation Law and, in the case of an issuance of capital stock by the Company, in substantially the form attached hereto as Exhibit B.

“ **Parity Stock** ” shall mean any class of capital stock or series of preferred stock established after the Issue Date by the Board of Directors, the terms of which expressly provide that such class or series will rank on a parity with the Preferred Stock as to dividend rights or rights upon the liquidation, winding-up or dissolution of the Company.

“ **Permitted Issuance** ” means (i) the issuance of Equity Securities upon conversion or exchange of convertible or exchangeable securities of the Company or any of its Subsidiaries that are outstanding on the Issue Date or were not issued in violation of Section 4 and (ii) a subdivision of Equity Securities (including any dividend of in-kind Equity Securities or split of Equity Securities) or any combination of Equity Securities (including any reverse split of Equity Securities).

“ **Person** ” shall mean any individual, corporation, general partnership, limited partnership, limited liability partnership, joint venture, association, joint-stock company, trust, limited liability company, unincorporated organization or government or any agency or political subdivision thereof.

“ **Preemptive Offer Period** ” shall have the meaning set forth in Section 4(b)(ii)(A).

“ **Preemptive Rights Holders** ” shall have the meaning set forth in Section 4(b)(ii).

“ **Preferred Stock** ” shall have the meaning set forth in Section 1(a).

“ **Pro Rata Percentage** ” means, as to a holder of Preferred Stock at any time of determination, the percentage obtained by dividing the number of shares of Preferred Stock owned by such holder at such time by the aggregate number of shares of Preferred Stock outstanding at such time.

“ **Pro Rata Repurchases** ” shall mean any purchase of shares of Common Stock by the Company or any Affiliate thereof pursuant to (i) any tender offer or exchange offer directed to all of the holders of Common Stock subject to Section 13(e) or 14(e) of the Exchange Act or Regulation 14E promulgated thereunder or (ii) any other tender or exchange offer or other purchase available to substantially all holders of Common Stock, in the case of both (i) and (ii), whether for cash, shares of capital stock of the Company, other securities of the Company, evidences of indebtedness of the Company or any other Person or any other property (including shares of capital stock, other securities or evidences of indebtedness of a subsidiary), or any combination thereof, effected while the Preferred Stock is outstanding.

“ **Purchase Agreement** ” shall mean the Securities Purchase Agreement, dated as of January 16, 2018, by and among the Company and the purchasers set forth therein.

“ **Reference Property** ” shall have the meaning set forth in Section 6(m).

“ **Reorganization Event** ” shall have the meaning set forth in Section 6(m).

“ **SEC** ” shall mean the Securities and Exchange Commission.

“ **Securities Act** ” shall mean the Securities Act of 1933, as amended.

“ **Senior Stock** ” shall mean each class of capital stock or series of preferred stock established after the Issue Date by the Board of Directors, the terms of which expressly provide that such class or series will rank senior to the Preferred Stock as to dividend rights or rights upon the liquidation, winding-up or dissolution of the Company.

“ **Shelf Registration Statement** ” shall mean a shelf registration statement filed with the SEC covering resales of Transfer Restricted Securities by holders thereof.

“ **Subsidiary** ” shall mean, as to any Person, any corporation or other entity of which: (i) such Person or a Subsidiary of such Person is a general partner or, in the case of a limited liability company, the managing member or manager thereof; (ii) at least a majority of the outstanding equity interest having by the terms thereof ordinary voting power to elect a majority of the board of directors or similar governing body of such corporation or other entity (irrespective of whether or not at the time any equity interest of any other class or classes of such corporation or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more of its Subsidiaries; or (iii) any corporation or other entity as to which such Person consolidates for accounting purposes.

“ **Substantially Equivalent Security** ” shall have the meaning set forth in Section 8(a).

“ **Trading Day** ” shall mean, if the Class A Common Stock is listed on the New York Stock Exchange, a day during which trading in securities generally occurs on the New York Stock Exchange or, if the Class A Common Stock is not listed on the New York Stock Exchange, on the principal other national or regional securities exchange on which the Class A Common Stock is then listed or, if the Class A Common Stock is not listed on a national or regional securities exchange, on the principal other market on which the Class A Common Stock is then traded. If the Class A Common Stock is not so listed or traded, “Trading Day” shall mean a Business Day.

“ **Transfer** ” shall mean, with respect to any security, a direct or indirect transfer, sale, exchange, assignment, pledge, hypothecation or other encumbrance or other disposition of such security or any interest therein, including the grant of an option or other right, whether directly or indirectly, whether voluntarily, involuntarily or by operation of law.

“ **Transfer Agent** ” shall mean Computershare Trust Company, N.A., acting as the Company’s duly appointed transfer agent, registrar, conversion agent and dividend disbursing agent for the Preferred Stock, and its successors and assigns, or any other person appointed to serve as transfer agent, registrar, conversion agent and dividend disbursing agent by the Company.

“ **Transfer Restricted Securities** ” shall mean each share of Common Stock received upon conversion of a share of Preferred Stock until (i) such shares of Common Stock shall be freely tradable pursuant to an exemption from registration under the Securities Act under Rule 144 thereunder, or (ii) the resale of such shares of Common Stock under an effective Shelf Registration Statement, in each case unless otherwise agreed to by the Company and the Holder thereof.

“ **Trigger Event** ” shall have the meaning set forth in Section 6(e)(vii).

“ **VWAP** ” per share of Class A Common Stock on any Trading Day shall mean the per share volume-weighted average price as displayed on Bloomberg page “ **SEMG <Equity> AQR** ” (or its equivalent successor if such page is not available) in respect of the period from 9:30 a.m. to 4:00 p.m., New York City time, on such Trading Day; or, if such price is not available, “VWAP” shall mean the market value per share of Class A Common Stock on such Trading Day as determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained by the Company for this purpose.

SECTION 3. *Dividends* .

(a) Holders shall be entitled to receive, when, as and if declared by the Board of Directors, with respect to each share of Preferred Stock prior to any distributions made in respect of any Junior Stock and prior to or contemporaneously with any distributions made in respect of any Parity Stock, in each case in respect of the same fiscal quarter, out of funds legally available for payment, cash dividends (“ **Cash Dividends** ”) on the Liquidation Preference in effect immediately after the last day of the immediately prior fiscal quarter (or if there has been no prior full fiscal quarter, the Issue Date), computed on the basis of a 360-day year consisting of twelve 30-day months, at the Dividend Rate, compounded quarterly and payable on each Dividend Payment Date. To the extent the Board of Directors so declares, Cash Dividends shall be payable in arrears on each Dividend Payment Date for the fiscal quarter ending immediately prior to such Dividend Payment Date (or with respect to the first Dividend Payment Date, for the period commencing on the Issue Date and ending on the last day of the fiscal quarter in which the Issue Date occurs), to the Holders as they appear on the Company’s stock register at the close of business on the relevant Dividend Record Date. Dividends on the Preferred Stock shall accumulate and become Accrued Dividends on a day-to-day basis from, but not including, the last day of the most recent fiscal quarter (whether or not declared by the Board of Directors), or if there has been no prior full fiscal quarter, from the Issue Date, until Cash Dividends are paid pursuant to this Section 3(a) in respect of such

accumulated amounts or the Liquidation Preference is increased in respect of such accumulated amounts pursuant to Section 3(b), Section 3(c) or Section 3(d). If a Dividend Payment Date is not a Business Day, then any Cash Dividend in respect of such Dividend Payment Date shall be due and payable on the first Business Day following such Dividend Payment Date.

(b) Notwithstanding anything to the contrary in Section 3(a), the Company may, at the sole election of the Board of Directors, with respect to any dividend in respect of any fiscal quarter ending on or prior to June 30, 2020 (the " **Non-Cash Dividend Period** "), elect (a " **Non-Cash Dividend Election** ") to have the amount that would have been payable if such dividend had been a dividend payable in cash (the " **Non-Cash Dividend Amount** ") be Accumulated Dividends and added to the Liquidation Preference in lieu of paying such dividend in cash. If the Company fails to pay or declare a Cash Dividend in respect of any fiscal quarter ending on or prior to June 30, 2020 and does not make a Non-Cash Dividend Election in respect thereof, the Company shall be deemed to have made a Non-Cash Dividend Election for all purposes of this Certificate of Designations.

(c) Notwithstanding anything to the contrary herein, (i) if any shares of Preferred Stock are converted into Class A Common Stock in accordance with this Certificate of Designations on a Conversion Date during the period after the last day of a fiscal quarter and prior to the close of business on the corresponding Dividend Record Date for such fiscal quarter and the Company has not made a Non-Cash Dividend Election in respect of such fiscal quarter, then the amount of the Accrued Dividends with respect to such shares of Preferred Stock shall be deemed to be Accumulated Dividends and be added to the Liquidation Preference for purposes of such conversion; and (ii) if any shares of Preferred Stock are converted into Class A Common Stock in accordance with this Certificate of Designations on a Conversion Date during the period after the close of business on any Dividend Record Date and prior to the close of business on the corresponding Dividend Payment Date, the Accrued Dividends with respect to such shares of Preferred Stock, at the Company's option, shall either (x) be paid in cash on or prior to the date of such conversion or (y) not be paid in cash, be deemed to be Accumulated Dividends and be added to the Liquidation Preference for purposes of such conversion. For the avoidance of doubt, such Accrued Dividends described in the immediately preceding sentence shall include, without limitation, dividends accruing from, and including, the last day of the most recently preceding fiscal quarter to, but not including, the applicable Conversion Date. Except as described in this Section 3(c) related to converted shares, the Holders at the close of business on a Dividend Record Date shall be entitled to receive any dividend paid as a Cash Dividend on those shares on the corresponding Dividend Payment Date.

(d) Notwithstanding anything to the contrary herein, if any shares of Preferred Stock are redeemed by the Company in accordance with Section 8 on a date during the period after the close of business on any Dividend Record Date and prior to the close of business on the corresponding Dividend Payment Date, the Accrued Dividends with respect to such shares of Preferred Stock shall be deemed to be Accumulated Dividends and shall be added to the Liquidation Preference for purposes of such redemption. For the avoidance of doubt, such Accrued Dividends shall include, without limitation, dividends accruing from, and including, the last day of the most recently preceding fiscal quarter to, but not including, the date of such redemption. Except as described in this Section 3(d) related to redeemed shares, the Holders at the close of business on a Dividend Record Date shall be entitled to receive any dividend paid as a Cash Dividend on those shares on the corresponding Dividend Payment Date.

(e) So long as any share of the Preferred Stock remains outstanding, no dividend or distribution shall be declared or paid on, and no redemption or repurchase shall be agreed to or consummated of, Parity Stock, Common Stock or any other shares of Junior Stock, unless all accumulated and unpaid dividends for all preceding full fiscal quarters (including the fiscal quarter in which such accumulated and unpaid dividends first arose) of the Company have been declared and paid and no such dividend or distribution or redemption or repurchase shall be paid or payable in cash for any period (except for dividends on Common Stock in respect of

any fiscal quarter during the Non-Cash Dividend Period) unless the Preferred Stock has been paid full Cash Dividends in respect of the same period; provided , however , that the foregoing limitation shall not apply to (i) a dividend payable on Common Stock or other Junior Stock in shares of Common Stock or other Junior Stock, (ii) the acquisition of shares of Common Stock or other Junior Stock in exchange for shares of Common Stock or other Junior Stock and the payment of cash in lieu of fractional shares of Common Stock or other Junior Stock; (iii) purchases of fractional interests in shares of Common Stock or other Junior Stock pursuant to the conversion or exchange provisions of shares of other Junior Stock or any securities exchangeable for or convertible into such shares of Common Stock or other Junior Stock; (iv) redemptions, purchases or other acquisitions of shares of Common Stock or other Junior Stock in connection with the administration of any employee benefit plan in the ordinary course of business, including, without limitation, the forfeiture of unvested shares of restricted stock or share withholdings upon exercise, delivery or vesting of equity awards granted to officers, directors and employees and the payment of cash in lieu of fractional shares of Common Stock or other Junior Stock; (v) any dividends or distributions of rights in connection with a stockholders' rights plan or any redemption or repurchase of rights pursuant to any stockholders' rights plan; and (vi) the exchange or conversion of Junior Stock for or into other Junior Stock and the payment of cash in lieu of fractional shares of other Junior Stock; provided further , however , that the foregoing limitation in the first clause of this Section 3(e) shall not apply to the extent all such accumulated and unpaid dividends have been deemed to be Accumulated Dividends and have been added to the Liquidation Preference in accordance with Sections 3(b), 3(c) and 3(d). Notwithstanding the preceding, if full dividends have not been paid on the Preferred Stock and any Parity Stock, dividends may be declared and paid on the Preferred Stock and such Parity Stock so long as the dividends are declared and paid pro rata so that amounts of dividends declared per share on the Preferred Stock and such Parity Stock shall in all cases bear to each other the same ratio that accumulated and unpaid dividends per share on the shares of Preferred Stock and such other Parity Stock bear to each other.

SECTION 4. *Voting Rights; Special Rights* .

(a) Holders shall be entitled to vote on all matters on which the holders of shares of Common Stock are entitled to vote and, except as otherwise provided herein, in the Certificate of Incorporation (including, in any other certificate of designations), or by law, the Holders shall vote together with the holders of shares of Common Stock and any other shares of capital stock of the Company entitled to vote thereon as a single class. As of any record date or other determination date, each Holder shall be entitled to a number of votes equal to the number of votes such Holder would have had if all shares of Preferred Stock held by such Holder on such date had been converted into shares of Class A Common Stock immediately prior thereto.

(b) (i) So long as any shares of Preferred Stock are outstanding, in addition to any other vote or consent of stockholders required by the Delaware General Corporation Law or the Certificate of Incorporation, the affirmative vote or consent of the holders of at least 66 2/3% of the outstanding shares of Preferred Stock, voting together as a separate class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating (directly or indirectly, including by way of amendment to the Certificate of Incorporation or this Certificate of Designations, merger, consolidation, reclassification or otherwise):

(A) any issuance, authorization or creation of, or any increase by the Company in the issued or authorized amount of, any class or series of Senior Stock or obligation or security convertible into, exchangeable for or evidencing the right to purchase any shares of Senior Stock;

(B) any issuance, authorization or creation of, or any increase by the Company in the issued or authorized amount of, any class or series of Parity Stock (including the

Preferred Stock); provided , however , subject to Section 4(b)(ii), the Company may issue Parity Stock (but not including additional shares of Preferred Stock) if: (A) the aggregate amount of the greater of the purchase price and the liquidation preference from all issuances of Parity Stock after the Issue Date is less than or equal to $250,000,000 (excluding the aggregate amount of any additional shares of Preferred Stock issued to the W Purchaser (as defined in the Purchase Agreement) or its Affiliates); or (B) the aggregate initial purchase price of the then outstanding Preferred Stock is less than $100,000,000;

(C) any repurchase by the Company of any Preferred Stock, other than on a pro rata basis among all Holders of Preferred Stock (provided any individual holder of Preferred Stock may waive the application of this Section 4(b)(i)(C) as applicable for the benefit of such Holder without otherwise affecting the ability of the Company to effect such repurchase pro rata among the other Holders of Preferred Stock);

(D) any declaration or payment of any special, one-time dividend or distribution with respect to any class of Junior Stock;

(E) any spinoff or other distribution of any Equity Securities or assets of any of the Company's Subsidiaries to its stockholders in which the consideration received by the Company in such transaction is less than the fair market value of the relevant Equity Securities or assets (as reasonably determined by the Board of Directors), except to the extent that such spinoff or distribution would be permitted under the Indentures (without taking into account any amendments, supplements, waivers, modifications or termination thereof or thereto after the Issue Date); or

(F) otherwise adversely affect the rights, preferences or privileges of the Preferred Stock (including, without limitation, as to convertibility by the Holders).

(ii) So long as the W Purchaser (as defined in the Purchase Agreement) or its Affiliates (the " **Preemptive Rights Holders** ") collectively own at least 75% or more of the shares of Preferred Stock issued on the Issue Date (excluding Class A Common Stock into which such Preferred Stock has been converted), purchased pursuant to the Purchase Agreement, the Preemptive Rights Holders shall have following preemptive rights:

(A) If the Company, or any Subsidiary of the Company, issues any Parity Stock other than in connection with a Permitted Issuance, the Company will offer to sell to each Preemptive Rights Holder the number of shares of such Parity Stock (" **Offered Shares** ") equal to such Preemptive Rights Holder's Pro Rata Percentage of the total number of Offered Shares. The Company shall give each such Preemptive Rights Holder at least 20 Business Days (the " **Preemptive Offer Period** ") prior written notice of any proposed issuance of such Parity Stock, which notice shall disclose in reasonable detail the proposed terms and conditions of such issuance (the " **Issuance Notice** "). Each Preemptive Rights Holder will be entitled to purchase all or any portion of such securities at the same price, on the same terms (including, if more than one type of security is issued, the same proportionate mix of such securities), and at the same time as the securities are issued by delivery of irrevocable written notice to the Company of such election within 20 Business Days after delivery of the Issuance Notice (the " **Election Notice** "). If any Preemptive Rights Holder has elected to purchase any Offered Shares, the sale of such shares shall be consummated as soon as reasonably practical after the delivery of the Election Notice.

(B) If Preemptive Rights Holders have elected to purchase a total number of shares that exceeds the number of Offered Shares, then the Company shall so advise all Preemptive Rights Holders, and the amount of Offered Shares that may be issued shall be allocated among the Preemptive Rights Holders as nearly as possible on a pro rata basis based on the total amount of shares of Preferred Stock then owned by such Preemptive Rights Holders.

(C) Upon the expiration of the Preemptive Offer Period, the Company (or any such Subsidiary) shall be entitled to sell such Equity Securities which the Preemptive Rights Holders have not elected to purchase during the 90-calendar days following such expiration on terms and conditions not materially more favorable to the purchasers thereof than those offered to the Preemptive Rights Holders. Any Parity Stock to be sold by the Company or any of its Subsidiaries after such 90-calendar day period (other than Parity Stock to be issued in connection with a Permitted Reissuance) must be reoffered to the Preemptive Rights Holders pursuant to the terms of this Section 4(b)(ii).

Notwithstanding the foregoing, none of the following actions shall be restricted or limited by or require any approval of the Holders of Preferred Stock or be subject to preemptive rights pursuant to Section 4(b): (i) the Company and any of its controlled Affiliates entering into joint ventures, partnerships or similar arrangements and funding the same as described in clause (D) of this paragraph, so long as each such joint venture, partnership or similar arrangement is (A) in respect of a single asset or a group of related assets (for the avoidance of doubt, a group of assets shall not be deemed to be related assets solely because they perform the same function), (B) with third Persons not Affiliated with the Company, (C) on an arms'-length basis and (D) funded through the issuance of equity in such joint venture, capital contributions in such joint venture and/or the incurrence of unsecured indebtedness or indebtedness solely secured by the assets of such joint venture and/or the equity in such joint venture, and (E) for the purpose of (1) developing or expanding assets of the Company and such controlled Affiliates, (2) acquiring and developing new assets and growth opportunities or (3) the repayment of outstanding indebtedness of the Company or such controlled Affiliates, (ii) the issuance of securities, capital contributions or incurrence of intercompany indebtedness among the Company or any of its Subsidiaries or (iii) the issuance of securities, capital contributions or incurrence of intercompany indebtedness among the Company and any joint ventures, partnerships or other minority owned entities in which the Company or its Subsidiaries have an equity or other interest, in each case described in this clause (iii) which exist as of the Issue Date.

(c) So long as any shares of Preferred Stock are outstanding, without the 75% vote of the Holders, the Company may not effect any amendment or supplement to the Certificate of Incorporation or this Certificate of Designations or any stock certificate representing shares of Preferred Stock that would, directly or indirectly (including by way of merger, consolidation, reclassification or otherwise):

(i) reduce the Dividend Rate, change the form of payment of dividends on the Preferred Stock, defer the date from which dividends on the Preferred Stock will accrue, cancel any Accrued Dividends, Accumulated Dividends or other accrued and unpaid dividends on the Preferred Stock or any interest accrued thereon, or change the seniority rights of the Preferred Stock as to the payment of dividends in relation to any other then outstanding class or series of equity;

(ii) reduce the amount payable or change the form of payment to the Preferred Stock upon the voluntary or involuntary liquidation, dissolution or winding up, or Change of Control, or change the seniority of the Liquidation Preference of the Preferred Stock in relation to the rights upon liquidation of the holders of any other class or series of equity; or

(iii) make the Preferred Stock redeemable or convertible at the option of the Company other than as set forth herein.

(d) Notwithstanding anything to the contrary herein, without the consent of the Holders, but without limiting Sections 4(b) or 4(c), the Company, acting in good faith, may amend, alter, supplement or repeal any terms of the Preferred Stock by amending or supplementing the Certificate of Incorporation, this Certificate of Designations or any stock certificate representing shares of the Preferred Stock:

(i) to cure any ambiguity, omission, inconsistency or mistake in any such instrument in a manner that is not inconsistent with the provisions of this Certificate of Designations and that does not adversely affect the rights, preferences, privileges or voting powers of the Preferred Stock or any Holder in its capacity as such;

(ii) to make any provision with respect to matters or questions relating to the Preferred Stock that is not inconsistent with the provisions of this Certificate of Designations and that does not adversely affect the rights, preferences, privileges or voting powers of the Preferred Stock or any Holder in its capacity as such; or

(iii) to make any other change that does not adversely affect the rights, preferences, privileges or voting powers of the Preferred Stock or any Holder in its capacity as such (other than with respect to any Holder that consents to such change).

(e) In exercising the voting rights set forth in Sections 4(b) and 4(c), each share of Preferred Stock shall be entitled to one vote.

(f) The rules and procedures for calling and conducting any meeting of the Holders (including the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other procedural aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Certificate of Incorporation, the Amended and Restated Bylaws of the Company and applicable law.

SECTION 5. *Liquidation Rights* .

(a) In the event of any liquidation, winding-up or dissolution of the Company, whether voluntary or involuntary, other than a Change of Control, each Holder shall be entitled to receive, in respect of each share of Preferred Stock of such Holder, and to be paid out of the assets of the Company available for distribution to its stockholders, an amount equal to the greater of (i) the Liquidation Preference thereon, in preference to the holders of, and before any payment or distribution is made on, any Junior Stock and (ii) the amount such Holder would have been entitled to receive had such Holder converted such Holder's Preferred Stock into shares of Class A Common Stock at the Conversion Rate in effect immediately prior to such liquidation, winding-up or distribution of the Company.

(b) After the payment in full to the Holders of the amounts provided for in this Section 5, the Holders of shares of Preferred Stock as such shall have no right or claim to any of the remaining assets of the Company in respect of their ownership of such Preferred Stock.

(c) In the event the assets of the Company available for distribution to the Holders upon any such liquidation, winding-up or dissolution of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such Holders are entitled pursuant to Section 5(a), no such distribution shall be made on account of any shares of Parity Stock upon such liquidation, dissolution or winding-up unless proportionate distributable amounts shall be paid on account of the shares of Preferred Stock, equally and ratably, in proportion to the full distributable amounts for which Holders of all Preferred Stock and of any Parity Stock are entitled upon such liquidation, winding-up or dissolution.

SECTION 6. *Conversion* .

