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) **August 14, 2014**

MIDWEST ENERGY EMISSIONS CORP.

(Exact name of registrant as specified in its charter)

Commission file number **000-33067**

Delaware	**87-0398271**
(State or other jurisdiction of incorporation)	(I.R.S. Employer Identification No.)
500 West Wilson Bridge Road, Suite 140 Worthington, Ohio	**43085**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: **(701) 757-1066**

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))

Item 1.01 Entry into a Material Definitive Agreement.

Financing Agreement

On August 14, 2014, Midwest Energy Emissions Corp (the "Company") and its wholly-owned subsidiary MES, Inc. ("MES, and together with the Company, collectively the "Companies") entered into a financing agreement (the "Financing Agreement") with AC Midwest Energy LLC (the "Lender"). Pursuant to the Financing Agreement, the Company borrowed $10,000,000 from the Lender, evidenced by a convertible note (the "Note") maturing July 31, 2018, secured by all the assets of the Company and MES. All the indebtedness under the Note is convertible into common stock of the Company at $1.00 per share, subject to the following adjustments: (i) an adjustment of the price per share down to $0.75 per share if the Company fails to generate EBITDA (earnings before taxes, interest, depreciation and amortization) of at least $2,500,000 for calendar year 2015; and (ii) weighted average anti-dilution adjustments to the extent that following the issuance of the Note, the Company issues securities or rights to acquire securities at an effective purchase price below the conversion price for the Note, subject to carveouts for certain exempt issuances by the Company. In addition, the Company issued a five year warrant (the "Warrant") to the Lender to purchase up to 12,500,000 shares of common stock at $1.00 per share, subject to adjustment in a manner similar to the adjustments on the Note.

The Note bears interest at 12% per annum, with 100% of the interest to be paid in the first loan year based upon "PIK" or payment in kind, and thereafter to be paid at the rate of: (i) 2% cash and 10% PIK for year two; and (ii) 12%, all cash for years three and four. The PIK interest is paid by increasing the principal balance of the Note by the PIK amount. The Note cannot be prepaid without the Lender's consent before its second anniversary, and thereafter at 105% of the outstanding indebtedness evidenced by the Note, subject to the right of the Lender to convert the outstanding indebtedness to the Company's common stock prior to prepayment. Principal amortization of the Note is to begin with the first quarter following the second year of the Note at the rate of 7.5% of the original principal amount per quarter and to continue each quarter thereafter, with all unpaid interest to be due at maturity. In the event of default, the interest rate on the Note will be increased by an additional 3% per annum.

The Company has affirmative obligations under the Financing Agreement, among other things, to: (i) maintain specified minimum EBITDA levels; (ii) maintain certain maximum selling, general and administrative expenses levels; (iii) maintain minimum contracted customers or minimum amounts of revenue from such contracted customers; (iv) maintain minimum contracted customer locations or maximum management annualized compensation; (v) maintain and make all applicable payments under each employee benefit plan; (vi) maintain a required reserve amount of the Company's common stock underlying the Note which equals or exceeds the sum of (a) 135% of the maximum number of conversion shares issued and issuable pursuant to the Note, (b) 100% of the maximum number of issued and issuable pursuant to the warrant (the "Warrant Shares," as further described below), and (c) 100% of the maximum number of shares of common stock issued and issuable pursuant to any prior senior convertible notes purchased by the Lender.

The Financing Agreement contains a number of negative covenants, for so long as the Note remains outstanding, which prohibit any of the following without the prior consent of the Lender: (i) the Company or any subsidiary including MES from increasing any current indebtedness or creating new indebtedness; (ii) permitting any new liens; (iii) declaring any dividends or making any cash payment or distribution to any equity holders of Company or any subsidiaries; (iv) retiring or declaring for value any equity interests in the Company or MES; (v) being a party to any acquisition, asset sales, mergers or consolidations; (vi) entering into any further negative pledges; (vii) making payments to or entering into any transaction with any affiliates of the Company or MES or any of their subsidiaries, unless such transaction is on terms that are no less favorable than those that might be obtained at the time from a third-party and are disclosed to Lender; (viii) amending governing documents or entering into any transaction which would adversely affect the Lender or whereby the Companies could avoid the performance of the obligations under the Financing Agreement; (ix) violating federal or state laws, including securities laws and environmental laws, or failing to comply with all rules and regulations and orders of any governmental authority; or (x) amending the Company's License Agreement with Energy & Environment Research Center Foundation ("EERCF").

The Financing Agreement places significant restrictions upon the use of cash by the Company as it relates to the prior three transactions of convertible note financings issued by the Company (collectively the "Prior Notes"). The Prior Notes all provided the payment of interest in cash or in kind ("PIK" interest) by way of adding accrued interest to the principal balance of the notes. The notes in the first tranche are unsecured ("Tranche I Unsecured Notes"), bear interest at 12% per annum and mature during the period April 2015 to January 2016, with an aggregate outstanding principal amount, after giving effect to prior conversions and PIK interest, of $2,675,244 as of March 31, 2014. The notes in the second tranche are unsecured ("Tranche II Unsecured Notes"), bear interest at 12% per annum and mature during April through June of 2016, with an aggregate outstanding principal amount (after giving effect to prior conversion and PIK interest, of $1,441,195. The notes in the third tranche (the "2013 Secured Notes") are secured by the assets of the Company, originally maturing at various times through 2016, and which after giving effect to the Allonge referenced below mature coterminous with the Note (July 31, 2018), bear interest at 10% per annum, with an aggregate outstanding principal amount of $1,795,000 (after giving effect to prior conversions). The Financing Agreement requires that all interest accruing with respect to the Prior Notes be paid only with PIK interest. The Company is permitted to pay the principal balance when due on the Tranche I and Tranche II Unsecured Notes, but otherwise is not permitted to pay them with cash. Should the Company be unable to raise sufficient capital to pay off such notes or otherwise induce the holders thereof to convert their notes to common stock, it will not be permitted to pay them off under the terms of the Financing Agreement without the prior consent of the Lender.

As it relates to the 2013 Secured Notes, there are similar PIK and repayment restrictions, and in order to consummate the closing of the Financing Agreement, the Company was required to modify the terms of the 2013 Secured Notes as discussed in the Allonge below and also enter into the Intercreditor Agreement

The Company paid the Lender a fee of $100,000 for issuing the loan, reimbursed it for its legal fees and costs associated with the transactions and compensated the Placement Agent for the transaction (Drexel Hamilton, LLC) for the transaction with a cash fee of $350,000 and: (i) a 5-year warrant to purchase up to 800,000 shares of common stock at $1.00 per share; and (ii) a 5-year warrant to purchase up to 1,000,000 shares of common stock at $0.50 per share, both subject to adjustments similar to the Warrant issued to the Lender.

The Warrant

In connection with the issuance of the Note, the Company issued the Lender a five year warrant (the "Warrant") to purchase 12,500,000 shares of the Company's common stock at $1.00 per share, subject to the following adjustments: (i) adjustment down to $0.75 per share exercise price if the Company fails to achieve EBITDA for 2015 of at least $2,500,000; and (ii) weighted average anti-dilution adjustments to the extent that following the issuance of the Warrant, the Company issues equity securities or rights to acquire equity securities at an effective purchase price per share of common stock below the exercise price for the Warrant, subject to carveouts for certain issuances by the Company. At issuance of the Warrant, the Lender shall be entitled upon its initial exercise of the Warrant to a number of shares of common stock in an amount at least equal to 15% of the aggregate number of then-outstanding shares of capital stock of the Company (as determined on a fully-diluted basis). In addition, if the aggregate number of Warrant Shares purchasable under the Warrant calculated at the time of the initial exercise of the Warrant is less than 15% of the outstanding shares of capital stock of the Company at the time of the initial exercise of the Warrant, the Lender's number of Warrant Shares shall be increased by an amount of shares necessary to cause the number of Warrant Shares to represent 15% of the aggregate number of then-outstanding shares of capital stock of the Company on a fully diluted basis and the exercise price will be proportionately reduced.

The Warrant can be exercised by the Lender at any time during the term of the Warrant by cash wired to the Company at the price per share, as adjusted, or using the cashless exercise option, in Lender's sole discretion, which uses a pre-determined formula to calculate the net number of shares the Lender can exercise. The Company is required to keep in reserves a required reserve amount of the Company's common stock which equals or exceeds the sum of (a) 135% of the maximum number of conversion shares issued and issuable pursuant to the Note, (b) 100% of the maximum number of Warrant Shares issued and issuable pursuant to the Warrant, and (c) 100% of the maximum number of shares of common stock issued and issuable pursuant to any 2013 Secured Notes purchased by the Lender.

The Lender is permitted to participate in any distributions or dividends the Company makes at any time after the issuance of the Warrant to its holders of shares of common stock to the same extent Lender would have participated if it held the number of shares of common stock acquirable upon complete exercise of the Warrant immediately before the date of the distribution or dividend.

The Warrant also provides that in the event of a "Fundamental Transaction," the Lender shall be entitled to receive, if so requested, the corresponding number of shares of the successor entity in lieu of shares of the Company's common stock. In addition, if the Fundamental Transaction is an all-cash transaction, done with a private company, or is a "Rule 13e-3 transaction" as defined in Rule 13e-3 under the Securities Exchange Act of 1934, then, if the Lender requests, the Company or any successor entity shall purchase the Warrant from the Lender at price per share to be calculated pursuant to a pre-determined formula.

Security Agreement

The Companies entered into a Security Agreement on August 14, 2014, pursuant to which they granted to the Lender a security interest in all of the assets of the Debtors (the "Collateral"). Covenants in the Security Agreement include the following: (i) neither of the Companies may create additional mortgages, pledges, titles or liens on any Collateral; (ii) each of the Companies shall preserve its Collateral, maintain good title to, and maintain sufficient insurance with respect thereto; and (iii) each of the Companies agrees that it will not be party to any merger or sale of all or substantially all of the assets or sell or assign any accounts receivable without the prior consent of the Lender.

Intercreditor Agreement

The Companies, the Lender, and each of the holders ("Holders") of the 2013 Secured Notes (through their designated Note Agent after having received the requisite majority consent of the Holders) entered into an Intercreditor Agreement, dated as of August 14, 2014. The Intercreditor Agreement provides that the Lender acts as the senior secured lender to the Company in all respects, save for where it chooses to liquidate the Collateral securing the Note, in which event the first net proceeds from liquidation of the Collateral, after all associated costs and expenses, are to be applied to retire the 2013 Secured Notes. Otherwise, the Holders are required to stand still and not take any action with respect to their 2013 Secured Notes or the previously entered security agreements or pledge agreement securing the same (even in the event of default or maturity), save for the right to convert their 2013 Secured Notes to common stock in their sole discretion. Each Holder in the Intercreditor Agreement has: (i) agreed to accept only PIK (not cash) interest with respect to his or her 2013 Secured Note, (ii) granted to the Lender the option, at any time following an event of default under the Note or with respect to the 2013 Secured Notes (or corresponding documents), to purchase their 2013 Secured Notes and the security agreements, securities pledge agreement and other documents associated with the issuance of the 2013 Secured Notes for an amount equal to the unpaid debt evidenced by their 2013 Secured Notes; and (iii) agreed not to transfer the 2013 Secured Notes and associated documentation without the consent of the Lender, which consent is not to be unreasonably withheld.

Allonge and Related Documentation

Simultaneous with entering into the Intercreditor Agreement, the Note Agent (after having received the requisite majority consent of the Holders) entered into an allonge ("Allonge") amending each of the 2013 Secured Notes in the following manner: (i) extension of the maturity date of all of the 2013 Secured Notes to July 31, 2018; (ii) elimination of the Company's right to mandatorily convert the 2013 Secured Notes until any time after December 20, 2016, except in the event of a listing of the Company's common stock on a national securities exchange, where the conversion of the 2013 Secured Notes is a condition preceding such listing and the Company has maintained a volume weighted average price per share of at least $1.25 for the 20 consecutive trading days prior to the conversion and subject to average volume of at least 50,000 shares per day; (iii) issuance of a "springing warrant" in the event of Lender's exercise of its purchase option to purchase the 2013 Secured Notes, to be issued as of the date of such purchase, in an amount equal to the number of shares that could have been purchased were the 2013 Secured Notes to have been exercised on such date at .50 cents per share and to run until the later of the original maturity date of the applicable note in question or two years following the date of the issuance of the warrant. In addition, the security agreements and securities pledge agreement securing the 2013 Secured Notes were amended by the Note Agent consistent with the subordination provisions of the Intercreditor Agreement.

Investor/Registration Rights Agreement

In connection with the Financing Agreement, the Lender also entered into an Investor/Registration Rights Agreement, dated as of August 14, 2014, pursuant to which the Lender received demand registration rights requiring the Company, at the direction of the Lender, to register the shares of common stock underlying the Note, the Warrant, and any 2013 Secured Notes purchased by the Lender (such underlying stock being collectively, the "Registrable Securities") as well as certain veto rights as set forth below. If: (i) the Company is delayed in getting the applicable registration statement(s) filed or declared effective, (ii) the sales of all of the Registrable Securities required to be registered (subject to certain permitted cutback requirements) cannot be made pursuant to the applicable registration statement(s), or (iii) the applicable registration statement(s) is not effective for any reason other than permitted exceptions, then the Investor/Registration Rights Agreement provides penalties, cumulatively capped at 2.5% of the original principal amount of the Note.

The Investor/Registration Rights Agreement also provides that once the Note has been fully paid or converted, and for so long as the Lender continues to hold at least 10% of the issued and outstanding stock of the Company, the Lender's approval is required before certain major actions may be taken by the Company including: (i) amending the Investor/Registration Rights Agreement; (ii) merging, consolidating or reorganizing the Company; (iii) purchasing another business involving the expenditure of $2,000,000 or more in cash or comparable value; (iv) selling, exchanging or otherwise disposing of all or substantially all of the assets of the Company; (v) dissolving, liquidating or entering into a voluntary insolvency action; (vi) paying dividends to stockholders of the Company other than quarterly dividends as approved by the board of directors; (vii) issuing additional equity interests in the Company or any debt security convertible into or exchangeable for any equity interests of the Company (except for excluded issuances, most notably related to presently outstanding securities of the Company, the securities contemplated to be issued by the Financing Agreement or up to 5,000,000 shares to be issued pursuant to stock option plans); (viii) creating or assuming any indebtedness or refinancing any indebtedness; (ix) changing any annual business plan and budget approved by the Company's board of directors; (x) amending or terminating the License Agreement with EERCF or permitting MES to have the License Agreement patent rights transferred to it; (xi) taking any action that constitutes or could constitute an event of default under any contract that could have a $2,000,000 or more impact on the Company; (xii) transacting any business with an officer of the Company at a compensation rate less than an arms' length rate; (xiii) making any investments or holding an interest in a subsidiary where the Company is not actively involved in the operations of the subsidiary; (xiv) engaging in any other transaction or matter outside the ordinary course of business; (xv) taking any act in contravention of the Investor/Registration Rights Agreement or the Company's organizational agreements; or (xvi) taking, permitting or allowing to occur any of the foregoing on behalf of or by a subsidiary of the Company.

Amendment to License Agreement

The Companies are parties to a License Agreement with EERCF providing for the exclusive license of certain patented technology from EERCF, which forms the core of the Company's technology. As a condition to the funding of the $10,000,000 loan, the Lender required consent from EERCF to the collateral assignment of the License Agreement. The EERCF agreed to provide such consent, subject to entering into Amendment No. 5 to the License Agreement. It effectively consolidated language from Amendment No. 4, by increasing by 50,000 shares (from 875,000 to 925,000) the number of shares of common stock to be issued by the Company to the EERCF and its designees, in the event the Company exercises its option to purchase the licensed technology from the EERCF.

ITEM 9.01 EXHIBITS

Exhibit Number	Description
10.1	Financing Agreement by and between Midwest Energy Emissions Corp., MES, Inc. and the Lender dated as of August 14, 2014.
10.2	Warrant for 12,500,000 Shares issued to AC Midwest Energy, LLC dated as of August 14, 2014.
10.3	Security Agreement by and between Midwest Energy Emissions Corp., MES, Inc. and AC Midwest Energy, LLC dated as of August 14, 2014.
10.4	Intercreditor Agreement by and between Midwest Energy Emissions Corp., the Holders of 2013 Secured Notes and AC Midwest Energy, LLC dated as of August 14, 2014.
10.5	Investor/Registration Rights Agreement by and between Midwest Energy Emissions Corp. and AC Midwest Energy, LLC dated August 14, 2014 dated as of August 14, 2014.
10.6	Form of Allonge to each of the 2013 Secured Notes dated as of August 14, 2014.
10.7	Amendment No. 5 to License Agreement among Midwest Energy Emissions Corp., MES, Inc. and Energy & Environment Research Center Foundation dated as of August 14, 2014.

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.

Midwest Energy Emissions Corp.

Date: August 14, 2014

By: */s/ Richard H. Gross*
Richard H. Gross
Chief Financial Officer

EXHIBIT 10.1

FINANCING AGREEMENT

Dated as of August 14, 2014

by and among

MIDWEST ENERGY EMISSIONS CORP., a Delaware corporation
as Borrower,

MES, INC., a North Dakota corporation
as Guarantor

and

AC MIDWEST ENERGY LLC, a Delaware limited liability company,
as Lender

$10,000,000 SENIOR SECURED CONVERTIBLE NOTE

AND

WARRANT TO PURCHASE SHARES OF

COMMON STOCK

TABLE OF CONTENTS

EXHIBITS

Exhibit A	Note
Exhibit B	Warrants
Exhibit C	Security Agreement
Exhibit D	Fee Letter
Exhibit E	Collateral Assignment of EERCF License Agreement
Exhibit F	Compliance Certificate
Exhibit G	Intercreditor Agreement
Exhibit H	Investor/Registration Rights Agreement
Exhibit I	Prior Junior Convertible Notes
Exhibit J	Prior Senior Convertible Notes

FINANCING AGREEMENT

This **FINANCING AGREEMENT** (as modified, amended, extended, restated, amended and restated and/or supplemented from time to time, this "**Agreement**"), dated as of August 14, 2014 is being entered into by and among Midwest Energy Emissions Corp., a Delaware corporation, (the "**Borrower**"), MES, Inc., a North Dakota corporation ("MES") as a Guarantor (as hereinafter defined), and AC Energy Midwest LLC, a Delaware limited liability company (the "**Lender**").

RECITALS

WHEREAS, the Borrower has authorized issuance of a new series of senior secured convertible notes of the Borrower;

WHEREAS, Lender wishes to purchase, and the Borrower wishes to sell, at the Closing, upon the terms and conditions stated in this Agreement, a senior secured convertible note in the principal amount of $10,000,000, in substantially the form attached hereto as Exhibit A (the **Note**"), which Note shall be convertible into Common Stock (as hereinafter defined) in accordance with the terms set forth in this Agreement;

WHEREAS, in connection with the sale of the Note at the Closing, and as an inducement to the Lender to purchase the Note, the Borrower wishes to issue to the Lender at the Closing, upon the terms and conditions stated in this Agreement, a warrant to purchase an aggregate of 12,500,000 shares of common stock, par value $.001 per share, of the Borrower (or any capital stock issued in substitution or exchange for, or otherwise in respect of, such common stock) (the "**Common Stock**"), in substantially the form attached hereto as Exhibit B (the "**Warrant**"); should Lender elect to have the Warrant subdivided into multiple warrants then each such warrant shall comprise a "Warrant" and they shall collectively comprise the "Warrants."

WHEREAS, Borrower and Lender are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Section 4(a)(2) of the Securities Act of 1933, as amended (the "**1933 Act**"), and Rule 506(b) of Regulation D ("**Regulation D**") promulgated by the United States Securities and Exchange Commission (the "**SEC**") under the 1933 Act;

WHEREAS, contemporaneously with the execution and delivery of this Agreement, the Borrower, MES and Lender are executing and delivering a Security Agreement, substantially in the form attached hereto as Exhibit C (the "**Security Agreement**"), pursuant to which substantially all of the assets of the Borrower and MES will be pledged as Collateral to secure the Obligations; and

WHEREAS, contemporaneously with the execution and delivery of this Agreement, the Borrower and the Lender are executing and delivering a Fee Letter, substantially in the form attached hereto as Exhibit D (the "**Fee Letter**"), pursuant to which the Borrower shall pay and reimburse the Lender for itself and on behalf of the Lender for fees and expenses incurred in connection with the transactions contemplated hereunder.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, the Borrower, MES, and the Lender hereby agree as follows:

ARTICLE 1

DEFINITIONS; CERTAIN TERMS

Section 1.1 Definitions. As used in this Agreement, the following terms have the respective meanings indicated below, such meanings to be applicable equally to both the singular and plural forms of such terms:

"**1933 Act**" has the meaning set forth in the Recitals.

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

"**Acquisition**" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of all or substantially all of any business line, unit or division of a Person, (b) the acquisition of in excess of 50% of the Equity Interests of any Person, or otherwise causing any Person to become a Subsidiary, or (c) a merger or consolidation or any other combination with another Person.

"**Affiliate**" means, with respect to a specified Person, another Person that (i) is a director or officer of such specified Person, or (ii) directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with the Person specified.

"**Asset Sale**" means the sale, lease, license, conveyance or other disposition of any assets or rights of a Credit Party other than a sublicense to a customer of the right to use any of the Intellectual Property of a Credit Party for its own account in the ordinary course of business.

"**Bankruptcy Law**" has the meaning set forth in Section 10.1(c).

"**Business Day**" means any day other than Saturday or Sunday or any day that banks in New York, New York are required or permitted to close.

"**Capital Stock**" means (1) in the case of a corporation, corporate stock; (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into, or exchangeable for, Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"**Cash Equivalent Investment**" means, at any time, (a) any evidence of debt, maturing not more than one year after such time, issued or guaranteed by the United States Government or any agency thereof, (b) commercial paper, maturing not more than one year from the date of issue, or corporate demand notes, in each case rated at least A-l by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or P-l by Moody's Investors Service, Inc., (c) any certificate of deposit, time deposit or banker's acceptance, maturing not more than one year after such time, or any overnight Federal Funds transaction that is issued or sold by a commercial banking institution that is a member of the Federal Reserve System and has a combined capital and surplus and undivided profits of not less than $500,000,000, (d) any repurchase agreement entered into with any commercial banking institution of the nature referred to in clause (c) which (i) is secured by a fully perfected security interest in any obligation of the type described in any of clauses (a) through (c) above and (ii) has a market value at the time such repurchase agreement is entered into of not less than 100% of the repurchase obligation of such commercial banking institution thereunder, (e) money market accounts or mutual funds which invest exclusively in assets satisfying the foregoing requirements, and (f) other short term liquid investments approved in writing by Lender.

"**Cash Pay Interest Rate**" means a rate per annum equal to zero percent (0%) through August 13, 2015, two percent (2%) from August 14, 2015 through August 13, 2016 and twelve percent (12%) from August 14, 2016 until the payment of the Note in full.

"**Change of Control**" means one or more related transactions in which (A) a Credit Party shall, directly or indirectly, (i) consolidate or merge with or into another Person (whether or not the Credit Party is are the surviving corporation), (ii) sell, assign, transfer, lease, license, convey or otherwise dispose of all or substantially all of the properties or assets of a Credit Party to another Person, (iii) allow another Person to make a purchase, tender or exchange offer that is accepted by the holders of more than fifty percent (50%) of the outstanding shares of Common Stock or other equity interests (not including any shares of Common Stock of other equity interests held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), (iv) consummate a stock purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than fifty percent (50%) of the outstanding shares of Common Stock or equity interests of a Credit Party, or (v) reorganize, recapitalize or reclassify its Common Stock or other equity interests, (B) that with respect to Borrower, any "person" or "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act) is or shall become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of fifty percent (50%) of the aggregate ordinary voting power represented by issued and outstanding Common Stock, or (C) the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which may be defective or inconsistent with the intended treatment of such instrument or transaction.

"**Closing**" has the meaning set forth in Section 3.1.

"**Closing Date**" has the meaning set forth in Section 3.1.

"**Closing Fee**" shall mean $100,000.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Collateral**" means the "Collateral" as defined in the Security Agreement.

"Collateral Assignment of EERCF License Agreement" means the agreement dated as of the Closing Date in the form of Exhibit E by and between the Lender and MES.

"Common Stock" has the meaning set forth in the Recitals.

"**Compliance Certificate**" means a certificate signed by a responsible officer of the Borrower, in substantially the form attached hereto as Exhibit F and reasonably satisfactory to the Lender.

"**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

"**Contracted Units**" means coal-fired units that are contracted under a master supply agreement, or a similar agreement, for the purchase of MES' products that are expected to generate at least $1,500,000 of annualized revenue starting on or after May 1, 2016, provided that if multiple coal-fired units are located at the same customer location or multiple locations, and they individually do not meet the minimum expected revenues (or cumulatively exceed the minimum expected revenues), they can be added together to determine cumulative expected revenues to comprise one or more units, to the extent that they meet the minimum (or multiples thereof) cumulatively.

"**Contracted Units Revenue**" means the amount of revenue generated from Contracted Units.[1]

"**Contracted Customers**" means the owners of the Contracted Units obtained pursuant to a master supply agreement or a similar agreement with MES.

"**Control**" means the possession, directly or indirectly, of the power (i) to vote 10% or more of the Capital Stock having ordinary voting power for the election of directors of a Person or (ii) to direct or cause the direction of management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. "**Controlling**" and "**Controlled**" have meanings correlative thereto.

"**Controlled Deposit Accounts**" means the following bank account of a Credit Party subject to a deposit account control agreement as required by the Lender: US Bank, 600 Demers Avenue, Grand Forks, ND 58201 – Account #163070886912.

"**Conversion Price**" shall initially mean $1.00 per share (and shall be further subject to adjustment as provided in Section 2.10 hereof) but shall be reduced to $.75 per share (or an adjusted amount if the Conversion Price in effect prior to such reduction is so reduced pursuant to Section 2.10 hereof) if the Borrower's and its Subsidiaries' consolidated EBITDA as of the date of the Borrower's 10-K filing for the fiscal year ending December 31, 2015 is less than $2,500,000 (and shall be further subject to adjustment as provided in Section 2.10 hereof).

"**Conversion Shares**" means those shares of Common Stock or other securities issuable pursuant to the terms of the Note, including, without limitation, upon conversion, amortization and in payment of principal and interest or otherwise.

"**Credit Party**" means the Borrower and each Guarantor.

"**Cure Notice**" has the meaning set forth in Section 10.3.

"Current Equity Incentive Plans" means the Borrower's 2014 Equity Incentive Plan, calling for the issuance of up to 2,500,000 shares of Common Stock and the Borrower's 2005 Equity Incentive Plan as amended in 2009, calling for the issuance of up to 454,545 shares.

"**Current Interest Rate**" means a rate per annum equal to twelve percent (12%), as adjusted pursuant to the terms of Section 2.2.

"**Custodian**" has the meaning set forth in Section 10.1(d).

"**Default Rate**" means a rate equal to the Current Interest Rate plus three percent (3.0%) per annum.

"**Destruction**" means any and all damage to, or loss or destruction of, or loss of title to, all or any portion of the Collateral in excess of $250,000 in the aggregate for any Fiscal Year.

"**Diligence Date**" has the meaning set forth in Section 7.14.

"**Disqualification Event**" has the meaning set forth in Section 7.43.

"**DTC**" has the meaning set forth in Section 6.5.

"EBITDA" means, as of any date of determination, for a specified period ending on such date of determination, an amount equal to (a) Net Income, plus (b) in each instance to the extent deducted in the computation of Net Income and without duplication, (i) depreciation, amortization and other non-cash charges (including, but not limited to, common stock or other equity linked securities issued as compensation for services, imputed interest and deferred compensation which is deferred as a result of the requirement to comply with the covenant set forth in Section 8.1(d) hereof) for such period, but excluding non-cash charges that are an accrual or reserve for a cash expenditure or payment to be made in a future period, plus (ii) interest expense, plus (iii) fees paid during such period to Lenders pursuant to this Agreement, plus (iv) income taxes for such period, all as computed per the methodologies utilized in generating the projections upon which the Financial Covenants in Section 8.1 were based.

"EERCF" means Energy and Environmental Research Center Foundation.

"EERCF License Agreement" means that certain Exclusive Patent and Know-How License Agreement between MES and EERCF dated as of January 15, 2009, as amended.

"**Eligible Market**" means the NYSE MKT LLC, The NASDAQ Global Market, The NASDAQ Global Select Market, The NASDAQ Capital Market or The New York Stock Exchange, Inc. (or any successors to the foregoing).

"**Employee Benefit Plan**" means any "employee benefit plan" as defined in Section 3(3) of ERISA which is or was sponsored, maintained or contributed to by, or required to be contributed to by, any Credit Party or any of their respective Subsidiaries or ERISA Affiliates.

"**Environmental Laws**" means all applicable federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "**Hazardous Materials**") into the environment, the exposure of humans thereto, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all regulatory authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices of violation or similar notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder.

"**Equity Interests**" means Capital Stock and all warrants, options and other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock, whether or not such debt security includes the right of participation with Capital Stock).

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"**ERISA Affiliate**" means, as to any Credit Party, any trade or business (whether or not incorporated) that is a member of a group which includes such Credit Party and which is treated as a single employer under Section 414 of the Code.

"**ERISA Event**" means (a) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30 day notice to the PBGC has been waived by regulation); (b) the failure to meet the minimum funding standards of Sections 412 and 430 of the Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Code) or the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (c) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (d) the withdrawal by a Credit Party, any of their respective Subsidiaries or any of their respective ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to by a Credit Party, any of their respective Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4063 or 4064 of ERISA; (e) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (f) the imposition of liability on a Credit Party, any of their respective Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (g) the withdrawal of a Credit Party, any of their respective Subsidiaries or any of their respective ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt of a Credit Party, any of their respective Subsidiaries or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (h) the occurrence of an act or omission which could give rise to the imposition on a Credit Party, any of their respective Subsidiaries or any of their respective ERISA Affiliates of fines, penalties, taxes or related charges under Sections 4975 or 4971 of the Code or under Section 409, Section 502(c), (i) or (l), or Section 4071 of ERISA in respect of any Employee Benefit Plan; (i) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan other than a Multiemployer Plan or the assets thereof, or against a Credit Party, any of their respective Subsidiaries or any of their respective ERISA Affiliates in connection with any Employee Benefit Plan; (j) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Code) to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Code; or (k) the imposition of a Lien pursuant to Section 401(a)(29) or 430(k) of the Code or pursuant to ERISA with respect to any Pension Plan.

"**Event of Default**" has the meaning set forth in Section 10.1.

"**Event of Default Notice**" has the meaning set forth in Section 10.2(a).

"**Event of Default Redemption**" has the meaning set forth in Section 10.2(a).

"**Event of Default Redemption Notice**" has the meaning set forth in Section 10.2(a).

"**Event of Loss**" means any Destruction to, or any Taking of, any asset or property of a Credit Party.

"**Extraordinary Receipts**" means any cash received by a Credit Parties outside the ordinary course of business (and not consisting of proceeds described in Sections 2.3(b)(i), (b)(ii), (b)(iii), (b)(iv) or (b)(vii)), including, without limitation, (a) foreign, United States, state or local tax refunds, (b) pension plan reversions and (c) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action.

"**Fee Letter**" has the meaning set forth in the Recitals.

"**Fiscal Quarter**" means a fiscal quarter of any Fiscal Year of the Borrower.

"**Fiscal Year**" means a fiscal year of the Borrower.

"**Funds Flow Letter**" has the meaning set forth in Section 4.1(b).

"**GAAP**" means United States generally accepted accounting principles, consistently applied.

"**Governmental Authority**" means the government of the United States of America, any other nation or any political subdivision of any of the foregoing, whether state or local, and any agency, authority, commission, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"**Guarantor**" means (i) MES, (ii) each other Subsidiary of a Borrower other than RCF, and (iv) each other Person which guarantees all or any part of the Obligations.

"**Hedging Obligations**" means, with respect to any specified Person, the obligations of such Person under: (i) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements; (ii) other agreements or arrangements designed to manage interest rates or interest rate risk; and (iii) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

"**Holder**" means a holder of a Security which shall be the Lender or an assignee thereof.

"**Indebtedness**" of any Person means, without duplication (i) all indebtedness for borrowed money, (ii) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (including, without limitation, "capital leases" in accordance with GAAP) (other than trade payables entered into in the ordinary course of business), (iii) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (iv) all obligations evidenced by notes, bonds, notes or similar instruments whether convertible or not, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (v) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (vi) all indebtedness referred to in clauses (i) through (v) above secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, (vii) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (i) through (vi) above; (viii) banker's acceptances; (ix) the balance deferred and unpaid of the purchase price of any property or services due more than three months after such property is acquired or such services are completed; (x) Hedging Obligations; and (xi) obligations under convertible securities of a Credit Party. In addition, the term "Indebtedness" of a Credit Party includes (a) all Indebtedness of others secured by a Lien on any assets of a Credit Party or their respective Subsidiaries (whether or not such Indebtedness is assumed by a Credit Party or their respective Subsidiaries), and (b) to the extent not otherwise included, the guarantee by a Credit Party of any Indebtedness of any other Person.

"**Insolvent**" means, with respect to a Credit Party or its Subsidiaries (taken as a whole and without consideration of any intercompany Indebtedness amongst a Credit Party or its Subsidiaries), (i) the present fair saleable value of a Credit Party or its Subsidiaries' assets is less than the amount required to pay a Credit Party or its Subsidiaries' total Indebtedness as applicable, (ii) a Credit Party and/or its Subsidiaries are unable to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured, (iii) a Credit Party and/or its Subsidiaries intend to incur or believe that they will incur debts that would be beyond their ability to pay as such debts mature in the ordinary course of business or (iv) a Credit Party and/or its Subsidiaries have unreasonably small capital with which to conduct the business in which they are engaged as such business is now conducted and is proposed to be conducted.

"**Intellectual Property Rights**" has the meaning provided in Section 7.11.

"**Intercreditor Agreement**" means that certain Intercreditor Agreement dated as of the Closing Date in the form of Exhibit G by and among the Borrower, the Lender and the Prior Senior Convertible Noteholder Agent.

"**Interest Date**" has the meaning provided in Section 2.2(a).

"**Inventory**" has the meaning provided in the UCC.

"**Investment**" means, with respect to any Person, any investment in another Person, whether by acquisition of any debt security or Equity Interest, by making any loan or advance, by becoming contingently liable in respect of obligations of such other Person or by making an Acquisition.

"Investor/Registration Rights Agreement" means that certain Investor/Registration Rights Agreement dated as of the Closing Date in the form of Exhibit H by and between the Borrower and the Lender.

"Irrevocable Transfer Agent Instructions" has the meaning set forth in Section 2.8(b).

"**Issuance Date**" has the meaning provided in Section 2.2(a).

"**Issuer Covered Person**" has the meaning set forth in Section 7.43.

"**Lender**" has the meaning set forth in the introduction.

"**Lien**" means any mortgage, lien, pledge, security interest, conditional sale or other title retention agreement, charge or other security interest or encumbrance of any kind, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement or any lease or license in the nature thereof, any option or other agreement to sell or give a security interest in.

"**Management Annualized Compensation**" means the annualized cash compensation earned and paid in the period by Borrower and/or MES to Alan Kelley, Richard Gross, Marc Sylvester, Jim Trettel or any other member of the Borrower's or MES' management team (exclusive of cash payments for sales commissions earned and paid to Marc Sylvester or any other sales personnel of the Borrower and/or MES).

"**Material Adverse Effect**" means any material adverse effect on the business, properties, assets, operations, the Collateral, results of operations, condition (financial or otherwise) or prospects of a Credit Party and/or its Subsidiaries, taken as a whole, or on the transactions contemplated hereby and by the other Transaction Documents, or on the authority or ability of the a Credit Party and/or its Subsidiaries to fully and timely perform its obligations under any Transaction Document.

"**Material Contract**" means (a) from and after the incurrence of any Indebtedness permitted under clause (vii) of the definition of "Permitted Indebtedness," the operative documentation evidencing such Indebtedness, and (b) any contract or other arrangement to which a Credit Party and/or its Subsidiaries is a party (other than the Transaction Documents) that generates gross profit to a Credit Party and/or its Subsidiaries of $250,000 or more in any year including, without limitation, the EERCF License Agreement.

"**Maturity Date**" means the earlier of (a) July 31, 2018, and (b) such earlier date as the unpaid principal balance of the Note becomes due and payable pursuant to the terms of this Agreement and the Note.

"**Mortgage**" means a mortgage or deed or trust, in form and substance reasonably satisfactory to the Lender, as it may be amended, supplemented or otherwise modified from time to time.

"**Multiemployer Plan**" means any Employee Benefit Plan which is a "multiemployer plan" as defined in Section 3(37) of ERISA.

"Net Income (Loss)" means, as of any date of determination, as determined in accordance with GAAP, when calculated for a specified period ending on such date of determination, the aggregate of the net income (loss) of a Credit Party and its Subsidiaries for such period (but excluding to the extent included therein any extraordinary gains or losses), provided, that, the effect of any change in accounting principles adopted by a Credit Party and its Subsidiaries, after the date hereof shall be excluded. For the purpose of this definition, net income excludes any gain or loss, together with any related provision for taxes for such gain or loss, realized upon the sale or other disposition of any assets that are not sold in the ordinary course of business (including, without limitation, dispositions pursuant to sale and leaseback transactions) or of any Equity Interests of a Credit Party and its Subsidiaries, and any net income realized as a result of changes in accounting principles or the application thereof to a Credit Party and its Subsidiaries.

"Note" and "**Notes**" has the meaning set forth in Section 2.1.

"**Obligations**" means any and all obligations, liabilities and indebtedness, including without limitation, principal, interest (including, but not limited to, interest calculated at the Default Rate and post-petition interest in any proceeding under any Bankruptcy Law), and other fees, costs, expenses and other charges and other obligations under the Transaction Documents, of the Credit Parties to the Lender and other Holders of any and every kind and nature, howsoever created, arising or evidenced and howsoever owned, held or acquired, whether now or hereafter existing, whether now due or to become due, whether primary, secondary, direct, indirect, absolute, contingent or otherwise (including, without limitation, obligations of performance), whether several, joint or joint and several, and whether arising or existing under written or oral agreement or by operation of law, in all such cases, arising under this Agreement or any of the other Transaction Documents.

"**Other Taxes**" has the meaning set forth in Section 2.6(b).

"**Outside Legal Counsel**" means Taft, Stettinius & Hollister LLP.

"**PBGC**" means the Pension Benefit Guaranty Corporation or any successor thereto.

"**Pension Plan**" means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to Sections 412 and 430 of the Code or Section 302 of ERISA.

"**Permitted Dispositions**" means (i) sales of inventory or equipment to customers in the ordinary course of business, (ii) disposals of obsolete, worn out or surplus equipment in the ordinary course of business, (iii) the granting of Permitted Liens, and (iv) the licensing of patents, trademarks, copyrights and other Intellectual Property Rights in the ordinary course of business consistent with past practice.

"**Permitted Indebtedness**" means (i) Indebtedness outstanding under the Notes and the other Transaction Documents, (ii) Indebtedness outstanding as of the Closing Date as set forth on Schedule 7.8, (including the Prior Convertible Notes), (iii) unsecured guaranties in the ordinary course of business of the obligations of suppliers, customers and licensees of a Credit Party and/or its Subsidiaries, (iv) Indebtedness which may be deemed to exist pursuant to any unsecured guaranties with respect to surety and appeal bonds, performance bonds, bid bonds and similar obligations incurred in the ordinary course of business, (v) Indebtedness in respect of netting services, overdraft protections and otherwise in connection with deposit accounts in the ordinary course of business, (vi) intercompany Indebtedness of a Credit Party to another Credit Party; provided, all such intercompany Indebtedness described in this clause (vi) shall be evidenced by notes, which shall be pledged to the Lender and have such terms as the Lender may reasonably require (including, without limitation, to the extent commercially practicable, the grant of a Lien in favor of the applicable Credit Party to secure such Indebtedness), (vii) purchase money Indebtedness and Indebtedness incurred in connection with any capital lease transaction provided the aggregate principal amount of all such Indebtedness at any time outstanding shall not exceed $250,000; (viii) Indebtedness for which the proceeds will be used specifically to repayment the Prior Convertible Notes provided such new Indebtedness is subordinated to Indebtedness represented by the Notes in a manner satisfactory to the Lender and any other Holders in their sole and absolute discretion**;** and (ix) other unsecured Indebtedness in an aggregate amount not to exceed $250,000 at any time outstanding; provided further that indebtedness incurred in the purchase of equipment and associated items to be used for the fabrication and/or resale of the same to customers pursuant to existing product orders shall be deemed to constitute Permitted Indebtedness if approved by Lender after submission of appropriate documentation to make an informed decision, which approval shall not be unreasonably withheld.

"**Permitted Liens**" means (i) Liens in favor of the Lender granted pursuant to any Security Document, (ii) Liens for unpaid taxes, assessments, or other governmental charges or levies that either (A) are not yet delinquent or (B) do not have priority over Lender's Liens for which the underlying taxes, assessments, charges or levies are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, (iii) Liens securing judgments for the payment of money not constituting an Event of Default, (iv) Liens outstanding as of the Closing Date as set forth on Schedule 7.8, *provided* that any such Lien only secures the Indebtedness that it secures on the Closing Date, (v) the interests of lessors under operating leases and licensors under license agreements in each case entered into in the ordinary course of business of the Credit Parties and their Subsidiaries, (vi) Liens arising by operation of law in favor of warehousemen, landlords, carriers, mechanics, materialmen, laborers or suppliers, in each case incurred in the ordinary course of business and not in connection with the borrowing of money and either (A) for amounts that are not yet delinquent or (B) for amounts that are no more than 30 days overdue that are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserves or appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts, (vii) Liens incurred in the ordinary course of business in connection with workers' compensation and other unemployment insurance, or to secure the performance of tenders, surety and appeal bonds, bids, leases, government contracts, trade contracts and other similar obligations (exclusive of obligations for the payment of borrowed money), in each case so long as no foreclosure, sale or similar proceedings have been commenced with respect to any portion of the Collateral on account thereof, (viii) rights of setoff or bankers' liens upon deposits of cash in favor of banks or other depository institutions, solely to the extent incurred in connection with the maintenance of such deposit accounts in the ordinary course of business, (ix) easements, reservations, rights of way, restrictions, minor defects or irregularities in title and other similar charges or encumbrances affecting real property in a manner not materially or adversely affecting the value or use of such property, (x) Liens in favor of customs and revenue authorities arising as a matter of law to secure payments of customs duties in connection with the importation of goods, (xi) Liens securing Permitted Indebtedness described in clause (vii) of the definition of "Permitted Indebtedness" so long as such Liens encumber only those assets acquired with the proceeds of such Indebtedness and (xiii) to the extent constituting Liens, encumbrances in favor of correspondents or agents on account of fulfilled wire transfers for which payment has not been received.

"**Permitted Redemption**" means the redemption of Notes permitted pursuant to Section 2.3(b).

"**Permitted Redemption Amount**" has the meaning set forth in Section 2.3(a)(i).

"**Permitted Redemption Date**" means the date on which the Borrower has elected to redeem the Note in accordance with Section 2.3(a).

"**Permitted Redemption Notice**" has the meaning set forth in Section 2.3(a)(i).

"**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

"**PIK Amount**" has the meaning set forth in Section 2.2(b).

"**Placement Agent**" has the meaning set forth in Section 7.17.

"**Plan**" means any Multiemployer Plan or Pension Plan.

"**Principal Market**" means the OTC QB.

"**Principal Payment Date**" has the meaning set forth in Section 2.3(a).

"**Prior Convertible Notes**" means the Prior Junior Convertible Notes and the Prior Senior Convertible Notes.

"**Prior Junior Convertible Notes**" means those convertible notes issued by the Borrower as listed on Exhibit I attached hereto which are not secured by a lien against the Borrower's and MES' assets.

"**Prior Senior Convertible Notes**" means those convertible notes issued by the Borrower as listed on Exhibit J attached hereto which are secured by a lien against the Borrower's and MES' assets and which are subject to the terms of the Intercreditor Agreement.

"**Prior Senior Convertible Noteholder Agent**" shall mean Richard Galterio**.**

"**Proceeding**" has the meaning set forth in Section 7.15.

"**Property**" means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Capital Stock.

"**Purchase Price**" has the meaning set forth in Section 3.1.

"RCF" means Rebel Crew Films, Inc., a California corporation.

"**Related Parties**" of any Person means such Person's Affiliates or any of its respective partners, directors, agents, employees and controlling persons.

"Regulation D" has the meaning set forth in the Recitals.

"**Regulation D Securities**" has the meaning set forth in Section 7.43.

"**Required Prepayment Date**" has the meaning set forth in Section 2.3(c).

"**Required Reserved Amount**" has the meaning set forth in Section 7.3.

"**Schedules**" has the meaning set forth in ARTICLE 7.

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

"**SEC Documents**" has the meaning in Section 7.30.

"**Security**" or "**Securities**" means the Note, the Conversion Shares, the Warrant and the Warrant Shares.

"**Securities Pledge Agreement**" means that certain Securities Pledge Agreement dated as of the Closing Date in the form of Exhibit K by and between the Borrower and the Lender.

"**Security Agreement**" has the meaning set forth in the Recitals.

"**Security Documents**" means the Security Agreement, the Collateral Assignment of EERCF License Agreement, the Securities Pledge Agreement, and all other instruments, documents and agreements delivered by the Credit Parties in order to grant to the Lender, a Lien on any real, personal or mixed Property of the Credit Parties as security for the Obligations.

"**SG&A**" means the Borrower's and its Subsidiaries' (determined on the consolidated basis) selling, general and administrative expenses plus the professional fees as set in the Borrower's and its Subsidiaries' consolidated financial statements, excluding non-cash charges (including, but not limited to: (i) common stock or other equity linked securities issued as compensation for services; (ii), professional fees incurred in connection with the transactions contemplated under this Agreement and in connection with any future equity of debt financing transactions which have been consented to by Lender from time to time; and (iii) any extraordinary expenses incurred by the Borrower's and/or its Subsidiaries which have been approved by Lender).

"**Subsidiaries**" has the meaning set forth in Section 7.1.

"**Taking**" means any taking of any property of a Credit Party or any of its Subsidiaries or any portion thereof, in or by condemnation or other eminent domain proceedings pursuant to any law, general or special, or by reason of the temporary requisition of the use of such assets or any portion thereof, by any Governmental Authority, civil or military (i) in excess of $250,000 in the aggregate for any Fiscal Year or (ii) that results, either individually or in the aggregate, in a Material Adverse Effect.

"**Taxes**" has the meaning set forth in Section 2.6(a).

"**Transaction Documents**" means this Agreement, the Note, the Warrant Documents, the Security Documents, the Fee Letter, the Intercreditor Agreement, the Investor/Registration Rights Agreement, the Irrevocable Transfer Agent Instructions and each of the other agreements, documents and certificates entered into by the parties hereto in connection with the transactions contemplated by this Agreement.