(a) On or after the date that is 18 months after the Issue Date (or earlier in connection with a Change of Control), each Holder shall have the right to convert its shares of Preferred Stock, in whole or in part (but in no event into an aggregate value of Class A Common Stock of less than $50,000,000 (calculated based on the Average VWAP per share of the Class A Common Stock during the 30 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the applicable Optional Conversion Notice Date, and taking into account any concurrent conversions by Affiliates of such Holder) or, if the aggregate amount of shares of Preferred Stock any such Holder owns would be converted into Class A Common Stock with an aggregate value of less than $50,000,000 (calculated based on the Average VWAP per share of the Class A Common Stock during the 30 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the applicable Optional Conversion Notice Date, and taking into account any concurrent conversions by Affiliates of such Holder), then all of such shares), into that number of whole, fully-paid and non-assessable shares of Class A Common Stock for each share of Preferred Stock equal, subject to Section 6(j), to the quotient of (i) the Liquidation Preference divided by (ii) the Conversion Price then in effect, with such adjustment or cash payment for fractional shares as the Company may elect pursuant to Section 9 (such quotient, or, as applicable, the Cash Change of Control Conversion Rate, the " **Conversion Rate** "). To convert shares of Preferred Stock into shares of Class A Common Stock pursuant to this Section 6(a), such Holder shall give written notice (the " **Optional Conversion Notice** " and the date of such notice, the " **Optional Conversion Notice Date** ") to the Company stating that such Holder elects to so convert shares of Preferred Stock and shall state therein: (A) the number of shares of Preferred Stock to be converted, (B) the name or names in which such Holder wishes the shares of Class A Common Stock to be issued, (C) the Holder's computation of the number of shares of Class A Common Stock to be received by such Holder and (D) the Conversion Price on the Optional Conversion Notice Date. If a Holder validly delivers an Optional Conversion Notice in accordance with this Section 6(a), the Company shall issue the shares of Class A Common Stock as soon as reasonably practicable, but not later than 10 Business Days thereafter (the date of issuance of such shares, the " **Optional Conversion Date** ").

(b) On or after the date that is three years after the Issue Date, if the Holders have not elected to convert all of their shares of Preferred Stock pursuant to Section 6(a), the Company shall have the right to cause the outstanding shares of Preferred Stock to be converted, in whole or in part (but in no event into an aggregate value of Class A Common Stock of less than $50,000,000 (calculated based on the Average VWAP per share of the Class A Common Stock during the Measurement Period) or, if the aggregate amount of shares of Preferred Stock owned by all Holders would be converted into Class A Common Stock with an aggregate value of less than $50,000,000 (calculated based on the Average VWAP per share of the Class A Common Stock during the Measurement Period), then all of such shares), into that number of whole, fully-paid and non-assessable shares of Class A Common Stock for each share of Preferred Stock equal, subject to Section 6(j), to the quotient of (i) the Liquidation Preference divided by (ii) the Conversion Price then in effect, with such adjustment or cash

payment for fractional shares as the Company may elect pursuant to Section 9; provided , however , that in order for the Company to exercise such right, (w) the Closing Sale Price of the Class A Common Stock during a 30 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Forced Conversion Notice Date (the " **Measurement Period** ") shall, for at least 20 Trading Days during such 30 consecutive Trading Day period, be greater than or equal to 145% of the Conversion Price then in effect, (x) the resale of the shares of Class A Common Stock issuable upon conversion shall be registered and available for resale by the Holders pursuant to a registration statement declared effective by the SEC covering such resales, (y) the Class A Common Stock (including the Class A Common Stock issuable upon conversion) is listed on a National Securities Exchange, and (z) the average daily trading volume of the Class A Common Stock on the primary National Securities Exchange on which such Class A Common Stock is listed exceeded 400,000 shares for at least 20 Trading Days during the Measurement Period; and provided further , that if the conversion by the Company pursuant to this Section 6(b) would result in the Holders holding Common Stock (counting only such Common Stock as has been converted from Preferred Stock pursuant to this Certificate of Designations) representing in excess of 20% of the issued and outstanding Common Stock of the Company immediately after such conversion (the " **Maximum Holding Amount** "), then such conversion shall be limited to the number of shares of Common Stock representing the Maximum Holding Amount, and the Company will have the continuing right to cause the remaining shares of Preferred Stock (which are not converted due to the Maximum Holding Amount limitation) to be converted in whole or in part at any time following the initial conversion of shares of Preferred Stock pursuant to this Section 6(b) to the extent such conversion would not result in the Holders holding Common Stock at such time representing in excess of the Maximum Holding Amount. To convert shares of Preferred Stock into shares of Common Stock pursuant to this Section 6(b), the Company shall give written notice (the " **Forced Conversion Notice** " and the date of such notice, the " **Forced Conversion Notice Date** ") to each Holder stating that the Company elects to force conversion of such shares of Preferred Stock pursuant to this Section 6(b) and shall state therein (A) the number of shares of Preferred Stock to be converted, (B) the Conversion Price on the Forced Conversion Date and (C) the Company's computation of the number of shares of Common Stock to be received by the Holder. If the Company validly delivers a Forced Conversion Notice in accordance with this Section 6(b), the Company shall issue the shares of Common Stock as soon as reasonably practicable, but not later than 10 Business Days thereafter (the date of issuance of such shares, the " **Forced Conversion Date** "). Notwithstanding the foregoing, the Company shall only be permitted to deliver one Forced Conversion Notice during any 90-day period. Additionally, any partial conversion of the Preferred Stock will be made on a pro rata basis based on the relative number of shares of Preferred Stock held by each Holder. The Company shall not issue any fractional shares in connection with a conversion and any fractional shares to which a Holder would otherwise be entitled will be settled in cash in accordance with Section 9.

(c) Upon conversion, each Holder shall surrender to the Company the certificates representing any shares held in certificated form to be converted during usual business hours at its principal place of business or the offices of its duly appointed Transfer Agent maintained by it, accompanied by (i) (if so required by the Company or its duly appointed Transfer Agent) a written instrument or instruments of transfer in form reasonably satisfactory to the Company or its duly appointed Transfer Agent duly executed by the Holder or its duly authorized legal representative and (ii) transfer tax stamps or funds therefor, if required pursuant to Section 6(i).

(d) Immediately prior to the close of business on the Optional Conversion Date or the Forced Conversion Date, as applicable, with respect to a conversion, a Holder shall be deemed to be the holder of record of Class A Common Stock issuable upon conversion of such Holder's shares of Preferred Stock notwithstanding that the share register of the Company shall then be closed or that certificates or book-entry notations representing such Class A Common Stock shall not then be actually delivered to such Holder. Except to the extent that a Holder is not able to convert its shares of Preferred Stock into Class A Common Stock as a

result of Section 6(j), on the Optional Conversion Date or the Forced Conversion Date, as applicable, dividends shall cease to accrue on the shares of Preferred Stock so converted and all other rights with respect to the shares of Preferred Stock so converted, including the rights, if any, to receive notices, will terminate, except only the rights of Holders thereof to receive the number of whole, fully-paid and non-assessable shares of Class A Common Stock into which such shares of Preferred Stock have been converted (with such adjustment or cash payment for fractional shares as the Company may elect pursuant to Section 9). As promptly as practical after the conversion of any shares of Preferred Stock into Class A Common Stock, the Company shall deliver to the applicable Holder an Ownership Notice identifying the number of full shares of Class A Common Stock to which such Holder is entitled, and a cash payment in respect of fractional shares in accordance with Section 9.

(e) The Conversion Price shall be subject to the following adjustments (except as provided in Section 6(f)):

(i) If the Company pays a dividend (or other distribution) in shares of Common Stock to holders of the Common Stock, in their capacity as holders of Common Stock, then the Conversion Price in effect immediately following the record date for such dividend (or distribution) shall be divided by the following fraction:

$$\frac{OS1}{OS0}$$

where

OS0 = the number of shares of Common Stock outstanding immediately prior to the record date for such dividend or distribution; and

OS1 = the sum of (A) the number of shares of Common Stock outstanding immediately prior to the record date for such dividend or distribution and (B) the total number of shares of Common Stock constituting such dividend or distribution.

(ii) If the Company issues to holders of shares of the Common Stock, in their capacity as holders of Common Stock, rights, options or warrants entitling them to subscribe for or purchase shares of Common Stock at less than the Market Value determined on the Ex-Date for such issuance, then the Conversion Price in effect immediately following the close of business on the Ex-Date for such issuance shall be divided by the following fraction:

$$\frac{OS0 + X}{OS0 + Y}$$

where

OS0 = the number of shares of Common Stock outstanding at the close of business on the record date for such issuance;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants divided by the Market Value determined as of the Ex-Date for such issuance.

To the extent that such rights, options or warrants are not exercised prior to their expiration or shares of Common Stock are otherwise not delivered pursuant to such rights or warrants upon the exercise of such rights or warrants, the Conversion Price on any then outstanding share of Preferred Stock not previously converted shall be readjusted to the Conversion Price that would have then been in effect had the adjustment made upon the issuance of such rights, options or warrants been made on the basis of the delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are only exercisable upon the occurrence of certain triggering events, then the Conversion Price shall not be adjusted until such triggering events occur. In determining the aggregate offering price payable for such shares of Common Stock, the conversion agent shall take into account any consideration received for such rights, options or warrants and the value of such consideration (if other than cash, to be determined by the Board of Directors).

(iii) If the Company subdivides, combines or reclassifies the shares of Common Stock into solely a greater or lesser number of shares of Common Stock, then the Conversion Price in effect immediately following the opening of business on the effective date of such share subdivision, combination or reclassification shall be divided by the following fraction:

$$\frac{OS1}{OS0}$$

where

OS0 = the number of shares of Common Stock outstanding immediately prior to the effective date of such share subdivision, combination or reclassification; and

OS1 = the number of shares of Common Stock outstanding immediately after the opening of business on the effective date of such share subdivision, combination or reclassification.

(iv) (A) If the Company distributes to all holders of shares of Common Stock evidences of indebtedness, shares of capital stock (other than Common Stock) or other assets (including securities, but excluding any dividend or distribution referred to in clause (i) above; any rights or warrants referred to in clause (ii) above; any consideration payable in connection with a tender or exchange offer made by the Company or any of its Affiliates referred to in clause (v) below; and any dividend of shares of capital stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit in the case of a spin-off to which the following clause (iv) (B) applies), then the Conversion Price in effect immediately following the close of business on the record date for such distribution shall be divided by the following fraction:

$$\frac{SP0}{SP0 - FMV}$$

where

SP0 = the Closing Sale Price per share of Class A Common Stock on the Trading Day immediately preceding the Ex-Date; and

FMV = the fair market value of the portion of the distribution applicable to one share of Class A Common Stock on the Trading Day immediately preceding the Ex-Date as determined by the Board of Directors.

Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP0" (as defined above), in lieu of the foregoing adjustment to the Conversion Price, each holder of Preferred Stock shall receive, for each share of Preferred Stock, at the same time and upon the same terms as holders of the Class A Common Stock, the amount and kind of such distributed assets that such holder would have received as if such holder owned the number of shares of Class A Common Stock that such share of Preferred Stock would have been convertible into at the Conversion Rate in effect on the record date for such distribution.

(B) In a spin-off, where the Company makes a distribution to all holders of shares of Common Stock consisting of capital stock of any class or series, or similar equity interests of, or relating to, a subsidiary or other business unit where such capital stock or similar equity interests are, or will be when issued, listed or admitted for trading on a National Securities Exchange, the Conversion Price shall be adjusted at the close of business on the tenth Trading Day after the Ex-Date of the distribution by dividing such Conversion Price in effect immediately prior to the opening of business on such tenth Trading Day by the following fraction:

$$\frac{MP0 + MPS}{MP0}$$

where

MP0 = the average of the Closing Sale Price of the Class A Common Stock over each of the first 10 Trading Days commencing on and including the fifth Trading Day following the effective date of such distribution; and

MPS = the average of the closing sale price of the capital stock or equity interests representing the portion of the distribution applicable to one share of Class A Common Stock over each of the first 10 Trading Days commencing on and including the fifth Trading Day following the effective date of such distribution, or, as reported in the principal securities exchange or quotation system or market on which such shares are traded, or if not traded on a national or regional securities exchange or over-the-counter market, the fair market value of the capital stock or equity interests representing the portion of the distribution applicable to one share of Class A Common Stock on such date as determined by the Board of Directors. Such closing sale prices for the Trading Days in such 10 Trading Day period shall be adjusted in respect of transactions in respect of such capital stock or equity interests in like manner to the adjustment to "Closing Sale Price" specified in the second sentence of the definition of such term.

For purposes of determining the Conversion Price in respect of any Conversion Date that occurs during the 10 Trading Days following, and including, the Ex-Date of any such spin-off, references within the previous sentence to 10 Trading Days or the 10th Trading Day shall be deemed to be replaced with such lesser number of Trading Days as have elapsed between the Ex-Date of such distribution and such Conversion Date.

In the event that such distribution described in this clause (iv) is not so made, the Conversion Price of any then outstanding shares of Preferred Stock not previously converted shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay such dividend or distribution, to the Conversion Price that would then be in effect if such dividend distribution had not been declared.

(v) In the case the Company effects a Pro Rata Repurchase of Common Stock, then the Conversion Price shall be adjusted to the price determined by multiplying the Conversion Price in effect immediately prior to the effective date of such Pro Rata Repurchase by a

fraction of which the numerator shall be (i) the product of (x) the number of shares of Common Stock outstanding immediately before such Pro Rata Repurchase and (y) the Market Value of a share of Common Stock on the trading day immediately preceding the first public announcement by the Company or any of its Affiliates of the intent to effect such Pro Rata Repurchase, minus (ii) the aggregate purchase price of the Pro Rata Repurchase, and of which the denominator shall be the product of (1) the number of shares of Common Stock outstanding immediately prior to such Pro Rata Repurchase minus the number of shares of Common Stock so repurchased and (2) the Market Value per share of Class A Common Stock on the trading day immediately preceding the first public announcement by the Company or any of its Affiliates of the intent to effect such Pro Rata Repurchase.

(vi) Notwithstanding anything herein to the contrary, no adjustment under this Section 6(e) need be made to the Conversion Price unless such adjustment would require an increase or decrease of at least 1.0% of the Conversion Price then in effect. Any lesser adjustment shall be carried forward and shall be made at the earlier of (i) the time of and together with the next subsequent adjustment, if any, which, together with any adjustment or adjustments so carried forward, shall amount to an increase or decrease of at least 1.0% of the Conversion Price and (ii) the close of business on the Business Day preceeding each Conversion Date.

(vii) Notwithstanding any other provisions of this Section 6(e), rights or warrants distributed by the Company to holders of Common Stock, in their capacity as holders of Common Stock, entitling the holders thereof to subscribe for or purchase shares of the Company's capital stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events (" **Trigger Event** "): (A) are deemed to be transferred with such shares of Common Stock; (B) are not exercisable; and (C) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 6(e) (and no adjustment to the Conversion Price under this Section 6(e) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Price shall be made under Section 6(e)(ii) or (iv). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Price under this Section 6(e) was made, (1) in the case of any such rights or warrants that shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Price on any then-outstanding share of Preferred Stock not previously converted shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder or holders of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of such rights or warrants that shall have expired or been terminated without exercise thereof, the Conversion Price on any then-outstanding share of Preferred Stock not previously converted shall be readjusted as if such expired or terminated rights and warrants had not been issued. To the extent that the Company has a rights plan or agreement in effect upon conversion of the Preferred Stock, which rights plan provides

for rights or warrants of the type described in this clause, then upon conversion of Preferred Stock the Holder will receive, in addition to the Common Stock to which he is entitled, a corresponding number of rights in accordance with the rights plan, unless a Trigger Event has occurred and the adjustments to the Conversion Price with respect thereto have been made in accordance with the foregoing first sentence of this Section 6(e)(vii). In lieu of any such adjustment pursuant to the first sentence of this Section 6(e)(vii) in respect of a Trigger Event, the Company may amend such applicable stockholder rights plan or agreement to provide that there shall be the distributed, and cause to be distributed, immediately prior to the occurrence of such Trigger Event, to all Holders of Preferred Stock the rights that would have attached to such number of shares of Common Stock as are issuable upon conversion of such Preferred Stock immediately prior to the occurrence of such Trigger Event, without having to convert their shares of Preferred Stock.

(viii) The Company reserves the right to make such reductions in the Conversion Price in addition to those required in the foregoing provisions as it considers advisable in order that any event treated for federal income tax purposes as a dividend of stock or stock rights will not be taxable to the recipients. In the event the Company elects to make such a reduction in the Conversion Price, the Company shall comply with the requirements of Rule 14e-1 under the Exchange Act, and any other securities laws and regulations thereunder if and to the extent that such laws and regulations are applicable in connection with the reduction of the Conversion Price.

(f) Notwithstanding anything to the contrary in Section 6(e), no adjustment to the Conversion Price shall be made with respect to any distribution if the Holders are entitled to participate in such distribution as if they held a number of shares of Common Stock issuable upon conversion of the Preferred Stock immediately prior to the record date for such event, without having to convert their shares of Preferred Stock.

(g) If the Company shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or other distribution, and shall thereafter (and before the dividend or distribution has been paid or delivered to stockholders) abandon its plan to pay or deliver such dividend or distribution, then thereafter no adjustment in the Conversion Price then in effect on any then-outstanding share of Preferred Stock not previously converted shall be required by reason of the taking of such record.

(h) Upon any increase or decrease in the Conversion Price, then, and in each such case, the Company promptly shall deliver to each Holder a certificate signed by an Officer, setting forth in reasonable detail the event requiring the adjustment and the method by which such adjustment was calculated and specifying the increased or decreased the Conversion Price then in effect following such adjustment.

(i) The issuance or delivery of certificates for Common Stock upon the conversion of shares of Preferred Stock and the issuance or delivery of any Ownership Notice, whether at the request of a Holder or upon the conversion of shares of Preferred Stock, shall each be made without charge to the Holder or recipient of shares of Preferred Stock for such certificates or Ownership Notice or for any tax in respect of the issuance or delivery of such certificates or the securities represented thereby or such Ownership Notice or the securities identified therein, and such certificates or Ownership Notice shall be issued or delivered in the respective names of, or in such names as may be directed by, the applicable Holder; provided , however , that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificate in a name other than that of the Holder of the shares of the relevant Preferred Stock and the Company shall not be required to issue or deliver any such certificate or Ownership Notice unless or until the Person or Persons requesting the issuance or delivery thereof shall have paid to the Company the amount of such tax or shall have established to the reasonable satisfaction of the Company that such tax has been paid.

(j) In the event that any Holder elects to convert shares of Preferred Stock into shares of Class A Common Stock pursuant to Section 6(a), the sum of (x) the number of shares of Class A Common Stock into which the shares of Preferred Stock can then be converted upon such exercise pursuant this Certificate of Designations and (y) the number of shares of Class A Common Stock into which the shares of Preferred Stock have already been converted in accordance with this Certificate of Designations, shall not exceed the maximum number of shares of Common Stock which the Company may issue under the Certificate of Incorporation or the maximum number of shares of Common Stock which the Company may issue without stockholder approval under applicable law (including, for the avoidance of doubt, the stockholder approval rules of any National Securities Exchange on which the shares of Class A Common Stock are listed). The Company will use its reasonable best efforts to seek stockholder approval for the issuance of shares of Class A Common Stock upon conversion of the Preferred Stock above the amount that the Company may issue without such stockholder approval pursuant to New York Stock Exchange Rule 312.03(c).

(k) Any shares of Class A Common Stock delivered pursuant to this Section 6 shall be validly issued, fully paid and nonassessable (except as such nonassessability may be affected by matters of any state or federal law), free and clear or any liens, claims, rights or encumbrances other than those arising under the Delaware General Corporation Law or this Certificate of Designations or created by the holders thereof.

(l) The Company shall at all times reserve and keep available for issuance upon the conversion of the Preferred Stock such number of its authorized but unissued and otherwise unreserved shares of Class A Common Stock as will from time to time be sufficient to permit the conversion of all outstanding shares of Preferred Stock pursuant any applicable provision of this Certificate of Designations, and shall take all action required to be taken by it (including promptly calling and holding one or more special meetings of the Board of Directors and the stockholders of the Company until such increase is approved in accordance with applicable law and amending the Certificate of Incorporation) to increase the authorized number of shares of Class A Common Stock if at any time there shall be insufficient unissued and otherwise unreserved shares of Class A Common Stock to permit such reservation or to permit the conversion of all outstanding shares of Preferred Stock or the payment or partial payment of dividends (if any) declared on Preferred Stock that are payable in Class A Common Stock. Each Purchaser agrees (and any transferee of Preferred Stock shall be caused to agree), while it holds Preferred Stock, to vote such Preferred Stock in favor of any such necessary increase (i) to permit such conversion or payment or (ii) to reserve shares for issuance under any Company equity incentive or similar plan, in each case, at any annual or special meeting of the Company. If the Company does not at any time have reserved and available the number of shares of Class A Common Stock described in the preceding sentence, the Company shall pay to the Holders (on a pro rata basis across all Holders based on their respective ownership of Preferred Stock) an amount equal to $50,000 per month (pro rated for partial months), payable no later than five business days after the end of each month until the Company again has reserved and available such number of shares of Class A Common Stock. Notwithstanding anything herein to the contrary, unless otherwise agreed by the affirmative vote of the Holders of at least 75% of the shares of Preferred Stock at the time outstanding and entitled to vote thereon, all shares of Preferred Stock which would otherwise convert into shares of Class A Common Stock shall remain outstanding and shall continue to accumulate and compound dividends pursuant to Section 3 until such time as there are sufficient unissued shares of Class A Common Stock to permit the conversion of all outstanding shares of Preferred Stock.

(m) In the case of:

(i) any recapitalization, reclassification or change of the Series A Common Stock (other than changes resulting from a subdivision or combination),

(ii) any consolidation, merger or combination involving the Company,

(iii) any sale, lease or other transfer to a third party of the consolidated assets of the Company and the Company's Subsidiaries substantially as an entirety, or

(iv) any statutory share exchange,

in each case, (x) that is not a Change of Control and (y) as a result of which the Series A Common Stock is converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such transaction or event, a " **Reorganization Event** "), then, at and after the effective time of such Reorganization Event, the right to convert each share of Preferred Stock shall be changed into a right to convert such share into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Series A Common Stock equal to the Conversion Rate immediately prior to such Reorganization Event would have owned or been entitled to receive upon such Reorganization Event (such stock, securities or other property or assets, the " **Reference Property** "); provided, however, if the holders of shares of Series A Common Stock have the opportunity to elect the form of consideration to be received in such Reorganization Event, the Holders shall be afforded the same opportunity to elect such form and proportion of consideration as if it had converted into shares of Series A Common Stock, and will be subject to any limitations to which all holders of shares of Series A Common Stock are subject, including, without limitation, pro rata reductions applicable to any portion of the consideration payable in the Reorganization Event. The Company shall not become a party to any Reorganization Event unless its terms are consistent with this Section 6(m). None of the foregoing provisions shall affect the right of a Holder of Preferred Stock to convert its Preferred Stock into shares of Series A Common Stock as set forth in Section 6 prior to the effective time of such Reorganization Event. Notwithstanding Section 6(e), no adjustment to the Conversion Rate shall be made for any Reorganization Event to the extent stock, securities or other property or assets become the Reference Property receivable upon conversion of Preferred Stock.

The Company shall provide, by amendment hereto effective upon any such Reorganization Event, for anti-dilution and other adjustments that shall be as nearly equivalent as is possible to the adjustments provided for in this Section 6. The provisions of this Section 6 shall apply to successive Reorganization Events.

In this Certificate of Designations, if the Series A Common Stock has been replaced by Reference Property as a result of any such Reorganization Event, references to the Series A Common Stock are intended to refer to such Reference Property.

SECTION 7. *Transfers*

(a) Without the prior written consent of the Company, no Holder may Transfer any shares of Preferred Stock prior to the date that is one year after the Issue Date.

(b) Notwithstanding anything to the contrary contained in this Section 7, a Holder may, at any time, transfer any or all of its Preferred Stock and/or its registration rights with respect to such Preferred Stock to one or more Affiliates of the Holder.

(c) At all times after the first anniversary of the Issue Date, Holders may transfer shares of Preferred Stock involving an underlying value of Class A Common Stock of at least $50,000,000 (calculated based on the Average VWAP per share of the Class A Common Stock during the 30 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the transfer, and taking into account any concurrent transfers by Affiliates of such Holder), or such lesser amount if it constitutes the remaining holdings of such Holder.

(d) Without the prior written consent of the Company, no Holder may, prior to the date that is two years after the Issue Date, directly or indirectly engage in any short sales or other derivative or hedging transactions with respect to the shares of Preferred Stock or Common Stock that are designed to, or that might reasonably be expected to, result in the transfer to another Person, in whole or in part, any of the economic consequences of ownership of any shares of Preferred Stock.

(e) Notwithstanding anything to the contrary contained in this Section 7:

(i) No Holder may Transfer any of its shares of Preferred Stock to a Person that is a Competitor of the Company; provided however, this Section 7 shall not restrict any Transfer into the public market or in an otherwise open market transaction.

(ii) Holders may make a bona fide pledge of any or all of its Preferred Stock in connection with a bona fide loan or other extension of credit, and any foreclosure by any pledgee under such loan or extension of credit on any such pledged Preferred Stock or Common Stock (or any sale thereof) shall not be considered a violation or breach of this Section 7, and the transfer of the Preferred Stock by a pledgee who has foreclosed on such loan or extension of credit shall not be considered a violation or breach of this Section 7.

(iii) In no way does this Section 7 prohibit or restrict (i) changes in the composition of any Holder or its direct or indirect partners, members or other equityholders, so long as such changes in composition only relate to changes in direct or indirect ownership of the Holder among such Holder, its Affiliates and the partners, members or other equityholders that indirectly own such Holder or (ii) any Transfer or change of ownership of interests of or in any Person whose primary assets are not direct or indirect beneficial ownership interests in the Preferred Stock.

(f) Any Person that becomes a Holder pursuant to a Transfer under this Section 7 shall be subject to all of the terms and conditions of this Certificate of Designations.

SECTION 8. *Change of Control*

(a) Subject to Sections 6(a) and 6(b), promptly upon entry into a definitive agreement that provides for a Change of Control (but in no event less than 20 Business Days prior to consummating a Change of Control), the Company shall provide written notice thereof to the Holders.

(b) If a Cash Change of Control occurs, then the Holders shall convert the Preferred Stock into Class A Common Stock at the Cash Change of Control Conversion Rate on the date on which such Cash Change of Control occurs, with the conversion effective immediately prior to the consummation of the Cash Change of Control.

(c) Subject to Sections 6(a) and 6(b), if a Change of Control occurs that is not a Cash Change of Control, then the Holders, as a group, acting by a majority vote of the Preferred Stock, with respect to all but not less than all of the Holders' shares Preferred Stock, by notice given to the Company within 20 Business Days of the date the Company provides written notice of the execution of definitive agreements that provide for such Change of Control, shall be entitled to elect one of the following (with the understanding that, if the

Holders fail to timely provide notice of their election to the Company, the Holders shall be deemed to have elected the option set forth in clause (i) below):

(i) convert all, but not less than all, of such Holder's outstanding shares of Preferred Stock into Class A Common Stock at the then-applicable Conversion Rate on the date on which such Change of Control occurs, with the conversion effective immediately prior to the consummation of the Change of Control;

(ii) except as described below, if the Company will not be the surviving Person upon the consummation of such Change of Control or the Company will be the surviving Person but the Class A Common Stock will no longer be listed or admitted to trading on a National Securities Exchange, require the Company to use its commercially reasonable efforts to deliver or to cause to be delivered to the Holders, in exchange for their shares of Preferred Stock, upon the consummation of such Change of Control, a security in the surviving Person or the parent of the surviving Person that has rights, preferences and privileges substantially similar to the Preferred Stock, including, for the avoidance of doubt, the right to dividends equal in amount and timing to those provided in Section 3 and a conversion rate proportionately adjusted such that the conversion of such security in the surviving Person or parent of the surviving Person immediately following the consummation of such Change of Control would entitle the Holder to the number of common securities of such Person (together with a number of common securities of equivalent value to any other assets received by holders of Class A Common Stock in such Change of Control) which, if a share of Preferred Stock had been converted into Class A Common Stock immediately prior to such Change of Control, such Holder would have been entitled to receive immediately following such Change of Control (such security in the surviving Person, a " **Substantially Equivalent Security** "); provided , however , that, if the Company is unable to deliver or cause to be delivered Substantially Equivalent Securities to any Holder in connection with such Change of Control, such Holder shall be entitled to (at such Holder's option): (A) instead elect clause (i) of this Section 8 or (B) require the Company to redeem all (but not less than all) of such Holder's Preferred Stock at a price per share equal to 101% of the Liquidation Preference, in which case such redemption shall be made on the same day as (and contemporaneously with) the consummation of such Change of Control and may be paid (at the Company's option): (1) in cash or (2) in Class A Common Stock (provided that such Class A Common Stock is listed on a National Securities Exchange and the average daily trading volume of the Class A Common Stock on the primary National Securities Exchange on which such Class A Common Stock is listed exceeded 400,000 shares for at least 20 Trading Days during a thirty (30) consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the day on which such Change of Control is consummated), in which case such Class A Common Stock shall be valued for purposes of satisfying such redemption payment obligation at 95% of the Average VWAP of the Class A Common Stock during the 20 consecutive Trading Day period ending on, and including, the fifth Trading Day immediately preceding the day on which such Change of Control is consummated, and in the event a Holder elects the redemption option described in this subclause (B), then no later than three Trading Days prior to the consummation of such Change of Control, the Company shall deliver a written notice to such Holder stating the date on which the Preferred Stock will be redeemed and the Company's computation of the amount of cash or Class A Common Stock to be received by the Holder upon redemption of such Preferred Stock;

(iii) if the Company is the surviving Person upon the consummation of such Change of Control and the Class A Common Stock will continue to be listed or admitted to trading on a National Securities Exchange immediately following the Change of Control, continue to hold such Holders' shares of Preferred Stock; or

(iv) require the Company to redeem all (but not less than all) of such Holder's Preferred Stock at a cash price per share equal to the Liquidation Preference, in which case, no later than three Trading Days prior to the consummation of such Change of Control, the Company shall deliver a written notice to such Holder stating the date on which the Preferred Stock will be redeemed and the Company's computation of the amount of cash to be received by the Holder upon redemption of such Preferred Stock.

(d) With respect to clause (ii) above, Holders acknowledge and agree that, to the extent, and so long as, required under the terms of the Credit Agreement (as the Credit Agreement may be amended, restated or otherwise modified from time to time) or any other credit agreements or debt instruments of the Company that restrict, limit or condition the ability of the Company to issue "disqualified equity interests" (or similar concept), and for so long as such restrictive terms continue or have not been waived by the applicable lenders or other debt holders thereunder, as a condition to any redemption of the shares of Preferred Stock pursuant to this Section 8, (i) the loans and other "obligations" (or similar concept) as defined under the Credit Agreement or any such other credit agreements or debt instruments will, in each case to the extent prior repayment is required, be repaid (and any commitments and any outstanding letters of credit thereunder will be terminated) in full (other than unasserted contingent obligations) prior to such redemption of the Preferred Stock or (ii) such redemption shall be in compliance with any applicable covenants specified in the Credit Agreement or any such other credit agreements or debt instruments, including, for the avoidance of doubt, Section 1010 of each of the Indentures. For the avoidance of doubt, the preceding sentence shall not be deemed to be a waiver by any Holder of its right to receive from the Company and/or its successor the cash associated with such redemption.

SECTION 9. *No Fractional Shares* .

No fractional shares of Class A Common Stock or securities representing fractional shares of Class A Common Stock shall be issued upon conversion, whether voluntary or mandatory, or in respect of dividend payments made in Class A Common Stock on the Preferred Stock. Instead, the Company may elect to either make a cash payment to each Holder that would otherwise be entitled to a fractional share (based on the Closing Sale Price of such fractional share determined as of the Trading Day immediately prior to the payment thereof) or, in lieu of such cash payment, round up to the next whole share the number of shares of Class A Common Stock to be issued to any particular Holder upon conversion.

SECTION 10. *Uncertificated Shares; Certificated Shares* .

(a) *Uncertificated Shares* .

(i) Form . Notwithstanding anything to the contrary herein, unless requested in writing by a Holder to the Company, the shares of Preferred Stock and any shares of Class A Common Stock issued upon conversion thereof shall be in uncertificated, book entry form as permitted by the bylaws of the Company and the Delaware General Corporation Law. Within a reasonable time after the issuance or transfer of uncertificated shares, the Company shall, or shall cause the Transfer Agent to, send to the registered owner thereof an Ownership Notice.

(ii) Transfer . Transfers of Preferred Stock or Class A Common Stock issued upon conversion thereof held in uncertificated, book-entry form shall be made only upon the transfer books of the Company kept at an office of the Transfer Agent upon receipt of proper transfer instructions from the registered owner of such uncertificated shares, or from a duly authorized attorney or from an individual presenting proper evidence of succession, assignment or authority to transfer the stock. The Company may refuse any requested transfer until furnished evidence satisfactory to it that such transfer is proper.

(iii) Legends . Each Ownership Notice issued with respect to a share of Preferred Stock or any Class A Common Stock issued upon the conversion of Preferred Stock shall bear a legend in substantially the following form:

"THE SECURITIES IDENTIFIED HEREIN HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE " **SECURITIES ACT** "), OR ANY STATE SECURITIES LAWS. NEITHER THESE SECURITIES NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION.

THE FOREGOING LEGEND WILL BE REMOVED AND A NEW OWNERSHIP NOTICE PROVIDED WITH RESPECT TO THE SECURITIES IDENTIFIED HEREIN UPON THE REQUEST OF THE HOLDER AFTER THE EXPIRATION OF THE APPLICABLE HOLDING PERIOD WITH RESPECT TO RESTRICTED SECURITIES SET FORTH IN RULE 144 UNDER THE SECURITIES ACT.

SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF SEMGROUP CORPORATION (THE " **COMPANY** "), INCLUDING THE CERTIFICATES OF DESIGNATIONS INCLUDED THEREIN (AS FURTHER AMENDED AND RESTATED FROM TIME TO TIME, THE " **CHARTER** "). THE COMPANY IS AUTHORIZED TO ISSUE MORE THAN ONE CLASS OF STOCK OR MORE THAN ONE SERIES OF ANY CLASS AND THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OR SERIES THEREOF AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS. THE SHARES EVIDENCED BY THIS NOTICE ARE SUBJECT TO THE OBLIGATIONS AND RESTRICTIONS STATED IN, AND ARE TRANSFERABLE ONLY IN ACCORDANCE WITH, THE PROVISIONS OF THE CHARTER. THE TERMS OF THE CHARTER ARE HEREBY INCORPORATED INTO THIS NOTICE BY REFERENCE.

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS."

In addition, each Ownership Notice issued with respect to a share of Preferred Stock shall bear a legend in substantially the following form:

"BY ACCEPTANCE HEREOF, THE HOLDER SHALL BE DEEMED TO HAVE AGREED WITH THE SHORT SALE RESTRICTIONS SET FORTH IN THE CERTIFICATE OF DESIGNATIONS."

(b) *Certificated Shares* .

(i) Form and Dating . When Preferred Stock is in certificated form (" **Certificated Preferred Stock** "), the Preferred Stock certificate and the Transfer Agent's certificate of authentication shall be substantially in the form set forth in Exhibit A, which is hereby incorporated in and expressly made a part of this Certificate of Designations. The Preferred Stock certificate may have notations, legends or endorsements required by applicable law, stock exchange rules, agreements to which the Company is subject, if any, or usage; provided , that any such notation, legend or endorsement is in a form acceptable to the Company. Each Preferred Stock certificate shall be dated the date of its authentication.

(ii) Execution and Authentication . Two Officers shall sign each Preferred Stock certificate for the Company by manual or facsimile signature.

If an Officer whose signature is on a Preferred Stock certificate no longer holds that office at the time the Transfer Agent authenticates the Preferred Stock certificate, the Preferred Stock certificate shall be valid nevertheless.

A Preferred Stock certificate shall not be valid until an authorized signatory of the Transfer Agent manually signs the certificate of authentication on the Preferred Stock certificate. The signature shall be conclusive evidence that the Preferred Stock certificate has been authenticated under this Certificate of Designations.

The Transfer Agent shall authenticate and deliver certificates for shares of Preferred Stock for original issue upon a written order of the Company signed by two Officers or by an Officer and an Assistant Treasurer of the Company. Such order shall specify the number of shares of Preferred Stock to be authenticated and the date on which the original issue of the Preferred Stock is to be authenticated.

The Transfer Agent may appoint an authenticating agent reasonably acceptable to the Company to authenticate the certificates for the Preferred Stock. Unless limited by the terms of such appointment, an authenticating agent may authenticate certificates for the Preferred Stock whenever the Transfer Agent may do so. Each reference in this Certificate of Designations to authentication by the Transfer Agent includes authentication by such agent. An authenticating agent has the same rights as the Transfer Agent or agent for service of notices and demands.

(iii) Transfer and Exchange . When Certificated Preferred Stock is presented to the Transfer Agent with a request to register the transfer of such Certificated Preferred Stock or to exchange such Certificated Preferred Stock for an equal number of shares of Certificated Preferred Stock, the Transfer Agent shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met; provided , however , that the Certificated Preferred Stock surrendered for transfer or exchange:

(A) shall be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Transfer Agent, duly executed by the Holder thereof or its attorney duly authorized in writing; and

(B) is being transferred or exchanged pursuant to subclause (1) or (2) below, and is accompanied by the following additional information and documents, as applicable:

1. if such Certificated Preferred Stock is being delivered to the Transfer Agent by a Holder for registration in the name of such Holder, without transfer, a certification from such Holder to that effect in substantially the form of Exhibit C hereto; or

2. if such Certificated Preferred Stock is being transferred to the Company or to a "qualified institutional buyer" in accordance with Rule 144A under the Securities Act or pursuant to another exemption from registration under the Securities Act, (i) a certification to that effect (in substantially the form of Exhibit C hereto) and (ii) if the Company so requests, an opinion of counsel or other evidence reasonably satisfactory to it as to the compliance with the restrictions set forth in the legend set forth in Section 10(b)(iv).

(iv) Legends .

(A) Each certificate evidencing Certificated Preferred Stock or any Class A Common Stock issued upon the conversion of Preferred Stock shall bear a legend in substantially the following form:

"THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE " **SECURITIES ACT** "), OR ANY STATE SECURITIES LAWS. NEITHER THESE SECURITIES NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION.

THE FORGOING LEGEND WILL BE REMOVED AND A NEW CERTIFICATE PROVIDED WITH RESPECT TO THESE SECURITIES UPON THE REQUEST OF THE HOLDER AFTER THE EXPIRATION OF THE APPLICABLE HOLDING PERIOD WITH RESPECT TO RESTRICTED SECURITIES SET FORTH IN RULE 144 UNDER THE SECURITIES ACT.

SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF SEMGROUP CORPORATION (THE " **COMPANY** "), INCLUDING THE CERTIFICATES OF DESIGNATIONS INCLUDED THEREIN (AS FURTHER AMENDED AND RESTATED FROM TIME TO TIME, THE " **CHARTER** "), THE COMPANY IS AUTHORIZED TO ISSUE MORE THAN ONE CLASS OF STOCK OR MORE THAN ONE SERIES OF ANY CLASS AND THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OR SERIES THEREOF AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS. THE SHARES EVIDENCED BY THIS NOTICE ARE SUBJECT TO THE OBLIGATIONS AND RESTRICTIONS STATED IN, AND ARE TRANSFERABLE ONLY IN ACCORDANCE WITH, THE PROVISIONS OF THE CHARTER. THE TERMS OF THE CHARTER ARE HEREBY INCORPORATED INTO THIS CERTIFICATE BY REFERENCE.

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS."

(B) Upon any sale or transfer of a Transfer Restricted Security held in certificated form pursuant to Rule 144 under the Securities Act or another exemption from registration

under the Securities Act or an effective registration statement under the Securities Act, the Transfer Agent shall permit the Holder thereof to exchange such Transfer Restricted Security for Certificated Preferred Stock or certificated Common Stock that does not bear a restrictive legend and rescind any restriction on the transfer of such Transfer Restricted Security.

(v) Replacement Certificates . If any of the Preferred Stock certificates shall be mutilated, lost, stolen or destroyed, the Company shall issue, in exchange and in substitution for and upon cancellation of the mutilated Preferred Stock certificate, or in lieu of and substitution for the Preferred Stock certificate lost, stolen or destroyed, a new Preferred Stock certificate of like tenor and representing an equivalent amount of shares of Preferred Stock, but only upon receipt of evidence of such loss, theft or destruction of such Preferred Stock certificate and indemnity, if requested, satisfactory to the Company and the Transfer Agent.

(vi) Cancellation . In the event the Company shall purchase or otherwise acquire Certificated Preferred Stock, the same shall thereupon be delivered to the Transfer Agent for cancellation. The Transfer Agent and no one else shall cancel and destroy all Preferred Stock certificates surrendered for transfer, exchange, replacement or cancellation and deliver a certificate of such destruction to the Company unless the Company directs the Transfer Agent to deliver canceled Preferred Stock certificates to the Company. The Company may not issue new Preferred Stock certificates to replace Preferred Stock certificates to the extent they evidence Preferred Stock which the Company has purchased or otherwise acquired.

(c) *Certain Obligations with Respect to Transfers and Exchanges of Preferred Stock* .

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Transfer Agent shall authenticate Certificated Preferred Stock as required pursuant to the provisions of this Section 10.

(ii) All shares of Preferred Stock, whether or not Certificated Preferred Stock, issued upon any registration of transfer or exchange of such shares of Preferred Stock shall be the valid obligations of the Company, entitled to the same benefits under this Certificate of Designations as the shares of Preferred Stock surrendered upon such registration of transfer or exchange.

(iii) Prior to due presentment for registration of transfer of any shares of Preferred Stock, the Transfer Agent and the Company may deem and treat the Person in whose name such shares of Preferred Stock are registered as the absolute owner of such Preferred Stock and neither the Transfer Agent nor the Company shall be affected by notice to the contrary.

(iv) No service charge shall be made to a Holder for any registration of transfer or exchange of any Preferred Stock or Common Stock issued upon the conversion thereof on the transfer books of the Company or the Transfer Agent or upon surrender of any Preferred Stock certificate or Common Stock certificate at the office of the Transfer Agent maintained for that purpose. However, the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Preferred Stock or Common Stock if the Person receiving shares in connection with such transfer or exchange is not the holder thereof.

(d) *No Obligation of the Transfer Agent* . The Transfer Agent shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Certificate of Designations or under applicable law with respect to any transfer of any interest in any Preferred Stock other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Certificate of Designations, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

SECTION 11. *Other Provisions* .

(a) With respect to any notice to a Holder required to be provided hereunder, neither failure to mail such notice, nor any defect therein or in the mailing thereof, to any particular Holder shall affect the sufficiency of the notice or the validity of the proceedings referred to in such notice with respect to the other Holders or affect the legality or validity of any vote upon any such action (assuming due and proper notice to such other Holders). Any notice which was mailed in the manner herein provided shall be conclusively presumed to have been duly given whether or not the Holder receives the notice.

(b) Shares of Preferred Stock that have been issued and reacquired by the Company in any manner, including shares of Preferred Stock purchased or redeemed or exchanged or converted, shall (upon compliance with any applicable provisions of the laws of Delaware) upon such reacquisition be automatically cancelled by the Company and shall not be reissued.

(c) The shares of Preferred Stock shall be issuable only in whole shares.

(d) All notice periods referred to herein shall commence: (i) when made, if made by hand delivery, and upon confirmation of receipt, if made by facsimile; (ii) one Business Day after being deposited with a nationally recognized next-day courier, postage prepaid; or (iii) three Business Days after being by first-class mail, postage prepaid. Notice to any Holder shall be given to the registered address set forth in the Company's records for such Holder.

(e) Any payments required to be made hereunder on any day that is not a Business Day shall be made on the next succeeding Business Day without interest or additional payment for such delay. All payments required hereunder shall be made by wire transfer of immediately available funds in United States Dollars to the Holders in accordance with the payment instructions as such Holders may deliver by written notice to the Company from time to time.

(f) Notwithstanding anything to the contrary herein, whenever the Board of Directors is permitted or required to determine fair market value, such determination shall be made in good faith.

(g) Except as set forth in Section 4(b)(ii), the Holders shall have no preemptive or preferential rights to purchase or subscribe to any stock, obligations, warrants or other securities of the Company of any class.

(h) The Company shall distribute to the Holders copies of all notices, materials, annual and quarterly reports, proxy statements, information statements and any other documents distributed generally to the holders of the Common Stock, at such times and by such method as documents are distributed to such holders of such Common Stock.

[Signature page follows.]

IN WITNESS WHEREOF, the Company has caused this certificate to be signed and attested this 19th day of January, 2018

SEMGROUP CORPORATION

By: /s/ Robert N. Fitzgerald
Name: Robert N. Fitzgerald
Title: Chief Financial Officer and Senior Vice President

EXHIBIT A

FORM OF PREFERRED STOCK
FACE OF SECURITY

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE " **SECURITIES ACT** "), OR ANY STATE SECURITIES LAWS. NEITHER THESE SECURITIES NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION.

THE FORGOING LEGEND WILL BE REMOVED AND A NEW CERTIFICATE PROVIDED WITH RESPECT TO THESE SECURITIES UPON THE REQUEST OF THE HOLDER AFTER THE EXPIRATION OF THE APPLICABLE HOLDING PERIOD WITH RESPECT TO RESTRICTED SECURITIES SET FORTH IN RULE 144 UNDER THE SECURITIES ACT.

SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF SEMGROUP CORPORATION (THE " **COMPANY** "), INCLUDING THE CERTIFICATES OF DESIGNATIONS INCLUDED THEREIN (AS FURTHER AMENDED AND RESTATED FROM TIME TO TIME, THE " **CHARTER** "), THE COMPANY IS AUTHORIZED TO ISSUE MORE THAN ONE CLASS OF STOCK OR MORE THAN ONE SERIES OF ANY CLASS AND THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OR SERIES THEREOF AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS. THE SHARES EVIDENCED BY THIS NOTICE ARE SUBJECT TO THE OBLIGATIONS AND RESTRICTIONS STATED IN, AND ARE TRANSFERABLE ONLY IN ACCORDANCE WITH, THE PROVISIONS OF THE CHARTER. THE TERMS OF THE CHARTER ARE HEREBY INCORPORATED INTO THIS CERTIFICATE BY REFERENCE.

BY ACCEPTANCE HEREOF, THE HOLDER SHALL BE DEEMED TO HAVE AGREED WITH THE SHORT SALE RESTRICTIONS SET FORTH IN THE CERTIFICATE OF DESIGNATIONS.

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

Certificate Number
[ ]

[ ] Shares of
Series A Cumulative Perpetual Convertible
Preferred Stock

Series A Cumulative Perpetual Convertible Preferred Stock
of
SEMGROUP CORPORATION

SEMGROUP CORPORATION, a Delaware corporation (the " **Company** "), hereby certifies that [ ] (the " **Holder** ") is the registered owner of [ ] fully paid and non-assessable shares of preferred stock, par value $0.01 per share, of the Company designated as the Series A Cumulative Perpetual Convertible Preferred Stock (the " **Preferred Stock** "). The shares of Preferred Stock are transferable on the books and records of the Transfer Agent, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer. The designations, rights, privileges, restrictions, preferences and other terms and provisions of the Preferred Stock represented hereby are issued and shall in all respects be subject to the provisions of the Certificate of Designations dated January [ ], 2018, as the same may be amended from time to time (the " **Certificate of Designations** "). Capitalized terms used herein but not defined shall have the meaning given them in the Certificate of Designations. The Company will provide a copy of the Certificate of Designations to a Holder without charge upon written request to the Company at its principal place of business.