"**UCC**" has the meaning set forth in Section 7.13.

"**Unasserted Contingent Obligations**" means Obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities (excluding Obligations in respect of the principal of, and interest and premium (if any) on, and fees and expenses relating to, any Obligation) in respect of which no assertion of liability (whether oral or written) and no claim or demand for payment (whether oral or written) has been made (and, in the case of Obligations for indemnification, no notice for indemnification has been issued by the indemnitee) at such time.

"**Waivable Mandatory Prepayment**" has the meaning set forth in Section 2.3(c).

"**Warrant**" has the meaning set forth in the Recitals.

"**Warrant Documents**" means, collectively, the Warrant, the certificates representing the Warrant Shares, and any other agreement, document or certificate relating to any of the foregoing.

"**Warrant Shares**" means those shares of Common Stock or other securities for which the Warrant, and any accrued and unpaid dividends thereon, may be exercised pursuant to the terms of the Warrant.

Section 1.2 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "**include**", "**includes**" and "**including**" shall be deemed to be followed by the phrase "**without limitation**". The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise: (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "**herein**", "**hereof**" and "**hereunder**", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words "asset" and "**property**" shall be construed to have the same meaning and effect and to refer to any right or interest in or to assets and properties of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible. References in this Agreement to "**determination**" by the Lender include good faith estimates by the Lender (in the case of quantitative determinations) and good faith beliefs by the Lender (in the case of qualitative determinations).

Section 1.3 Accounting and Other Terms. Unless otherwise expressly provided herein, each accounting term used herein shall have the meaning given it under GAAP applied on a basis consistent with those used in preparing the financial statements delivered to Lender pursuant to Section 8.2. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of any Credit Party or any Subsidiary of any Credit Party at "fair value", as defined therein.

ARTICLE 2

BORROWERS' AND THE BORROWER'S AUTHORIZATION OF ISSUE

Section 2.1 Senior Secured Notes. The Borrower has authorized the issue to the Lender of the Note, to be dated the date of issue thereof, to mature July 31, 2018, to bear interest as provided in Section 2.2 below and to be in the form of Exhibit A hereto (the "**Note**"). The Borrower shall repay the outstanding principal balance of the Note in full in cash on the Maturity Date, unless accelerated in accordance with Section 10.2, converted into Common Stock in accordance with Section 2.10 hereof or redeemed or prepaid in accordance with Section 2.4. The term "**Notes**" as used herein shall include the Note delivered pursuant to this Section 2.1 and each such senior secured note delivered in substitution or exchange for, subdivision of, or otherwise in respect of, the Note pursuant to any provision hereof. Should Lender elect to cause one or more persons or entities to hold a portion of the Note, then the Note may be subdivided into multiple notes and the term "Note" shall include each separate Note as the respective Holder's interest may appear, and the term "Lender" in such instance shall refer to each Holder of a Note as his or its interest may appear.

Section 2.2 Interest. The Borrower shall pay interest on the unpaid principal amount of the Notes at the rates, time and manner set forth below:

(a) **Rate of Interest.** The Notes shall bear interest on the unpaid principal amount thereof from the date issued through the date Notes are paid in full in cash (whether upon final maturity, by redemption, prepayment, acceleration or otherwise) at the Current Interest Rate. Interest on the Notes shall be computed on the basis of a 360-day year and actual days elapsed and, subject to Section 2.2(b), shall be payable monthly, in arrears, on or before the last day of each calendar month (each, an "**Interest Date**") during the period beginning on the date such Note is issued (the "**Issuance Date**") and ending on, and including, the date on which the Obligations under the Notes are paid in full. On each such Interest Date and subject to Section 2.2(b), the Borrower shall (i) pay to the Lender or any other Holders in cash monthly installments of interest only (in arrears) at the Cash Pay Interest Rate on the then outstanding principal under the Notes and (ii) as set forth below, accrue the PIK Amount to the outstanding principal of the Notes.

(b) **Interest Payments and PIK Amounts.** Subject to the last sentence of Section 2.2(a), interest on the Notes payable at the Cash Pay Interest Rate shall be payable on or before each Interest Date or at any such other time the Notes become due and payable (whether by acceleration, redemption or otherwise) to the Lender on the applicable Interest Date. On each Interest Date, the then outstanding principal on the Notes shall be increased by an amount (the "**PIK Amount**") equal to the difference between (i) interest accruing at the Current Interest Rate during the preceding one month period and (ii) interest accruing at the Cash Pay Interest Rate during the preceding one month period, which increase shall be made to all outstanding principal balance of the Notes on a ratable basis. Each Interest Date shall be considered the last day of an accrual period for U.S. federal income tax purposes. Any payment of interest that accrues at the Cash Pay Interest Rate due and owing on the Notes shall be made by cash only by wire transfer of immediately available funds.

(c) **Default Rate.** At the election of the Lender and following the delivery of written notice of such election to the Borrower following the occurrence and during the continuation of any Event of Default (or automatically while any Event of Default under subsection 10.1(c) or 10.1(d) exists), the Notes shall bear interest (including post-petition interest in any proceeding under any Bankruptcy Law) on the unpaid principal amount thereof at the Default Rate from the date of receipt of such written notice through and including the date such Event of Default is waived or, to the extent expressly provided herein, cured. In the event that such Event of Default is subsequently waived or, to the extent expressly provided herein, cured, the adjustment referred to in the preceding sentence shall cease to be effective as of the date of such waiver or cure; *provided* that interest as calculated and unpaid at the Default Rate during the continuance of such Event of Default shall continue to be due to the extent relating to the days after the imposition of the Default Rate as set forth above through and including the date on which such Event of Default is waived or, to the extent expressly provided herein, cured. All such interest shall be payable to the Lender on demand of the Lender or other Holders.

(d) **Savings Clause.** In no contingency or event shall the interest rate charged pursuant to the terms of this Agreement exceed the highest rate permissible under any law which a court of competent jurisdiction shall, in a final determination, deem applicable hereto. In the event that such a court determines that the Lender or other Holders received interest hereunder in excess of the highest applicable rate, the amount of such excess interest shall be applied against the principal amount then outstanding under the Note to the extent permitted by applicable law, and any excess interest remaining after such application shall be refunded promptly to the Borrower.

Section 2.3 Scheduled Principal Redemptions.

(a) Commencing on August 1, 2016 and continuing on the first Business Day of each quarter thereafter (i.e., the periods commencing November 1, February 1 and May 1, each, a "Principal Payment Date"), Borrower shall pay principal on the Notes equal to seven and one half percent (7.5%) of the outstanding principal amount of the Notes as of August 1, 2016 (before giving effect to the prepayment), with a final payment of all outstanding principal together with such other amounts as shall then be due and owing from Borrower to Lender under the Notes and this Agreement on the Maturity Date or the date on which the indebtedness evidenced hereby is accelerated as provided herein; provided, however, in lieu of receiving payments of principal on the Notes, the Lender or any of the other Holders may elect to exercise its or their conversion rights with respect to such payment in accordance with Section 2.10 hereof.

(b) Permitted Redemption.

(i) Subject to the Lender's conversion rights set forth in Section 2.10 hereof, on or after July 31, 2016, the Borrower may, at its option, elect to pay to the Lender and any of the other Holders the Permitted Redemption Amount (as defined below), on the specified Permitted Redemption Date, by redeeming, in whole, amounts outstanding under the Notes (the "**Permitted Redemption**"). On or prior to the date which is the third (3rd) Business Day prior to the proposed Permitted Redemption Date, the Borrower shall deliver written notice (the "**Permitted Redemption Notice**") to the Lender and any of the other Holders stating: (i) that the Borrower elects to redeem the Notes pursuant to the Permitted Redemption and (ii) the proposed Permitted Redemption Date. The "**Permitted Redemption Amount**" shall be equal to the sum of one hundred five percent (105%) of the outstanding sum of: (A) the aggregate outstanding principal amount of the Notes as of the Permitted Redemption Date, (B) all accrued and unpaid interest with respect to such principal amount and all accrued and unpaid fees, in each case, with respect to the principal amount of the Note to be redeemed as of the Permitted Redemption Date (to the extent not previously added to the principal amount as set forth in subparagraph (A) immediately above), and (C) all other amounts due under the Transaction Documents with respect to the principal amount of the Note to be redeemed as of the Permitted Redemption Date.

(ii) A Permitted Redemption Notice delivered pursuant to this subsection shall be irrevocable. If the Borrower elects to redeem the Notes pursuant to a Permitted Redemption under Section 2.3(b) and the Lender or any of the other Holders do not exercise their conversion rights, then the Permitted Redemption Amount which will be paid to the Lender and if applicable, the other Holders, on the Permitted Redemption Date by wire transfer of immediately available funds.

(c) Mandatory Prepayments. Subject to the rights of conversion set forth in Section 2.10 hereof:

(i) Within five (5) days following the date of receipt by a Credit Party of any net cash proceeds in excess of $250,000 in the aggregate in any Fiscal Year from any Asset Sales (other than any Permitted Dispositions (except pursuant to clause (iii) of such definition)), the Borrower shall prepay the Notes as set forth in Section 2.3(d) in an aggregate amount equal to 100% of such net cash proceeds. For purposes hereof, net cash proceeds of a transaction will be the cash proceeds received by a Credit Party from the transaction as reduced by the costs, fees and expenses incurred by it in negotiating and consummating the transaction.

(ii) Within five (5) days following the date of receipt by a Credit Party, or the Lender as loss payee, of any net cash proceeds from any Destruction or Taking, the Borrower shall prepay the Notes as set forth in Section 2.3(d) in an aggregate amount equal to 100% of such net cash proceeds, *provided*, so long as no Event of Default (or event or circumstance that, with the passage of time, the giving of notice, or both, would become an Event of Default) shall have occurred and be continuing on the date of receipt thereof or caused thereby, Borrower shall have the option to apply such net cash proceeds, prior to the date that is 180 days following receipt thereof, for purposes of the repair, restoration or replacement of the applicable assets thereof, and any net cash proceeds so applied shall not be applied toward prepayment of the Notes.

(iii) Within five (5) days following the date of receipt by a Credit Party of any net cash proceeds from a capital contribution to, or the issuance of any Equity Interests of a Credit Party (other than: (A) issuances by Borrower pursuant to any employee stock or stock option compensation plan permitted pursuant to the terms of this Agreement; or (B) cash applied toward payment of the indebtedness with respect to any of the Prior Convertible Notes); or (C) non-cash conversions of indebtedness with respect to any of the Prior Convertible Notes to equity, the Borrower shall prepay the Notes as set forth in Section 2.3(d) in an aggregate amount equal to 100% of such net cash proceeds.

(iv) Within five (5) days following the date of receipt by a Credit Party of any net cash proceeds from the incurrence of any Indebtedness of the a Credit Party (other than with respect to Permitted Indebtedness), the Borrower shall prepay the Notes as set forth in Section 2.3(d) in an aggregate amount equal to 100% of such net cash proceeds.

(v) No later than five (5) days following the date of receipt a Credit Party of any Extraordinary Receipts, the Borrower shall prepay the Notes as set forth in Section 2.3(d) in an aggregate amount equal to 100% of such Extraordinary Receipts, *provided* that no payment shall be required pursuant to this Section 2.3(b)(v) unless the amount of Extraordinary Receipts received on such date exceeds $250,000 in the aggregate in any Fiscal Year.

(vi) Concurrently with any prepayment of the Notes pursuant to this Section 2.3(b), the Borrower shall deliver to the Lender a certificate of an authorized officer thereof demonstrating the calculation of the amount of the applicable proceeds.

Notwithstanding anything contained in this Section 2.3(c) to the contrary, in lieu of receiving payments of principal on the Note, the Lender or any other Holder may elect to exercise its conversion rights with respect to such payment in accordance with Section 2.10 hereof.

(d) **Waiver of Mandatory Prepayments.** Anything contained in Section 2.3(c) to the contrary notwithstanding, in the event the Borrower is required to make any mandatory prepayment (a "**Waivable Mandatory Prepayment**") of the Notes, not less than three (3) Business Days prior to the date (the "**Required Prepayment Date**") on which the Borrower is required to make such Waivable Mandatory Prepayment, the Borrower shall notify the Lender the amount of such prepayment, and the Lender shall have the option to refuse such amount by giving written notice to the Borrower of its election to do so on or before the first Business Day prior to the Required Prepayment Date. On the Required Prepayment Date, unless the Lender has elected to waive the repayment, the Borrower shall pay to the Lender the amount of the Waivable Mandatory Prepayment, which amount shall be applied to prepay the Notes.

Section 2.4 Payments Whenever any payment of cash is to be made by the Borrower to any Person pursuant to the Notes or other Transaction Document, such payment shall be made in lawful money of the United States of America by a wire transfer to, subject to the next sentence, the account identified by such Person in writing to the Borrower. Whenever any amount expressed to be due by the terms of the Notes are due on any day which is not a Business Day, the same shall instead be due on the next succeeding day which is a Business Day and, in the case of any Interest Date which is not the date on which the Notes are paid in full in cash, the extension of the due date thereof shall not be taken into account for purposes of determining the amount of interest due on such date. Any amount due under the Transaction Documents which is not paid when due shall accrue interest at the Default Rate from the date such amount was due until the same is paid in full in cash. Such interest shall continue to accrue post-petition in any proceeding under any Bankruptcy Law. The Lender or any of the other Holders of the Notes shall have the right and is authorized to apply payments made hereunder against any or all amounts payable under the Note or under the Transaction Documents, in such order or manner as Lender or any other Holders of the Notes may in their discretion elect.

Section 2.5 Dispute Resolution Except as otherwise provided herein, in the case of a dispute as to the determination of any amounts due and owing under the Notes, the Borrower shall submit the disputed determinations or arithmetic calculations via facsimile within three (3) Business Days of receipt, or deemed receipt, of the applicable notice of dispute to the Lender or any of the other Holders. If the Lender and any of the other Holders, if applicable and the Borrower are unable to agree upon such determination or calculation within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Lender, then the Borrower shall, within three (3) Business Days submit via facsimile the disputed determinations or arithmetic calculations to an independent outside national accounting firm mutually agreed upon by Lender and any of the other Holders, if applicable, and Borrower; provided, that if the Lender and any other Holder, if applicable, and Borrower are unable to mutually agree upon an independent outside national accounting firm to resolve such determination or calculation, each of the Lender, such other Holder and Borrower shall specify an independent outside national accounting firm and such firms shall mutually agree upon a third independent outside national accounting firm to resolve such determination or calculation. The Borrower, at the Borrower's expense, shall cause the accountant to perform the determinations or calculations and notify the Borrower and the Lender and any of the other Holders, of the results as soon as reasonably practicable. Such accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

Section 2.6 Taxes.

(a) Any and all payments by or on behalf of the Borrower hereunder and under any Transaction Document shall be made, free and clear of and without deduction for any and all current or future taxes, levies, imposts, deductions, charges or with the Borrower that are or would be applicable to the Lender or other Holders, and all liabilities with respect thereto, excluding (x) (1) income taxes imposed on the net income of the Lender or other Holders (including branch profits taxes) and (2) franchise taxes imposed on the net income of the Lender or other Holders, in each case by the jurisdiction under the laws of which such Holder is organized or qualified to do business or a jurisdiction or any political subdivision thereof in which the Lender or other Holders engages in business activity other than activity arising solely from the Holder having executed this Agreement and having enjoyed its rights and performed its obligations under this Agreement or any Transaction Document and (y) any U.S. federal withholding tax or U.S. federal backup withholding tax (in the case of any Holder) that is imposed with respect to amounts payable to such Holder at the time such Holder becomes a party to this Agreement (or designates a new lending office) or is attributable to such Holder's failure to comply with this Section 2.6 (all such non-excluded taxes, levies, imposts, deductions, charges, with the Borrower and liabilities, collectively or individually, being called "**Taxes**"). If Borrower must deduct any Taxes from or in respect of any sum payable hereunder or under any other Transaction Document to the Lender or other Holders: (A) the sum payable shall be increased by the amount (an "**additional amount**") necessary so that, after making all required deductions (including deductions applicable to additional sums payable under this Section 2.6), the Lender or such other Holder shall receive an amount equal to the sum it would have received had no such deductions been made, (B) Borrower shall make such deductions and (C) Borrower shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) The Borrower will pay to the relevant Governmental Authority in accordance with applicable law any current or future stamp or documentary taxes or any other excise taxes, or similar charges or levies that arise from any payment made hereunder or under any Transaction Document, or from the execution, delivery or registration of, or otherwise with respect to, this Agreement or any Transaction Document that are or would be applicable to the Holders ("**Other Taxes**").

(c) The Borrower agrees to indemnify the Lender and any other Holder for the full amount of Taxes and Other Taxes paid by Lender or any such other Holder and any liability (including penalties, interest and expenses (including reasonable attorney's fees and expenses)) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability prepared by the Lender or other Holders absent manifest error, shall be final conclusive and binding for all purposes. Such indemnification shall be made within thirty (30) days after the date such Holder makes written demand therefor. The Borrower shall have the right to receive that portion of any refund of any Taxes and Other Taxes received by the Lender or other Holder, for which Borrower has previously paid any additional amount or indemnified such Holder and which leaves the Holder, after Borrower's receipt thereof, in no better or worse financial position than if no such Taxes or Other Taxes had been imposed or additional amounts or indemnification paid to the Lender or other Holders.

Section 2.7 Reissuance.

(a) **Transfer.** If any Note is to be transferred, such transfers shall be made in accordance with Section 11.8, and the Lender or other Holder shall surrender such Note to the Borrower, whereupon the Borrower will forthwith issue and deliver upon the order of the Lender or other Holder a new Note (in accordance with this Section 2.7, registered as the Lender or other Holder may request, representing the outstanding principal being transferred by the Lender or other Holder and, if less than the entire outstanding principal is being transferred, a new Note (in accordance with this Section 2.7) to the Lender or other Holder representing the outstanding principal not being transferred.

(b) **Lost, Stolen or Mutilated Note.** Upon receipt by the Borrower of evidence reasonably satisfactory to the Borrower of the loss, theft, destruction or mutilation of any Note and: (i) in the case of loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to the Borrower (*provided, however,* that if the Lender or other Holder is an institutional investor, the affidavit of an authorized partner or officer of such Lender or other Holder setting forth the circumstances with respect to such loss, theft or destruction shall be accepted as satisfactory evidence thereof and no separate indemnity agreement or other security shall be required, provided that the party that lost the Note shall remain liable to the Borrower should such lost note ultimately result in loss or liability to Borrower), and (ii) in the case of mutilation, upon surrender and cancellation of the mutilated Note, the Borrower shall execute and deliver to the Lender or other Holder a new Note (in accordance with this Section 2.7) representing the outstanding principal.

(c) **Note Exchangeable for Different Denominations.** The Notes are exchangeable, upon the surrender thereof by the Lender or other Holder at the principal office of the Borrower, for a new Note or Notes (in accordance with this Section 2.7) representing in the aggregate the outstanding principal of the surrendered Note, and each such new Note will represent such portion of such outstanding principal as is designated by the Lender or other Holder at the time of such surrender.

(d) **Issuance of New Notes.** Whenever the Borrower is required to issue a new Note pursuant to the terms of this Agreement, such new Note: (i) shall be of like tenor with the Note being replaced, (ii) shall represent, as indicated on the face of such new Note, the principal remaining outstanding (or, in the case of a new Note being issued pursuant to paragraph (a) or (b) of this Section 2.7, the principal designated by the Lender or other Holder which, when added to the principal represented by the other new Notes issued in connection with such issuance, does not exceed the principal remaining outstanding under the Note being replaced immediately prior to such issuance of new Notes), (iii) shall have an issuance date, as indicated on the face of such new Note, which is the same as the Issuance Date of the Note being replaced, (iv) shall have the same rights and conditions as the Note being replaced, and (v) shall represent accrued interest on the principal of the Note being replaced, from the Issuance Date.

Section 2.8 Register; Transfer Agent Instructions The Borrower shall maintain at its principal executive office (or such other office or agency of the Borrower as it may designate by notice to each holder of Securities), a register for the Notes and the Warrant in which the Borrower shall record the name and address of the Person in whose name the Notes and Warrant have been issued (including the name and address of each transferee) and the principal amount of Notes held by such Person, the number of Conversion Shares issuable pursuant to the terms of the Notes and the number of Warrant Shares issuable upon exercise of the Warrant held by such Person. The Borrower shall keep the register open and available at all times during business hours for inspection of any Holder or its legal representatives. The Borrower shall issue irrevocable instructions to its transfer agent, and any subsequent transfer agent, in the form of Exhibit L attached hereto (the "**Irrevocable Transfer Agent Instructions**") to issue certificates or credit shares to the applicable balance accounts at DTC, registered in the name of the Lender or its respective nominee(s), for the Conversion Shares and the Warrant Shares issued pursuant to the terms of the Note or exercise of the Warrant in such amounts as specified from time to time by the Lender to the Borrower upon conversion of the Note or exercise of the Warrant. The Borrower warrants that no instruction other than the Irrevocable Transfer Agent Instructions referred to in this Section 2.8, and stop transfer instructions to give effect to Section 6.5 hereof, will be given by the Borrower to its transfer agent, and that the Securities shall otherwise be freely transferable on the books and records of the Borrower as and to the extent provided in this Agreement and the other Transaction Documents, subject to compliance with applicable securities laws that may impact transfer. If the Lender effects a sale, assignment or transfer of the Securities in accordance with Section 6.4, the Borrower shall permit the transfer and shall promptly instruct its transfer agent to issue one or more certificates or credit shares to the applicable balance accounts at DTC in such name and in such denominations as specified by the Lender to effect such sale, transfer or assignment, provided such transfer is in compliance with applicable securities laws. In the event that such sale, assignment or transfer involves the Conversion Shares or the Warrant Shares sold, assigned or transferred pursuant to an effective registration statement or pursuant to Rule 144, the transfer agent shall issue such Securities to the Lender, assignee or transferee, as the case may be, without any restrictive legend. The Borrower acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Lender. Accordingly, the Borrower acknowledges that the remedy at law for a breach of its obligations under this Section 2.8 will be inadequate and agrees, in the event of a breach or threatened breach by the Borrower of the provisions of this Section 2.8, that the Lender shall be entitled, in addition to all other available remedies, to an order and/or injunction restraining any breach and requiring immediate issuance and transfer, without the necessity of showing economic loss and without any bond or other security being required.

Section 2.9 Maintenance of Register Notwithstanding anything to the contrary contained herein, the Notes are registered obligations and the right, title, and interest of each Lender and its assignees in and to such Notes shall be transferable only upon notation of such transfer in a register to be maintained by the Company for so long as it acts as its own registration agent for the Notes, and by the Transfer Agent used for the Company's Common Stock should it elect to no longer act as transfer agent for the Notes. The Notes shall only evidence a Lender's or its assignee's right, title and interest in and to the related Notes, and in no event is any such Note to be considered a bearer instrument or obligation. This Section 2.9 shall be construed so that the Notes are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations promulgated thereunder.

Section 2.10 Conversion Rights.

(a) Right of Holders to Convert Note. All or any portion of the principal amount of the Notes may be converted at any time and from time to time, at the option of the Lender or any of the other Holders be converted into a number of validly issued, fully paid and non-assessable shares of Common Stock (rounded down to the next closest whole share, with any fractional share amount to be paid for in cash equal to the per share price applicable to the conversion multiplied by the fractional share amount in question) equal to the quotient of (1) the principal amount of the Note plus accrued interest being converted divided by (1) the Conversion Price, determined and defined as hereinafter provided, in effect at the time of conversion (subject to adjustment as hereinafter provided). The Borrower shall pay any and all transfer, stamp, issuance and similar taxes, costs and expenses, including, without limitation, fees and expenses of the transfer agent, that may be payable with respect to the issuance and deliver of Common Stock upon conversion of any portion of the Note.

(b) **Adjustments to Conversion Price.** In order to prevent dilution of the conversion rights granted under this Section 2.10, the Conversion Price shall be subject to adjustment from time to time pursuant to this Section 2.10(b).

(i) Subject to Section 2.10 (b)(iii), if and whenever after the date hereof Borrower issues or sells any shares of Common Stock for consideration in an amount per share of Common Stock less than the Conversion Price in effect immediately prior to the time of such issuance or sale, then immediately upon such issuance or sale the Conversion Price shall be reduced to the Conversion Price determined by dividing (A) an amount equal to the sum of (x) the product derived by multiplying the Conversion Price in effect immediately prior to such issuance or sale by the number of shares of Common Stock outstanding, on a fully diluted basis, immediately prior to such issuance or sale, plus (y) the consideration, if any, received by Borrower upon such issuance or sale, by (B) the total number of shares of Common Stock outstanding, on a fully diluted basis, immediately after such issuance or sale. The provisions of this Section 2.10(b)(i) shall not apply to any issuances of shares of Common Stock for which an adjustment has been made pursuant to Section 2.10(b)(ii).

(ii) Subject to Section 2.10 (b)(iii), if and whenever after the date hereof Borrower shall issue or sell any options, warrants or other rights to subscribe for or purchase any shares of Common Stock or any Convertible Securities (as defined below), whether or not the rights to exchange or convert thereunder are immediately exercisable, and the price per share for which Common Stock is issuable upon the exercise of such options, warrants or other rights or upon conversion or exchange of such Convertible Securities is less than the Conversion Price in effect immediately prior to the time of such issuance or sale, then immediately upon such issuance or sale the Conversion Price then in effect shall be adjusted as provided in Section 2.10(b)(i) on the basis that (A) the maximum number of shares of Common Stock issuable pursuant to all such options, warrants or other rights or necessary to effect the conversion or exchange of all such Convertible Securities shall be deemed to have been issued and outstanding, (B) the price per share for such shares of Common Stock shall be deemed to be the lowest price per share at which such shares of Common Stock are available to such holders, and (C) Borrower shall be deemed to have received all of the consideration, if any, payable for such options, warrants or other rights or Convertible Securities as of the date of the actual issuance or sale thereof. No further adjustments of the Conversion Price shall be made upon the actual issuance of such Common Stock upon exercise of such options, warrants or other rights or upon the actual issuance of such Common Stock upon such conversion or exchange of such Convertible Securities. For purposes of this Agreement "**Convertible Securities**" shall mean evidences of indebtedness, shares of stock or other securities that are convertible into or exchangeable, with or without payment of additional consideration, for shares of Common Stock. The provisions of this Section 2.10(b)(i) shall not apply to any issuances of shares of Common Stock for which an adjustment has been made pursuant to Section 2.10(b)(i).

(iii) Notwithstanding the foregoing provisions of Sections 2.10(b)(i) and 2.10(b)(ii), there shall be no adjustment to the Conversion Price as a result of: (A) shares of Common Stock issued upon conversion of the Notes or the Prior Convertible Notes or issued to pay interest in kind in lieu of cash on the Note or the Prior Convertible Notes, (B) shares of Common Stock issued upon the exercise of (1) the Warrant, (2) the New Warrants (as defined in the Allonge to the Prior Senior Convertible Notes) and (3) the warrants to be issued to the Placement Agent as of the date hereof, (C) shares of Common Stock issued upon exercise of the existing warrants to the extent issued prior to and outstanding as of the date hereof, including, without limitation: (1) the warrants issued in connection with the Prior Convertible Notes; (2) the warrants issued to each of Arthur Peterson and James Stanley on September 19, 2013 and (3) the warrants issued to View Trade Securities, Inc. between July 30, 2013 and May 8, 2014 to purchase up to an aggregate of 572,750 shares of Common Stock at an exercise price of $0.50 per share; (D) shares of Common Stock issued pursuant to the existing employment agreements with each of R. Alan Kelley, John F. Norris, Jr., Richard H. Gross and Marc Sylvester (the "**Executive Employment Agreements**"), (E) shares of Common Stock issued upon exercise of the following existing options to the extent issued prior to and outstanding as of the date hereof: (1) the options issued pursuant to the 2005 Stock Option Plan (as amended in 2009), (2) the options issued in connection with the Executive Employment Agreements; and (3) the options issued to each of Keith McGee and Jim Trettel on January 1, 2014 (the forgoing clauses (A) through (E) collectively, the "**Existing Issuance Obligations**"), (F) securities issued in connection with the acquisition of any interest in an entity not affiliated with Borrower (whether by merger, purchase of substantially all of the assets, purchase of stock or other otherwise) which is consented to by Lender or (G) securities issued pursuant to or in connection with any strategic alliance, joint venture or corporate partnership, each with an entity not affiliated with Borrower which is consented to by Lender. Notwithstanding the foregoing, if the total amount of consideration provided for in any Existing Issuance Obligation, or the additional consideration, if any, payable upon the exercise of any Existing Issuance Obligation decreases at any time or from time to time following the date hereof (an "**Existing Issuance Adjustment**", and the resulting difference, an "**Existing Issuance Shortfall**"), then the amount of Common Stock that could have been purchased with the Existing Issuance Shortfall prior to the Existing Issuance Adjustment shall trigger an adjustment to the Conversion Price. By way of example and not by way of limitation, if on the date hereof there is an existing outstanding warrant to purchase 100 shares of Common Stock at an exercise price of $0.50 per share, which exercise price is adjusted after the date hereof to $0.40 per share (an Existing Issuance Adjustment), the resulting Existing Issuance Shortfall would be $10.00, and the amount of Common Stock that could have been purchased with the Existing Issuance Shortfall prior to the Existing Issuance Adjustment ($10.00 divided by an exercise price of $0.50 per share, which yields 20 shares of Common Stock) shall trigger an adjustment to the Conversion Price.

(iv) In the event that the outstanding shares of Common Stock shall be subdivided (by stock split or otherwise) into a greater number of shares of Common Stock, or shares of Common Stock shall have been issued by stock dividend, the Conversion Price then in effect shall, concurrently with the effectiveness of such subdivision or stock dividend, be proportionately decreased. In the event the outstanding shares of Common Stock shall be combined or consolidated by reclassification or otherwise into a lesser number of shares of Common Stock, the Conversion Price then in effect shall, concurrently with the effectiveness of such combination or consolidation, be proportionately increased.

(v) If the Common Stock issuable upon conversion of the Notes shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), the Conversion Price then in effect shall, concurrently with the effectiveness of such reorganization, reclassification or other event, be proportionately adjusted such that the Notes shall be convertible into, in lieu of the number of shares of Common Stock which the Holder would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holder upon conversion of the Notes immediately before that change.

(c) **Certificate as to Adjustments.** Upon the occurrence of each adjustment or readjustment pursuant to this Section 2.10, the Borrower at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to the Holders of the Notes a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Borrower shall, upon the written request at any time of the Holders of the Notes, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price, at the time in effect, and (iii) the number of shares of Common Stock and the number and amount, if any, of other securities or property which at the time would be received upon the conversion of the Notes.

(d) **Mechanics and Effect of Conversion.** No adjustment or allowance shall be made for interest on the principal amount of the Notes surrendered for conversion, except that upon conversion interest accrued but unpaid on the principal amount of the Notes surrendered for conversion shall, at the option of the Holder, either be paid in cash or added as PIK Interest to the principal amount of the Notes. No fractional share of Common Stock will be issued upon conversion of the Notes. In lieu of any fractional share to which Holder otherwise would be entitled, Borrower will pay to Holder in cash the amount of the unconverted principal and accrued interest balance of the Notes that otherwise would be converted into such fractional share. Upon conversion of the Notes pursuant to this Section 2.10: (i) each Holder will surrender its Note to Borrower at Borrower's principal place of business for cancellation, and (ii) at Borrower's expense, Borrower will issue and deliver to the Holder a certificate or certificates representing the number of shares of Common Stock to which the Holder is entitled upon such conversion, together with a check payable to the Holder for any cash amounts payable as described herein and, if applicable, a new Note for the remaining principal amount of the Note which was not converted. Upon conversion of a Note, Borrower will be forever released from all of its obligations and liabilities under the Note with respect to the amount of principal so converted thereunder.

ARTICLE 3

PURCHASE AND SALE OF NOTES

Section 3.1 Closing. In consideration for the Lender's payment of the Purchase Price (as defined below): (i) the Borrower shall issue and sell to the Lender, and the Lender agrees to purchase from the Borrower on the Closing Date (as defined below), the Note, in substantially the form attached hereto as Exhibit A and (ii) the Borrower shall issue to Lender on the Closing Date, the Warrant to purchase 12,500,000 of shares of Common Stock. The closing (the "**Closing**") of the purchase of the Note and Warrant by the Lender shall occur at the offices of Levenfeld Pearlstein, LLC, 2 North LaSalle Street, Chicago, Illinois 60602. The date and time of the Closing (the "**Closing Date**") shall be 10:00 a.m., Chicago time, on the date hereof, subject to notification of satisfaction (or waiver) of the conditions to the Closing set forth in Section 4.1 and Section 5.1 below (or such later date as is mutually agreed to by the Borrower and the Lender). The purchase price (the "**Purchase Price**") of the Note to be purchased by the Lender at the Closing shall be equal to $10,000,000. On the Closing Date: (i) Lender shall pay the Purchase Price (less (x) the Closing Fee and less (y) the additional amounts withheld by it pursuant to Section 8.21 to the Borrower for the Note and Warrant to be issued and sold to the Lender at the Closing, by wire transfer of immediately available funds in accordance with the Funds Flow Letter, and (ii) the Borrower shall deliver to Lender (A) the Note which the Lender is then purchasing, duly executed by the Borrower and registered in the name of Lender or its designee and (B) the Warrant (or subdivided into multiple warrants in the denominations as such Lender shall have requested prior to the Closing) which such Lender is then purchasing, duly executed by the Borrower and registered in the name of such Lender or its designee(s).

Section 3.2 Closing Fee. In consideration of Lender's agreement to purchase the Note hereunder, the, Borrower has paid or shall, contemporaneously with the execution and delivery of this Agreement, pay to Lender the Closing Fee.

ARTICLE 4

CONDITIONS TO THE BORROWER'S OBLIGATIONS TO SELL

Section 4.1 Closing. The obligations of the Borrower hereunder to issue and sell the Note and the Warrant to Lender (and its designees, if any—hereafter referred to as additional "Lenders") at the Closing are subject to the satisfaction, at or before the Closing Date, of each of the following conditions:

(a) Such Lender shall have executed each of the Transaction Documents to which it is a party and delivered the same to the Borrower.

(b) Such Lender (and each other designee, if any) shall have delivered to the Borrower the Purchase Price (less the additional amounts withheld by it pursuant to Section 8.21 for the Notes and the Warrants being purchased by such Lenders) at the Closing by wire transfer of immediately available funds pursuant to the wire instructions provided by the Borrower in the funds flow letter (the "**Funds Flow Letter**") set forth on Exhibit H attached hereto.

(c) The representations and warranties of the Lender shall be true and correct in all material respects (without duplication of any materiality qualifiers) as of the date when made and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct in all material respects (without duplication of any materiality qualifiers) as of such specific date).

ARTICLE 5

CONDITIONS TO EACH LENDER'S OBLIGATION TO PURCHASE

Section 5.1 Closing. The obligation of the Lender hereunder to purchase the Note and the Warrant at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions:

(a) (i) Borrower and MES, as applicable, shall have executed and delivered to the Lender (x) the Note being purchased by such Lender at the Closing pursuant to this Agreement and (y) the Warrant being purchased by such Lender at the Closing pursuant to this Agreement, and (ii) the Borrower and MES, as applicable, shall have executed and delivered to the Lender each of the other Transaction Documents to which it is a party (other than the Transaction Documents contemplated to be executed and delivered to the Lender pursuant to the other subsections of this Section 5.1).

(b) The Borrower and MES shall have executed and delivered, or caused to be delivered, to the Lender:

(i) the Fee Letter and evidence satisfactory to the Lender that the Borrower shall pay to the Lender on the Closing Date the Closing Fee and all other fees and other amounts due and owing thereon under the Fee Letter, this Agreement and the other Transaction Documents; and

(ii) the Funds Flow Letter.

(c) The Borrower and MES, as applicable, shall have executed (to the extent applicable) and/or delivered, or caused to be delivered, to the Lender:

(i) deposit account control agreements and securities account control agreements, in form and substance satisfactory to the Lender, executed by the applicable banks, in each case as the Lender may request, including, without limitation deposit account control agreements for the Controlled Deposit Accounts;

(ii) certificates evidencing any equity interests pledged to the Lender pursuant to the Securities Pledge Agreement, together with duly executed in blank, undated stock powers attached thereto; and

(iii) such other documents relating to the transactions contemplated by this Agreement as the Lender or its counsel may reasonably request.

(d) The Borrower and MES shall have executed and delivered, or caused to be delivered, to the Lender:

(i) a certificate evidencing its incorporation and good standing in its jurisdiction of incorporation issued by the Secretary of State of such jurisdiction, as of a date reasonably proximate to the Closing Date;

(ii) a certificate evidencing its qualification as a foreign corporation and good standing issued by the Secretary of State (or comparable office) of each jurisdiction in which such Person is qualified to conduct business and failure to so qualify would cause a Material Adverse Effect, as of a date reasonably proximate to the Closing Date; and

(iii) a certificate, executed by the secretary of the Borrower and MES, as applicable, and dated the Closing Date, as to (A) the resolutions consistent with Section 7.2 as adopted by such Person's board of directors (or similar governing body) in a form reasonably acceptable to the Lender, (B) the Borrower's and MES' articles or certificate of incorporation (or similar document) certified as of a recent date from the Secretary of State of the applicable jurisdiction, each as in effect at the Closing, (C) the Borrower's and MES' bylaws (or similar document), each as in effect at the Closing, and (D) no action having been taken by the Borrower, MES or their respective stockholders or directors in contemplation of any amendments to items (A), (B), or (C) listed in this Section 5.1(e)(iv), as certified in the form attached hereto as Exhibit I.

(e) The Borrower and MES shall have obtained and delivered to Lender:

(i) the opinions of Outside Legal Counsel, dated the Closing Date;

(ii) all governmental, regulatory and third party consents and approvals, if any, necessary for the execution of this Agreement and the sale and issuance of the Notes and the Warrants pursuant hereto at the Closing;

(iii) a copy of the Irrevocable Transfer Agent Instructions, which instructions shall have been delivered to and acknowledged in writing by the Borrower's transfer agent;

(iv) searches of UCC filings in the jurisdictions of formation or incorporation of Borrower, MES and RCF, the jurisdiction of the chief executive offices of each of Borrower, MES and RCF and each jurisdiction where any Collateral is located or where a filing would need to be made in order to perfect the Lender's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens;

(v) a certificate from the chief financial officer of the Borrower in form and substance satisfactory to the Lender, supporting the conclusions that, after giving effect to the transactions contemplated by the Transaction Documents, the Borrower and MES are not Insolvent;

(vi) certificates from the Borrower's insurance broker or other evidence satisfactory to it that all insurance required to be maintained pursuant to this Agreement is in full force and effect, together with endorsements naming the Lender as additional insured and lender's loss payee thereunder; and

(vii) unaudited consolidated and consolidating financial statements of the Borrower, MES and RCF, and for the six (6) months ended, June 30, 2014, which financial statements shall be certified by the chief financial officer of the Borrower, on behalf of the Borrower, as being true and correct and fairly presenting in accordance with GAAP, the financial position and results of operations of the Borrower, MES and RCF, subject to normal year end adjustments and absence of footnote disclosure.

(f) Borrower and MES shall have authorized the filing of UCC financing statements for each appropriate jurisdiction as is necessary, in the Lender's sole discretion, to perfect the Lender's security interest in the Collateral.

(g) The Borrower and MES, as applicable, shall have caused to be executed and delivered, to the Lender such landlord waivers, collateral access agreements or other similar documents as the Lender may reasonably request.

(h) Since June 30, 2014, there shall have been no change which has had or could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(i) The representations and warranties of the Borrower and MES shall be true and correct in all material respects (without duplication of any materiality qualifiers) as of the date when made and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct in all material respects (without duplication of any materiality qualifiers) as of such specific date), and the Borrower and MES shall have performed, satisfied and complied in all respects with the covenants, agreements and conditions required by the Transaction Documents to be performed, satisfied or complied with by the Credit Parties at or prior to the Closing Date. The Lender shall have received certificates, executed by the chief executive officer of the Borrower and MES, dated the Closing Date, to the foregoing effect and as to such other matters as may be reasonably requested by the Lender.

(j) No Event of Default (or event or circumstance that, with the passage of time, the giving of notice, or both, would become an Event of Default) shall have occurred and be continuing or would result from the issuance of the Notes or Warrant at the Closing.

ARTICLE 6

LENDER'S REPRESENTATIONS AND WARRANTIES

Lender represents and warrants that:

Section 6.1 No Public Sale or Distribution. Lender is acquiring the Securities for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof in a manner that would violate the 1933 Act, except pursuant to sales registered or exempted under the 1933 Act; *provided, however*, that by making the representations herein, Lender does not agree to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption under the 1933 Act. Lender is acquiring the Securities in the ordinary course of its business. Except as expressly set forth herein, such Lender does not presently have any agreement or understanding, directly or indirectly, with any Person to distribute any of the Securities.

Section 6.2 Investor Status. Lender is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

Section 6.3 No Governmental Review. Lender understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities, nor have such authorities passed upon or endorsed the merits of the purchase of the Securities.

Section 6.4 Transfer or Resale.Lender understands that, except as provided in the Investor/Registration Rights Agreement, the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be offered for sale, sold, assigned or transferred except pursuant to an effective registration statement or an exemption from registration; *provided*, *however*, that the Securities may be pledged in connection with a bona fide margin account or other loan or financing arrangement secured by the Securities and such pledge of Securities shall not be deemed by the Borrower to be a transfer, sale or assignment of the Securities hereunder, and no Lender effecting such a pledge of Securities shall be required to provide the Borrower with any notice thereof or otherwise make any delivery to the Borrowers pursuant to this Agreement or any other Transaction Document, including, without limitation, this Section 6.4. Lender acknowledges that due to the obligations of Borrower and MES pursuant to this Agreement, it may be privy to information regarding the Company or its Subsidiaries from time to time which is of a material, non-public nature, and Lender agrees not to trade in securities of the Company in violation of the 1933 Act or 1934 Act.

Section 6.5 Legends. Lender understands that the certificates or other instruments representing the Notes and the Warrants, and until such time as the resale of the Conversion Shares and the Warrant Shares have been registered under the 1933 Act as contemplated in the Investor/Registration Rights Agreement, the certificates representing the Conversion Shares and the Warrant Shares, except as set forth below, shall bear any legend as required by the "blue sky" laws of any state and a restrictive legend in substantially the following form (and a stop-transfer order may be placed against transfer of such certificate):

> **[Neither the issuance and sale of THE SECURITIES REPRESENTED BY THIS CERTIFICATE nor the securities into which these securities are [convertible] [exercisable] HAVE BEEN] [The securities represented by this certificate have not been] REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND APPLICABLE STATE SECURITIES LAWS, OR (B) AN OPINION OF COUNSEL, IN A generally acceptable FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAWS OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES, PROVIDED SUCH PLEDGE IS MADE IN COMPLIANCE WITH APPLICABLE FEDERAL AND STATE SECURITIES LAWS**.

The legend set forth above shall be removed and the Borrower shall issue a certificate to the holder of the Securities without such legend upon which it is stamped or to issue such holder by electronic delivery at the applicable balance account at The Depository Trust Company ("**DTC**"), if, unless otherwise required by state securities laws: (i) such Securities are registered for resale under the 1933 Act, (ii) in connection with a sale, assignment or other transfer, such holder provides the Borrower with an opinion of counsel, in a generally acceptable form, to the effect that such sale, assignment or transfer of such Securities may be made without registration under the applicable requirements of the 1933 Act, or (iii) such Securities are sold, assigned or transferred pursuant to Rule 144 or Rule 144A promulgated under the 1933 Act (or a successor rule thereto) (collectively, "Rule 144").

ARTICLE 7

CREDIT PARTIES' REPRESENTATIONS AND WARRANTIES

As an inducement to the Lender to enter into this Agreement and to consummate the transactions contemplated hereby, each of the Credit Parties jointly and severally represents and warrants to each of the Lender that each and all of the following representations and warranties (as supplemented by the disclosure schedules delivered to the Lender contemporaneously with the execution and delivery of this Agreement (the "**Schedules**")) are true and correct in all material respects (without duplication of any materiality qualifiers) as of the Closing Date. The Schedules shall be arranged by the Borrower in paragraphs corresponding to the sections and subsections contained in this ARTICLE 7.

Section 7.1 Organization and Qualification. The Credit Parties and each of their Subsidiaries (which, for purposes of this Agreement, means any entity in which a Credit Party, directly or indirectly, owns at least 50% of the Capital Stock or other Equity Interests) ("**Subsidiaries**") are entities duly incorporated or organized and validly existing in good standing under the laws of the jurisdiction in which they are formed or incorporated, and have the requisite power and authorization to own their properties and carry on their business as now being conducted. The Credit Parties are duly qualified as foreign entities to do business and is in good standing in every jurisdiction in which its ownership of property or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not have, either individually or in the aggregate, a Material Adverse Effect.

Section 7.2 Authorization; Enforcement; Validity. Each of the Credit Parties has the requisite power and authority to enter into and perform its obligations under the Transaction Documents to which, in each case, such Person is a party, and, in the case of the Borrower, to issue the Securities in accordance with the terms hereof and thereof. The execution and delivery of the Transaction Documents by the applicable Credit Parties have been duly authorized by the applicable Credit Parties' respective board of directors (or other governing body) and the consummation by the Credit Parties of the transactions contemplated hereby and thereby, including, without limitation, the issuance of the Note and Warrant, and the reservation for issuance and issuance of the Conversion Shares and Warrant Shares by Borrower have been duly authorized by the respective Credit Party's board of directors (or other governing body), and (other than the filing with the SEC of one or more registration statements in accordance with the requirements of the Investor/Registration Rights Agreement, a Form D and other than filings as may be required by state securities agencies) no further filing, consent, or authorization is required by any Credit Party, its board of directors (or other governing body) or its stockholders. This Agreement and the other Transaction Documents have been duly executed and delivered by each of the Credit Parties thereto, and constitute the legal, valid and binding obligations of each of the Credit Parties party thereto, enforceable against each of such Credit Parties in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

Section 7.3 Issuance of Securities. The Note and the Warrant are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued and free from all taxes, liens and charges with respect to the issue thereof. As of the Closing, a number of shares of Common Stock shall have been duly authorized and reserved for issuance which equals or exceeds (the "**Required Reserved Amount**") the sum of (i) 135% of the maximum number of Conversion Shares issued and issuable pursuant to the Note based on the Conversion Price, (ii) 100% of the maximum number of Warrant Shares issued and issuable pursuant to the Warrant and (iii) 100% of the maximum number of shares of Common Stock issued and issuable pursuant to any Prior Senior Convertible Notes purchased by the Lender, each as of the trading day immediately preceding the applicable date of determination. Upon conversion of the Note in accordance with the terms hereof or exercise of the Warrant in accordance with the terms of the Warrant, as the case may be, the Conversion Shares and the Warrant Shares, respectively, will be duly authorized, validly issued, fully paid and non-assessable and free from all preemptive or similar rights, taxes, liens and charges with respect to the issue thereof, with the holders being entitled to all rights accorded to a holder of Common Stock. Assuming the truth and accuracy of the representations and warranties of Lender set forth in ARTICLE 6 of this Agreement, the issuance by the Borrower of the Securities to the Lender is exempt from registration under the 1933 Act.