Reference is hereby made to select provisions of the Preferred Stock set forth on the reverse hereof, and to the Certificate of Designations, which select provisions and the Certificate of Designations shall for all purposes have the same effect as if set forth at this place.

Upon receipt of this certificate, the Holder is bound by the Certificate of Designations and is entitled to the benefits thereunder.

Unless the Transfer Agent's Certificate of Authentication hereon has been properly executed, these shares of Preferred Stock shall not be entitled to any benefit under the Certificate of Designations or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has executed this certificate this day of , 2018.

SEMGROUP CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

TRANSFER AGENT'S CERTIFICATE OF AUTHENTICATION

These are shares of the Preferred Stock referred to in the within-mentioned Certificate of Designations.

Dated:

COMPUTERSHARE TRUST COMPANY, N.A.,
as Transfer Agent,

By: _____
Authorized Signatory

REVERSE OF SECURITY

Dividends on each share of Preferred Stock shall be payable, when, as and if declared by the Company's Board of Directors out of legally available funds as provided in the Certificate of Designations.

The shares of Preferred Stock shall be convertible into the Company's Class A Common Stock upon the satisfaction of the conditions and in the manner and according to the terms set forth in the Certificate of Designations.

The shares of Preferred Stock may be redeemed by the Company upon the satisfaction of the conditions and in the manner and according to the terms set forth in the Certificate of Designations.

The Company will furnish without charge to each holder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock and the qualifications, limitations or restrictions of such preferences and/or rights.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers the shares of Preferred Stock evidenced hereby to:

_____

_____

(Insert assignee's social security or tax identification number)

_____

(Insert address and zip code of assignee)

_____

and irrevocably appoints:

_____

_____

_____

agent to transfer the shares of Preferred Stock evidenced hereby on the books of the Transfer Agent. The agent may substitute another to act for him or her.

Date:

Signature:

(Sign exactly as your name appears on the other side of this Preferred Stock Certificate)

Signature Guarantee: _____

1 Signature must be guaranteed by an "eligible guarantor institution" that is a bank, stockbroker, savings and loan association or credit union meeting the requirements of the Transfer Agent, which requirements include membership or participation in the Securities Transfer Agents Medallion Program (" **STAMP** ") or such other "signature guarantee program" as may be determined by the Transfer Agent in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

EXHIBIT B

OWNERSHIP NOTICE

THE SECURITIES IDENTIFIED HEREIN HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE " **SECURITIES ACT** "), OR ANY STATE SECURITIES LAWS. NEITHER THESE SECURITIES NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION.

THE FOREGOING LEGEND WILL BE REMOVED AND A NEW OWNERSHIP NOTICE PROVIDED WITH RESPECT TO THE SECURITIES IDENTIFIED HEREIN UPON THE REQUEST OF THE HOLDER AFTER THE EXPIRATION OF THE APPLICABLE HOLDING PERIOD WITH RESPECT TO RESTRICTED SECURITIES SET FORTH IN RULE 144 UNDER THE SECURITIES ACT.

SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF SEMGROUP CORPORATION (THE " **COMPANY** "), INCLUDING THE CERTIFICATES OF DESIGNATIONS INCLUDED THEREIN (AS FURTHER AMENDED AND RESTATED FROM TIME TO TIME, THE " **CHARTER** "). THE COMPANY IS AUTHORIZED TO ISSUE MORE THAN ONE CLASS OF STOCK OR MORE THAN ONE SERIES OF ANY CLASS AND THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OR SERIES THEREOF AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS. THE SHARES EVIDENCED BY THIS NOTICE ARE SUBJECT TO THE OBLIGATIONS AND RESTRICTIONS STATED IN, AND ARE TRANSFERABLE ONLY IN ACCORDANCE WITH, THE PROVISIONS OF THE CHARTER. THE TERMS OF THE CHARTER ARE HEREBY INCORPORATED INTO THIS NOTICE BY REFERENCE.

IF THE SECURITIES IDENTIFIED HEREIN ARE SERIES A CUMULATIVE PERPETUAL CONVERTIBLE PREFERRED STOCK OF THE COMPANY, THEN BY ACCEPTANCE HEREOF, THE HOLDER SHALL BE DEEMED TO HAVE AGREED WITH THE COMPANY THAT, FOR SO LONG AS THE HOLDER HOLDS THIS SECURITY, THE HOLDER SHALL NOT, AND SHALL CAUSE ITS AFFILIATES NOT TO, DIRECTLY OR INDIRECTLY ENGAGE IN ANY SHORT SALE OF THE COMMON STOCK OF THE COMPANY.

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

This letter confirms and acknowledges that you are the registered owner of the number and the class or series of shares of capital stock of the Company listed on Schedule A to this letter.

In addition, please be advised that the Company will furnish without charge to each stockholder of the Company who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock, or series thereof, of the Company and the qualifications, limitations or restrictions of such preferences and/or rights, which are fixed by the Charter. Any such request should be directed to the Secretary of the Company.

The shares of capital stock of the Company have been not been registered under the Securities Act and, accordingly, may not be offered, sold, pledged or otherwise transferred within the United States or to, or for the account or benefit of, U.S. persons except pursuant to an effective registration statement under the Act or an exemption from the registration requirements of the Act.

Dated:

COMPUTERSHARE TRUST COMPANY, N.A.,
as Transfer Agent,

By: _____
Authorized Signatory

EXHIBIT C

CERTIFICATE TO BE DELIVERED UPON EXCHANGE OR REGISTRATION OF TRANSFER OF PREFERRED STOCK

Re: Series A Cumulative Perpetual Convertible Preferred Stock (the " **Preferred Stock** ") of SemGroup Corporation (the " **Company** ")

This Certificate relates to shares of Preferred Stock held by (the " **Transferor** ") in*/:

☐ book entry form; or

☐ definitive form.

The Transferor has requested the Transfer Agent by written order to exchange or register the transfer of Preferred Stock.

In connection with such request and in respect of such Preferred Stock, the Transferor does hereby certify that the Transferor is familiar with the Certificate of Designations relating to the above-captioned Preferred Stock and that the transfer of this Preferred Stock does not require registration under the Securities Act of 1933 (the " **Securities Act** ") because */:

☐ such Preferred Stock is being acquired for the Transferor's own account without transfer;

☐ such Preferred Stock is being transferred to the Company;

☐ such Preferred Stock is being transferred to a qualified institutional buyer (as defined in Rule 144A under the Securities Act), in reliance on Rule 144A; or

☐ such Preferred Stock is being transferred in reliance on and in compliance with another exemption from the registration requirements of the Securities Act (and based on an Opinion of Counsel if the Company so requests).

[INSERT NAME OF TRANSFEROR]

By: _____

Date:

*/ Please check applicable box.

Exhibit 10.1

EXECUTION VERSION

SECURITIES PURCHASE AGREEMENT

by and among

SEMGROUP CORPORATION

and

THE PURCHASERS NAMED HEREIN

January 16, 2018

This Securities Purchase Agreement contains a number of representations and warranties which the Company and the Purchasers have made to each other as of the date of the Securities Purchase Agreement. Information concerning the subject matter of the representations and warranties may have changed since the date of the Securities Purchase Agreement, which subsequent information may or may not be fully reflected in the public disclosures of the Company. Moreover, representations and warranties are frequently utilized in Securities Purchase Agreements as a means of allocating risks, both known and unknown, rather than to make affirmative factual claims or statements. Accordingly, ONLY THE PARTIES TO THIS AGREEMENT SHOULD RELY ON THE REPRESENTATIONS AND WARRANTIES AS CURRENT CHARACTERIZATIONS OF FACTUAL INFORMATION ABOUT THE COMPANY OR ANY PURCHASER.

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SECURITIES PURCHASE AGREEMENT

SECURITIES PURCHASE AGREEMENT (this " Agreement "), dated as of January 16, 2018 by and among SemGroup Corporation, Delaware corporation (the " Company "), WP SemGroup Holdings, L.P., a Delaware limited partnership (the " W Purchaser "), Atlas Point Energy Infrastructure Fund, LLC, a Delaware limited liability company (the " C Purchaser ") and the T Purchaser (together with the W Purchaser and the C Purchaser, the " Purchasers ").

WHEREAS, subject to the terms and conditions set forth herein, the Company desires to issue and sell to the Purchasers, and the Purchasers desire to purchase from the Company, an aggregate of 350,000 shares of Series A Cumulative Perpetual Convertible Preferred Stock, par value $0.01 per share, of the Company (the " Series A Preferred Stock "), the rights, preferences and privileges of which are to be set forth in a Certificate of Designations, in the form attached hereto as Exhibit A (the " Certificate of Designations "), which shares of Series A Preferred Stock shall be convertible in certain circumstances into authorized shares of Class A Common Stock (as defined below);

WHEREAS, the Board (as defined below) has (i) determined that it is in the best interests of the Company and its stockholders, and declared it advisable, to enter into this Agreement and the Certificate of Designations providing for the transactions contemplated hereby and thereby in accordance with the General Corporation Law of the State of Delaware (the " DGCL "), upon the terms and subject to the conditions set forth herein and therein, and (ii) approved the execution, delivery and performance of this Agreement and the Certificate of Designations and the consummation of the transactions contemplated hereby and thereby in accordance with the DGCL, upon the terms and conditions contained herein and therein; and

WHEREAS, the Purchasers have approved the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby in accordance with applicable Law (as defined below), upon the terms and conditions contained herein.

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

1. Definitions . As used in this Agreement, the following terms shall have the following respective meanings:

" 2014 Indenture " means that certain Indenture, dated as of July 2, 2014, by and among Rose Rock Midstream, L.P., Rose Rock Finance Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee, as supplemented by that First Supplemental Indenture dated as of April 7, 2015 and that Second Supplemental Indenture dated as of September 30, 2016 (as otherwise modified or supplemented prior to the date hereof).

" 2015 Indenture " means that certain Indenture, dated as of May 14, 2015, by and among Rose Rock Midstream, L.P., Rose Rock Finance Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee, as supplemented by that First Supplemental Indenture, dated as of September 30, 2016 (as otherwise modified or supplemented prior to the date hereof).

" 2017 Indentures " means that certain Indenture, dated as of March 15, 2017, by and among SemGroup Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee, and that certain Indenture, dated as of September 20, 2017, by and among SemGroup Corporation, the guarantors party thereto, and Wilmington Trust, National Association, as trustee.

" Affiliate " means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such specified Person. Notwithstanding the foregoing, with respect to the W Purchaser, none of the Company, Affiliates of the Company, any portfolio company of the W Purchaser or any Affiliates of any portfolio company of the W Purchaser (which entities are not otherwise Affiliates of the W Purchaser and would only be deemed Affiliates pursuant to their relationship with one or more portfolio companies of the W Purchaser) shall be considered, or otherwise deemed, Affiliates of the W Purchaser.

" Agreement " shall have the meaning set forth in the preamble.

" Antitrust Laws " shall mean the HSR Act and any foreign antitrust Laws.

" Beneficially Own ," " Beneficially Owned ," or " Beneficial Ownership " shall have the meaning set forth in Rule 13d-3 of the rules and regulations promulgated under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" shall be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. For the avoidance of doubt, prior to conversion of the Shares into Conversion Shares, holders of Shares shall be deemed to have Beneficial Ownership of all shares of Class A Common Stock issuable upon the conversion of such Shares, notwithstanding any conditions, restrictions or limitations on such conversion. The terms "Beneficially Owns" and "Beneficially Owned" shall have a corresponding meaning.

" Board " shall mean the Board of Directors of the Company.

" Board Observer " shall have the meaning set forth in Section 5.8(a) .

" Board Rights Termination Date " shall have the meaning set forth in Section 5.8(a) .

" Business Day " shall mean any day, other than a Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in the State of New York are authorized or required by Law or other governmental action to close.

" Capital Stock " means, with respect to any Person, any and all shares of stock, partnership interests or other equivalent interests (however designated, whether voting or non-voting) in such Person's equity.

" Capitalization Date " shall have the meaning set forth in Section 3.2(a) .

" Certificate of Designations " shall have the meaning set forth in the recitals.

" Class A Common Stock " shall mean the shares of Class A Common Stock, par value $0.01 per share, of the Company or any other Equity Securities of the Company into which such Class A Common Stock shall be reclassified or changed.

" Class B Common Stock " shall mean the shares of Class B Common Stock, par value $0.01 per share, of the Company or any other Equity Securities of the Company into which such Class B Common Stock shall be reclassified or changed.

" Closing " shall have the meaning set forth in Section 2.2(a) .

" Closing Date " shall have the meaning set forth in Section 2.2(a) .

" Code " shall have the meaning set forth in Section 5.7 .

" Committee " shall have the meaning set forth in Section 5.8(b) .

" Company " shall have the meaning set forth in the preamble.

" Company Financial Statements " shall have the meaning set forth in Section 3.7(c) .

" Company Indemnified Party " shall have the meaning set forth in Section 9.2 .

" Company Notice " shall have the meaning set forth in Section 5.6(f) .

" Company Stock Plans " shall mean the SemGroup Corporation Board of Directors Compensation Plan, the SemGroup Corporation Equity Incentive Plan, the SemGroup Employee Stock Purchase Plan and any successors thereto.

" Confidentiality Agreement " shall have the meaning set forth in Section 5.1(b) .

" Consent " shall have the meaning set forth in Section 3.6 .

" control " (including the terms " controlling " " controlled by " and " under common control with ") with respect to any Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of Equity Securities, by contract or otherwise.

" Conversion Shares " shall mean the shares of Class A Common Stock issuable upon the conversion of the Series A Preferred Stock as provided for in this Agreement and the Certificate of Designations.

" Credit Agreement " means that certain Amended and Restated Credit Agreement, dated as of September 30, 2016, by and among SemGroup Corporation, as borrower, the lenders party thereto from time to time, the arrangers and agents party thereto and Wells Fargo Bank, National Association, as administrative agent and collateral agent (as modified or supplemented prior to the date hereof).

" Delaware Court " shall have the meaning set forth in Section 11.5(b) .

" Demand Request " shall have the meaning set forth in Section 5.6(f) .

" DGCL " shall have the meaning set forth in the recitals.

" Environmental Laws " shall have the meaning set forth in Section 3.12 .

" Equity Securities " shall mean, with respect to any Person, (i) shares of Capital Stock of, or other equity or voting interest in, such Person, (ii) any securities convertible into or exchangeable for shares of Capital Stock of, or other equity or voting interest in, such Person, (iii) options, warrants, rights or other commitments or agreements to acquire from such Person, or that obligates such Person to issue, any Capital Stock of, or other equity or voting interest in, or any securities convertible into or exchangeable for shares of Capital Stock of, or other equity or voting interest in, such Person, and (iv) obligations of such Person to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any Capital Stock of, or other equity or voting interest (including any voting debt) in, such Person.

" Exchange Act " shall mean the Securities Exchange Act of 1934, as amended, and all of the rules and regulations promulgated thereunder.

" Form S-3 " shall have the meaning set forth in Section 5.6(a) .

" GAAP " shall have the meaning set forth in Section 3.7(c) .

" Governmental Entity " shall mean any United States or non-United States federal, state or local government, or any agency, bureau, board, commission, department, tribunal or instrumentality thereof or any court, tribunal, or arbitral or judicial body, including the NYSE.

" Holder " or " Holders " shall mean (i) the W Purchaser, so long as the W Purchaser holds Registrable Securities in accordance with the terms of this Agreement and the Certificate of Designations and (ii) any permitted transferee of the W Purchaser that acquires and holds Registrable Securities in accordance with the terms of this Agreement and the Certificate of Designations.

" HSR Act " shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and all of the rules and regulations promulgated thereunder.

" Indemnified Party " shall have the meaning set forth in Section 9.4 .

" Indemnifying Party " shall have the meaning set forth in Section 9.4 .

" Indentures " means each of the 2014 Indenture, the 2015 Indenture and the 2017 Indentures.

" Issuer Free Writing Prospectus " shall have the meaning set forth in Section 5.6(m) .

" Law " shall have the meaning set forth in Section 3.5 .

" Liens " shall have the meaning set forth in Section 3.3 .

" Material Adverse Effect " shall mean any fact, circumstance, event, change, effect, occurrence or development (each, a " Change ") that, individually or in the aggregate with all other Changes, has a material adverse effect on or with respect to the business, operations, assets (including intangible assets), liabilities, results of operation or financial condition of the Company and its Subsidiaries taken as a whole; provided , however , that a Material Adverse Effect shall not include any Change (by itself or when aggregated or taken together with any and all other Changes): (i) generally affecting the industries in which the Company and its Subsidiaries operate or economic conditions in the United States (including changes in the capital or financial markets generally and changes in the prices of hydrocarbons); (ii) resulting from any outbreak or escalation of hostilities or acts of war or terrorism, political instability or other national or international calamity, crisis or emergency, or any governmental or other response to any of the foregoing, in each case whether or not involving the United States; (iii) resulting from changes (or proposed changes) in Law or GAAP (or authoritative interpretations thereof); (iv) resulting from changes in the market price or trading volume of the Company's securities or from the failure of the Company or any of its Subsidiaries to meet projections, forecasts or estimates (it being understood that the causes underlying such failure may be considered in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur unless such causes are otherwise excluded from consideration pursuant to this definition); (v) resulting from acts of God (including earthquakes, storms, fires, floods and natural catastrophes); (vi) relating to or arising from the announcement of the execution of this Agreement or the transactions contemplated hereby or the identity of any Purchaser or any such Purchaser's Affiliates, including the loss of any customers, suppliers or employees; (vii) resulting from compliance with the terms and conditions of this Agreement or the Certificate of Designations by the Company or any of its Subsidiaries or from acts or omissions expressly consented to in writing by the W Purchaser; (viii) relating to the seasonality of the business of the Company or any of its Subsidiaries; or (ix) resulting from any breach of this Agreement by any Purchaser, except to the extent that, with respect to clauses (i), (ii), (iii) and (v), the impact of such Changes is disproportionately adverse to the Company and its Subsidiaries, relative to the impact on other Persons in the industries in which the Company and its Subsidiaries operate.

" NYSE " shall mean the New York Stock Exchange (or its successor); provided , that if the Company moves the principal listing of its Class A Common Stock to the NASDAQ Global Select Market, the NASDAQ Capital Market or any other national securities exchange (or any of their respective successors), "NYSE" shall be deemed to refer to such exchange.

" Observation Period " shall have the meaning set forth in Section 5.8(a) .

" Observer Confidentiality Agreement " shall have the meaning set forth in Section 5.8(a) .

" Observer Notice " shall have the meaning set forth in Section 5.8(a) .

" Organizational Document " shall mean, as applicable, an entity's agreement or certificate of limited partnership, limited liability company agreement, certificate of formation, certificate or articles of incorporation, bylaws or other similar organizational documents.

" Overnight Underwritten Offering " shall mean an underwritten offering that is launched after the close of trading on one trading day and priced before the open of trading on the next succeeding trading day.

" Participating Majority " shall have the meaning set forth in Section 5.6(g) .

" Passive Securities " shall mean (i) the Conversion Shares held by the C Purchaser and the T Purchaser and (ii) any other Equity Security of the Company issued or issuable with respect to any such Conversion Shares held by the C Purchaser or the T Purchaser by way of a stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation, reorganization or other transaction.

" Permits " shall have the meaning set forth in Section 3.11 .

" Person " shall mean any individual, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, unincorporated organization, government, any agency or political subdivisions thereof or other "Person" as contemplated by Section 13(d) of the Exchange Act.

" Preferred Stock " shall have the meaning set forth in Section 3.2(a) .

" Purchase Price " shall have the meaning set forth in the Section 2.1 .

" Purchaser " shall have the meaning set forth in the preamble.

" Purchaser Adverse Effect " shall have the meaning set forth in the Section 4.3 .

" Purchaser Indemnified Party " shall have the meaning set forth in Section 9.1 .

" Registrable Securities " shall mean (i) the Conversion Shares held by a Holder and (ii) any other Equity Security of the Company issued or issuable with respect to any such Conversion Shares held by a Holder by way of a stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation, reorganization or other transaction; provided , however , that, as to any particular Registrable Security, such securities shall cease to be Registrable Securities when: (A) a registration statement under the Securities Act with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been sold, transferred, disposed of or exchanged in accordance with such registration statement; (B) such securities shall have been otherwise transferred, new certificates for such securities not bearing a legend restricting further transfer shall have been delivered by the Company and subsequent public distribution of such securities shall not require registration under the Securities Act; (C) such securities shall have ceased to be outstanding or cease to be held by the W Purchaser or one or more of its Affiliates; or (D) such securities have been sold to, or through, a broker, dealer or underwriter in a public distribution or other public securities transaction.

" Registration Default " shall have the meaning set forth in Section 5.6(d) .

" Registration Default Fee " shall have the meaning set forth in Section 5.6(d) .

" Registration Default Period " shall have the meaning set forth in Section 5.6(d) .

" Registration Expenses " shall mean all fees and expenses incurred in connection with a registration of Registrable Securities, including: (i) all registration, listing, qualification and filing fees (including FINRA filing fees); (ii) fees and expenses of compliance with state securities or "blue sky" laws; (iii) printing and copying expenses; (iv) messenger and delivery expenses; (v) fees and disbursements of counsel for the Company; (vi) fees and disbursements of independent public accountants, including the expenses of any audit or "cold comfort" letter, and fees and expenses of other persons, including special experts, retained by the Company; (vii) all internal expenses of the Company (including all salaries and expenses of officers and employees performing legal or accounting duties) and (viii) the reasonable fees and disbursements of one counsel for the W Purchaser and any other Holders incurred in connection with such registration.

" Registration Rights Indemnifiable Losses " shall have the meaning set forth in Section 5.6(m) .

" Representatives " shall mean, with respect to any Person, such Person's Affiliates and such Person's and each such Affiliate's respective directors, officers, employees, managers, trustees, principals, stockholders, members, general or limited partners, agents and other representatives.

" Requesting Holder " shall have the meaning set forth in Section 5.6(f) .

" Rights-of-Way " shall have the meaning set forth in Section 3.10 .

" Rule 144 " shall have the meaning set forth in Section 4.8(a) .

" SEC " shall mean the U.S. Securities and Exchange Commission.

" SEC Reports " shall have the meaning set forth in Section 3.7(a) .

" Securities " shall mean the Shares and the Conversion Shares.

" Securities Act " shall mean the Securities Act of 1933, as amended, and all of the rules and regulations promulgated thereunder.

" Series A Preferred Stock " shall have the meaning set forth in the recitals.

" Shares " shall have the meaning set forth in Section 2.1 .

" Significant Subsidiaries " shall mean the Subsidiaries of the Company listed on Schedule A attached hereto.

" Subsidiary " of any Person shall mean any corporation, partnership, joint venture, limited liability company, trust or other form of legal entity (whether incorporated or unincorporated) of

which (or in which) more than 50% of (i) the Total Current Voting Power, (ii) the interest in the capital or profits of such partnership, joint venture or limited liability company, or (iii) the beneficial interest in such trust or estate is, in each case with respect to any of the foregoing clauses (i) through (iii), directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

" T Purchaser " shall mean, collectively, each of Tortoise Direct Opportunities Fund, LP, a Delaware limited partnership, Tortoise Energy Infrastructure Corporation, a Maryland corporation, Tortoise MLP Fund, Inc., a Maryland corporation, Tortoise Power and Energy Infrastructure Fund, Inc., a Maryland corporation and Tortoise Pipeline & Energy Fund, Inc., a Maryland Corporation.

" Taxes " shall mean any and all taxes, levies, fees, imposts, duties and charges of whatever kind (including any interest, penalties or additions to the tax imposed in connection therewith or with respect thereto) imposed by any Governmental Entity, including, without limitation, taxes imposed on, or measured by, income, franchise, profits or gross receipts, and any ad valorem, value added, sales, use, service, real or personal property, capital stock, license, payroll, withholding, employment, social security, workers' compensation, unemployment compensation, utility, severance, production, excise, stamp, occupation, premium, windfall profits, transfer and gains taxes and customs or duties.

" Third-Party Claim " shall have the meaning set forth in Section 9.4 .

" Total Current Voting Power " shall mean, with respect to any entity, at the time of determination of Total Current Voting Power, the total number of votes which may be cast in the general election of directors of such entity (or, in the event the entity is not a corporation, the governing members, board or other similar body of such entity or its general partner, if such entity is a partnership).

" Transfer " shall have the meaning given to such term in the Certificate of Designations.

" Underwritten Shelf Takedown " shall have the meaning set forth in Section 5.6(e) .

" Valid Business Reason " shall have the meaning set forth in Section 5.6(c) .

" W Purchaser Group Members " shall have the meaning set forth in Section 5.8(a) .

2. Authorization, Purchase and Sale of the Securities .

2.1 Authorization, Purchase and Sale .

(a) Subject to and upon the terms and conditions of this Agreement, the Company will issue and sell to each Purchaser, and each Purchaser will, severally, but not jointly, purchase from the Company, at the Closing, the number of shares of Series A Preferred Stock (each, a " Share " and collectively, the " Shares ") set forth next to such Purchaser's name on Annex A. The purchase price per Share shall be $1,000 and the aggregate purchase price for the Shares (the " Purchase Price ") shall be $350,000,000. The conversion price for each Share initially shall be $33.00, subject to adjustment as provided in the Certificate of Designations.

(b) Notwithstanding anything in this Agreement to the contrary, prior to the Closing, a Purchaser may assign its rights and obligations under this Agreement, including the right and obligation to acquire any or all of the Shares pursuant to Section 2.1(a), to one or more Affiliates of such Purchaser; provided , that the foregoing shall not relieve such Purchaser from any of its obligations in this Agreement to the extent not fulfilled by an Affiliate to which such obligation is assigned.

2.2 Closing .

(a) The closing of the purchase and sale of the Shares (the " Closing ") shall take place at the offices of Gibson, Dunn & Crutcher LLP, 2100 McKinney Avenue Suite 1100, Dallas, Texas 75201, on the first Business Day that is on, or following, the date on which all of the conditions set forth in Section 6 have been satisfied or duly waived (other than those conditions which, by their terms, are to be satisfied or waived at the Closing), or at such other place or such other date as mutually agreed to by the parties hereto (the date on which the Closing occurs, the " Closing Date ").

(b) At the Closing:

(i) the Company shall deliver to each Purchaser evidence that the Shares being purchased by such Purchaser have been issued in book-entry form; and

(ii) each Purchaser shall, severally, but not jointly, deliver, or cause to be delivered, to the Company an amount equal to the portion of the Purchase Price set forth next to such Purchaser's name on Annex A by wire transfer of immediately available funds to an account or accounts that the Company shall designate at least one (1) Business Day prior to the Closing Date.

3. Representations and Warranties of the Company . Except as disclosed in the SEC Reports filed and publicly available prior to the date of this Agreement and only as to the extent disclosed therein (but excluding any risk factor disclosures contained in such SEC Reports under the heading "Risk Factors" or any analogous heading (other than statements of historical fact), any disclosure of risks included in any "forward-looking statements" disclaimer or any other statements that are similarly forward-looking), the Company hereby represents and warrants, as of the date of this Agreement and as of the Closing Date, to the Purchasers as follows:

3.1 Organization and Power .

(a) The Company has been duly incorporated, is validly existing as a corporation in good standing under the Laws of the State of Delaware, has the corporate power and authority to own its property and to conduct its business as it is presently being conducted and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect.

(b) Each Subsidiary of the Company is validly existing as a corporation, limited liability company, limited partnership or other form of legal entity, as applicable, is in good standing under the Laws of the jurisdiction of its incorporation, organization or formation, as applicable, has the power and authority (corporate or otherwise) to own its property and to conduct its business as it is presently being conducted and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect.

3.2 Capitalization .

(a) As of the date of this Agreement, the authorized shares of Capital Stock or other Equity Securities of the Company consist of (i) 90,000,000 shares of Class A Common Stock, par value $0.01 per share, (ii) 10,000,000 shares of Class B Common Stock, par value $0.01 per share and (iii) 4,000,000 shares of Preferred Stock, par value $0.01 per share (" Preferred Stock "). As of the close of business on January 14, 2018 (the " Capitalization Date "), (i) 78,686,974 shares of Class A Common Stock were issued and outstanding, (ii) zero shares of Class B Common Stock were issued and outstanding and (iii) zero shares of Preferred Stock were issued and outstanding. All issued and outstanding shares of Class A Common Stock are duly authorized, validly issued, fully paid and nonassessable. Since the Capitalization Date, the Company has not sold or issued or repurchased, redeemed or otherwise acquired any shares of the Company's Capital Stock (other than issuances pursuant to the vesting of any "share award" that had been granted under any Company Stock Plan, or repurchases, redemptions or other acquisitions of Class A Common Stock pursuant to agreements contemplated by a Company Stock Plan).

(b) Except as set forth in this Section 3.2 , as of the date of this Agreement, there are no outstanding Equity Securities of the Company and no other obligations by the Company or any of its Subsidiaries to make any payments based on the price or value of any Equity Securities of the Company. There are no outstanding agreements of any kind which obligate the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Equity Securities of the Company.

(c) Upon the Certificate of Designations being filed with and accepted by the Secretary of State of the State of Delaware, (i) the Series A Preferred Stock will be duly authorized and (ii) a sufficient number of Conversion Shares will have been duly authorized for issuance upon any conversion of the Shares into Conversion Shares in accordance with the provisions of this Agreement and the Certificate of Designations. If and when any Conversion Shares are issued in accordance with the provisions of this Agreement and the Certificate of Designations, all such Conversion Shares will be duly authorized, validly issued, fully paid and nonassessable.

3.3 Ownership of Significant Subsidiaries . All of the outstanding shares of Capital Stock of each Significant Subsidiary (a) have been duly authorized and validly issued (in accordance with the Organizational Documents of such Significant Subsidiary), and are fully paid (in the case of an interest in a limited partnership or limited liability company, to the extent

required under the Organizational Documents of such Significant Subsidiary) and non-assessable (except as such non-assessability may be affected by applicable Law), and (b) are wholly owned, directly or indirectly, by the Company, free and clear of all liens, claims, mortgages, encumbrances, pledges, security interests, equities or charges of any kind (" Liens "), except restrictions on transferability in the Organizational Documents of such Significant Subsidiary or except as set forth on Schedule 3.3(b) . Other than the Significant Subsidiaries, as of the date hereof, the Company has no direct or indirect ownership interest in any Person other than the Significant Subsidiaries that would be deemed a "significant subsidiary" of the Company as such term is defined in Rule 405 under the Securities Act.

3.4 Authorization . The Company has all requisite corporate power to enter into this Agreement and the Certificate of Designations, to consummate the transactions contemplated hereby and thereby and to carry out and perform its obligations hereunder and thereunder. All corporate action on the part of the Company, its officers and directors necessary for the authorization of the Securities and the authorization, execution, delivery and performance of this Agreement and the Certificate of Designations has been taken. The execution, delivery and performance of this Agreement and the Certificate of Designations, the issuance of the Shares and the issuance of the Conversion Shares upon any conversion of the Shares, in each case in accordance with the terms of this Agreement and the Certificate of Designations, and the consummation of the other transactions contemplated hereby and thereby, do not require any approval of the Company's stockholders. Upon (i) the execution by the Company and the Purchasers of this Agreement, and assuming this Agreement constitutes the legal, valid and binding obligation of the Purchasers, and (ii) the Certificate of Designations being filed with and accepted by the Secretary of State of the State of Delaware, each of this Agreement and the Certificate of Designations will constitute a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting or relating to creditors' rights generally, and (b) is subject to general principles of equity (regardless of whether considered in a proceeding in equity or at Law).

3.5 No Conflict . The execution, delivery and performance by the Company of this Agreement and the Certificate of Designations, the issuance of the Shares in accordance with this Agreement, the issuance of the Conversion Shares upon any conversion of the Shares in accordance with this Agreement and the Certificate of Designations and the consummation of the other transactions contemplated hereby and thereby do not and will not (i) conflict with or result in any violation of any provision of the certificate of incorporation or bylaws of the Company, or, upon the Certificate of Designations being filed with and accepted by the Secretary of State of the State of Delaware, the Certificate of Designations, (ii) subject to the matters referred to in Section 3.6 , result in any breach or violation of, or default (with or without notice or lapse of time, or both) under, require any consent under, or give rise to a right of termination, cancellation, modification or acceleration of any obligation or to the loss of any benefit under any mortgage, contract, purchase or sale order, instrument, permit, concession, franchise, right or license binding upon the Company or any of its Subsidiaries or result in the creation of any Liens upon any of the properties, assets or rights of the Company or any of its Subsidiaries, or (iii) subject to (A) the accuracy of the representations and warranties made by the Purchasers in Section 4 and (B) the matters referred to in Section 3.6 , conflict with or violate any applicable law, statute, code, ordinance, rule, regulation, or agency requirement of or undertaking to or

agreement with any Governmental Entity, including common law (collectively, " Laws " and each, a " Law ") or any judgment, order, injunction or decree issued by any Governmental Entity, except, in the case of each of clauses (ii) and (iii), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to prevent or materially delay or hinder the ability of the Company to perform its obligations under this Agreement or the Certificate of Designations.

3.6 Consents . No consent, approval, order, waiver or authorization of, or filing or registration with, or notification to (any of the foregoing being a " Consent "), any Governmental Entity is required on the part of the Company or its Subsidiaries in connection with (a) the execution, delivery or performance of this Agreement or the Certificate of Designations or the consummation of the transactions contemplated hereby and thereby, (b) the issuance of the Shares in accordance with this Agreement, or (c) the issuance of the Conversion Shares upon any conversion of the Shares in accordance with the terms of this Agreement and the Certificate of Designations, other than (i) the Certificate of Designations being filed with and accepted by the Secretary of State of the State of Delaware, (ii) those to be obtained in connection with the registration of the resale of the Conversion Shares under the Securities Act, any related Consents under applicable state securities Laws, any other Consents under any federal or state securities Laws, including compliance with any applicable requirements of the Securities Act or the Exchange Act, and (iii) such Consents the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to prevent or materially delay or hinder the ability of the Company to perform its obligations under this Agreement or the Certificate of Designations.

3.7 SEC Reports; Financial Statements .

(a) The Company has filed all reports required to be filed by it under the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the twelve months preceding the date hereof (the foregoing materials (together with any materials filed by the Company under the Exchange Act, whether or not required) collectively referred to herein as the " SEC Reports ").

(b) As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act and the rules and regulations of the SEC promulgated thereunder, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) The historical financial statements of the Company and its Subsidiaries included in the SEC Reports, together with the related notes (the " Company Financial Statements "), present fairly in all material respects the consolidated financial position of the Company (including its Subsidiaries), as of and at the dates indicated, and the results of its operations and cash flows for the periods specified on the basis stated therein. Such financial statements comply as to form with the applicable accounting requirements of the Securities Act and have been prepared in conformity with generally accepted accounting principles (" GAAP ") applied on a consistent basis throughout the periods involved, except as may be expressly stated in the related notes thereto.

(d) The Company's principal executive officer and its principal financial officer have (i) devised and maintained a system of internal accounting controls sufficient to provide reasonable assurances regarding the reliability of financial reporting and preparation of financial statements in accordance with GAAP, and have evaluated such system at the times required by the Exchange Act and in any event no less frequently than at reasonable intervals and (ii) disclosed to the Company's management, auditors and the audit committee of the Board all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the Company's or any of its Subsidiaries' ability to record, process, summarize and report financial information. The Company has established and maintains disclosure controls and procedures (as such term is defined in Rule 13a-15 under the Exchange Act), such disclosure controls and procedures are designed to ensure that material information relating to the Company and its Subsidiaries required to be included in the Company's periodic reports under the Exchange Act is made known to the Company's principal executive officer and its principal financial officer by others within those entities, and such disclosure controls and procedures are sufficient to ensure that the Company's principal executive officer and its principal financial officer are made aware of such material information required to be included in the Company's periodic reports required under the Exchange Act. There are no outstanding loans made by the Company or any of its Subsidiaries to any executive officer (as defined in Rule 3b-7 under the Exchange Act) or director of the Company.

(e) The Company is eligible to register the resale of the Registrable Securities by the W Purchaser using Form S-3 promulgated under the Securities Act.

(f) There is and has been no failure on the part of the Company or the Company's directors or officers, in their capacities as such, to comply in all material respects with any provision of the Sarbanes-Oxley Act of 2002 or the rules and regulations promulgated in connection therewith, in each case that are effective and applicable to the Company.

3.8 Litigation . As of the date hereof, there are no legal or governmental proceedings pending or, to the knowledge of the Company, threatened to which the Company or any of its Subsidiaries is a party or to which any of the properties of the Company or any of its Subsidiaries is subject other than (i) proceedings accurately described in all material respects in the SEC Reports and (ii) proceedings that would not reasonably be expected to have a Material Adverse Effect. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company under the Securities Act.

3.9 Title to Properties . The Company and each of its Subsidiaries, directly or indirectly, have good and indefeasible title to all real property and good title to all personal property described in the SEC Reports as being owned by them, in each case free and clear of all Liens except (i) as described in the SEC Reports, (ii) under the Credit Agreement or the Indentures and (iii) for any Liens that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.10 Rights of Way . The Company and each of its Subsidiaries, directly or indirectly, have such consents, easements, rights-of-way, permits or licenses from each Person (collectively, " Rights-of-Way ") as are necessary to conduct their businesses in the manner described, and subject to any limitations described, in the SEC Reports, except for such Rights-of-Way that, if not obtained, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.11 Permits . The Company and each of its Subsidiaries, directly or indirectly, have such permits, licenses, patents, franchises, certificates of need and other approvals or authorizations of governmental or regulatory authorities (" Permits ") as are necessary under applicable Law to own their respective properties and conduct their respective businesses in the manner described in the SEC Reports, except for any failures to have a Permit that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has received notice of any revocation, modification or nonrenewal of any such Permits that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect if so revoked, modified or not renewed.

3.12 Environmental Compliance . (i) The Company and each of its Subsidiaries are, and at all times prior to the date of this Agreement and the Closing Date have been, in compliance with all laws, regulations, ordinances, rules, orders, judgments, decrees, permits or other legal requirements of any Governmental Entity, relating to pollution, the protection of human health or safety, the environment, or natural resources, or to use, handling, storage, manufacturing, transportation, treatment, discharge, disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants (" Environmental Laws ") applicable to such entity, which compliance includes, without limitation, obtaining, maintaining and complying with all Permits required by Environmental Laws to conduct their respective businesses, and (ii) neither the Company nor any of its Subsidiaries has received notice or otherwise has knowledge of any actual or alleged violation of Environmental Laws, or of any actual or potential liability for or other obligation concerning the presence, disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, except for any such instances of non-compliance with Environmental Laws, failures to receive required Permits or other approvals or liabilities that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Except as accurately described in all material respects in the SEC Reports, (x) There are no proceedings that are pending, or known to be contemplated, against the Company or any of its Subsidiaries under Environmental Laws in which a Governmental Entity is also a party that would reasonably be expected to have a Material Adverse Effect, (y) neither the Company nor any of its Subsidiaries is aware of any issues regarding compliance with Environmental Laws, including any pending or proposed Environmental Laws, or liabilities or other obligations under Environmental Laws or concerning hazardous or toxic substances or wastes, pollutants or contaminants, that would reasonably be expected to have a material effect on the capital expenditures, earnings or competitive position of the Company or any of its Subsidiaries, and (z) neither the Company nor any of its Subsidiaries anticipates material capital expenditures relating to Environmental Laws.

3.13 Tax Returns . The Company and each of its Subsidiaries have filed all federal, state, local and foreign Tax returns required to be filed through the date of this

Agreement and the Closing Date (which returns are complete and correct in all material respects), subject to permitted extensions, and have timely paid all Taxes required to be paid by them and any other assessments, fines or penalties levied against any of them in respect of Taxes, to the extent any of the foregoing are due and payable, except for (a) those failures to file or pay that would not reasonably be expected to have a Material Adverse Effect or (b) any such Tax payment, assessment, penalty or fine that is currently being contested in good faith by appropriate proceedings.

3.14 Absence of Certain Changes . Except as set forth in the SEC Reports, since September 30, 2017, the business of the Company and its Subsidiaries has been conducted in the ordinary course of business consistent with past practice in all material respects and there has not been any Change which, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect.

3.15 No Registration Required . Assuming the accuracy of the representations and warranties of the Purchasers set forth in Section 4, the issuance and sale of the Shares to the Purchasers pursuant to this Agreement is exempt from registration requirements of the Securities Act, and neither the Company nor, to the knowledge of the Company, any Person acting on its behalf, has taken, or will take, any action hereafter that would cause the loss of such exception.

3.16 No Registration Rights . Except for such rights that have been waived or as expressly set forth in this Agreement, neither the offering nor sale of the Shares as contemplated by this Agreement gives rise to any rights for or relating to the registration of any Equity Securities of the Company. The Company has not granted registration rights to any Person other than the W Purchaser that would provide such Person priority over the W Purchaser's rights with respect to any registration pursuant to Section 5.6(j) .

3.17 No Defaults . Neither the Company nor any of its Subsidiaries is in (a) violation of its Organizational Documents, (b) violation of any Law or (c) breach, default (or an event that, with notice or lapse of time or both, would constitute such an event) or violation in the performance of any obligation, agreement, covenant or condition contained in any bond, debenture, note or any other evidence of indebtedness or in any agreement, indenture, lease or other instrument to which it is a party or by which it or any of its properties may be bound, except, in the case of each of clauses (b) and (c), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.18 No Di stribution Restrictions . None of the Company's Subsidiaries is currently prohibited, directly or indirectly, from paying any dividends or distributions to the Company, from making any other distribution on such Subsidiary's Equity Securities, from repaying to the Company any loans or advances to such Subsidiary from the Company or from transferring any of such Subsidiary's property or assets to the Company or any other Subsidiary of the Company, except for such prohibitions mandated by the Laws of each such Subsidiary's state of formation, applicable Organizational Documents, the Credit Agreement and the Indentures.

3.19 Brokers . The Company has not retained, utilized or been represented by any broker or finder in connection with the transactions contemplated by this Agreement whose fees the Purchasers could be required to pay.

3.20 NYSE . Shares of the Class A Common Stock are registered pursuant to Section 12(b) of the Exchange Act and are listed on the NYSE, and there is no action pending by the Company or any other Person to terminate the registration of the Class A Common Stock under the Exchange Act or to delist the Class A Common Stock from the NYSE, nor has the Company received any notification that the SEC or the NYSE is currently contemplating terminating such registration or listing. The issuance and sale of the Shares and the issuance of the Conversion Shares do not and will not contravene NYSE rules or regulations.

3.21 Investment Company Act . The Company is not, nor immediately after the Company's receipt of the Purchase Price from the Purchasers will the Company be, an "investment company" within the meaning of, and required to be registered under, the Investment Company Act of 1940, as amended.

3.22 No Other Representations and Warranties . Except for the representations and warranties contained in Section 3 and any schedules or certificates delivered in connection herewith, the Company makes no other representation or warranty, express or implied, written or oral, and hereby, to the maximum extent permitted by applicable Law, disclaims any such representation or warranty, whether by the Company or any other Person, with respect to the Company or with respect to any other information (including, without limitation, pro forma financial information, financial projections or other forward-looking statements) provided to or made available to the Purchasers or any of their respective Representatives in connection with the transactions contemplated hereby.

4. Representations and Warranties of the Purchasers . Each Purchaser hereby represents and warrants, severally and not jointly, as of the date hereof and as of the Closing Date, to the Company as follows:

4.1 Organization . Such Purchaser is a legal entity duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization.

4.2 Authorization and Power . Such Purchaser has all requisite corporate, limited liability company or limited partnership, as applicable, power to enter into this Agreement, to consummate the transactions contemplated hereby and to carry out and perform its obligations hereunder. All corporate, limited liability company or limited partnership, as applicable, action on the part of such Purchaser or the holders of the Capital Stock or other Equity Securities of such Purchaser necessary for the authorization, execution, delivery and performance of this Agreement has been taken. Upon the execution by such Purchaser and the Company of this Agreement, and assuming that this Agreement constitutes the legal, valid and binding obligation of each other Purchaser and of the Company, this Agreement will constitute a legal, valid and binding obligation of such Purchaser, enforceable against such Purchaser in accordance with its terms, except that such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting or relating to creditors' rights generally, and (b) is subject to general principles of equity (regardless of whether considered in a proceeding in equity or at Law).

4.3 No Conflict . The execution, delivery and performance of this Agreement by such Purchaser, the issuance of the Shares set forth next to such Purchaser's name on Annex A in accordance with this Agreement, the issuance of the Conversion Shares upon any conversion of the Shares set forth next to such Purchaser's name on Annex A, in each case in accordance with this Agreement and the Certificate of Designations, and the consummation of the other transactions contemplated hereby and thereby do not and will not (a) conflict with or result in any violation of any provision of the certificate of incorporation or by-laws or other equivalent organizational documents of such Purchaser, (b) result in any breach or violation of, or default (with or without notice or lapse of time, or both) under, or require any consent under, any material contract binding upon such Purchaser or (c) subject to the matters referred to in Section 4.4 , conflict with or violate any applicable Laws or any judgment, order, injunction or decree issued by any Governmental Entity, except, in the case of each of clauses (b) and (c), as would not, individually or in the aggregate, reasonably be expected to materially delay or hinder the ability of such Purchaser to perform its obligations under this Agreement (with respect to such Purchaser, a " Purchaser Adverse Effect ").

4.4 Consents . No Consent of any Governmental Entity is required on the part of such Purchaser in connection with (a) the execution, delivery or performance of this Agreement and the consummation of the transactions contemplated hereby, (b) the issuance of the Shares in accordance with this Agreement or (c) the issuance of the Conversion Shares upon any conversion of the Shares set forth next to such Purchaser's name on Annex A, in each case in accordance with this Agreement and the Certificate of Designations, other than (i) those to be obtained in connection with the registration of the resale of the Conversion Shares under the Securities Act, (ii) any related Consents under applicable state securities Laws and any other Consents under any federal or state securities Laws, including compliance with any applicable requirements of the Securities Act or the Exchange Act, and (iii) such Consents the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Purchaser Adverse Effect.

4.5 Brokers . Such Purchaser has not retained, utilized or been represented by any broker or finder in connection with the transactions contemplated by this Agreement whose fees the Company could be required to pay.

4.6 Purchase Entirely for Own Account . Such Purchaser is acquiring the Securities that it is acquiring for its own account solely for the purpose of investment, not as nominee or agent, and not with a view to, or for sale in connection with, any distribution of such Securities in violation of the Securities Act, and such Purchaser has no present intention of selling, granting any participation in, or otherwise distributing the same, in violation of the Securities Act. Such Purchaser has no present agreement, undertaking, arrangement, obligation or commitment providing for the disposition of the Securities that it is acquiring.

4.7 Investor Status . Such Purchaser certifies and represents to the Company that it is an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act. Such Purchaser's financial condition is such that it is able to bear the risk of

holding the Securities that it is acquiring for an indefinite period of time and the risk of loss of its entire investment. Such Purchaser has been afforded the opportunity to receive information from, and to ask questions of and receive answers from the management of, the Company concerning this investment so as to allow it to make an informed investment decision prior to its investment and has sufficient knowledge and experience in investing in companies similar to the Company so as to be able to evaluate the risks and merits of its investment in the Company. The W Purchaser further certifies and represents that the "person," as defined in 16 C.F.R. § 801.1(a)(1) of the rules promulgated under the HSR Act, within which the W Purchaser is included, does not have total assets or annual net sales of $16.2 million or more as determined in accordance with the HSR Act.