Section 7.4 No Conflicts. Except as set forth in Schedule 7.4, neither the execution, delivery and performance of the Transaction Documents by the Credit Parties party thereto, as applicable, the consummation by the Credit Parties of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Note and the Warrant and reservation for issuance and issuance of the Conversion Shares and the Warrant Shares) will (i) result in a violation of the Credit Parties' certificate or articles of incorporation or bylaws or other governing documents, or the terms of any Capital Stock or other Equity Interests of the Credit Parties; (ii) conflict with, or constitute a breach or default (or an event which, with notice or lapse of time or both, would become a breach or default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any Material Contract to which the Credit Parties or any of their Subsidiaries is a party; (iii) result in any "price reset" or other material change in or other modification to the terms of any Indebtedness, Equity Interests or other securities of the Credit Parties or any of their Subsidiaries; or (iv) result in a violation of any law, rule, regulation, order, judgment or decree (including, without limitation, (A) any Environmental Laws, or (B) federal and state securities laws and regulations and the rules and regulations of the Principal Market), which, solely for purposes of this clause (iv), would reasonably be expected to result in a Material Adverse Effect.

Section 7.5 Consents. Except as set forth in Schedule 7.5, No Credit Party is required to obtain any consent, authorization, approval, order, license, franchise, permit, certificate or accreditation of, or make any filing or registration with, any court, governmental agency or any regulatory or self-regulatory agency or authority or any other Person (including, without limitation, any stockholder of the Borrower) in order for it to execute, deliver or perform any of its obligations under or contemplated by the Transaction Documents, in each case in accordance with the terms hereof or thereof. All consents, authorizations, approvals, orders, licenses, franchises, permits, certificates or accreditations of, filings and registrations which the Credit Parties are required to make or obtain pursuant to the preceding sentence have been obtained or effected on or prior to the Closing Date or will be obtained or made in accordance with applicable law, and each Credit Party is unaware of any facts or circumstances which might prevent any of the Credit Parties from making, obtaining or effecting any of the registration, application or filings pursuant to the preceding sentence. The Borrower is not in violation of the listing requirements of the Principal Market and has no knowledge of any facts that would reasonably lead to delisting or suspension of the Common Stock in the foreseeable future. The issuance by the Borrower of the Securities shall not have the effect of delisting or suspending the Common Stock from the Principal Market.

Section 7.6 Subsidiary Rights. Except as set forth on Schedule 7.6, each Credit Party has the unrestricted right to vote, and (subject to limitations imposed by applicable law) to receive dividends and distributions on, all capital and other equity securities of the Guarantor as owned by such Credit Party.

Section 7.7 Equity Capitalization. As of the Closing Date, the authorized Capital Stock and the issued and outstanding Equity Interests of the Borrower and MES are as set forth on Schedule 7.7. All of such outstanding shares of Capital Stock or other Equity Interests of the Credit Parties have been duly authorized, validly issued and are fully paid and nonassessable and are owned by the Persons and in the amounts set forth on Schedule 7.7. Except as set forth on Schedule 7.7: (i) none of the Credit Parties' Capital Stock or other Equity Interest in the Credit Parties are subject to preemptive rights or any other similar rights or any liens or encumbrances suffered or permitted by the Credit Parties; (ii) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any Capital Stock or other Equity Interest in the Credit Parties, or contracts, commitments, understandings or arrangements by which the Credit Parties are or may become bound to issue additional Capital Stock or other Equity Interest in the Credit Parties or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any Capital Stock or other Equity Interest in the Credit Parties; (iii) there are no agreements or arrangements under which the Credit Parties are obligated to register the sale of any of its securities under the 1933 Act (except pursuant to the Investor/Registration Rights Agreement); (iv) there are no outstanding securities or instruments of the Credit Parties which contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Credit Parties are or may become bound to redeem a security of the Credit Parties; (v) there are no securities or instruments containing anti-dilution or similar provisions that will be triggered by the issuance of the Securities; and (vi) none of the Credit Parties have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. Prior to the Closing, the Borrower and MES have provided to the Lenders true, correct and complete copies of (i) the Borrower's and MES' certificate or articles of incorporation (or other applicable governing document), as amended and as in effect on the Closing Date, and (ii) the Borrower's and MES' bylaws, as amended and as in effect on the Closing Date (or other applicable governing document). Schedule 7.7 identifies all outstanding securities convertible into, or exercisable or exchangeable for, shares of Capital Stock or other Equity Interests in any of the Credit Parties.

Section 7.8 Indebtedness and Other Contracts. Except as disclosed on Schedule 7.8, neither of the Credit Parties (i) have any outstanding Indebtedness, other than Permitted Indebtedness, (ii) are parties to any contract, agreement or instrument, the violation of which, or default under which, by the other party(ies) to such contract, agreement or instrument could reasonably be expected to result in a Material Adverse Effect, or (iii) are in violation of any term of or in default under any contract, agreement or instrument relating to any Indebtedness or any contract, agreement or instrument entered into in connection therewith that could reasonably be expected to result in, either individually or in the aggregate, a Material Adverse Effect.

Section 7.9 Off Balance Sheet Arrangements. Except as set forth in Schedule 7.9, there is no transaction, arrangement, or other relationship between any of the Credit Parties and an unconsolidated or other off balance sheet entity that would be reasonably likely to have, either individually or in the aggregate, a Material Adverse Effect.

Section 7.10 Ranking of Notes. Except as provided under the Intercreditor Agreement or as set forth in Section 8.4 hereof, no Indebtedness of any of the Credit Parties or any of their Subsidiaries will rank senior to or *pari passu* with the Note in right of payment or collectability, whether with respect to payment of redemptions, interest, damages or upon liquidation or dissolution or otherwise (other than Permitted Indebtedness, which Permitted Indebtedness may be *pari passu* with the Note in right of payment).

Section 7.11 Title. Except as described on Schedule 7.11, each of the Credit Parties have (i) good and marketable title to (in the case of fee interests in real property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property), (iii) valid licensed rights in (in the case of licensed interests in Intellectual Property Rights), and (iv) good and marketable title to (in the case of all other personal property) all of its real property and other properties and assets owned by it which are material to the business of the Credit Parties, in each case free and clear of all liens, encumbrances and defects, other than Permitted Liens. Any real property and facilities held under lease by the Credit Parties are held by it under valid, subsisting and enforceable leases.

Section 7.12 Intellectual Property Rights. Each of the Credit Parties own or possess adequate and valid rights to use all trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licenses, approvals, governmental authorizations, trade secrets and other intellectual property rights ("**Intellectual Property Rights**") that are necessary to conduct its respective businesses as now conducted, and such Intellectual Property Rights are free and clear of all liens, encumbrances and defects other than Permitted Liens. None of the Credit Parties' Intellectual Property Rights have expired or terminated, or are expected to expire or terminate within five (5) years from the Closing Date (except to the extent that any of the patents licensed to Borrower by their terms expire during such period). Except as described on Schedule 7.12: (i) the Credit Parties have no knowledge of any infringement, misappropriation, dilution or other violation by the Credit Parties of Intellectual Property Rights of other Persons; (ii) the Credit Parties have no knowledge of any infringement, misappropriation, dilution or other violation by any other Persons of the Intellectual Property Rights of the Credit Parties; (iii) there is no claim, action or proceeding pending or, to the knowledge of each of the Credit Parties, threatened in writing, against the Credit Parties regarding their Intellectual Property Rights or the Intellectual Property Rights of other Persons; and (iv) the Credit Parties are not aware of any facts or circumstances which might give rise to any of the foregoing infringements or claims, actions or proceedings. Each of the Credit Parties have taken and are taking commercially reasonable security measures, consistent with industry standards, to maintain and protect the secrecy, confidentiality and value of the Intellectual Property Rights, subject to the terms of Schedule 7.12. Without limiting the foregoing, (1) the EERCF License Agreement currently is in full force and effect and is the only agreement between EERCF, on the one hand and MES on the other hand, that provides a right or license to MES to use the Intellectual Property Rights of EERCF, (2) the patents and patent applications identified in the EERCF License Agreement, including without limitation those patents and patent applications identified on Appendix A of the EERCF License Agreement, represent the full and complete list of all patents and patent applications licensed under the License Agreement as of the date hereof, including without limitation continuations, continuations-in-part and divisions, (3) all uses by MES of the Intellectual Property Rights licensed under the EERCF License Agreement are fully compliant with the EERCF License Agreement, and to the best of the Borrower's and MES' knowledge, do not infringe, misappropriate or otherwise violate the Intellectual Property Rights of EERCF or any third party, (4) apart from the provisions set forth in the EERCF License Agreement, there are no contractual limitations or restrictions on commercialization by MES of the Intellectual Property Rights licensed by EERCF to MES under the EERCF License Agreement, (5) to the best of the Borrower's and MES' knowledge, the use by Lender of the Intellectual Property Rights of EERCF described in the EERCF License Agreement, upon exercise of its rights under the Collateral Assignment of EERCF License Agreement, if used in the same manner as such Intellectual Property Rights were used by MES as of the date hereof, will not infringe, misappropriate or otherwise violate the Intellectual Property Rights of EERCF or any third party or constitute a default under, or breach or violation of, any of the EERCF License Agreement, (6) to the best of the Borrower's and MES' knowledge, no US federal government agency (including without limitation the Department of Energy and the Environmental Protection Agency) has requested or exercised march-in rights (pursuant to 35 USC 203) or has filed foreign patent applications in its own name, for any of the inventions covered by the Intellectual Property Rights licensed by EERCF to MES under the EERCF License Agreement, (7) except as set forth in Schedule 7.12, neither the Borrower nor MES have delivered, nor has the Borrower or MES received, a notice of termination or a notice of breach under the EERCF License Agreement and there are no uncured defaults, events of default, violations or breaches by MES of the EERCF License Agreement, (8) to the best of the knowledge of the Borrower and MES, there are no claims or actions pending or threatened that assert or allege the invalidity, abuse, misuse or unenforceability of any Intellectual Property Rights licensed to, or used by, MES under the EERCF License Agreement, or any other Intellectual Property Rights used in the conduct of the business of MES, and (9) MES are in full compliance with all agreements (including without limitation the EERCF License Agreement), laws, regulations and administrative policies and procedures to which MES is a party or is otherwise bound with respect to the Intellectual Property Rights licensed under the EERCF License Agreement and with respect to the conduct of the business of MES.

Section 7.13 Creation, Perfection, and Priority of Liens. The Security Documents are effective to create in favor of the Lender, a legal, valid, binding, and (upon the filing of the appropriate UCC financing statements) enforceable perfected first priority security interest and Lien in the Collateral described therein (subject to Permitted Liens) as security for the obligations under the Notes to the extent that a legal, valid, binding, and enforceable security interest and Lien in such Collateral may be created under applicable law including without limitation, the uniform commercial code as in effect in any applicable jurisdiction ("**UCC**") and any other applicable governmental agencies.

Section 7.14 Absence of Certain Changes. Except as disclosed in Schedule 7.14, since June 30, 2014 (the "**Diligence Date**"), there has been no material adverse change in the business, assets, properties, operations, condition (financial or otherwise), results of operations or prospects of the Credit Parties. Except as disclosed in Schedule 7.14 and solely for the purposes of making the representations and warranties to be made on the Closing Date and not for any representations and warranties to be made following the Closing Date, since the Diligence Date, the Credit Parties have not (i) declared or paid any dividends, (ii) sold any assets (other than the sale of Inventory and equipment in the ordinary course of business) or (iii) had capital expenditures, individually or in the aggregate, in excess of $500,000. The Credit Parties have not taken any steps to seek protection pursuant to any bankruptcy law neither do the Credit Parties have any knowledge or reason to believe that their creditors intend to initiate involuntary bankruptcy proceedings or any actual knowledge of any fact which would reasonably lead a creditor to do so. The Credit Parties do not intend to incur debts beyond their ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Credit Parties have no knowledge of any facts or circumstances which leads the Credit Parties to believe that one or more of the Credit Parties will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within three (3) years from the Closing Date. The Credit Parties, taken as a whole, are not, as of the Closing Date, after giving effect to the transactions contemplated hereby to occur at the Closing, will be, Insolvent.

Section 7.15 Absence of Litigation. Except as set forth in Schedule 7.15, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency (including, without limitation, the SEC, self-regulatory organization or other governmental body) (in each case, a "**Proceeding**") pending or, to the knowledge of any Credit Party, threatened in writing against or affecting the Credit Parties or their respective officers or directors which: (i) could reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect, (ii) if adversely determined, could reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect, or (iii) questions the validity of this Agreement or any of the other Transaction Documents or any of the transactions contemplated hereby or thereby or any action taken or to be taken pursuant hereto or thereto.

Section 7.16 No Undisclosed Events, Liabilities, Developments or Circumstances. Except for the transactions contemplated by the Transaction Documents and as set forth on Schedule 7.16, no event, liability, development or circumstance has occurred or exists, or is contemplated or reasonably likely to occur with respect to the Credit Parties or their respective business, properties, prospects, operations or financial condition, that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 7.17 No General Solicitation; Placement Agent's Fees. Neither of the Credit Parties, their Subsidiaries, any of their Affiliates, or any Person acting on their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Note and the Warrant. Borrower shall be responsible for the payment of any placement agent's fees, financial advisory fees, or brokers' commissions (other than for Persons engaged by the Lenders or their investment advisors) relating to or arising out of the transactions contemplated hereby, including, without limitation, fees payable to Drexel Hamilton, LLC, as placement agent (the "**Placement Agent**") in connection with the sale of the Securities. The Borrower shall pay, and hold the Lender harmless against, any liability, loss or expense (including, without limitation, attorneys' fees and out-of-pocket expenses) arising in connection with any such claim. The Borrower acknowledges that it has engaged the Placement Agent in connection with the sale of the Securities. Other than the Placement Agent, none of the Credit Parties nor any of their Subsidiaries has engaged any placement agent or other agent in connection with the sale of the Securities.

Section 7.18 No Integrated Offering. None of the Credit Parties, their Subsidiaries, any of their Affiliates, or any Person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of any of the Securities under the 1933 Act, whether through integration with prior offerings or otherwise, or cause this offering of the Securities to require approval of shareholders of the Borrower for purposes of the 1933 Act or any applicable shareholder approval provisions, including, without limitation, under the rules and regulations of any exchange or automated quotation system on which any of the securities of the Borrower are listed or designated. None of the Credit Parties, their Subsidiaries, any of their Affiliates or any Person acting on their behalf will take any action or steps referred to in the preceding sentence that would require registration of any of the Securities under the 1933 Act or cause the offering of the Securities to be integrated with other offerings for purposes of any such applicable shareholder approval provisions.

Section 7.19 No Registration. Neither the Credit Parties, their Subsidiaries, any of their Affiliates, or any Person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of any of the Securities under the 1933 Act. Neither the Credit Parties, their Subsidiaries, any of their Affiliates or any Person acting on their behalf will take any action or steps referred to in the preceding sentence that would require registration of any of the Securities under the 1933 Act. The Borrower does not have a registration statement pending before the SEC or currently under the SEC's review.

Section 7.20 Tax Status. Except as set forth in Schedule 7.20, each of the Credit Parties: (i) have made or filed all foreign, federal and state income and all other material tax returns, reports and declarations required by any jurisdiction to which it is subject, except prior to the Closing Date where any failure to do so did not result in any material penalties to the Credit Parties, (ii) have paid all taxes and other governmental assessments and charges shown or determined to be due on such returns, reports and declarations, except those being contested in good faith, and (iii) have set aside on its books adequate reserves in accordance with GAAP for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be delinquent by the taxing authority of any jurisdiction (other than those being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and subject to adequate reserves taken by the Credit Parties as shall be required in conformity with GAAP), and the senior officers of each of the Credit Parties know of no basis for any such claim.

Section 7.21 Transfer Taxes. On the Closing Date, all transfer or other taxes (other than income or similar taxes) which are required to be paid in connection with the sale and transfer of the Securities to be sold to the Lender hereunder will be, or will have been, fully paid or provided for by the Credit Parties, as applicable, and all laws imposing such taxes will be or will have been complied with.

Section 7.22 Conduct of Business; Compliance with Laws; Regulatory Permits. Neither of the Credit Parties are in violation of any term of or in default under its certificate or articles of incorporation or bylaws or other governing documents. Neither of the Credit Parties are in violation of any judgment, decree or order or to the best of their knowledge, any statute, ordinance, rule or regulation applicable to the Credit Parties and material to their business. Schedule 7.22 sets forth all United States federal and state regulatory licenses and foreign regulatory licenses which to Credit Parties' knowledge, are necessary to conduct the respective businesses of the Credit Parties, and except as set forth on Schedule 7.22, all of such United State federal and state regulatory licenses and foreign regulatory licenses are valid and in effect and none of the Credit Parties have received any notice of proceedings relating to the revocation or modification of any such United State federal and state regulatory licenses and foreign regulatory licenses.

Section 7.23 Foreign Corrupt Practices. Neither Credit Parties, nor any director, officer, agent, employee or other Person acting on behalf of Credit Parties have, in the course of its actions for, or on behalf of, the Credit Parties (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

Section 7.24 Sarbanes-Oxley Act. To the best of Borrower's knowledge, the Borrower is in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002, as amended, that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof.

Section 7.25 Environmental Laws. Except as set forth on Schedule 7.25, each of the Credit Parties, to the best of their knowledge: (a) (i) are in compliance with any and all Environmental Laws, (ii) has received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct its respective businesses, (iii) are in compliance with all terms and conditions of any such permit, license or approval, and (iv) have no outstanding Liability under any Environmental Laws and is not aware of any facts that could reasonably result in Liability under any Environmental Laws, in each of the foregoing clauses of this clause (a), except to the extent, either individually or in the aggregate, a Material Adverse Effect could not reasonably be expected to occur, and (b) has provided Lender with copies of all environmental reports, assessments and other documents in any way related to any actual or potential Liability under any Environmental Laws.

Section 7.26 Margin Stock. None of the Credit Parties are engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and no part of the proceeds from the issuance of the Note will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock, or for any purpose that violates, or is inconsistent with, the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System.

Section 7.27 ERISA. Except as set forth on Schedule 7.27, neither the Credit Parties nor any ERISA Affiliate (a) maintain or have maintained any Pension Plan, (b) contribute or have contributed to any Multiemployer Plan or (c) provide or have provided post-retirement medical or insurance benefits with respect to employees or former employees (other than benefits required under Section 601 of ERISA, Section 4980B of the Code or applicable state law). Except as set forth on Schedule 7.27, neither Credit Parties nor any ERISA Affiliate have received any notice or have any knowledge to the effect that it is not in full compliance with any of the requirements of ERISA, the Code or applicable state law with respect to any Employee Benefit Plan. No ERISA Event exists. Each Employee Benefit Plan which is intended to qualify under the Code has received a favorable determination letter (or opinion letter in the case of a prototype Employee Benefit Plan) to the effect that such Employee Benefit Plan is so qualified and to Borrowers' knowledge, there exists no reasonable basis for the revocation of such determination or opinion letter. Neither the Credit Parties nor any ERISA Affiliate have: (i) any unpaid minimum required contributions under any Plan, whether or not waived, (ii) any liability under Section 4201 or 4243 of ERISA for any withdrawal, or partial withdrawal, from any Multiemployer Plan, (iii) a Pension Plan that is "at risk" within the meaning of Section 430 of the Code, (iv) received notice from any Multiemployer Plan that it is either in endangered or critical status within the meaning of Section 432 of the Code, or (v) any liability or knowledge of any facts or circumstances which could result in any liability to the PBGC, the Internal Revenue Service, the Department of Labor or any participant in connection with any Employee Benefit Plan (other than routine claims for benefits under the Employee Benefit Plan).

Section 7.28 Investment Company. None of the Credit Parties are, and upon consummation of the sale of the Securities and for so long as the Lender, or its Affiliates, holds any Securities, will be, an "investment company" or a company "controlled" by an "investment company" or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended.

Section 7.29 U.S. Real Property Holding Corporation. None of the Credit Parties are, nor have they ever been, a U.S. real property holding corporation within the meaning of Section 897 of the Code, as amended.

Section 7.30 Internal Accounting and Disclosure Controls. Except as set forth in Schedule 7.30 related to the Borrower's and its Subsidiaries' consolidated financial statements for the period ended June 30, 2014, the Borrower and its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset and liability accountability, (iii) access to assets or incurrence of liabilities is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets and liabilities is compared with the existing assets and liabilities at reasonable intervals and appropriate action is taken with respect to any difference. The Borrower and each of its Subsidiaries maintain disclosure controls and procedures (as such term is defined in Rule 13a-15 under the 1934 Act) that are to the best of their knowledge, effective in ensuring that information required to be disclosed by the Borrower in the reports that it files or submits under the 1934 Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC, including, without limitation, controls and procedures designed to ensure that information required to be disclosed by the Borrower in the reports that it files or submits under the 1934 Act is accumulated and communicated to the Borrower's management, including its principal executive officer or officers and its principal financial officer or officers, as appropriate, to allow timely decisions regarding required disclosure. During the twelve (12) months prior to the Closing Date, neither the Borrower nor any of its Subsidiaries have received any notice or correspondence from any accountant relating to any potential material weakness in any part of the system of internal accounting controls of the Borrower or any of its Subsidiaries.

Section 7.31 SEC Documents; Financial Statements. Except as disclosed in Schedule 7.31, during the two (2) years prior to the date hereof, the Borrower has timely filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the 1934 Act (all of the foregoing filed prior to the date hereof, and all exhibits included therein and financial statements, notes and schedules thereto and documents incorporated by reference therein being hereinafter referred to as the "**SEC Documents**"). The Borrower has delivered to the Lender or its representatives true, correct and complete copies of the SEC Documents not available on the EDGAR system. As of their respective filing dates, to the best of Borrower's knowledge, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, 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. As of their respective filing dates, the consolidated financial statements of the Borrower and its Subsidiaries included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements, including without limitation, each of the consolidated unaudited financial statements of the Borrower and its Subsidiaries dated June 30, 2014 for the six (6) months then ended, have been prepared in accordance with GAAP, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the consolidated financial position of the Borrower and its Subsidiaries as of the date thereof and the results of its operations and cash flows for the periods then ended (subject to normal year-end audit adjustments). No other information provided by or on behalf of the Borrower to the Lender which is not included in the SEC Documents, to the best of Borrower's knowledge, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading.

Section 7.32 Transactions with Affiliates. Except (i) as set forth on Schedule 7.32 and (ii) for transactions that have been entered into on terms no less favorable to the Credit Parties than those that might be obtained at the time from a Person who is not an officer, director or employee, none of the officers, directors or employees of Credit Parties is presently a party to any transaction with Credit Parties (other than for ordinary course services as employees, officers or directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any such officer, director or employee or, to the knowledge of the Credit Parties, any corporation, partnership, trust or other entity in which any such officer, director, or employee has a substantial interest or is an officer, director, trustee or partner.