4.8 Securities Not Registered .

(a) Such Purchaser understands that none of the Securities have been approved or disapproved by the SEC or by any state securities commission nor have the Securities been registered under the Securities Act, by reason of their issuance by the Company in a transaction exempt from the registration requirements of the Securities Act, and that the Securities being acquired by such Purchaser must continue to be held by such Purchaser unless a subsequent disposition thereof is registered under the Securities Act or is exempt from such registration. Such Purchaser understands that the exemptions from registration afforded by Rule 144 under the Securities Act (" Rule 144 ") (the provisions of which are known to it) depend on the satisfaction of various conditions, and that, if applicable, Rule 144 may afford the basis for sales only in limited amounts.

(b) Such Purchaser understands that the Securities shall be subject to the restrictions contained herein and in the Certificate of Designations.

(c) Such Purchaser understands that the Securities, and any securities issued in respect thereof or in exchange therefor, may bear one or all of the legends set forth in the Certificate of Designations.

4.9 Financing . Such Purchaser has, or by the Closing will have, an amount of cash sufficient to enable it to consummate the transactions contemplated hereunder on the terms and conditions set forth in this Agreement.

4.10 Equity Securities of the Company and its Subsidiaries . Except as previously disclosed on Schedule 13F or Schedule 13G, neither such Purchaser nor any of its Affiliates Beneficially Owns any Equity Securities of the Company or any of its Subsidiaries.

4.11 Non-Reliance . Neither such Purchaser nor any of its Representatives has relied or is relying on any representation or warranty, express or implied, written or oral, made by the Company or any of its Representatives, except those representations and warranties expressly set forth in Section 3 or in any schedule or certificate delivered in connection herewith. Neither the Company nor any of its Representatives will have or be subject to any liability or indemnification obligation to such Purchaser or any other Person resulting from any other express or implied representation or warranty with respect to the Company, unless any such information is expressly included in a representation or warranty contained in Section 3 or in any schedule or certificate delivered in connection herewith.

5. Covenants .

5.1 Consents and Filings; Further Assurances .

(a) Each of the parties shall use all commercially reasonable efforts to take, or cause to be taken, all appropriate action to do, or cause to be done, all things necessary, proper or advisable under applicable Law or otherwise to consummate and make effective the transactions contemplated by this Agreement and the Certificate of Designations as promptly as practicable, including to (i) obtain from Governmental Entities and other Persons all Consents necessary for the consummation of the transactions contemplated by this Agreement and the Certificate of Designations, (ii) promptly make all necessary filings, and thereafter make any other required submissions, with respect to this Agreement required under any applicable Law and (iii) execute and deliver any additional instruments, and take any further actions, reasonably necessary to consummate the transactions contemplated by, and to fully carry out the purposes of, this Agreement and the Certificate of Designations; provided , that in no event shall any Purchaser or any of its Affiliates or any portfolio company of any of them be required to divest, dispose of or hold separate any of its assets, properties or businesses in connection with obtaining such Consents or avoiding an injunction or order under any Antitrust Law or competition or trade regulation Law.

(b) Each of the parties shall promptly notify the other parties of any communication it or any of its Affiliates or Representatives receives from any Governmental Entity relating to the matters that are the subject of this Agreement or the Certificate of Designations, and permit the other parties to review in advance any proposed communication (but excluding, for the sake of clarity, filings themselves) by such party to any Governmental Entity. None of the parties shall agree to participate in any meeting with any Governmental Entity in respect of any filings, investigation or other inquiry unless it consults with the other parties in advance and, to the extent permitted by such Governmental Entity, gives the other parties the opportunity to attend and participate at such meeting. The Company and the Purchasers shall coordinate and cooperate fully with each other in exchanging such information and providing such assistance as the other party may reasonably request in connection with the foregoing; provided , that the W Purchaser shall only be required to provide the cooperation contemplated by this sentence to the Company, but not to the other Purchasers and subject to the terms of the confidentiality agreement between the Company and the W Purchaser, dated as of December 20, 2017 (the " Confidentiality Agreement "). Subject to the Confidentiality Agreement, each of the Company, on the one hand, and the Purchasers, on the other hand, shall provide the other party with copies of all correspondence or communications (but excluding, for the sake of clarity, filings themselves) between it or any of its Representatives, on the one hand, and any Governmental Entity or members of its staff, on the other hand, with respect to this Agreement and the transactions contemplated hereby; provided , that the W Purchaser shall only be required to provide copies of such correspondence and communications to the Company, but not to the other parties hereto, and subject to the terms of the Confidentiality Agreement.

(c) The Purchasers and the Company shall cooperate with each other and with each other's respective Representatives and, generally, do such other reasonable acts and things in good faith as may be reasonably necessary to effectuate the transactions contemplated by this Agreement and the Certificate of Designations, subject to the terms and conditions hereof and thereof and compliance with applicable Law, including taking reasonable action to facilitate the filing of any document or the taking of reasonable action to assist the other party hereto in complying with the terms hereof and thereof.

5.2 Shares of Class A Common Stock Issuable Upon Conversion. From and after the Closing, the Company shall at all times have authorized and available for issuance such number of shares of Class A Common Stock as shall be from time to time sufficient to permit the conversion in full of the outstanding Shares into Conversion Shares, including as may be adjusted for share splits, combinations or other similar transactions as of any date of determination.

5.3 Form 8-K. The Company shall, promptly following the date hereof (but in any event within the time period required by the rules and regulations of the SEC), file a Current Report on Form 8-K, disclosing the material terms of the transactions contemplated hereby.

5.4 Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the SEC that may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use its reasonable best efforts to:

(a) make and keep public information regarding the Company available, as those terms are understood and defined in Rule 144 under the Securities Act (or any similar provision then in effect), at all times from and after the Closing Date;

(b) file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act at all times from and after the Closing Date; and

(c) so long as a Holder owns any Registrable Securities, furnish (i) to the extent accurate, forthwith upon request, a written statement of the Company that it has complied with the reporting requirements of Rule 144 under the Securities Act (or any similar provision then in effect) and (ii) unless otherwise available via the SEC's EDGAR filing system, to such Holder forthwith upon request a copy of the most recent annual or quarterly report of the Company, and such other reports and documents so filed as such Holder may reasonably request in availing itself of any rule or regulation of the SEC allowing such Holder to sell any such securities without registration.

5.5 Listing of Conversion Shares. The Company will use its commercially reasonable efforts to obtain and maintain approval for listing, subject to notice of issuance, of the Conversion Shares on the NYSE.

5.6 Registration Rights.

(a) The Company shall use reasonable best efforts to file a Form S-3 or any similar short-form registration statement that may be available at such time (as amended

or supplemented and including any replacements thereof, the " Form S-3 ") to register the resale of the Registrable Securities and the Passive Securities and to have such Form S-3 declared effective not later than the 18-month anniversary of the Closing Date.

(b) The Company shall use reasonable best efforts maintain the effectiveness of the Form S-3 until the earlier of (i) two (2) years after the date on which any of the W Purchaser's Shares are first converted into Conversion Shares and (ii) the date on which no Registrable Securities remain outstanding; provided , however , that the Company shall use reasonable best efforts to maintain the effectiveness of the Form S-3 during all periods (before or after the two (2) year period set forth in clause (i) above) during which the W Purchaser (A) is deemed to be an affiliate of the Company pursuant to Rule 144 or (B) together with its Affiliates, owns more than 5% of the Company's Class A Common Stock (including the Shares of Class A Common Stock any such Person would own on an as-converted basis if all Shares owned by such Person were converted to Class A Common Stock on the relevant date of determination (whether or not such Shares are actually convertible under the Certificate of Designations)).

(c) If, in the judgment of outside counsel to the Company, the filing, initial effectiveness or continued use of the Form S-3 would require disclosure of information not otherwise then required by Law to be publicly disclosed and, in the good faith judgment of the Board, such disclosure is reasonably likely to materially and adversely affect any material financing, acquisition, corporate reorganization or merger or other material transaction or event involving the Company or any of its Subsidiaries or otherwise have a material and adverse effect on the Company (such good faith judgment, a " Valid Business Reason "), the Company may postpone or withdraw a filing of a Form S-3, or delay use of an effective Form S-3 until such Valid Business Reason no longer exists, but in no event shall the Company avail itself of such right, or its right to suspend the Holders' right to require the Company to conduct an Underwritten Shelf Takedown pursuant to Section 5.6(e) , for a total of more than 20 consecutive days at any one time or 40 days, in the aggregate, in any period of 365 consecutive days; and the Company shall give notice to the W Purchaser of its determination to postpone or withdraw a Form S-3 and of the fact that the Valid Business Reason for such postponement or withdrawal no longer exists, in each case, promptly after the occurrence thereof. In the event the Company exercises its rights under this Section 5.6(c) , the W Purchaser shall suspend, immediately upon its receipt of the notice referred to above, its use of the prospectus relating to the Form S-3 in connection with any sale or offer to sell Registrable Securities, and shall further keep confidential (i) the Company's exercise of its rights under this Section 5.6(c) and (ii) the W Purchaser's suspension of its use of the prospectus relating to the Form S-3.

(d) In the event that (i) the Form S-3 has not become effective or been declared effective by the SEC on or before the date on which such Form S-3 is required to become or be declared effective pursuant to Section 5.6(a) or (ii) the Form S-3 is filed and declared effective but (A) shall thereafter either be withdrawn by the Company, (B) shall become subject to an effective stop order issued pursuant to Section 8(d) of the Securities Act suspending the effectiveness of such Form S-3 (except as specifically permitted herein, including, with respect to any Form S-3, during any applicable suspension period in accordance with the last sentence of Section 5.6(c) or if no Registrable Securities exist) without being succeeded by an additional Form S-3 filed and declared effective within three Business Days after the predecessor Form S-3 ceased to be effective or (C) shall be suspended for a Valid Business Reason for a

number of days in excess of the periods specified in Section 5.6(c) (each such event referred to in clauses (i) and (ii), a " Registration Default " and each period during which a Registration Default has occurred and is continuing, a " Registration Default Period "), then, as liquidated damages (which liquidated damages will not be exclusive of any other remedies available in equity, including, without limitation, specific performance), and not as a penalty, for such Registration Default, the Company shall pay to the W Purchaser an aggregate amount equal to (i) 0.25% of the Purchase Price per 30-day period for the first 60 days of such Registration Default Period; *plus* (ii) 0.50% of the Purchase Price per 30-day period for the next 60 days of such Registration Default Period; *plus* (iii) 0.75% of the Purchase Price per 30-day period for the next 60 days of such Registration Default Period; *plus* (iv) 1.00% of the Purchase Price upon completion of each subsequent 30-day period of such Registration Default Period (such aggregate amount, the " Registration Default Fee "); provided , however , that in no event shall the Registration Default Fee paid by the Company pursuant to this Section 5.6(d) exceed 2.50% of the Purchase Price.

(e) Any one or more Holders of Registrable Securities may request to sell all or any portion of their Registrable Securities in a firm commitment underwritten offering that is registered pursuant to the Form S-3 (each, an " Underwritten Shelf Takedown "); provided , however , that in the case of each such Underwritten Shelf Takedown, such Holder or Holders will be entitled to make such demand only if the sale of Registrable Securities in the offering (before the deduction of underwriting discounts) is reasonably expected to generate gross proceeds of at least $75 million. Subject to the other limitations contained in this Agreement, the Company will not be obligated hereunder to effect (i) an Underwritten Shelf Takedown within 90 days after the closing of any underwritten offering by the Company or of any previous Underwritten Shelf Takedown and (ii) more than a total of two Underwritten Shelf Takedown offerings pursuant to this Agreement, provided , however , that such limitation shall not apply to Overnight Underwritten Offerings or any non-marketed underwritten offerings. Notwithstanding the foregoing, subject to the limitations set forth in Section 5.6(c), if the Company is conducting or actively pursuing a securities offering with anticipated offering proceeds of at least $100 million (other than in connection with any at-the-market offering or similar continuous offering program), then the Company may suspend the Holders' right to require the Company to conduct an Underwritten Shelf Takedown pursuant to this Section 5.6(e) .

(f) All requests (a " Demand Request ") for Underwritten Shelf Takedowns shall be made by the Holder or Holders making such request (the " Requesting Holder ") by giving written notice to the Company. Each Demand Request shall specify the approximate number of Registrable Securities to be sold in the Underwritten Shelf Takedown and the expected price range of such Underwritten Shelf Takedown. Within three Business Days after receipt of any Demand Request, the Company shall send written notice of such requested Underwritten Shelf Takedown to all other Holders of Registrable Securities (the " Company Notice ") and shall include in such Underwritten Shelf Takedown all Registrable Securities with respect to which the Company has received written requests for inclusion therein within five Business Days after sending the Company Notice.

(g) In reasonable consultation with the Participating Majority, the Company shall select one or more nationally prominent firms of investment bankers reasonably acceptable to the Participating Majority to act as the lead managing underwriter or underwriters in connection with each Underwritten Shelf Takedown. All Holders proposing to distribute their

securities through such Underwritten Shelf Takedown shall enter into an underwriting agreement with such underwriter or underwriters in accordance with Section 5.6(i). The "Participating Majority" shall mean, with respect to any particular Underwritten Shelf Takedown, the Holder(s) of a majority of the Registrable Securities requested to be included in such Underwritten Shelf Takedown. The Company will ensure that members of senior management fully cooperate with the underwriter(s) in connection with the Underwritten Shelf Takedown and make themselves available to participate in all of the due diligence and marketing processes in connection with the Underwritten Shelf Takedown as recommended by the underwriter(s) and providing any additional information recommended by the underwriter(s) (in addition to the minimum information required by Law in any prospectus relating to the Underwritten Shelf Takedown), including but not limited to any information necessary to ensure the delivery of customary auditor's "comfort letters" and opinions of counsel of the Company.

(h) If the managing underwriters for an Underwritten Shelf Takedown advise the Company and the participating Holders in writing that, in their opinion, marketing factors require a limitation of the amount of securities to be underwritten (including Registrable Securities) because the amount of securities to be underwritten is likely to have an adverse effect on the price, timing or the distribution of the securities to be offered, then the Company shall so advise all Holders of Registrable Securities which would otherwise be underwritten pursuant hereto, and the amount of Registrable Securities that may be included in the underwriting shall be allocated among the participating Holders as nearly as possible on a pro rata basis based on the total amount of Registrable Securities then owned by such Holders. The Company shall prepare preliminary and final prospectus supplements for use in connection with the Underwritten Shelf Takedown, containing such additional information as may be reasonably requested by the underwriter(s).

(i) If requested by the underwriters for an Underwritten Shelf Takedown, the Company shall enter into an underwriting agreement with such underwriters for such offering, such agreement to be form and substance (including with respect to representations and warranties by the Company) as is customarily given by the Company to underwriters in an underwritten public offering, and to contain indemnities to the effect and to the extent provided in this Section 5.6. The Holders of Registrable Securities participating in the Underwritten Shelf Takedown shall be parties to such underwriting agreement; provided, however, that no such Holder shall be required to (i) make any representations or warranties in connection with any such registration other than representations and warranties as to (A) such Holder's ownership of his or its Registrable Securities to be sold or transferred free and clear of all Liens, (B) such Holder's power and authority to effect such transfer and (C) such matters pertaining to compliance with securities Laws as may be reasonably requested or (ii) undertake any indemnification obligations to the Company or the underwriters with respect thereto except as otherwise provided in this Section 5.6. No Holder may participate in the Underwritten Shelf Takedown unless such Holder agrees to sell its Registrable Securities on the basis provided in such underwriting agreement and completes and executes all questionnaires, powers of attorney, indemnities and other documents reasonably required under the terms of such underwriting agreement. Each participating Holder may, at its option, require that any or all of the representations and warranties by, and the other agreements on the part of, the Company to and for the benefit of such underwriters also be made to and for such participating Holder's benefit and that any or all of the conditions precedent to the obligations of such underwriters under such underwriting agreement also be conditions precedent to its obligations.

(j) Each time the Company proposes to register any of its Equity Securities under the Securities Act for sale to the public for its own account (other than in connection with any at-the-market offering or similar continuous offering program) and/or for another Person (including, but not limited to, any Holder) and the form of registration statement to be used permits the registration of Registrable Securities, the Company shall give prompt written notice to each Holder of Registrable Securities (which notice shall be given not less than 30 days prior to the anticipated filing date, or two Business Days in the case of an Overnight Underwritten Offering or similar "bought deal"), which notice shall offer each such Holder the opportunity to include any or all of its or his Registrable Securities in such registration statement, subject to the limitations contained in Section 5.6(k) hereof; provided, however, that no such notice shall be delivered in respect of an Overnight Underwritten Offering initiated by a Holder pursuant to Section 5.6(e), and no other Holders shall have rights to include Registrable Securities in such an offering pursuant to this Section 5.6(j). Each Holder who desires to have its or his Registrable Securities included in such registration statement shall so advise the Company in writing (stating the number of shares desired to be registered) within 20 days (or one Business Day in the case of an Overnight Underwritten Offering or similar "bought deal") after the date of such notice from the Company. Any Holder shall have the right to withdraw such Holder's request for inclusion of such Holder's Registrable Securities in any registration statement pursuant to this Section 5.6(j) by giving written notice to the Company of such withdrawal. Subject to Section 5.6(k) below, the Company shall include in such registration statement all such Registrable Securities so requested to be included therein; provided, however, that the Company may at any time withdraw or cease proceeding with any such registration if it shall at the same time withdraw or cease proceeding with the registration of all other Equity Securities originally proposed to be registered. For the avoidance of doubt, any registration or offering pursuant to this Section 5.6(j) shall not be considered an Underwritten Shelf Takedown for purposes of Section 5.6(e).

(k) With respect to any registration pursuant to Section 5.6(j), if the managing underwriter advises the Company that the inclusion of Registrable Securities requested to be included in the registration statement will materially and adversely affect the price or success of the offering, the Company will be obligated to include in the registration statement (after all Equity Securities for its own account), as to each Requesting Holder, only a portion of the Equity Securities such Holder has requested be registered equal to the product of: (i) the ratio which the Equity Securities of the Company owned by such Holder bears to the total number of Equity Securities of the Company owned by all Persons (including Holders) who have requested that their Equity Securities be included in such registration statement (pursuant to this Agreement or other contractual registration rights); and (ii) the maximum number of Equity Securities that the managing underwriter advises may be sold in an offering covered by the registration statement without materially and adversely affect the price or success of the offering. If, as a result of the provisions of this Section 5.6(k), any Holder shall not be entitled to include all Registrable Securities in a registration that such Holder has requested to be so included, such Holder may withdraw such Holder's request to include Registrable Securities in such registration statement. No Person may participate in any registration statement pursuant to Section 5.6(j) unless such Person (i) agrees to sell such Person's Registrable Securities on the basis provided in

any underwriting arrangements approved by the Company and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents, each in customary form, reasonably required under the terms of such underwriting arrangements; provided , however , that no such Person shall be required to (A) make any representations or warranties in connection with any such registration other than representations and warranties as to (1) such Person's ownership of his or its Registrable Securities to be sold or transferred free and clear of all liens, claims and encumbrances, (2) such Person's power and authority to effect such transfer and (3) such matters pertaining to compliance with securities laws as may be reasonably requested or (B) undertake any indemnification obligations to the Company or the underwriters with respect thereto except as otherwise provided in this Section 5.6 .

(l) The Registration Expenses for the Form S-3 and each registration shall be borne by the Company. It is acknowledged by the W Purchaser and each other Holder that it shall be responsible for all commissions, underwriting discounts or brokerage fees, and any transfer taxes, if any, in respect of Registrable Securities sold by it.

(m) In the event of any registration of the resale of any Registrable Securities under the Securities Act pursuant to this Section 5.6 , the Company shall indemnify and hold harmless, to the fullest extent permitted by Law, each Holder and its Affiliates and Representatives from and against any and all losses, claims, damages or liabilities, joint or several, actions or proceedings (whether commenced or threatened) and expenses (including reasonable fees of counsel and any amounts paid in any settlement effected with the Company's consent, which consent shall not be unreasonably withheld or delayed) to which each such indemnified party may become subject under the Securities Act or otherwise in respect thereof (collectively, " Registration Rights Indemnifiable Losses "), insofar as such Registration Rights Indemnifiable Losses arise out of or are based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any registration statement under which the resale of such securities was registered under the Securities Act or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary, final or summary prospectus or any amendment or supplement thereto, together with the documents incorporated by reference therein, or any issuer free writing prospectus, as defined in Rule 433 under the Securities Act, relating to an offer of Registrable Securities (any " Issuer Free Writing Prospectus ") utilized in connection therewith, or the omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, and the Company will reimburse any such indemnified party for any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such Registration Rights Indemnifiable Loss as such expenses are incurred; provided , however , that the Company shall not be liable to any such indemnified party in any such case to the extent such Registration Rights Indemnifiable Loss arises out of or is based upon any untrue statement or alleged untrue statement of a material fact or omission or alleged omission of a material fact made in such registration statement or amendment thereof or supplement thereto or in any such prospectus or any preliminary, final or summary prospectus or Issuer Free Writing Prospectus in reliance upon and in conformity with written information furnished to the Company by or on behalf of such indemnified party specifically for use therein.

(n) The W Purchaser (in its capacity as a Holder) shall, and shall ensure that any other Person deemed to be a Holder pursuant to clause (ii) of the definition thereof agrees to, indemnify and hold harmless (in the same manner and to the same extent as set forth in Section 5.6(m)), to the extent permitted by Law, the Company, its officers and directors, each Person controlling the Company within the meaning of the Securities Act with respect to any untrue statement or alleged untrue statement of any material fact in, or omission or alleged omission of any material fact from, such registration statement, any preliminary, final or summary prospectus contained therein, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus utilized in connection therewith, if such statement or alleged statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company or its Representatives by or on behalf of such Holder specifically for use therein and reimburse such indemnified party for any legal or other expenses reasonably incurred in connection with investigating or defending any such Registration Rights Indemnifiable Loss as such expenses are incurred; provided, however, that the aggregate amount that any such Holder shall be required to pay pursuant to this Section 5.6(n) and Sections 5.6(o) and 5.6(p), shall in no case be greater than the amount of the net proceeds received by such Holder upon the sale of the Registrable Securities pursuant to the registration statement giving rise to such claim.

(o) Any Person entitled to indemnification under this Section 5.6 promptly shall notify the indemnifying party in writing of the commencement of any action or proceeding with respect to which a claim for indemnification may be made pursuant to this Section 5.6, but the failure of any such Person to provide such notice shall not relieve the indemnifying party of its obligations under the preceding subsections of this Section 5.6, except to the extent the indemnifying party is materially prejudiced thereby, and shall not relieve the indemnifying party from any liability that it may have to any such Person otherwise than under this Section 5.6. In case any action or proceeding is brought against an indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, unless in the reasonable opinion of outside counsel to the indemnified party a conflict of interest between such indemnified and indemnifying parties may exist in respect of such claim, to assume the defense thereof jointly with any other indemnifying party similarly notified, to the extent that it chooses, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party that it so chooses, the indemnifying party shall not be liable to such indemnified party for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. Without the written consent of the indemnified party, which consent shall not be unreasonably withheld, conditioned or delayed, no indemnifying party shall effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder, whether or not the indemnified party is an actual or potential party to such action or claim, unless such settlement, compromise or judgment (A) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (B) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(p) If for any reason the foregoing indemnity is unavailable or is insufficient to hold harmless an indemnified party under any of Sections 5.6(m), 5.6(n), or

5.6(o) , then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of any Registration Rights Indemnifiable Loss in such proportion as is appropriate to reflect the relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other hand, with respect to such offering of securities. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. If, however, the allocation provided in the second preceding sentence is not permitted by applicable Law, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative faults but also the relative benefits of the indemnifying party and the indemnified party as well as any other relevant equitable considerations. The parties hereto agree that it would not be just and equitable if contributions pursuant to this Section 5.6(p) were to be determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the preceding sentences of this Section 5.6(p) . The amount paid or payable in respect of any Registration Rights Indemnifiable Loss shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such Registration Rights Indemnifiable Loss. No Person guilty of fraudulent misrepresentation within the meaning of Section 11(f) of the Securities Act shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. Notwithstanding anything in this Section 5.6(p) to the contrary, no indemnifying party other than the Company shall be required pursuant to this Section 5.6(p) to contribute any amount in excess of the net proceeds received by such indemnifying party from the sale of Registrable Securities in the offering to which the Registration Rights Indemnifiable Losses of the indemnified parties relate, less the amount of any indemnification payment made by such indemnifying party pursuant to Sections 5.6(n) and 5.6(o) .