Section 7.33 Acknowledgment Regarding Lender's Purchase of Note. Each of the Credit Parties acknowledges and agrees that the Lender is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby and that the Lender is not: (i) an officer or director of the Credit Parties, or (ii) an Affiliate of the Credit Parties. Each of the Credit Parties further acknowledges that the Lender is not acting as a financial advisor or fiduciary of the Credit Parties (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated hereby and thereby, and any advice given by a Lender or any of its representatives or agents in connection with the Transaction Documents and the transactions contemplated hereby and thereby is merely incidental to the Lender's purchase of the Securities. Each of the Credit Parties further represents to the Lender that each Credit Party's decision to enter into the Transaction Documents to which it is a party have been based solely on the independent evaluation by such Person and its respective representatives.

Section 7.34 Insurance. Each of the Credit Parties are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Credit Parties are engaged.

Section 7.35 Employee Relations. None of the Credit Parties are a party to any collective bargaining agreement or employ any member of a union in such person's capacity as a union member or to perform union labor work. As of the Closing Date, no executive officer of the Credit Parties have notified the Credit Parties or any Subsidiary thereof that such officer intends to leave the employ of the Credit Parties or such Subsidiaries or otherwise terminate such officer's employment with one of the Credit Parties or such Subsidiaries. As of the Closing Date, no executive officer of the Credit Parties, to the knowledge of the Credit Parties, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant. Each of the Credit Parties is, to the best of its knowledge, in compliance with all federal, state, local and foreign laws and regulations respecting labor, employment and employment practices and benefits, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 7.36 Patriot Act. To the extent applicable, each of the Credit Parties are in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department and any other enabling legislation or executive order relating thereto, and (ii) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

Section 7.37 Material Contracts. Schedule 7.37 contains a true, correct and complete list of all the Material Contracts of the Credit Parties, and except as noted in Schedule 7.37, to the best knowledge of the Credit Parties, all such Material Contracts are in full force and effect and no defaults currently exist thereunder.

Section 7.38 Manipulation of Price. None of the Credit Parties have, and to their knowledge no one acting on their behalf has: (i) taken, directly or indirectly, any action designed to cause or to result, or that could reasonably be expected to cause or result, in the stabilization or manipulation of the price of any security of the Credit Parties to facilitate the sale or resale of any of the Securities, (ii) other than the Placement Agent, sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) other than the Placement Agent, paid or agreed to pay to any person any compensation for soliciting another to purchase any other securities of the Credit Parties.

Section 7.39 Shell Company Status. The Borrower is not and has not been an issuer identified in Rule 144(i)(1) of the 1933 Act.

Section 7.40 Stock Option Plans. Each stock option granted by the Borrower was granted (i) in accordance with the terms of the applicable stock option plan of the Borrower (it being understood that certain individual grants that were not subject to either of the Current Equity Incentive Plans themselves, served as their own individual stock option plans) and (ii) with an exercise price at least equal to the fair market value of the Common Stock on the date such stock option would be considered granted under GAAP and applicable law. No stock option granted under any of the Borrower's stock option plans, including the Current Equity Incentive Plans has been backdated. The Borrower has not knowingly granted, and there is no and has been no policy or practice of the Borrower to knowingly grant, stock options prior to, or otherwise knowingly coordinate the grant of stock options with, the release or other public announcement of material information regarding the Borrower or any of its Subsidiaries or their financial results or prospects.

Section 7.41 No Disagreements with Accountants and Lawyers. Except as set forth in Schedule 7.41, there are no material disagreements of any kind presently existing, or reasonably anticipated by the Credit Parties to arise, between the Credit Parties and the accountants and lawyers formerly or presently employed by the Credit Parties and the Credit Parties are current with respect to any fees owed to their accountants and lawyers which could affect the Credit Parties' ability to perform any of their obligations under any of the Transaction Documents. In addition, on or prior to the date hereof, the Borrower had discussions with its accountants about its consolidated financial statements previously filed with the SEC. Based on those discussions, the Borrower has no reason to believe that it will need to restate any such financial statements or any part thereof.

Section 7.42 No Disqualification Event. With respect to Securities to be offered and sold hereunder in reliance on Rule 506(b) under the 1933 Act ("Regulation D Securities"), none of the Borrower, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Borrower participating in the offering hereunder, any beneficial owner of 20% or more of the Borrower's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the 1933 Act) connected with the Borrower in any capacity at the time of sale (each, an "Issuer Covered Person") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the 1933 Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Borrower has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Borrower has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Lender a copy of any disclosures provided thereunder.

Section 7.43 Other Covered Persons. The Borrower is not aware of any Person (other than the Placement Agent) that has been or will be paid (directly or indirectly) remuneration for solicitation of the Lender or potential purchasers in connection with the sale of any Regulation D Securities.

Section 7.44 Complete Information. This Agreement and all financial statements, schedules, certificates, confirmations, agreements, contracts, and other materials and information heretofore or contemporaneously herewith furnished in writing by the Credit Parties to the Lender for purposes of, or in connection with, this Agreement and the transactions contemplated hereby is, and all written information hereafter furnished by or on behalf of Credit Parties to the Lender pursuant hereto or in connection herewith will be, to the best of the Credit Parties' knowledge, true and accurate in every material respect on the date as of which such information is dated or certified, and to the best of the Credit Parties' knowledge, none of such information is or will be incomplete by omitting to state any material fact necessary to make such information not misleading in light of the circumstances under which made (it being recognized by the Lender that any projections and forecasts provided by the Credit Parties are based on good faith estimates and assumptions believed by the Credit Parties to be reasonable as of the date of the applicable projections or assumptions and that actual results during the period or periods covered by any such projections and forecasts may differ from projected or forecasted results).

ARTICLE 8

COVENANTS

Section 8.1 Financial Covenants

(a) **Minimum EBITDA**. On the dates listed below, Borrower and its Subsidiaries, on a consolidated basis, shall have EBITDA for the twelve (12) month period ending on the date of such calculation of not less than:

Testing Period	LTM EBITDA
August 31, 2014	Not Tested
September 30, 2014	Not Tested
October 31, 2014	Not Tested
November 30, 2014	Not Tested
December 31, 2014	Not Tested
January 31, 2015	Not Tested
February 28, 2015	Not Tested
March 31, 2015	($1,250,000)
April 30, 2015	($917,000)
May 31, 2015	($583,000)
June 30, 2015	($250,000)
July 31, 2015	$167,000
August 31, 2015	$583,000
September 30, 2015	$1,000,000
October 31, 2015	$1,500,000
November 30, 2015	$2,000,000
December 31, 2015	$2,500,000
January 31, 2016	$3,000,000
February 28, 2016	$3,500,000
March 31, 2016	$4,000,000
April 30, 2016	$4,333,000
May 31, 2016	$4,667,000
June 30, 2016	$5,000,000
July 31, 2016	$5,333,000
August 30, 2016	$5,667,000
September 30, 2016	$6,000,000
October 31, 2016	$6,333,000
November 30, 2016	$6,667,000
Last day of each month thereafter	$7,000,000

(b) **Maximum SG&A or Minimum Contracted Units**. On the dates listed below, Borrower and its Subsidiaries, on a consolidated basis, shall have SG&A for the three (3) month period ending on the date of such calculation of not more than, or have Contracted Units on the date of such calculation of not less than:

Testing Period	Last Three Month SG&A	Minimum Contracted Units
August 31, 2014	$758,000	18
September 30, 2014	$758,000	18
October 31, 2014	$758,000	18
November 30, 2014	$758,000	18
December 31, 2014	$776,000	18
January 31, 2015	$776,000	18
February 28, 2015	$776,000	18
March 31, 2015	$845,000	18
April 30, 2015	$845,000	18
May 31, 2015	$845,000	18
June 30, 2015	$910,000	18
July 31 2015	$910,000	18
August 31, 2015	$910,000	18
September 30, 2015	$910,000	18
Thereafter	Not Tested	Not Tested

(c) **Minimum Contracted Customers or Minimum Contracted Units**. On the dates listed below, Borrower and its Subsidiaries, on a consolidated basis, shall have executed contracts with Contracted Customers or have Contracted Units on the date of such calculation of not less than:

Testing Period	Contracted Customers	Minimum Contracted Units
August 31, 2014	4	13
September 30, 2014	4	13
October 31, 2014	4	13
November 30, 2014	4	13
December 31, 2014	4	13
January 31, 2015	4	13
February 28, 2015	4	13
March 31, 2015	5	15
April 30, 2015	5	15
May 31, 2015	5	15
June 30, 2015	5	15
July 31, 2015	5	15
August 31, 2015	5	15
September 30, 2015	6	18
October 31, 2015	6	18
November 30, 2015	6	18
December 31, 2015	6	18
January 31, 2016	6	18
February 28, 2016	6	18
Last Day of each Month Thereafter	7	20

(d) **Minimum Contracted Units or Maximum Management Annualized Compensation**. On the dates listed below, Borrower and its Subsidiaries, on a consolidated basis, shall have Contracted Units on the date of such calculation of not less than, or shall be paying Maximum Management Annualized Compensation of not more than:

Testing Period	Minimum Contracted Units	Maximum Management Annualized Compensation
August 31, 2014	13	$150,000
September 30, 2014	13	$150,000
October 31, 2014	13	$150,000
November 30, 2014	13	$150,000
December 31, 2014	13	$150,000
January 31, 2015	13	$150,000
February 28, 2015	13	$150,000
March 31, 2015	15	$150,000
April 30, 2015	15	$150,000
May 31, 2015	15	$150,000
Last Day of each Month Thereafter	18	$150,000

Section 8.2 Deliveries. The Borrower agrees to deliver (or cause to be delivered) the following to the Lender:

(a) **Monthly Financial Statements.** (i) As soon as available and in any event within thirty (30) days after the end of each month, the consolidated and consolidating balance sheets of the Borrower and its Subsidiaries as at the end of such month and the related consolidated and consolidating statements of operations and cash flows of the Borrower and its Subsidiaries for such month and for the period from the beginning of the then current Fiscal Year to the end of such month, and, upon the written request of the Lender to the Borrower prior to the applicable month end date, consolidated and consolidating statements of stockholders' equity of the Borrower and its Subsidiaries for such month and for the Fiscal Year period then elapsed, all in reasonable detail, and certified by the chief financial officer of the Borrower as being true and correct and fairly presenting in accordance with GAAP, the financial position and results of operations of the Borrower and its Subsidiaries, subject to normal year-end adjustments; and (ii) as soon as available after the end of each month, a flash report of operations, in detail reasonably acceptable to the Lender, subject to normal month end adjustments and the absence of footnote disclosure;

(b) **Annual Financial Statements.** As soon as available, and in any event within one hundred twenty (120) days at the end of each Fiscal Year, the audited consolidated and consolidating balance sheets of the Borrower and its Subsidiaries as at the end of such Fiscal Year and the related consolidated and consolidating statements of operations, stockholders' equity and cash flows of the Borrower and its Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year, in reasonable detail and certified by the chief financial officer of the Borrower as being true and correct and fairly presenting in accordance with GAAP, the financial position and results of operations of the Borrower and its Subsidiaries, accompanied by an unqualified opinion of an nationally-recognized independent accounting firm reasonably acceptable to the Lender, save for possible going concern qualification;

(c) **Compliance Certificates.** As soon as available and in any event within:

(i) thirty (30) days after the end of each month, a duly completed Compliance Certificate signed on behalf of the Borrower by its chief financial officer, with appropriate insertions:

(A) with regard to the financial covenants set forth in Section 8.1 hereof, containing a computation of each of the covenants set forth in Section 8.1 hereof,

(B) to the effect that the chief financial officer has not become aware of any Event of Default (or event or circumstance that, with the passage of time, the giving of notice, or both, would become an Event of Default) that has occurred and is continuing or, if there is any such Event of Default (or event or circumstance that, with the passage of time, the giving of notice, or both, would become an Event of Default), describing it and the steps, if any, being taken to cure it, and

(C) indicating whether or not the Borrower and its Subsidiaries (including the Guarantor) are in compliance with each covenant set forth in ARTICLE 8 of the Agreement and whether each representation and warranty contained in ARTICLE 7 of the Agreement is true and correct in all material respects (without duplication of any materiality qualifiers) as though made on such date (except for (i) representations and warranties that speak as of a specific date, which representations and warranties shall be true and correct in all material respects (without duplication of any materiality qualifiers) as of such specific date.

(d) Annual Forecast. As soon as available, and in any event within thirty (30) days after the end of each Fiscal Year, an updated forecast for the Borrower and its Subsidiaries for the forthcoming fiscal year on a month by month basis, in form and detail reasonably acceptable to the Lender. In the event the Borrower materially revises any forecast previously delivered to the Lender, Borrower will promptly deliver such revised forecast to the Lender.

(e) Agings. On the dates that the financial statements under clause (a) above are delivered, operational agings in form and substance reasonably acceptable to the Lender, including: (i) a monthly trial balance showing accounts receivable outstanding aged from creation as follows: 1 to 3 days, 4 to 9 days and 10 days or more, and (ii) a monthly trial balance showing trade accounts payable outstanding, specifying the trade creditor and balance due, and a detailed trade accounts payable aging, in each case, accompanied by such supporting detail and documentation as shall be reasonably requested by the Lender.

Section 8.3 Notices. The Borrower agrees to deliver (or cause to be delivered) the following to the Lender:

(a) **Collateral Information.** Upon request of Lender, a certificate of one of the duly authorized officers of the Credit Parties either confirming that there has been no change in the information set forth in the perfection certificate executed and delivered to the Lender on the Closing Date since such date or the date of the most recent certificate delivered pursuant to this Section and/or identifying such changes;

(b) **Auditor Reports.** Promptly upon receipt thereof, copies of any reports submitted by the Borrower or its Subsidiaries' independent public accountants in connection with each annual, interim or special audit or review of any type of the financial statements or internal control systems of the Borrower or any of its Subsidiaries made by such accountants, including any comment letters submitted by such accountants to management of the Borrower or its Subsidiaries in connection with their services;

(c) **Notice of Default.** Promptly upon any officer of a Borrower obtaining knowledge: (i) of any condition or event that constitutes an Event of Default (or event or circumstance that, with the passage of time, the giving of notice, or both, would become an Event of Default) or that notice has been given to a Credit Party with respect thereto, including, without limitation, as a result of a breach of the provisions of Section 8.14 hereof; (ii) that any Person has given any notice to a Credit Party or taken any other action with respect to any event or condition set forth in ARTICLE 10; or (iii) of the occurrence of any event or change that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect, a certificate of its chief executive officer or chief financial officer specifying the nature and period of existence of such condition, event or change, or specifying the notice given and action taken by any such Person and the nature of such claimed Event of Default, default, event or condition, and the action(s) the Credit Parties or one of their Subsidiaries have taken, is taking and proposes to take with respect thereto;

(d) **Notice of Litigation.** Promptly upon any officer of a Borrower obtaining knowledge of (i) the institution of, or non-frivolous threat of, any adverse Proceeding not previously disclosed in writing by the Credit Parties to the Lender, or (ii) any material development in any adverse Proceeding that, in the case of either clause (i) or (ii) if adversely determined, could be reasonably expected to have a Material Adverse Effect, or seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated hereby, written notice thereof together with such other information as may be reasonably available to Credit Parties to enable the Lender and its counsel to evaluate such matters;

(e) **ERISA.** (i) Promptly upon becoming aware of the occurrence of or forthcoming occurrence of any ERISA Event, a written notice specifying the nature thereof, the action(s) the Credit Parties, any of their Subsidiaries or any of their respective ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto; and (ii) with reasonable promptness, copies of (1) each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by the Credit Parties, any of their Subsidiaries or any of their respective ERISA Affiliates with the Internal Revenue Service with respect to each Pension Plan; (2) all notices received by the Credit Parties, any of their Subsidiaries or any of their respective ERISA Affiliates from a Multiemployer Plan sponsor concerning an ERISA Event; and (3) copies of such other documents or governmental reports or filings relating to any Employee Benefit Plan as any Holder shall reasonably request;

(f) **Insurance Report.** Promptly upon the reasonable request of the Lender, a report by the Credit Parties' insurance broker(s) outlining all material insurance coverage maintained as of the date of such report by the Credit Parties and all material insurance coverage planned to be maintained by the Credit Parties in the immediately succeeding Fiscal Year;

(g) **Environmental Reports and Audits.** As soon as practicable following receipt thereof, copies of all environmental audits and reports with respect to environmental matters at any facility or property used by the Credit Parties or any of their Subsidiaries or which relate to any environmental liabilities of the Credit Parties or any of their Subsidiaries which, in any such case, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(h) **Corporate Information.** Thirty (30) days' (or such shorter period agreed to in writing by the Lender) prior written notice of any change: (i) in any Credit Parties' corporate name, (ii) in any Credit Parties' identity or organizational structure, (iii) in any Credit Parties' jurisdiction of organization, or (iv) in any Credit Parties' Federal Taxpayer Identification Number or state organizational identification number. The Credit Parties agree not to effect or permit any change referred to in the preceding sentence unless all filings have been made (or contemporaneously with such change will be made) under the UCC or otherwise and all other actions that are required in order for the Lender to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral as contemplated in the Security Agreement and other Transaction Documents;

(i) **Tax Returns.** Within ten (10) days following request by the Lender, copies of each federal income tax return filed by or on behalf of the Credit Parties and requested by the Lender;

(j) **Event of Loss.** Promptly (and in any event within three (3) Business Days) notice of (i) any claim with respect to any liability against one or more of the Credit Parties that is in excess of $250,000 in the aggregate in any Fiscal Year or (ii) any event which, with or without the passage of time, could reasonably be expected to constitute an Event of Loss;

(k) **Dispositions**. Promptly (and in any event within three (3) Business Days) notice of any asset sales, transfers or other dispositions by one or more of the Credit Parties (other than the sale of inventory or equipment in the ordinary course of business) that are in excess of $250,000 in the aggregate in any Fiscal Year; and

(l) **Other Information.** Promptly upon their becoming available, deliver copies of (i) all financial statements, reports, notices and proxy statements sent or made available generally by the Borrower to its security holders acting in such capacity or by any of its Subsidiaries to its security holders other than the Borrower or a Subsidiary thereof, (ii) all regular and periodic reports and all registration statements and prospectuses, if any, filed by the Borrower or any of its Subsidiaries with any securities exchange or with the SEC or any governmental or private regulatory authority, (iii) all press releases and other statements made available generally by the Borrower or any of its Subsidiaries to the public concerning material developments in the business of the Borrower or any of its Subsidiaries, and (iv) such other information and data with respect to the Borrower or any of its Subsidiaries as from time to time may be reasonably requested by the Lender.

Section 8.4 Rank. Except as set forth in the Intercreditor Agreement or otherwise provided herein, all Indebtedness due under the Notes shall be senior in right of payment, whether with respect to payment of redemptions, interest, damages or upon liquidation or dissolution or otherwise, to all other current and future Indebtedness of the Borrower and its Subsidiaries. The parties acknowledge and agree that the Intercreditor Agreement does not govern the Prior Junior Convertible Notes, and while they are unsecured obligations of the Borrower and the Borrower has agreed pursuant to Section 8.7 (c) of this Agreement with Lender to pay all interest accruing thereon in kind with Common Stock and to otherwise only pay off the Prior Junior Convertible Notes with the proceeds from subsequent capital raises, there is no subordination of their right to payment to the right to payment by the Borrower to Lender and to that extent, the Notes are not senior in right of payment to the Prior Junior Convertible Notes.

Section 8.5 Incurrence of Indebtedness. The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to, directly or indirectly, create, incur or guarantee, assume, or suffer to exist any Indebtedness or engage in any sale and leaseback, synthetic lease or similar transaction, other than (i) the Obligations and (ii) Permitted Indebtedness.

Section 8.6 Existence of Liens. The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to, directly or indirectly, allow or suffer to exist any Liens, other than Permitted Liens.

Section 8.7 Restricted Payments. The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to, directly or indirectly,

(a) declare or pay any dividend or make any other cash payment or distribution on account of the Credit Parties or any of their Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Credit Parties or any of their Subsidiaries) or to the direct or indirect holders of the Credit Parties or any of their Subsidiaries' Equity Interests in their capacity as such, other than (i) dividends or distributions by a Subsidiary of the Borrower to any other Subsidiary and (ii) dividends or distributions by a Subsidiary of the Borrower to Borrower to permit Borrower to pay (x) actual, reasonable, out-of-pocket operating, overhead and administrative expenses (including reasonable out-of-pocket expenses for legal, administrative and accounting services provided by third parties, and compensation, benefits and other amounts payable to officers and employees in connection with their employment in the ordinary course of business and to board of director observers) payable in the ordinary course of business, and (y) amounts due under the Notes;

(b) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Borrower or the Guarantor) any Equity Interests of the Credit Parties or any of their Subsidiaries or any direct or indirect parent of the Credit Parties or any of their Subsidiaries), other than: (i) repurchases of Equity Interests by the Borrower pursuant to the terms of employee stock purchase plans, employee restricted stock agreements or similar arrangements in an aggregate amount not to exceed $250,000 in any Fiscal Year; or (ii) retirement of the Prior Convertible Notes in whole or part with the net proceeds (after costs and fees associated with their issuance) from the issuance of new Equity Interests issued by the Company for the purpose of retiring such Prior Convertible Notes.

(c) make any payment (including by setoff) on or with respect to, accelerate the maturity of, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Credit Parties or any of their Subsidiaries or set aside or escrow any funds for any such purpose, except for (i) payments of principal, interest and other amounts under the Note; (ii) except as set forth below or in Schedule 8.7, payments of principal, interest and other amounts on account of Permitted Indebtedness; and (iii) escrows required in the ordinary course of business with: (A) customers as part of the procurement or retention of their business; and (B) suppliers as part of the customary extensions of credit for the procurement of goods and services; provided, however, the Borrower hereby agrees that no cash payments, except for cash payments using proceeds from offerings of equity securities or equity-linked securities, shall be made with respect to the Prior Convertible Notes, including without limitation, at maturity of the Prior Convertible Notes; and

(d) pay any management, consulting or similar fees (except, for the avoidance of doubt, payment of salaries of employees in the ordinary course of business and bonuses to the extent permitted hereunder) to any Affiliate of any Credit Party or to any officer, director or employee of any Credit Party or any Affiliate of any Credit Party, except as set forth on Schedule 8.7, provided, however: (i) that such management fees (other than those permitted in the parenthetical above) shall not be paid (A) unless EBITDA, calculated after giving effect to the payment of such management fees (but without adding such management fees back to Net Income in such computation) on a pro forma basis for the most recent month for which financial statements shall have been delivered to the Lender in accordance with Section 8.2(a), shall be greater than $0 or (B) during any period while an Event of Default has occurred and is continuing or would arise as a result of such payment and (ii) payment of directors' fees incurred in connection with attending board of director meetings and board committee meetings, not to exceed in the aggregate $250,000 in any Fiscal Year of the Borrower may be paid;

Section 8.8 Acquisitions; Asset Sales; Mergers and other Fundamental Changes. The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to, directly or indirectly, (a) be a party to any Acquisition, (b) consummate any Asset Sale, other than Permitted Dispositions and transfers not resulting in a change of title to computer and other standard office equipment used in the ordinary course of business of such agents and consistent with past practices, or (c) be a party to any merger or consolidation; provided, that upon not less than five (5) Business Days prior written notice to the Lender (or such shorter period as Lender may agree in writing), any Subsidiary of the Borrower may merge or consolidate with and into any other Subsidiary of Borrower; provided, that if a Credit Party (other than Borrower) is a party to such merger or consolidation, such Credit Party shall be the continuing or surviving entity.

Section 8.9 No Further Negative Pledges. The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to, enter into, assume or become subject to any agreement prohibiting or otherwise restricting the existence of any Lien upon any of their properties or assets in favor of Lender as set forth under the Transaction Documents, whether now owned or hereafter acquired, or requiring the grant of any security for any obligation if such property or asset is given as security under the Transaction Documents, except in connection with any Permitted Liens or any document or instrument governing any Permitted Liens, *provided* that any such restriction contained therein relates only to the property or asset subject to such Permitted Liens (or proceeds thereof).

Section 8.10 Affiliate Transactions. The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Credit Parties or any of their Subsidiaries, unless such transaction is on terms that are no less favorable to the Credit Parties or any of their Subsidiaries, as the case may be, than those that might be obtained at the time from a Person who is not an Affiliate and are disclosed in writing to Lender prior to consummation thereof.

Section 8.11 Insurance.

(a) The Credit Parties shall keep the Collateral properly housed and insured against loss or damage by fire, theft, explosion, sprinklers, collision (in the case of motor vehicles) and such other risks as are customarily insured against by Persons engaged in businesses similar to that of the Credit Parties, with such companies, in such amounts, with such deductibles and under policies in such form as shall be reasonably satisfactory to the Lender. Certificates of insurance have been or shall be, no later than the Closing Date, delivered to the Lender, and shall contain an endorsement, in form and substance reasonably acceptable to Lender, showing loss under such insurance policies payable to the Lender, for the benefit of the Holders. Such endorsement shall provide that the insurance company shall give the Lender at least thirty (30) days' written notice before any such policy of insurance is altered or canceled, other than for non-payment thereunder, in which case, ten (10) days' written notice before any such polity of insurance is cancelled due to non-payment, and that no act, whether willful or negligent, or default of a Credit Party or any other Person shall affect the right of the Lender to recover under such policy of insurance in case of loss or damage. In addition, the Credit Parties shall cause to be executed and delivered to the Lender no later than the Closing Date an assignment of proceeds of their business interruption insurance policies. Each Credit Party hereby directs all insurers under all policies of insurance to pay all proceeds payable thereunder directly to the Lender. Each Credit Party irrevocably makes, constitutes and appoints the Lender (and all officers, employees or agents designated by the Lender) as such Person's true and lawful attorney (and agent-in-fact) for the purpose of making, settling and adjusting claims under such policies of insurance, endorsing the name of such Person on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance and making all determinations and decisions with respect to such policies of insurance, *provided* however, that if no Event of Default shall have occurred and be continuing, such Credit Party may make, settle and adjust claims involving less than $250,000 in the aggregate without the Lender's consent.

(b) The Credit Parties shall maintain, at their expense, such public liability and third-party property damage insurance as is customary for Persons engaged in businesses similar to that of the Credit Parties with such companies and in such amounts with such deductibles and under policies in such form as shall be reasonably satisfactory to the Lender and certificates of insurance have been or shall be, no later than the Closing Date, delivered to the Lender; each such policy shall contain an endorsement showing the Lender as additional insured thereunder and providing that the insurance company shall give the Lender at least thirty (30) days' written notice before any such policy shall be altered or canceled, other than for non-payment thereunder, in which case, ten (10) days' written notice before any such polity of insurance is cancelled due to non-payment.

(c) The Credit Parties shall promptly notify the Lender if any such insurance policy is cancelled or not renewed, and the Credit Parties are unable to obtain similar coverage from similar insurers as may be necessary to continue their business at a cost that would not have a Material Adverse Effect.

(d) If any Credit Party at any time or times hereafter shall fail to obtain or maintain any of the policies of insurance required above or to pay any premium relating thereto, then the Lender, without waiving or releasing any obligation or default by the Credit Parties hereunder, may (but shall be under no obligation to) obtain and maintain such policies of insurance and pay such premiums and take such other actions with respect thereto as the Lender reasonably deems advisable. Such insurance, if obtained by the Lender, may, but need not, protect each Credit Parties' interests or pay any claim made by or against any Credit Party with respect to the Collateral. Such insurance may be more expensive than the cost of insurance the Credit Parties may be able to obtain on their own and may be cancelled only upon the Credit Parties providing evidence that they have obtained the insurance as required above. All sums disbursed by the Lender in connection with any such actions, including, without limitation, court costs, expenses, other charges relating thereto and reasonable invoiced attorneys' fees, shall constitute part of the obligations due and owing hereunder, shall be payable on demand by the Credit Parties to the Lender and, until paid, shall bear interest at the highest rate applicable to Note hereunder.

Section 8.12 Corporate Existence and Maintenance of Properties. The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries (other than RCF) to, fail to maintain and preserve (a) its existence and good standing in the jurisdiction of its organization and (b) its qualification to do business and good standing in each jurisdiction where the nature of its business makes such qualification necessary (other than such jurisdictions in which the failure to be so qualified or in good standing could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect). The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to, fail to maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, all material properties used or useful in the business of the Credit Parties and their Subsidiaries and from time to time will make or cause to be made all appropriate repairs, renewals and replacements thereof.

Section 8.13 Non-circumvention. Each Credit Party hereby covenants and agrees that neither the Credit Parties nor any of their Subsidiaries will, by amendment of its articles or certificate of incorporation, bylaws, or other governing documents, or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement or the other Transaction Documents, and will at all times in good faith carry out all of the provisions of this Agreement and the other Transaction Documents and take all action as may be required to protect the rights of the Lender.

Section 8.14 Conduct of Business. None of the Credit Parties nor any of their Subsidiaries shall conduct their businesses in violation of any law, ordinance or regulation of any Governmental Authority, except where such violations would not result, either individually or in the aggregate, in a Material Adverse Effect. None of the Credit Parties nor any of their Subsidiaries shall engage in any line of business other than the businesses engaged in on the Closing Date and businesses incidental thereto.

Section 8.15 **U.S. Real Property Holding Corporation**. None of the Credit Parties shall become a U.S. real property holding corporation or permit or cause its shares to be U.S. real property interests, within the meaning of Section 897 of the Code.

Section 8.16 The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to fail to: (i) comply in all material respects with federal, state and other applicable securities laws, and (ii) comply in all material respects with the requirements of all other applicable laws, rules, regulations and orders of any Governmental Authority (including all Environmental Laws).

Section 8.17 **Additional Collateral**.With respect to any Property acquired after the date hereof by any Credit Party as to which the Lender does not have a perfected Lien, such Credit Party shall promptly: (i) execute and deliver to the Lender or its agent such amendments to the Security Documents or such other documents as the Lender deems necessary or advisable to grant to the Lender a security interest in such Property and (ii) take all other actions necessary or advisable to grant to the Lender a perfected first priority security interest in such Property (subject to Permitted Liens), including, without limitation, the filing of Mortgages and UCC financing statements in such jurisdictions as may be required by the Security Documents or by law or as may be requested by the Lender.

Section 8.18 **Audit Rights; Field Exams; Appraisals; Meetings.**

(a) The Credit Parties shall, upon reasonable notice (except during the continuance of an Event of Default when notice shall not be required), subject to reasonable safety and security procedures, and at the Credit Parties' sole cost and expense, permit the Lender (or any of its designated representatives) to visit and inspect any of the properties of the Credit Parties and their Subsidiaries, to examine the books of account of the Credit Parties and their Subsidiaries and to make copies thereof and extracts therefrom, and to discuss the affairs, finances and accounts of the Credit Parties and their Subsidiaries, and to be advised as to the same by their respective officers, and to conduct examinations and verifications (whether by internal commercial finance examiners or independent auditors), all at such reasonable times and intervals as the Lender may reasonably request.

(b) The Credit Parties shall, upon reasonable notice, subject to reasonable safety and security procedures, and at the Credit Parties' sole cost and expense, permit the Lender(or any of its designated representatives) to conduct field exams of the Collateral, all at such reasonable times and intervals as the Lender may reasonably request.

(c) The Credit Parties shall, at Lender's request and upon reasonable notice, and at the Credit Parties' sole cost and expense, obtain an appraisal of the Collateral from an independent appraisal firm reasonably satisfactory to Lender; provided, that in no event will more than two such appraisals of the Collateral be conducted at any time per Fiscal Year (except during the continuance of an Event of Default when there shall be no limits on the number of such appraisals).

(d) The Borrower shall deliver written notice of its annual meeting and any other special meetings of its Board of Directors such meeting to Holder concurrently with the delivery of meeting notices to the members of the board of directors and other stockholders and the Lender shall be entitled to designate, and the Company shall accept, one (1) individual to attend any such meeting, subject to the right to recuse the individual from attending that portion of the meeting that deals with: (i) the relationship between the Borrower and/or Subsidiaries on the one hand and Lender on the other hand; or (ii) any matter where such recusal is necessary to preserve attorney client privilege as to the matters being discussed.

Section 8.19 Pledge of Securities. Each of the Credit Parties acknowledges and agrees that the Securities may be pledged by a Holder in connection with a bona fide margin account or other loan or financing arrangement that is secured by the Securities; *provided* such pledge is made in compliance with applicable federal and state securities laws. Such pledge of Securities shall not be deemed to be a transfer, sale or assignment of the Securities hereunder, and no Holder effecting such pledge shall be required to provide any Credit Party with any notice thereof or otherwise make any delivery to any Credit Party pursuant to this Agreement or any other Transaction Document, including, without limitation, Section 6.4 hereof, unless required in connection with registration of the Securities or by applicable law. Each of the Credit Parties hereby agrees to execute and deliver such documentation as a pledgee of the Securities may reasonably request in connection with a pledge of the Securities to such pledgee by Holder.

Section 8.20 Use of Proceeds. The Credit Parties will use the proceeds from the sale of the Securities as set forth on Schedule 8.20 (which shall include the payment of fees and expenses pursuant to the Fee Letter), subject to the right to apply any amounts not expended as set forth in Schedule 8.20 toward working capital.

Section 8.21 Fees. The Borrower, on behalf of themselves and the other Credit Parties, shall pay the Lender the Closing Fee and the other fees and expenses set forth in the Fee Letter, and shall reimburse the Lenders or their designee(s) for costs and expenses incurred in connection with the transactions contemplated by the Transaction Documents to the extent provided in Section 13.1, which amounts, less any amounts paid in advance by the Borrower, shall be withheld by each Lender from the Purchase Price paid by such Lender on the Closing Date in accordance with the Fee Letter.

Section 8.22 Modification of Organizational Documents and Certain Documents. The Credit Parties shall not, without the prior written consent of the Lender, permit: (a) the charter, by-laws or other organizational documents of any Credit Party to be amended or modified in any material respect or in any respect adverse to the Lender, or (b) any Material Contract to be amended or modified in a manner that could reasonably be expected to result in a Material Adverse Effect.

Section 8.23 Joinder. The Credit Parties shall notify the Lender prior to the formation or acquisition of any Subsidiaries. For any Subsidiaries formed or acquired after the Closing Date, the Credit Parties shall at their own expense, upon formation or acquisition of such Subsidiary, cause each such Subsidiary to execute an instrument of joinder (a "**Joinder Agreement**") in form and substance reasonably satisfactory to the Lender and the Borrower obligating such Subsidiary to any or all of the Transaction Documents deemed necessary or reasonably appropriate by the Lender and cause the applicable Person that owns the Equity Interests of such Subsidiary to pledge to the holders 100% of the Equity Interests owned by it of each such Subsidiary formed or acquired after the Closing Date and execute and deliver all documents or instruments required thereunder or reasonably appropriate to perfect the security interest created thereby. In the event a Person becomes a Guarantor (a "**New Guarantor**") pursuant to the Joinder Agreement, upon such execution the New Guarantor shall be bound by all the terms and conditions hereof and the other Transaction Documents to the same extent as though such New Guarantor had originally executed the Transaction Documents. The addition of a New Guarantor shall not in any manner affect the obligations of the other Credit Parties hereunder or thereunder. Each Credit Party and Lender hereto acknowledges that the schedules and exhibits hereto or thereto may be amended or modified in connection with the addition of any New Guarantor to reflect information relating to such New Guarantor. Compliance with this Section 8.23 shall not excuse any violation of Section 8.8.

Section 8.24 Investments. The Credit Parties shall not, and the Credit Parties shall not permit any of their Subsidiaries to, make or permit to exist any Investment in any other Person, except the following:

(a) Cash Equivalent Investments;

(b) bank deposits in the ordinary course of business;

(c) Investments in securities of account debtors received pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such account debtors;

(d) advances made in connection with purchases of goods or services in the ordinary course of business;

(e) deposits of cash in the ordinary course of business to secure performance of operating leases;

(f) guaranties that constitute Permitted Indebtedness;

(g) Investments by a Credit Party in any other Credit Party; and

(h) other Investments in an amount not to exceed $250,000 at any time outstanding.

Section 8.25 Taxes and Liabilities. Each Credit Party will pay and will cause its Subsidiaries to pay when due all taxes, assessments and other liabilities except as contested in good faith and by appropriate proceedings and for which adequate reserves have been established, and except for taxes, assessments and other liabilities of RCF.

Section 8.26 Employee Benefit Plans. Each Credit Party will and will cause its Subsidiaries to (i) maintain each Employee Benefit Plan in substantial compliance with all applicable requirements of law and regulations; (ii) make all payments and contributions required to be made pursuant to each Employee Benefit Plan in a timely manner; and (iii) neither establish any new each Employee Benefit Plan, agree or contribute to any multi-employer plan nor amend any existing each Employee Benefit Plan in a manner which would increase its obligation to contribute to such each Employee Benefit Plan.

Section 8.27 Issuance/Pledge/Transfer of Equity. Except for the issuance of Equity Interests or Indebtedness convertible into Equity Interests: (i) with respect to any of the Equity Interests issued or issuable with respect to any of the matters referenced in Section 2.10(b)(iii)(A)-(G) hereof; (ii) pursuant to options presently issued or to be issued pursuant to the Current Equity Incentive Plans or any additional equity interests authorized under any new equity incentive plans adopted by the Borrower (but in no case shall such additional equity interests represent more than 5,000,000 additional shares of Common Stock); (iii) shares of Common Stock issuable to EERCF and/or its designees as set forth in the Fifth Amendment to the EERCF License Agreement in the event of exercise by MES (with Lender's consent) of its option to cause EERCF to transfer the Patent Rights (as such term is defined in the EERCF License Agreement) to MES pursuant to the EERCF License Agreement and (iv) for the express purpose of enabling it to pay off the obligations outstanding with respect to the Prior Convertible Notes, the Borrower shall not either directly or indirectly, without Lender's prior written consent issue any additional Equity Interests or Indebtedness convertible into Equity Interests or permit any of its Subsidiaries to issue any additional Equity Interests or Indebtedness convertible into Equity Interests.

Section 8.28 Limitation of Activities Relating to RCF. Without the Lender's prior written consent, Borrower shall not (i) contribute any additional capital to RCF, (ii) permit RCF to conduct any additional business activities, (iii) permit RCF to repay, settle or otherwise resolve any of its outstanding debts or other obligations, including, without limitation, outstanding state tax liens filed against RCF by the State of California, (v) permit RCF to grant additional liens in and to any of its assets or (v) permit RCF to liquidate its assets and/or formally be dissolved.

Section 8.29 Actions Related to EERCF License Agreement.

(a) Neither Borrower nor MES will agree to amend the EERCF License Agreement, modify any rights to payment thereunder or exercise the rights to cause EERCF to transfer the Patent Rights (as such term is defined in the EERCF License Agreement) to MES pursuant to the terms of the EERCF License Agreement without Lender's prior written consent, which consent will not be unreasonably withheld.

(b) Within thirty (30) days after the Closing Date, and in each case subject to Lender's sole satisfaction, Borrower shall cause MES to:

(i) Prepare confirmatory assignments, subject to Lender's prior review and approval, for all inventors of the Patent Rights (as defined in the EERCF License Agreement) and for Babcock & Wilcox Power Generation Group, Inc., that confirm that all Patent Rights have been properly and fully assigned to Energy & Environmental Research Center Foundation (the "**Confirmatory Assignments**").

(ii) Obtain from all inventors/assignors fully executed copies of all such Confirmatory Assignments and record such executed Confirmatory Assignments in the US Patent and Trademark Office against all US patents and patent applications included in the Patent Rights.

(iii) Deliver to the Lender a fully executed copy of the Technology Transfer Approval for US Patent No. 8652235.

(iv) Cause EERCF to agree to amend the EERCF License Agreement to reflect the current list of Patent Rights licensed to Borrower under the EERCF License Agreement, including all US and foreign patents and patent applications and deliver a fully executed copy of such amendment to the Lender.

Section 8.30 Form D and Blue Sky. The Borrower agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to the Lender promptly after such filing. The Borrower shall, on or promptly after the Closing Date, take such action as the Borrower shall reasonably determine is necessary in order to obtain an exemption for or to qualify the Securities for sale to the Lender at the Closing pursuant to this Agreement under applicable securities or "blue sky" laws of any state (or to obtain an exemption from such qualification), and shall provide evidence of any such action so taken to the Lender on or promptly after the Closing Date. The Borrower shall make all filings and reports relating to the offer and sale of the Securities required under applicable securities or "blue sky" laws of any state following the Closing Date.

Section 8.31 Reservation of Common Stock. So long as the Notes or the Warrant remain outstanding, the Borrower shall take all action necessary to at all times have authorized, and reserved for the purpose of issuance, no less than the Required Reserved Amount. If at any time the number of shares of Common Stock authorized and reserved for issuance is not sufficient to meet the Required Reserved Amount, the Borrower will promptly take all corporate action necessary to authorize and reserve a sufficient number of shares, including, without limitation, calling a special meeting of stockholders to authorize additional shares to meet the Borrower's obligations under Section 7.3, in the case of an insufficient number of authorized shares, obtain stockholder approval of an increase in such authorized number of shares, and voting the management shares of the Borrower in favor of an increase in the authorized shares of the Borrower to ensure that the number of authorized shares is sufficient to meet the Required Reserved Amount.

Section 8.32 Reporting Status. Until the date on which the Holder (as defined in the Investor/Registration Rights Agreement) shall have sold all of the Conversion Shares and Warrant Shares and neither the Note or Warrant remain outstanding, the Borrower shall use its reasonable best efforts to timely file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Borrower shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would no longer require or otherwise permit such termination.

Section 8.33 Listing. The Borrower shall use reasonable best efforts to maintain the authorization for quotation of the Common Stock on the Principal Market or listing on any other Eligible Market. Neither the Borrower nor any of its Subsidiaries shall take any action which would be reasonably expected to result in the delisting or suspension of the Common Stock on the Principal Market. The Borrower shall pay all fees and expenses in connection with satisfying its obligations under this Section 8.33.

Section 8.34 Notice of Disqualification Events. The Borrower will notify the Lender in writing, prior to the Closing Date of: (i) any Disqualification Event relating to any Issuer Covered Person, and (ii) any event that would, with the passage of time, become a Disqualification Event relating to any Issuer Covered Person.

Section 8.35 Further Assurances. At any time or from time to time upon the request of the Lender, each Credit Party will, at its expense, promptly execute, acknowledge and deliver such further documents and do such other acts and things as the Lender may reasonably request in order to effect fully the purposes of the Transaction Documents. In furtherance and not in limitation of the foregoing, each Credit Party shall take such actions as the Lender may reasonably request from time to time to ensure that the Obligations are guaranteed by all Subsidiaries of the Borrower and secured by substantially all of the assets of the Credit Parties and their Subsidiaries.

ARTICLE 9

CROSS GUARANTY

Section 9.1 Cross-Guaranty. Each Guarantor, jointly and severally, hereby absolutely and unconditionally guarantees to the Lender and its successors and assigns the full and prompt payment (whether at stated maturity, by acceleration or otherwise) and performance of, all Obligations. Each Guarantor agrees that its guaranty obligation hereunder is a continuing guaranty of payment and performance and not of collection, that its obligations under this ARTICLE 9 shall not be discharged until payment and performance, in full, of the Obligations (other than Unasserted Contingent Obligations) under the Transaction Documents has occurred and all commitments (if any) to lend hereunder have been terminated, and that its obligations under this ARTICLE 9 shall be absolute and unconditional, irrespective of, and unaffected by:

(a) the genuineness, validity, regularity, enforceability or any future amendment of, or change in, this Agreement, any other Transaction Document or any other agreement, document or instrument to which any Credit Party is or may become a party;

(b) the absence of any action to enforce this Agreement (including this ARTICLE 9) or any other Transaction Document or the waiver or consent by the Holders with respect to any of the provisions thereof;

(c) the Insolvency of any Credit Party or Subsidiary; or

(d) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor.

Each Guarantor shall be regarded, and shall be in the same position, as principal debtor with respect to the obligations guaranteed hereunder.

Section 9.2 Waivers by Guarantor. Each Guarantor expressly waives all rights it may have now or in the future under any statute, or at common law, or at law or in equity, or otherwise, to compel the Lender to marshal assets or to proceed in respect of the obligations guaranteed hereunder against any other Credit Party or Subsidiary, any other party or against any security for the payment and performance of the obligations under the Transaction Documents before proceeding against, or as a condition to proceeding against, such Guarantor. It is agreed among each Guarantor that the foregoing waivers are of the essence of the transaction contemplated by this Agreement and the other Transaction Documents and that, but for the provisions of this ARTICLE 9 and such waivers, the Lender would decline to enter into this Agreement.

Section 9.3 Benefit of Guaranty. Each Guarantor agrees that the provisions of this ARTICLE 9 are for the benefit of the Lender and its successors and permitted transferees, endorsees and assigns, and nothing herein contained shall impair, as between any other Credit Party and the Lender, the obligations of such other Credit Party under the Transaction Documents.

Section 9.4 Waiver of Subrogation, Etc. Notwithstanding anything to the contrary in this Agreement or in any other Transaction Document, and except as set forth in Section 9.7, each Guarantor hereby expressly and irrevocably waives any and all rights at law or in equity to subrogation, reimbursement, exoneration, contribution, indemnification or set off and any and all defenses available to a surety, guarantor or accommodation co-obligor. Each Guarantor acknowledges and agrees that this waiver is intended to benefit the Holders and shall not limit or otherwise affect such Guarantor's liability hereunder or the enforceability of this ARTICLE 9, and that the Holders and their respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this Section 9.4.

Section 9.5 Election of Remedies. If the Lender may, under applicable law, proceed to realize their benefits under any of the Transaction Documents, the Lender or any of the other Holders may, at its sole option, determine which of its remedies or rights it may pursue without affecting any of its rights and remedies under this ARTICLE 9. If, in the exercise of any of its rights and remedies, the Lender or any of the Holders shall forfeit any of its rights or remedies, including its right to enter a deficiency judgment against any Credit Party or any other Person, whether because of any applicable laws pertaining to "election of remedies" or the like, each Credit Party hereby consents to such action by the Lender and such other Holders and waives any claim based upon such action, even if such action by the Lender and such other Holders shall result in a full or partial loss of any rights of subrogation that any Credit Party might otherwise have had but for such action by the Lender or such other Holders. Any election of remedies that results in the denial or impairment of the right of the Lender or other Holders to seek a deficiency judgment against any Credit Party shall not impair any other Credit Party's obligation to pay the full amount of the obligations under the Transaction Documents.

Section 9.6 Limitation. Notwithstanding any provision herein contained to the contrary, each Guarantor's liability under this ARTICLE 9 (which liability is in any event in addition to amounts for which Borrower is primarily liable under the Transaction Documents) shall be limited to an amount not to exceed as of any date of determination the greater of:

(a) the net amount of all amounts advanced to such Guarantor under this Agreement or otherwise transferred to, or for the benefit of, such Guarantor (including any interest and fees and other charges); and

(b) the amount that could be claimed by the Lender or other Holders from such Guarantor under this ARTICLE 9 without rendering such claim voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law after taking into account, among other things, such Guarantor's right of contribution and indemnification from each other Credit Party under Section 9.7.