(q) The indemnity and contribution agreements contained in this Section 5.6 shall be in addition to any other rights to indemnification or contribution which any indemnified party may have pursuant to Law or contract and shall remain operative and in full force and effect regardless of any investigation made or omitted by or on behalf of any indemnified party and shall survive the transfer of the Registrable Securities by any such party.

5.7 Tax Treatment . Absent a change in Law or a contrary determination (as defined in Section 1313(a) of the Internal Revenue Code of 1986, as amended (the " Code ")), the Purchasers and the Company agree not to treat the Series A Preferred Stock (based on its terms as set forth in the Certificate of Designations) as "preferred stock" within the meaning of Section 305 of the Code, and Treasury Regulation Section 1.305-5 for United States federal income tax purposes, and shall not take any position inconsistent with such treatment.

5.8 Board Observation Right .

(a) Beginning on the Closing Date and ending on the date that the W Purchaser and its Affiliates (collectively, the " W Purchaser Group Members ") no longer own at least 50% of the Series A Preferred Stock issued to the W Purchaser Group Members on the Closing Date (the " Board Rights Termination Date " and such period from the Closing Date to

the Board Rights Termination Date, the " Observation Period "), the Company hereby grants the W Purchaser the option and right, exercisable at any time during the Observation Period by delivering a written notice of such appointment to the Company (the " Observer Notice "), to nominate a single representative (the " Board Observer "), to attend all meetings (including, without limitation, telephonic meetings) of the full Board during the Observation Period in a non-voting, observer capacity. The initial nominee shall be John Rowan. The W Purchaser's selection of the individual to serve as the initial Board Observer, or any subsequent Board Observer, is subject (i) to the approval by the Board (such approval not to be unreasonably withheld, conditioned or delayed); provided , that if the Board does not approve the appointment of an individual nominated by the W Purchaser by rejecting such individual or failing to act within 30 days, then the W Purchaser may nominate two additional individuals who are investment professionals employed by Warburg Pincus LLC or one of its Affiliates and the Board shall appoint one such individual to serve as a Board Observer within 30 days following such nomination (and, if the Board fails to do so, W Purchaser may select one of the two individuals), and (ii) to the execution and delivery by such individual of a confidentiality agreement in the form attached hereto as Annex B (the " Observer Confidentiality Agreement ").

(b) The Board Observer shall not constitute a member of the Board and shall not be entitled to vote on, or consent to, any matters presented to the Board. The Board Observer shall be provided access to all Board materials and information as provided on the same terms and in the same manner as provided to the other members of the Board. The Board Observer shall have the right to attend any executive sessions of the Board. The presence of the Board Observer shall not be required for purposes of establishing a quorum. For the avoidance of doubt, the Board Observer shall have no right to receive notice of or attend any meeting of any committee of the full Board (each, a " Committee ") or be provided with material in respect thereof; provided , however , that the Board Observer shall have the right to receive notice of and attend any meeting of any committee of the full Board established for the purpose of considering, reviewing, evaluating or negotiating proposals for strategic transactions or alternatives.

(c) The Company shall (i) give the Board Observer notice of the applicable meeting or action taken by written consent at the same time and in the same manner as notice is given to the members of the Board, (ii) provide the Board Observer with access to all materials and other information (including, without limitation, access to minutes of meetings or written consents of the full Board) given to the members of the Board in connection with such meetings or actions taken by written consent at the same time and in the same manner such materials and information are furnished to such members of the Board, and (iii) provide the Board Observer with all rights to attend (whether in person or by telephone or other means of electronic communication as solely determined by the Board Observer) such meetings as a member of the Board.

(d) The W Purchaser shall, and shall cause the Board Observer to, (x) maintain the confidentiality of all non-public information and proceedings of the Board and (y) use such information only for the purposes of monitoring, reviewing and analyzing the investment by the W Purchaser in the Company, in each case subject to and in accordance with the Observer Confidentiality Agreement. The W Purchaser shall be responsible for any breach of this Section 5.8(d) or the Observer Confidentiality Agreement by the Board Observer or any W Purchaser Group Member.

(e) Notwithstanding any rights to be granted or provided to the Board Observer hereunder, the Company reserves the right to exclude the Board Observer from access to any material or meeting or portion thereof if the Board reasonably determines, in good faith, that (i) such exclusion is, based on the advice of counsel, reasonably necessary to preserve the attorney-client or work product privilege between the Company and its counsel (provided , however , that such exclusion shall be limited to the portion of the material and/or meeting that is the basis for such exclusion and shall not extend to any portion of the material and/or meeting that does not involve or pertain to such exclusion); (ii) such material or meeting or portion thereof relates to the Company's or any of its Affiliates' relationship, contractual or otherwise, with the W Purchaser or any its Affiliates or any actual or potential transaction between or involving the Company or any of its Affiliates and the W Purchaser or any of its Affiliates; or (iii) such exclusion is reasonably necessary to avoid a conflict of interest. Notwithstanding any rights to be granted or provided to the Board Observer hereunder, the Board Observer must notify the Board of any conflicts of interest between the Board Observer or the W Purchaser or any of his, her or its respective Affiliates, on the one hand, and the Company or any of its Affiliates, on the other hand, and if such conflict of interest is to be discussed at a meeting of the Board, the Board Observer shall recuse himself or herself from any discussions regarding such matters. The W Purchaser shall be responsible for any breach of this Section 5.8(e) by the Board Observer.

(f) From and after the Board Rights Termination Date, the rights of the W Purchaser in Sections 5.8(a) , (b) and (c) shall cease. The rights of the W Purchaser in Sections 5.8(a) , (b) and (c) are not transferrable or assignable.

(g) For the avoidance of doubt, the Board Observer in its capacity as a Board Observer shall have (i) no fiduciary duty to the Company and (ii) no obligations to the Company under this Agreement, except as described herein and in the Observer Confidentiality Agreement.

(h) The Company shall reimburse the Board Observer for all reasonable and documented out-of-pocket expenses incurred in connection with such Board Observer's participation in the meetings of the Board or any committee of the Board, including all reasonable and documented travel, lodging and meal expenses, consistent with the Company's expense reimbursement policies that apply to non-executive directors serving on the Board.

5.9 Cooperation . Following the Closing, upon request of any Purchaser, (a) the Company shall use its commercially reasonable efforts to cause the Shares held by such Purchaser to be (i) rendered eligible for book-entry delivery through The Depositary Trust Company in connection with such transfer, and (ii) assigned a valid CUSIP number in accordance with the applicable rules and procedures of the CUSIP Service Bureau, in each case, as soon as reasonably practicable, but in any event, within 15 days following the receipt by the Company of written request therefor in accordance with this Section 5.9 and (b) the Company shall use its commercially reasonable efforts to assist in any pledge of Securities made by such Purchaser in compliance with to the Certificate of Designations.

6. Conditions Precedent .

6.1 Conditions to the Obligation of the Purchasers to Consummate the Closing . The obligation of the Purchasers to consummate the transactions to be consummated at the Closing, and to purchase and pay for the Shares pursuant to this Agreement, is subject to the satisfaction, or due waiver in writing by the W Purchaser, of the following conditions precedent:

(a) the Certificate of Designations shall have been filed with and accepted by the Secretary of State of the State of Delaware;

(b) the Company shall have performed and complied in all material respects with all of the covenants and agreements contained in this Agreement that are required to be performed or complied with by it on or prior to the Closing Date;

(c) the representations and warranties of the Company contained in this Agreement shall be true and correct in all material respects (other than those representations and warranties contained in Sections 3.1 , 3.2 , 3.3 , 3.4 , 3.19 and 3.21 or other representations that are qualified by materiality or Material Adverse Effect, which, in each case, shall be true and correct in all respects) as of the Closing Date (except in the case of representations and warranties that are made as of a specified date, which shall be true and correct in all respects as of such specified date);

(d) Gibson, Dunn & Crutcher LLP, counsel to the Company, shall have provided each of the Purchasers with its legal opinion, in substantially the form previously provided to the Purchasers;

(e) the Company shall have delivered to each of the Purchasers a certified copy of the Certificate of Designations as certified by the Delaware Secretary of State at or prior to the Closing Date;

(f) the Company shall have delivered to each of the Purchasers a certificate, in form acceptable to the W Purchaser, executed by the Secretary of the Company and dated as of the Closing Date, as to (i) the resolutions adopted by the Board in connection with the transactions contemplated hereby, (ii) the Certificate of Incorporation of the Company and the Certificate of Designations and (iii) the bylaws of the Company, each as in effect at the Closing

(g) the Company shall have delivered to each of the Purchasers a certificate, dated the Closing Date and executed by a duly authorized officer, to the effect that the conditions set forth in Sections 6.1(b) and (c) have been satisfied;

(h) the NYSE shall have authorized, upon official notice of issuance, the listing of the Conversion Shares;

(i) no notice of delisting from the NYSE shall have been received by the Company with respect to the Class A Common Stock; and

(j) the consummation of the Closing shall not have been enjoined or prohibited by applicable Law and no proceeding by any Governmental Entity, challenging the transactions contemplated by this Agreement and the Certificate of Designations shall have been initiated or threatened.

6.2 Conditions to the Obligation of the Company to Consummate the Closing . The obligation of the Company to consummate the transactions to be consummated at the Closing, and to issue and sell to the Purchasers the Shares pursuant to this Agreement, is subject to the satisfaction of the following conditions precedent:

(a) the Certificate of Designations shall have been filed with and accepted by the Secretary of State of the State of Delaware;

(b) the Purchasers shall have performed and complied in all material respects with all of the covenants and agreements contained in this Agreement that are required to be performed or complied with by it on or prior to the Closing Dates;

(c) the representations and warranties of each of the Purchasers contained in this Agreement shall be true and correct in all material respects (other than those representations and warranties that are qualified by materiality or by Purchaser Adverse Effect, which, in each case, shall be true and correct in all respects) as of the Closing Date (except in the case of representations and warranties that are made as of a specified date, which shall be true and correct in all respects as of such specified date);

(d) each of the Purchasers shall have delivered to the Company a separate certificate, dated the Closing Date and executed by a duly authorized officer of such Purchaser, to the effect that the conditions set forth in Sections 6.2(b) and (c) have been satisfied; and

(e) the consummation of the Closing shall not have been enjoined or prohibited by applicable Law and no proceeding by any Governmental Entity challenging the transactions contemplated by this Agreement and the Certificate of Designations shall have been initiated or threatened.

7. Transfer Restrictions . No Purchaser may Transfer any Securities, except in accordance with the terms of the Certificate of Designations. Any purported Transfer of Securities in violation of the Certificate of Designations shall be void *ab initio* , and neither the Company nor such Purchaser shall recognize the same, and the Company shall not record such purported Transfer on its books or treat the purported transferee as the owner of any such Securities for any purpose.

8. Legends; Securities Act Compliance . The Shares and the Conversion Shares or the notice sent to any stockholder of the Company of Shares in book-entry form will bear a legend conspicuously thereon as provided in the Certificate of Designations.

9. Indemnification .

9.1 Indemnification by the Company . The Company agrees to indemnify each of the Purchasers and their respective Representatives (each, a " Purchaser Indemnified Party " and, collectively, the " Purchaser Indemnified Parties ") from costs, losses, liabilities, damages, or expenses of any kind or nature whatsoever, and hold each of them harmless against, any and all actions, suits, proceedings (including any investigations, litigation or inquiries), demands, and causes of action, and, in connection therewith, and promptly upon demand, pay or reimburse each of them for all costs, losses, liabilities, damages, or expenses of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel and all other reasonable expenses incurred in connection with investigating, defending or preparing to defend any such matter that may be incurred by them or asserted against or involve any of them), whether or not involving a Third-Party Claim, as a result of, arising out of, or resulting from (a) the failure of any of the representations or warranties made by the Company contained in this Agreement or any certificate delivered pursuant to this Agreement to be true and correct in all material respects as of the date made (except to the extent any representation or warranty includes the word "material," Material Adverse Effect or words of similar import, with respect to which such representation or warranty, or applicable portions thereof, must have been true and correct in all respects) or (b) the breach of any covenants of the Company contained in this Agreement; provided, that, in the case of the immediately preceding clause (a), such claim for indemnification is made prior to the expiration of the survival period of such representation or warranty set forth in Section 11.1 ; provided, however, that for purposes of determining when an indemnification claim has been made, the date upon which a Purchaser Indemnified Party shall have delivered written notice (stating in reasonable detail the basis of the claim for indemnification) to the Company shall constitute the date upon which such claim has been made. No Purchaser Indemnified Party shall be entitled to recover special, indirect, exemplary, speculative or punitive damages under this Section 9.1 ; provided, however, that such limitation shall not prevent any Purchaser Indemnified Party from recovering under this Section 9.1 for any such damages to the extent that such damages are direct damages in the form of diminution in value or are payable to a third party in connection with any Third-Party Claims.

9.2 Indemnification by the Purchasers . Each Purchaser agrees to, severally and not jointly, indemnify the Company and its Representatives (each a " Company Indemnified Party " and, collectively, the " Company Indemnified Parties ") from, and hold each of them harmless against, any and all actions, suits, proceedings (including any investigations, litigation or inquiries), demands, and causes of action, and, in connection therewith, and promptly upon demand, pay or reimburse each of them for all costs, losses, liabilities, damages, or expenses of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel and all other reasonable expenses incurred in connection with investigating, defending or preparing to defend any such matter that may be incurred by them or asserted against or involve any of them), whether or not involving a Third-Party Claim, as a result of, arising out of, or resulting from (a) the failure of any of the representations or warranties made by such Purchaser contained in this Agreement or any certificate delivered pursuant to this Agreement to be true and correct in all material respects as of the date made (except to the extent any representation or warranty includes the word "material," Material Adverse Effect or words of similar import, with respect to which such representation or warranty, or applicable portions thereof, must have been true and correct in all respects) or (b) the breach of any of the covenants of such Purchaser contained in

this Agreement; provided, that, in the case of the immediately preceding clause (a), such claim for indemnification relating to a breach of any representation or warranty is made prior to the expiration of the survival period of such representation or warranty; provided , however , that for purposes of determining when an indemnification claim has been made, the date upon which a Company Indemnified Party shall have delivered written notice (stating in reasonable detail the basis of the claim for indemnification) to the applicable Purchaser shall constitute the date upon which such claim has been made; provided , further , that the liability of a Purchaser shall not be greater in amount than the portion of the Purchase Price set forth next to such Purchaser's name on Annex A. No Company Indemnified Party shall be entitled to recover special, indirect, exemplary, speculative or punitive damages under this Section 9.2 ; provided , however , that such limitation shall not prevent any Company Indemnified Party from recovering under this Section 9.2 for any such damages to the extent that such damages are direct damages in the form of diminution in value or payable to a third party in connection with any Third-Party Claims.

9.3 Indemnification for Certain Fees .

(a) The Company agrees that it will indemnify and hold harmless each Purchaser from and against any and all claims, demands, or liabilities for broker's, finder's, placement, or other similar fees or commissions incurred by the Company or alleged to have been incurred by the Company in connection with the sale of the Shares or the consummation of the transactions contemplated by this Agreement and the Certificate of Designations.

(b) Each Purchaser agrees, severally and not jointly, that it will indemnify and hold harmless the Company from and against any and all claims, demands, or liabilities for broker's, finder's, placement, or other similar fees or commissions incurred by such Purchaser or alleged to have been incurred by such Purchaser in connection with the purchase of the Shares or the consummation of the transactions contemplated by this Agreement and the Certificate of Designations.

9.4 Indemnification Procedure . Promptly after any Company Indemnified Party or Purchaser Indemnified Party, as the case may be (the " Indemnified Party "), has received notice of any indemnifiable claim hereunder, or the commencement of any action, suit or proceeding by a third person, which the Indemnified Party believes in good faith is an indemnifiable claim under this Agreement (each a " Third-Party Claim "), the Indemnified Party shall give the indemnitor hereunder (the " Indemnifying Party ") written notice of such Third-Party Claim or the commencement of such action, suit or proceeding, but failure to so notify the Indemnifying Party will not relieve the Indemnifying Party from any liability it may have to such Indemnified Party hereunder except to the extent that the Indemnifying Party is prejudiced by such failure. Such notice shall state the nature and the basis of such Third-Party Claim to the extent then known. The Indemnifying Party shall have the right to defend and settle, at its own expense and by its own counsel who shall be reasonably acceptable to the Indemnified Party, any such matter as long as the Indemnifying Party pursues the same diligently and in good faith. If the Indemnifying Party undertakes to defend or settle, it shall promptly notify the Indemnified Party of its intention to do so, and the Indemnified Party shall cooperate with the Indemnifying Party and its counsel in all commercially reasonable respects in the defense thereof and the settlement thereof. Such cooperation shall include, but shall not be limited to, furnishing the Indemnifying Party with any books, records and other information reasonably requested by the

Indemnifying Party and in the Indemnified Party's possession or control. Such cooperation of the Indemnified Party shall be at the cost of the Indemnifying Party. After the Indemnifying Party has notified the Indemnified Party of its intention to undertake to defend or settle any such asserted liability, and for so long as the Indemnifying Party diligently pursues such defense, the Indemnifying Party shall not be liable for any additional legal expenses incurred by the Indemnified Party in connection with any defense or settlement of such asserted liability; provided , however , that the Indemnified Party shall be entitled (a) at its expense, to participate in the defense of such asserted liability and the negotiations of the settlement thereof and (b) if (i) the Indemnifying Party has failed to assume the defense or employ counsel reasonably acceptable to the Indemnified Party or (ii) if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and counsel to the Indemnified Party shall have concluded that there may be reasonable defenses available to the Indemnified Party that are different from or in addition to those available to the Indemnifying Party or if the interests of the Indemnified Party reasonably may be deemed to conflict with the interests of the Indemnifying Party, then the Indemnified Party shall have the right to select a separate counsel and to assume such legal defense and otherwise to participate in the defense of such action, with the reasonable expenses and fees of such separate counsel and other reasonable expenses related to such participation to be reimbursed by the Indemnifying Party as incurred. Notwithstanding any other provision of this Agreement, (i) the Indemnifying Party shall not settle any indemnified Third-Party Claim without the consent of the Indemnified Party (which consent shall not be unreasonably withheld, conditioned or delayed), unless the settlement thereof imposes no liability or obligation on, and includes a complete release from liability of, and does not include any admission of wrongdoing or malfeasance by, the Indemnified Party and (ii) the Indemnified Party shall not settle any indemnified Third-Party Claim without the consent of the Indemnifying Party (which consent shall not be unreasonably withheld, conditioned or delayed). The remedies provided for in this Section 9 are cumulative and are not exclusive of any remedies that may be available to a party at Law or in equity or otherwise.

9.5 Sole and Exclusive Remedy . Except as provided in Sections 5.6(d) and 11.6, after the Closing, this Section 9 will provide the exclusive remedy against the Company or any Purchaser, as applicable, for any breach of any representation, warranty, covenant or other claim arising out of or relating to this Agreement and/or the transactions contemplated hereby.

10. Termination .

10.1 Conditions of Termination . Notwithstanding anything to the contrary contained herein, this Agreement may be terminated: (a) at any time before the Closing by either the Company, on the one hand, or the W Purchaser, on the other hand, if any of the conditions to Closing to which such party is entitled to the benefit of shall have become permanently incapable of fulfillment and shall not have been waived in writing (to the extent permitted by applicable Law); or (b) at any time after the date that is 90 days after the date of this Agreement by either the Company, on the one hand, or the W Purchaser, on the other hand, if the Closing shall not have occurred on or before such date; provided , however , that the right to terminate this Agreement pursuant to the preceding clause (a) or clause (b) shall not be available to a party if the inability to satisfy any of the conditions to Closing was due primarily to the failure of such party to perform any of its obligations under this Agreement.

10.2 Effect of Termination . In the event of any termination pursuant to Section 10.1 , this Agreement shall become null and void and have no further effect, with no liability on the part of the Company or the Purchasers, or their respective Affiliates or Representatives, with respect to this Agreement, except (a) for the terms of this Section 10.2 and Section 11 , which shall survive the termination of this Agreement, and (b) that nothing in this Section 10 shall relieve any party hereto from liability or damages incurred or suffered by any other party resulting from any intentional (x) breach of any representation or warranty of such first party or (y) failure of such first party to perform a covenant thereof. As used in the foregoing sentence, "intentional" shall mean an act or omission by such party which such party actually knew, or reasonably should have known, would constitute a breach of this Agreement by such party.

11. Miscellaneous Provisions .

11.1 Survival . The representations and warranties set forth in Sections 3.1 , 3.2 , 3.3 , 3.4 , 3.5 , 3.6 , 4.1 , 4.2 and 4.3 shall survive the execution and delivery of this Agreement and the Closing indefinitely and the other representations and warranties contained in this Agreement shall survive the execution and delivery of this Agreement and the Closing for a period of 12 months following the Closing Date, regardless of any investigation made by or on behalf of the Company or the Purchasers. The covenants made in this Agreement and the Certificate of Designations shall survive the Closing indefinitely until fully performed in accordance with their terms and remain operative and in full force and effect in accordance with their terms regardless of acceptance of any of the Shares and payment therefor and repayment, conversion or repurchase thereof.

11.2 Interpretation . The term "or" when used in this Agreement is not exclusive. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and subsection references are to this Agreement unless otherwise specified. The headings in this Agreement are included for convenience of reference only and will not limit or otherwise affect the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation." The phrases "the date of this Agreement," "the date hereof" and terms of similar import, unless the context otherwise requires, will be deemed to refer to the date set forth in the first paragraph of this Agreement. The meanings given to terms defined herein will be equally applicable to both the singular and plural forms of such terms. All matters to be agreed to by any party hereto must be agreed to in writing by such party unless otherwise indicated herein. Except as otherwise specified herein, references to agreements, policies, standards, guidelines or instruments, or to statutes or regulations, are to such agreements, policies, standards, guidelines or instruments, or statutes or regulations, as amended or supplemented from time to time (or to successors thereto). All references herein to the Subsidiaries of a Person shall be deemed to include all direct and indirect Subsidiaries of such Person, unless otherwise indicated or the context otherwise requires. The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and the Certificate of Designations and, therefore, waive the application of any Law, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

11.3 Notices . All notices, requests, consents, and other communications under this Agreement shall be in writing and shall be deemed delivered (a) three Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid, (b) one (1) Business Day after being sent via a reputable nationwide overnight courier service guaranteeing next business day delivery or (c) on the date of delivery if delivered personally or via e-mail, in each case to the intended recipient as set forth below:

(a) if to the Company, addressed as follows:

SemGroup Corporation
Two Warren Place
6120 S. Yale Avenue, Suite 1500
Tulsa, Oklahoma 74136-4231
Attention: General Counsel
E-mail: slindberg@semgroupcorp.com

with copies (which shall not constitute notice) to:

Gibson, Dunn & Crutcher LLP
2100 McKinney Avenue
Suite 1100
Dallas, TX 75201
Attention: Robert B. Little
E-mail: RLittle@gibsondunn.com

(b) if to the W Purchaser, to:

c/o Warburg Pincus LLC
450 Lexington Avenue
New York, NY 10017
Attention: General Counsel
E-mail: notices@warburgpincus.com

with copies (which shall not constitute notice) to:

Kirkland & Ellis LLP
609 Main Street, Suite 4500
Houston, TX 77002
Attention: Adam Larson
E-mail: adam.larson@kirkland.com

(c) if to the C Purchaser, to:

c/o CIBC Atlantic Trust
100 Saint Paul St.
Denver, CO 80206
Attention: Adam Karpf
E-mail: AKarpf@cibcatlantictrust.com

(d) if to the T Purchaser, to:

c/o Tortoise Capital Advisors, L.L.C.
11550 Ash Street, Suite 300
Leawood, KS 66211
Attention: Stephen Pang
E-mail: SPang@tortoiseadvisors.com

Any party may change the address to which notices, requests, consents or other communications hereunder are to be delivered by giving the other parties notice in the manner set forth in this Section 11.3 .

11.4 Severability . In the event that any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

11.5 Governing Law; Jurisdiction; WAIVER OF JURY TRIAL .

(a) This Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement, shall be governed by and enforced and construed in accordance with the Laws of the State of Delaware (including its statute of limitations), regardless of the Laws that might otherwise govern under applicable principles of conflicts of law thereof.

(b) Each of the parties hereto irrevocably (i) agrees that any legal suit, action or proceeding brought by any party hereto arising out of or based upon this Agreement shall be instituted in the Court of Chancery of the State of Delaware (provided , that if jurisdiction is not then available in such court, then any such legal suit, action or proceeding shall be brought in any federal court located in the State of Delaware or in any other Delaware state court) (any of the foregoing Delaware courts, a " Delaware Court "); (ii) waives, to the fullest extent it may effectively do so, any objection which it may now or hereafter have to the laying of venue of any such proceeding; and (iii) submits to the non-exclusive jurisdiction of a Delaware Court in any such suit, action or proceeding.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PURCHASER OR THE COMPANY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

11.6 Specific Performance . The parties hereto agree that the obligations imposed on them in this Agreement are special, unique and of an extraordinary character, and that irreparable damages for which money damages, even if available, would not be an adequate remedy, would occur in the event that the parties hereto do not perform the provisions of this Agreement in accordance with its specified terms or otherwise breach such provisions. The parties hereto acknowledge and agree that the parties shall be entitled to an injunction, specific performance and other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled, at law or in equity; and the parties hereto further agree to waive any requirement for the securing or posting of any bond or other security in connection with the obtaining of any such injunctive or other equitable relief. Each of the parties hereto agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief as provided herein on the basis that (x) any party has an adequate remedy at law or (y) an award of specific performance is not an appropriate remedy for any reason at law or equity.

11.7 Delays or Omissions; Waiver . No delay or omission to exercise any right, power, or remedy accruing to a party upon any breach or default of another party under this Agreement shall impair any such right, power, or remedy of such party, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or be construed as, a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this Agreement. Any agreement on the part of a party or parties hereto to any waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party or parties, as applicable. Any delay in exercising any right under this Agreement shall not constitute a waiver of such right.

11.8 Fees; Expenses .

(a) Except as set forth in Section 5.6(l) , all fees and expenses incurred in connection with this Agreement and the Certificate of Designations and the transactions contemplated hereby and thereby shall be paid by the party incurring them, whether or not the transactions contemplated hereby and thereby are consummated; provided , that if the Closing occurs, the Company shall reimburse the W Purchaser at Closing for the reasonable fees and expenses of its counsel, Kirkland & Ellis LLP, in an amount not to exceed $50,000. For the avoidance of doubt, except as set forth in Section 5.6(l) and this Section 11.8 , the Company shall not be responsible for reimbursement of any Purchaser's expenses, nor shall the Company pay or reimburse any management, monitoring or similar fees incurred by or on behalf of any Purchaser.

(b) The Company shall pay any and all documentary, stamp or similar issue or transfer Tax payable in connection with this Agreement, the issuance of the Shares at the Closing and any issuance of the Conversion Shares, except that the Company may require the converting holder of Shares to pay a sum sufficient to cover any documentary, stamp or similar issue or transfer Tax payable in connection therewith as a result of the name of the holder of the Conversion Shares issued upon such exchange or registration of transfer being different from the name of the converting holder of the Shares surrendered.

11.9 Assignment . Except as provided in Section 2.1(b) , (i) no Purchaser may assign its rights or obligations under this Agreement without the prior written consent of the Company and (ii) the Company may not assign its rights or obligations under this Agreement without the prior written consent of the W Purchaser; provided , however , that the W Purchaser may assign its registration rights set forth in Section 5.6 with respect to Registrable Securities without the prior written consent of the Company; provided further , that (a) unless any such assignee is an Affiliate of, and after such transfer or assignment continues to be an Affiliate of, the W Purchaser, the amount of Registrable Securities assigned to such assignee shall represent at least $50 million in aggregate principal amount or market value of Registrable Securities, or such lesser amount if it constitutes the remaining holdings of the Holder and its Affiliates, (b) the Company is given written notice prior to any such assignment, stating the name and address of each such assignee and identifying the securities with respect to which such registration rights are being assigned and (c) each such assignee assumes in writing responsibility for its portion of the obligations of such transferring Holder under this Agreement. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties to this Agreement and their respective successors and permitted assigns. Any purported assignment other than in compliance with the terms hereof shall be void *ab initio* .

11.10 No Third Party Beneficiaries . Except for Section 5.6 and Section 9 (with respect to which all indemnified parties thereunder shall be third party beneficiaries), this Agreement does not create any rights, claims or benefits inuring to any Person that is not a party hereto nor create or establish any third party beneficiary hereto. Without limiting the foregoing, the representations and warranties in this Agreement are the product of negotiations among the parties hereto and are for the sole benefit of the parties hereto. In some instances, the representations and warranties in this Agreement may represent an allocation among the parties hereto of risks associated with particular matters regardless of the knowledge of any of the parties hereto. Consequently, Persons other than the parties hereto may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

11.11 Counterparts . This Agreement may be executed and delivered (including by facsimile or electronic transmission) in any number of counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed an original, but all of which taken together shall constitute a single instrument.

11.12 Entire Agreement; Amendments . This Agreement and the documents and instruments and other agreements among the parties hereto as contemplated by or referred to herein, including the Exhibits hereto, constitute the entire agreement between the parties hereto respecting the subject matter hereof and supersede all prior agreements, negotiations, understandings, representations and statements respecting the subject matter hereof, whether written or oral. No modification, alteration or change in any of the terms of this Agreement shall be valid or binding upon the parties hereto unless made in writing and duly executed by the Company and each Purchaser.

11.13 No Personal Liability of Directors, Officers, Owners, Etc . No director, officer, employee, incorporator, equityholder, managing member, member, general partner, limited partner, principal or other agent of any Purchaser or the Company shall have any liability for any obligations of the Purchasers or the Company, as applicable, under this Agreement or for any claim based on, in respect of, or by reason of, the respective obligations of each Purchaser or the Company, as applicable, under this Agreement. Each party hereby waives and releases all such liability. This waiver and release is a material inducement to each party's entry into this Agreement.

[*Remainder of the Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY:

SEMGROUP CORPORATION

By: /s/ Robert N. Fitzgerald
Name: Robert N. Fitzgerald
Title: Senior Vice President and Chief Financial Officer

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

W PURCHASER:

WP SEMGROUP HOLDINGS, L.P.

By: Warburg Pincus Private Equity XII, L.P., its general partner

By: Warburg Pincus XII, L.P., its general partner

By: WP Global LLC, its general partner

By: Warburg Pincus Partners II, L.P., its managing member

By: Warburg Pincus Partners GP LLC, its general partner

By: Warburg Pincus & Co., its managing member

By: /s/ John K. Rowan
Name: John Rowan
Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

C PURCHASER:

ATLAS POINT ENERGY INFRASTRUCTURE FUND, LLC

By: /s/ Chris Linder
Name: Chris Linder
Title: Sr. Vice President

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

T PURCHASER:

TORTOISE DIRECT OPPORTUNITIES FUND, LP

By: TORTOISE DIRECT OPPORTUNITIES GP LLC, its General Partner

By: /s/ Kyle Krueger
Name: Kyle Krueger
Title: Director

TORTOISE ENERGY INFRASTRUCTURE CORPORATION

By: TORTOISE CAPITAL ADVISORS, L.L.C. as its Investment Adviser

By: /s/ Brian Kessens
Name: Brian Kessens
Title: Managing Director

TORTOISE MLP FUND, INC.

By: TORTOISE CAPITAL ADVISORS, L.L.C. as its Investment Adviser

By: /s/ Brian Kessens
Name: Brian Kessens
Title: Managing Director

TORTOISE POWER AND ENERGY INFRASTRUCTURE FUND, INC.

By: TORTOISE CAPITAL ADVISORS, L.L.C. as its Investment Adviser

By: Brian Kessens
Name: Brian Kessens
Title: Managing Director

TORTOISE PIPELINE & ENERGY FUND, INC.

By: TORTOISE CAPITAL ADVISORS, L.L.C. as its Investment Adviser

By: /s/ Brian Kessens

Name: Brian Kessens
Title: Managing Director

[*SIGNATURE PAGE TO SECURITIES PURCHASE AGREEMENT*]

Schedule A

Significant Subsidiaries

SemDevelopment, L.L.C.
SemCrude Pipeline, L.L.C.
Rose Rock Midstream Operating, LLC
Rose Rock Midstream Crude, L.P.
Rose Rock Midstream Field Services, LLC
SemCAMS ULC
SemGas, L.P.
SemMaterials Mexico S. de R.L. de C.V.
HFOTCO LLC
Buffalo Gulf Coast Terminals LLC
Buffalo Parent Gulf Coast Terminals LLC
Beachhead I LLC
Beachhead Holdings LLC

Schedule 3.3(b)

Liens

Guaranty, Pledge And Security Agreement, dated as of July 17, 2017, by and among Buffalo Investor I, L.P., a Delaware limited partnership, Buffalo Investor II, L.P., a Delaware limited partnership, Beachhead Holdings LLC, a Delaware limited liability company, Beachhead I LLC, a Delaware limited liability company, Beachhead II LLC, a Delaware limited liability company and Buffalo Parent Gulf Coast Terminals, LLC, a Delaware limited liability company.

Amended and Restated Credit Agreement, dated as of September 30, 2016, by and among SemGroup Corporation, as borrower, the lenders party thereto from time to time, the arrangers and agents party thereto and Wells Fargo Bank, National Association, as administrative agent and collateral agent.

Indenture, dated as of July 2, 2014, by and among Rose Rock Midstream, L.P., Rose Rock Finance Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee, as supplemented by that First Supplemental Indenture dated as of April 7, 2015 and that Second Supplemental Indenture dated as of September 30, 2016.

Indenture, dated as of May 14, 2015, by and among Rose Rock Midstream, L.P., Rose Rock Finance Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee, as supplemented by that First Supplemental Indenture, dated as of September 30, 2016 (as otherwise modified or supplemented prior to the date hereof).

Indenture, dated as of March 15, 2017, by and among SemGroup Corporation, the guarantors party thereto and Wilmington Trust, National Association, as trustee.

Indenture, dated as of September 20, 2017, by and among SemGroup Corporation, the guarantors party thereto, and Wilmington Trust, National Association, as trustee.

Membership Interest Purchase Agreement with Ergon Asfaltos Mexico HC, LLC, a Mississippi limited liability company, Ergon Mexico HC, LLC, a Mississippi limited liability company, and Ergon Asphalt & Emulsions, Inc., a Mississippi corporation, SemMaterials, L.P. and SemMexico, L.L.C.

Amended and Restated Guarantee and Collateral Agreement, dated as of September 30, 2016 among SemGroup Corporation, a corporation organized under the laws of Delaware, each subsidiary guarantor, and Wells Fargo Bank, National Association, as collateral agent.

Exhibit A

Form of Certificate of Designations

[see attached]

Annex A

Purchaser	Shares	Purchase Price
WP SemGroup Holdings, L.P.	300,000	$300,000,000
Atlas Point Energy Infrastructure Fund, LLC	25,000	$ 25,000,000
Tortoise Direct Opportunities Fund, LP	9,963	$ 9,963,000
Tortoise Energy Infrastructure Corporation	6,277	$ 6,277,000
Tortoise MLP Fund, Inc.	3,763	$ 3,763,000
Tortoise Power and Energy Infrastructure Fund, Inc.	2,120	$ 2,120,000
Tortoise Pipeline & Energy Fund, Inc.	2,877	$ 2,877,000
Total:	350,000	$350,000,000

ANNEX B

FORM OF OBSERVER CONFIDENTIALITY AGREEMENT

SemGroup Corporation
Two Warren Place
6120 S. Yale Avenue, Suite 1500
Tulsa, Oklahoma 74136-4231

Dear Ladies and Gentlemen:

Pursuant to Section 5.8(a) of the Securities Purchase Agreement (the " Securities Purchase Agreement "), dated as of January 16, 2018, by and among SemGroup Corporation, a Delaware corporation (the " Company "), WP SemGroup Holdings, L.P., a Delaware limited partnership (the "WP Purchaser"), Atlas Point Energy Infrastructure Fund, LLC, a Delaware limited liability company and the T Purchaser, the WP Purchaser has exercised its right to appoint the undersigned as an observer (the " Board Observer ") to the Board of Directors of the Company (the " Board "). Capitalized terms used but not otherwise defined herein shall have the respective meanings given to them in the Securities Purchase Agreement. The Board Observer acknowledges that at the meetings of the Board and at other times the Board Observer may be provided with or otherwise have access to non-public information concerning the Company or its Affiliates. In consideration for and as a condition to the Company furnishing access to such information, the Board Observer hereby agrees to the terms and conditions set forth in this Observer Confidentiality Agreement (this " Agreement "):

1. As used in this Agreement, subject to Paragraph 3, " Confidential Information " means any and all non-public financial or other non-public information, whether or not reduced to writing, concerning the Company or any of its Affiliates that may hereafter be disclosed to the Board Observer in such capacity by the Company or any of its Affiliates or any of its or their Representatives, including all notices, minutes, consents, materials, ideas or other information (in each case, to the extent constituting information concerning the Company or its Affiliates that is non-public financial or other non-public information) provided to the Board Observer, together with all information to the extent discerned from or based on any of the foregoing which may be prepared or created by the Board Observer or any WP Purchaser Group Member (as defined below).

2. Except to the extent permitted by this Paragraph 2 or by Paragraph 3 or 4, the Board Observer shall keep the Confidential Information strictly confidential, and shall use the Confidential Information only for the purposes of monitoring, reviewing and analyzing the investment by the WP Purchaser in the Company and otherwise for the evaluation and management of the business, operations and affairs of the Company and its Affiliates (collectively, the " Purposes "); provided , that the Board Observer may, upon request from the WP Purchaser, any of its Affiliates or any of their respective Representatives (including, for the sake of clarity, legal counsel, accountants and financial or other advisors) (each, a " WP Purchaser Group Member "), share Confidential Information with such WP Purchaser Group Member so long as such WP Purchaser Group Member agrees in writing to comply with, and be bound by, in all respects, the terms of this Agreement or is otherwise bound by an obligation to keep such Confidential Information confidential that is equally or more restrictive than the terms of this Agreement. For the avoidance of doubt, any WP Purchaser Group Member receiving Confidential Information from the Board Observer pursuant to the foregoing sentence may further provide such Confidential Information to any other WP Purchaser Group Member, so long as such other WP Purchaser Group Member also agrees in writing to comply with, and be bound by, in all respects, the terms of this Agreement or is otherwise bound by an obligation to keep such Confidential Information confidential that is equally or more restrictive than the terms of this Agreement. For purposes of this Agreement, the term " Permitted Recipient " means any WP Purchaser Group Member receiving Confidential Information from the Board Observer or from any other WP Purchaser Group Member, in each case in compliance with the terms of this Paragraph 2. The Board Observer may not record the proceedings of any meeting of the Board by means of an electronic recording device.

3. The term "Confidential Information" does not include information that (i) is or becomes generally available to the public other than as a result of a disclosure by the Board Observer or any Permitted Recipient, in either case in violation of this Agreement; (ii) is or becomes available to the Board Observer or any Permitted Recipient on a non-confidential basis from a source not known by the Board Observer or such Permitted Recipient to have a contractual, legal or fiduciary obligation of confidentiality to the Company with respect to such information; (iii) is independently developed by the Board Observer or any Permitted Recipient without reference to any Confidential Information; (iv) is already in the possession of, or known by, the Board Observer or any Permitted Recipient prior to the date of disclosure under this Agreement; or (v) relates to the mere occurrence of a meeting or the Board Observer's attendance at such meeting.

4. In the event that the Board Observer or any Permitted Recipient is legally compelled or receives a request to disclose any Confidential Information, in any such case under any applicable law, regulation, order or legal, judicial or administrative process, including but not limited to an audit or examination by a regulatory authority or self-regulatory organization (including by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process), the Board Observer or Permitted Recipient, as applicable, shall, to the extent legally permissible, use reasonable best efforts to provide the Company with prompt written notice of such requirement so that the Company may seek, at its sole expense and cost, a protective order. If, in the absence of a protective order, the Board Observer or Permitted Recipient, as applicable, is nonetheless, upon the advice of counsel, compelled to disclose Confidential Information, the Board Observer or Permitted Recipient, as applicable, may, without liability hereunder, disclose only the portion of the Confidential Information that such counsel advises such Person is so compelled to be disclosed. Notwithstanding anything to the contrary in this Agreement, the Confidential Information may be disclosed by the Board Observer or any Permitted Recipient, without notice to the Company, to the applicable regulatory authorities or self-regulatory organizations having supervisory jurisdiction over such Person during the course of any regulatory audit or examination.

5. All Confidential Information is and will remain the property of the Company. Upon the reasonable request of the Company, the Board Observer and any Permitted Recipients will promptly destroy all Confidential Information (and all copies thereof) in their possession, including any materials prepared by the Board Observer or the Permitted Recipients to the extent containing, based upon or reflecting Confidential Information, and the Board Observer and any Permitted Recipients shall acknowledge in writing that such destruction has occurred. Notwithstanding the foregoing sentence, the Board Observer and the Permitted Recipients (i) may retain copies of the Confidential Information in accordance with generally applicable policies and procedures implemented by such Persons in order to comply with applicable law, regulation, professional standards or document retention policies, (ii) will not be required to destroy electronic versions of the Confidential Information to the extent such destruction is not reasonably practical and (iii) will not be required to destroy presentation material based on Confidential Information presented by any such Person to its investment committee or similar management body in connection with the Purposes.

6. It is understood and acknowledged that neither the Company nor any of its Affiliates nor any of its or their Representatives makes any representation or warranty, express or implied, written or oral, as to the accuracy or completeness of the Confidential Information or any component thereof. It is agreed that neither the Company nor any of its Affiliates nor any of its or their Representatives shall have any liability to the Board Observer or to any Permitted Recipients relating to or resulting from the use of the Confidential Information, except as may be set forth in the Securities Purchase Agreement or any other definitive agreement between the Company or its Affiliates, on the one hand, and the Board Observer or any Permitted Recipient, on the other hand and without limiting any representations and warranties set forth in the Securities Purchase Agreement or any other definitive agreement.

7. It is further understood and agreed that money damages would not be a sufficient remedy for any breach of this Agreement by the Board Observer or any Permitted Recipient and that the Company shall be entitled to equitable relief, including injunction and specific performance, as a remedy for any such breach in addition to the remedies available to the Company at law. Notwithstanding the foregoing sentence, no party to this Agreement shall be liable for any punitive, indirect, or exemplary damages for any claim or controversy arising from or related to this Agreement.

8. This Agreement is personal to the Board Observer and to any Permitted Recipient, is not assignable by the Board Observer or by any Permitted Recipient, and may be modified or waived only in a writing signed by each of the Board Observer and the Company (or, in the case of a Permitted Recipient, in a writing signed by each of the Permitted Recipient and the Company). This Agreement is binding upon the parties hereto and their respective successors and assigns and inures to the benefit of the parties hereto and their respective successors and assigns.

9. This Agreement, together with Section 5.8 of the Securities Purchase Agreement, constitutes the entire agreement between the parties hereto regarding the subject matter hereof, and supersedes all negotiations and agreements, oral or written, made prior to the execution hereof.

10. If any provision of this Agreement is not enforceable in whole or in part, the remaining provisions of this Agreement will not be affected thereby. No failure or delay in exercising any right, power or privilege hereunder operates as a waiver thereof, nor does any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

11. This Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement, shall be governed by and enforced and construed in accordance with the Laws of the State of Delaware (including its statute of limitations), regardless of the Laws that might otherwise govern under applicable principles of conflicts of law thereof. Each of the parties hereto irrevocably (i) agrees that any legal suit, action or proceeding brought by any party hereto arising out of or based upon this Agreement shall be instituted in the Court of Chancery of the State of Delaware (provided, that if jurisdiction is not then available in such court, then any such legal suit, action or proceeding shall be brought in any federal court located in the State of Delaware or in any other Delaware state court) (any of the foregoing Delaware courts, a " Delaware Court "); (ii) waives, to the fullest extent it may effectively do so, any objection which it may now or hereafter have to the laying of venue of any such proceeding; and (iii) submits to the non-exclusive jurisdiction of a Delaware Court in any such suit, action or proceeding. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF THE PURCHASER OR THE COMPANY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

12. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, will constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or electronic transmission constitutes effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement. Signatures of the parties transmitted by facsimile or electronic transmission will be deemed to be their original signatures for any purpose whatsoever.

13. Notwithstanding the termination of service of the Board Observer, the obligations of the Board Observer and any Permitted Recipients contained herein, including those contained in Paragraphs 2 and 4, shall survive for a period of one year from the date of termination of service of the Board Observer.

14. The Company and its Affiliates acknowledge that the Board Observer and WP Purchaser Group Members may, in the ordinary course of its or their business, evaluate other investments in industries that are the same as or similar to the ones that the Company and its Affiliates participate in. The Company and its Affiliates understand that the Board Observer and the WP Purchaser Group Members may retain certain mental impressions (i.e. impressions not written or otherwise reduced to a record) of the Confidential Information. Accordingly, the Company and its Affiliates agree that nothing herein shall prohibit the Board Observer, the WP Purchaser or any WP Purchaser Group Member from pursuing such investments, even if doing so involves the use of such mental impressions. For the avoidance of doubt, use of a mental impression shall not constitute use of the Confidential Information in breach of this Agreement.

15. Notwithstanding anything to the contrary provided elsewhere in this Agreement, none of the provisions of this Agreement shall in any way limit the activities of any of Warburg Pincus LLC or its Affiliates or portfolio companies in their businesses distinct from the business of WP Purchaser; provided , with respect to any such Person, that the Confidential Information is not made available to Representatives of such Person. Should any Confidential Information be made available to a Representative of Warburg Pincus LLC or its Affiliates or portfolio companies, such Representative shall be bound by this Agreement in accordance with its terms. Should the Confidential Information be made available to an individual at an Affiliate of Warburg Pincus LLC or one of its portfolio companies who is otherwise not involved in the business of WP Purchaser solely for the purpose of conflict resolution procedures and determining the proper allocation of investment opportunities then such individual shall be bound by the confidentiality and use provisions of this Agreement; provided , however , that receipt of Confidential Information by such individual shall not be imputed to the business unit or employer of such individual.

[SIGNATURE PAGE FOLLOWS]

Very truly yours,

_____

[Board Observer]

Agreed to and Accepted, effective as of
_____, 20 __:

SemGroup Corporation

_____

Name:
Title:

[Signature Page—Observer Confidentiality Agreement]