Section 9.7 Contribution with Respect to Guaranty Obligations.

(a) To the extent that any Guarantor shall make a payment under this ARTICLE 9 of all or any of the obligations under the Transaction Documents (other than financial accommodations made to that Guarantor for which it is primarily liable) (a "**Guarantor Payment**") that, taking into account all other Guarantor Payments then previously or concurrently made by any other Guarantor, exceeds the amount that such Guarantor would otherwise have paid if each Guarantor had paid the aggregate obligations under the Transaction Documents satisfied by such Guarantor Payment in the same proportion that such Guarantor's "Allocable Amount" (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of each of the Guarantor as determined immediately prior to the making of such Guarantor Payment, then, following payment in full in cash of the Obligations (other than Unasserted Contingent Obligations) under the Transaction Documents and termination of the Transaction Documents (including all commitments (if any) to lend hereunder), such Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, each other Guarantor for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.

(b) As of any date of determination, the "**Allocable Amount**" of any Guarantor shall be equal to the maximum amount of the claim that could then be recovered from such Guarantor under this ARTICLE 9 without rendering such claim voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law.

(c) This Section 9.7 is intended only to define the relative rights of Guarantor and nothing set forth in this Section 9.7 is intended to or shall impair the obligations of Credit Parties, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Agreement, including Section 9.1. Nothing contained in this Section 9.7 shall limit the liability of any Credit Party to pay the financial accommodations made directly or indirectly to that Credit Party and accrued interest, fees and expenses with respect thereto for which such Credit Party shall be primarily liable.

(d) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Guarantor to which such contribution and indemnification is owing.

(e) The rights of the indemnifying Guarantor against other Guarantor under this Section 9.7 shall be exercisable upon the payment in full in cash of the Obligations (other than Unasserted Contingent Obligations) under the Transaction Documents and the termination of the Transaction Documents.

Section 9.8 Liability Cumulative. The liability of each Guarantor under this ARTICLE 9 is in addition to and shall be cumulative with all liabilities of each other Credit Party to the Lender and other Holders under this Agreement and the other Transaction Documents to which such Credit Party is a party or in respect of any obligations under the Transaction Documents or obligation of the other Credit Party, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

Section 9.9 Stay of Acceleration. If acceleration of the time for payment of any amount payable by the Credit Parties under this Agreement is stayed upon the insolvency, bankruptcy or reorganization of any of the Credit Parties, all such amounts otherwise subject to acceleration under the terms of this Agreement shall nonetheless be payable jointly and severally by the Credit Parties hereunder forthwith on demand by the Lender or other Holders.

Section 9.10 Benefit to Credit Parties. All of the Credit Parties and their Subsidiaries are engaged in related businesses and integrated to such an extent that the financial strength and flexibility of each such Person has a direct impact on the success of each other Person. Each Credit Party and each Subsidiary will derive substantial direct and indirect benefit from the purchase and sale of the Note hereunder.

ARTICLE 10

RIGHTS UPON EVENT OF DEFAULT

Section 10.1 Event of Default. Each of the following events shall constitute an "**Event of Default**":

(a) any Credit Parties' failure to pay to the Lender and/or Holders: (i) when and as due under this Agreement and the Note, any amount of principal, or (ii) within five (5) days after the same shall become due under this Agreement, the Note, the Warrants or any other Transaction Documents, interest (including interest calculated at the Default Rate), redemptions or other amounts (including, without limitation, Borrower's failure to pay any redemption payments or amounts hereunder, under the Note or under the Warrants);

(b) any default occurs and is continuing with respect to, or any redemption of or acceleration prior to maturity of, any Indebtedness of any of the Credit Parties or any of their Subsidiaries, including, without limitation, the Indebtedness represented by the Prior Convertible Notes; *provided*, that, in the event that any such default or acceleration of indebtedness is cured or rescinded by the holders thereof prior to acceleration of the Note, no Event of Default shall exist as a result of such cured default or rescinded acceleration; provided further that if the default relates to a matter where the creditor is subject to the Intercreditor Agreement and pursuant to that agreement has agreed not to take action to enforce the obligation, then such default shall not be deemed a default hereunder.

(c) (i) Any of the Credit Parties, pursuant to or within the meaning of Title 11, U.S. Code, or any similar federal, foreign or state law for the relief of debtors (collectively, "**Bankruptcy Law**"): (A) commences a voluntary case, (B) consents to the entry of an order for relief against it in an involuntary case, or to the conversion of an involuntary case to a voluntary case, (C) consents to the appointment of or taking of possession by a receiver, trustee, assignee, liquidator or similar official (a "**Custodian**") for all or a substantial part of its property, (D) makes a general assignment for the benefit of its creditors, or (E) admits in writing that it is Insolvent or is otherwise generally unable to pay its debts as they become due; or (ii) the board of directors (or similar governing body) of Borrower or any of its Subsidiaries (including the Guarantor) (or any committee thereof) adopts any resolution or otherwise authorizes any action to approve any of the actions referred to in this Section 10.1(c) or Section 10.1(d); provided however the terms of this Section 10.1(c) or any of the other subsections of this Section 10.1 shall not apply to RCF;

(d) a court of competent jurisdiction: (i) enters an order or decree under any Bankruptcy Law, which order or decree (A) (1) is not stayed or (2) is not rescinded, vacated, overturned, or otherwise withdrawn within thirty (30) days after the entry thereof, and (B) is for relief against any of the Credit Parties in an involuntary case, (ii) appoints a Custodian over all or a substantial part of the property of any of the Credit Parties or their Subsidiaries and such appointment continues for thirty (30) days, (iii) orders the liquidation of any of the Credit Parties, or (iv) issues a warrant of attachment, execution or similar process against any substantial part of the property of any of the Credit Parties;

(e) a final judgment or judgments for the payment of money in excess of $500,000 or that otherwise could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect are rendered against the any of the Credit Parties and which judgments are not, within thirty (30) days after the entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within thirty (30) days after the expiration of such stay, unless (in the case of a monetary judgment) such judgment is covered by third-party insurance, so long as the applicable Credit Party provides the Lender a written statement from such insurer (which written statement shall be reasonably satisfactory to the Lender) to the effect that such judgment is covered by insurance and such Credit Party will receive the proceeds of such insurance within thirty (30) days following the issuance of such judgment;

(f) any Credit Party breaches any covenant, or other term or condition of any Transaction Document or any other agreement with the Lender or any other Holder, except: (i) in the case of a breach of a covenant or other term or condition of any Transaction Document (other than Sections 8.1, 8.2, 8.3, 8.4 through 8.15, 8.17 8.18, 8.22 through 8.28, and 8.32 through 8.35 of this Agreement) which is curable, only if such breach continues for a period of fifteen (15) days following delivery of notice of breach from a Holder, and (ii) a breach addressed by the other provisions of this Section 10.1;

(g) a Change of Control occurs;

(h) any representation or warranty made by any Credit Party herein or any other Transaction Document is breached or is false or misleading, each in any material respect;

(i) any default or "Event of Default" or similarly defined term occurs and is continuing with respect to any of the other Transaction Documents;

(j) the repudiation by any Credit Party of any of its obligations under this Agreement or under any Security Document, or any Security Document or any term thereof shall cease to be, or is asserted by any Credit Party not to be, a legal, valid and binding obligation of any Credit Party enforceable in accordance with its terms;

(k) any Lien against the Collateral intended to be created by any Security Document shall at any time be invalidated, subordinated or otherwise cease to be in full force and effect, for whatever reason, or any security interest purported to be created by any Security Document shall cease to be, or shall be asserted by any Credit Party not to be, a valid, first priority perfected Lien (to the extent that any Transaction Document obligates the parties to provide such a perfected first priority Lien, and except to the extent Permitted Liens are permitted by the terms of the Transaction Documents to have priority) in the Collateral (except as expressly otherwise provided under and in accordance with the terms of such Transaction Document);

(l) any material provision of any Transaction Document shall at any time for any reason be declared to be null and void, or the validity or enforceability thereof shall be contested by any Credit Party, or a proceeding shall be commenced by any Credit Party, or by any Governmental Authority having jurisdiction over such Credit Party, seeking to establish the invalidity or unenforceability thereof, or any Credit Party shall deny that it has any liability or obligation purported to be created under any Transaction Document;

(m) the material breach by any Credit Party of an agreement or agreements (in each case, other than a Transaction Document) to which it is a party that involves the payment to or by such Credit Party, individually or in the aggregate, of more than $500,000 (whether by set-off or otherwise) in any six (6) month period;

(n) except in accordance with Section 8.8, any Credit Party or Subsidiary liquidates, dissolves, terminates or suspends its business operations or otherwise fails to operate its business in the ordinary course;

(o) if any of Alan Kelley, Richard Gross, Marc Sylvester or Jim Trettel shall, at any time for any reason, cease to be employed by the Borrower in the same position and with duties substantially similar to those held as of the Closing Date, unless a replacement reasonably satisfactory to the Lender shall have been appointed and employed within sixty (60) days of such individual's cessation of employment;

(p) (i) there occurs one or more ERISA Events which individually or in the aggregate result(s) in or could reasonably be expected to result in liability of the Credit Parties or any of their Subsidiaries in excess of $500,000 during the term hereof; or (ii) there exists any fact or circumstance that could reasonably be expected to result in the imposition of a Lien pursuant to Section 430(k) of the Code or ERISA or a violation of Section 436 of the Code;

(q) any default or event of default (monetary or otherwise) shall occur with respect to any Material Contract and the obligations under such Material Contract are accelerated or such Material Contract is terminated; provided however, if the Material Contract relates to one or more Contracted Units and at the time of such breach, MES has in place a sufficient number of Contracted Units exclusive of the Contracted Units subject to the breach to meet the performance covenants set forth in Section 8.1 hereof, then event shall not be deemed to constitute a breach of this Section 10.1(q), however, it may constitute a breach of another subsection of this Section 10.1;

(r) Borrower shall engage in any business activities other than (i) its ownership of the equity securities of equity interests in its Subsidiaries, and such other activities as Lender may consent to from time to time in Lender's sole discretion; (ii) activities incidental to maintenance of its corporate existence, and (iii) performance of its obligations under the Transaction Documents to which it is a party;

(s) an event resulting in the Common Stock no longer being quoted on the Principal Market or listed on any other Eligible Market for a period of 30 consecutive days; failure to comply with the requirements for continued quotation or listing on the Principal Market or Eligible Market, as the case may be, for a period of thirty (30) consecutive trading days; or notification from the Principal Market or Eligible Market that the Borrower is not in compliance with the conditions for such continued quotation or listing, as the case may be, and such non-compliance continues for thirty (30) days following such notification; or

(t) the occurrence of any other event which could reasonably be expected to have a Material Adverse Effect.

Section 10.2 Acceleration Right.

(a) Promptly after having knowledge of the occurrence of an Event of Default, the Borrower shall deliver written notice thereof in accordance with Section 8.3(c) via email, facsimile and overnight courier (an "**Event of Default Notice**") to the Lender. At any time after the earlier of the Lender's and the Holders' receipt of an Event of Default Notice and the Lender and any other Holders becoming aware of an Event of Default which has not been cured or waived, the Lender or such other Holders may require the Borrower to redeem all or any portion of the Notes (an "**Event of Default Redemption**") by delivering written notice thereof (the "**Event of Default Redemption Notice**") to the Borrower, which Event of Default Redemption Notice shall indicate the portion of the Note that the Lender or any other Holders are requiring the Borrowers to redeem; *provided*, that upon the occurrence of any Event of Default described in Section 10.1(c) or Section 10.1(d), the Note, in whole, shall automatically, and without any action on behalf of the Lender or any other Holders, be redeemed by the Borrower. The Note shall be redeemed by the Borrower at a price equal to one hundred five percent (105%) of the outstanding principal amount of the Notes, plus accrued and unpaid interest and all other amounts due under the Transaction Documents (the "**Event of Default Redemption Price**").

(b) In the case of an Event of Default Redemption, the Borrower shall deliver the applicable Event of Default Redemption Price to the Lender within five (5) Business Days after the Borrower's receipt of the Event of Default Redemption Notice. The redemption obligations herein are subject to the terms of the Intercreditor Agreement.

Section 10.3 Consultation Rights. Without in any way limiting any remedy that the Lender or other Holders may have, at law or in equity, under any Transaction Document (including under the foregoing provisions of this ARTICLE 10) or otherwise, upon the occurrence and during the continuance of any Event of Default, upon the request of the Lender and/or any other Holders, the Credit Parties shall hire or otherwise retain a consultant, advisor or similar Person reasonably acceptable to the Lender and the Credit Parties to advise the Credit Parties with respect to their business and operations.

Section 10.4 Other Remedies. Upon the occurrence and continuance of any Event of Default, and the expiration of any applicable cure period, and in every such event, Lender and any of the other Holders may: (i) without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, exercise all of the remedies of a secured party and mortgage holder under applicable law, including, but not limited to, the UCC, and all of its rights and remedies under the Security Documents (ii) require the Credit Parties make the Collateral and the records pertaining to the Collateral available to the Lender at a place designated by the Lender which is reasonably convenient or may take repossession of the Collateral and the records pertaining to the Collateral without the use of any judicial process and without any prior notice thereof to the Credit Parties, (iii) sell any or all of the Collateral at public or private sale upon such terms and conditions as Lender may reasonably deem proper, and Lender may purchase any or all of the Collateral at any such sale, and apply the net proceeds, after deducting all costs, expenses and attorneys' fees incurred at any time in the collection of the indebtedness of the Credit Parties to the Lender and in the protection and sale of the Collateral, to the payment of said indebtedness, returning the remaining proceeds, if any, to the Credit Parties, with the Credit Parties remaining liable for any amount remaining unpaid after such application; (iv) grant extensions, compromise claims and settle Accounts Receivable for less than face value, all without prior notice to the Credit Parties or their Subsidiaries, as applicable; (v) use, in connection with any assembly or disposition of the Collateral, the Intellectual Property Rights and any other trademark, trade name, trade style, copyright, patent right or technical process used or utilized by the Credit Parties or their Subsidiaries, as applicable, (vi) cause the Credit Parties or their Subsidiaries, as applicable, to transmit and deliver to the Lender in the form received, all cash, checks, drafts and other instruments for the payment of money (properly endorsed, where required, so that such items may be collected by Lender) which may be received by the Credit Parties or their Subsidiaries, as applicable, at any time in full or partial payment of any Collateral and the Credit Parties or their Subsidiaries, as applicable, shall not commingle any such items which may be so received by the Credit Parties or their Subsidiaries, as applicable, with any other of their funds or property but shall hold them separate and apart from their own funds or property and in trust for the Lender until delivery is made to Lender; (vii) instruct the Credit Parties or their Subsidiaries, as applicable, at the Credit Parties' expense, to notify any parties obligated on any of the Collateral, including, but not limited to, any Account Debtors, to make payment directly to the Lender of any amounts due or to become due thereunder, or the Lender may directly notify such obligors of the security interest of the Lender, and/or of the assignment to the Lender of the Collateral and direct such obligors to make payment to the Lender of any amounts due or to become due with respect thereto, and thereafter, collect any such amounts due on the Collateral directly from such Persons obligated thereon, (viii) enforce collection of any of the Collateral, including, but not limited to, any Accounts, by suit or otherwise, or make any compromise or settlement with respect to any of the Collateral, or surrender, release or exchange all or any part thereof, or compromise, extend or renew for any period (whether or not longer than the original period) any indebtedness thereunder, (ix) take possession or control of any proceeds and products of any of the Collateral, including the proceeds of insurance thereon, (x) make an election with respect to the Collateral under Section 1111 of the Bankruptcy Code or take action under Section 364 or any other section of the Bankruptcy Code; provided, however, that any such action of the Lender as set forth herein shall not, in any manner whatsoever, impair or affect the liability of the Credit Parties or their Subsidiaries, as applicable, hereunder, nor prejudice, waive, nor be construed to impair, affect, prejudice or waive the Lender's rights and remedies at law, in equity or by statute, nor release, discharge, nor be construed to release or discharge, the Credit Parties or other Person liable to the Lender for the Obligations, (xi) at any time, and from time to time, accept additions to, releases, reductions, exchanges or substitution of the Collateral, without in any way altering, impairing, diminishing or affecting the provisions of this Agreement, the Security Documents, or any of the Obligations, or the Lender's rights hereunder, under the Note or with respect to any of the Obligations and (xii) exercise all of its rights and remedies against the Guarantor under the guaranty provisions of Article 9 hereof. The remedies provided herein, in the Note and the Security Documents shall be cumulative and in addition to all other remedies available under any of the other Transaction Documents, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Lender's or any Holder's right to pursue actual and consequential damages for any failure by the Credit Parties to comply with the terms of this Agreement, the Note and the other Transaction Documents. Amounts set forth or provided for herein and in the Note with respect to payments and the like (and the computation thereof) shall be the amounts to be received by the Lender and the other Holders and shall not, except as expressly provided herein, be subject to any other obligation of the Credit Parties (or the performance thereof). Each of the Credit Parties acknowledges that a breach by it of its obligations hereunder and under the Note and the other Transaction Documents may cause irreparable harm to the Lender and any other Holders and that the remedy at law for any such breach may be inadequate. The Credit Parties therefore agree that, in the event of any such breach or threatened breach, the Lender and other Holders shall be entitled, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required.

ARTICLE 11

MISCELLANEOUS

Section 11.1 Payment of Expenses. The Borrower, on behalf of the Credit Parties, shall reimburse: (a) Lender on demand for all reasonable costs and expenses, including, without limitation, reasonable legal expenses and reasonable invoiced attorneys' fees of outside counsel, incurred by Lender in connection with the: (i) documentation and consummation of the transactions contemplated hereunder and under the other Transaction Documents, including, without limitation, UCC and other public record searches and filings, overnight courier or other express or messenger delivery, appraisal costs, surveys, title insurance and environmental audit or review (including due diligence review) costs incurred in connection therewith; (ii) collection, protection or enforcement of any rights in or to the Collateral; and (iii) collection of any Obligations; and (b) Lender and any other Holders on demand for all reasonable costs and expenses, including, without limitation, reasonable legal expenses and reasonable invoiced attorneys' fees of one outside counsel incurred by Lender or any other Holders, in connection with: (i) the administration and enforcement of Lender's and any other Holder's rights under this Agreement or any other Transaction Document (including, without limitation, any costs and expenses of any third party provider engaged by Lender for such purposes); (ii) any refinancing or restructuring of the Note whether in the nature of a "work-out," in any insolvency or bankruptcy proceeding or otherwise, and whether or not consummated; and (iii) any intangibles, documentary, stamp or other similar taxes, fees and excises, if any, including any interest and penalties, and any finder's or brokerage fees, commissions and expenses (other than any fees, commissions or expenses of finders or brokers engaged by the Lender or other Holders), that may be payable in connection with the Note contemplated by this Agreement and the other Transaction Documents. All such costs, expenses and charges shall constitute Obligations hereunder, shall be payable by the Credit Parties to the Lender and other Holders on demand, and, until paid, shall bear interest at the highest rate then applicable to Note hereunder. Without limiting the foregoing, if: (a) any Note is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or Lender or any other Holder otherwise takes action to collect amounts due under such Note or to enforce the provisions of such Note or (b) there occurs any bankruptcy, reorganization, receivership of any Credit Party or other proceedings affecting creditors' rights and involving a claim under such Note, then the Credit Parties shall pay the costs incurred by Lender or such other Holders for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, but not limited to, reasonable attorneys' fees (limited to one outside counsel for the Lender and the other Holders, and disbursements (including such fees and disbursements related to seeking relief from any stay, automatic or otherwise, in effect under any Bankruptcy Law).

Section 11.2 Governing Law; Jurisdiction; Jury Trial; Damages. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in New York, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTIONS CONTEMPLATED HEREBY. No party shall assert, and each waives, any claim against the other parties or any Indemnitees on any theory of liability for special, indirect, consequential or punitive damages arising out of, in connection with or as a result of, this Agreement of any of the other Transaction Documents or the transactions contemplated hereby or thereby.

Section 11.3 Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party; *provided* that a facsimile or other electronic signature shall be considered due execution and shall be binding upon the signatory thereto with the same force and effect as if the signature were an original, not a facsimile or electronic signature.

Section 11.4 Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

Section 11.5 Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction.

Section 11.6 Entire Agreement; Amendments. This Agreement and the other Transaction Documents supersede all other prior oral or written agreements between the Lender, the Credit Parties, their Subsidiaries and Affiliates and Persons acting on their behalf with respect to the matters discussed herein and therein, and this Agreement, the other Transaction Documents and the instruments referenced herein and therein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, none of the Credit Parties or any Lender makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement, the Note or any of the other Transaction Documents may be amended or waived other than by an instrument in writing signed by the Credit Parties and the Lender (*provided*, that no amendment or waiver hereof shall increase any Lender's obligations hereunder or materially adversely affect the rights of such Lender hereunder, in either case, without such Lender's written consent; and *provided, further*, no amendment or waiver shall extend the due date of any payment hereunder or under the Note, decrease the amount of interest or other compensation payable hereunder or under the Note, or modify Section 8.1 without the consent of the Lender), and any amendment or waiver to this Agreement made in conformity with the provisions of this Section 11.6 shall be binding on all Lenders and holders of Securities, as applicable. No such amendment or waiver shall be effective to the extent that it applies to less than all of the holders of the applicable Securities then outstanding. To the extent that there are more than one Note outstanding, any action to be taken by the Holders shall be deemed approved by all the Holders if approved by Holders holding in excess of 50% of the outstanding unpaid principal amount of Notes.

Section 11.7 Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (*provided*, confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) one Business Day after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:

If to any of the Credit Parties :

Midwest Energy Emissions Corp.
Attn: Alan Kelley, CEO
500 W Wilson Bridge Rd Ste 140
Worthington, OH 43085
Phone: (614) 505-6115 x104
Fax: (614) 505-7377
E-mail: akelley@midwestemissions.com
In each case, with a copy (for informational purposes only):

Taft Stettinius & Hollister LLP
Attn: Mitchell D. Goldsmith
111 E. Wacker Drive, Suite 2800
Chicago, Illinois 60601-3713
Phone: (312) 836-4006
Fax: (312) 275-7569
E-mail: mgoldsmith@taftlaw.com
If to the Transfer Agent:

Transfer Online
512 SE Salmon Street
Portland, Oregon 97214-3444
Phone: (503) 227-2950
Fax: (503) 227-6874
If to the Lender:
Alterna Capital Partners LLC
Attn:Samir Patel
15 River Road, Suite 320
Wilton, Connecticut 06897
Phone: (203) 210-7672
Fax: (203) 563-9210
E-Mail: samir.patel@alternacapital.com
With a copy to (for informational purposes only):

Levenfeld Pearlstein, LLC
Attn: David B. Solomon
2 North LaSalle Street-Suite 1300
Chicago, IL 60602
Phone: (312) 476-7526
Fax:(312) 346-8434
E-Mail: dsolomon@lplegal.com

or to such other address and/or facsimile number and/or email and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five days prior to the effectiveness of such change. Written confirmation of receipt: (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine containing the time, date, recipient facsimile number and an image of the first page of such transmission or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile, e-mail or receipt from an overnight courier service in accordance with clauses (i), (ii) or (iii) above, respectively.

Section 11.8 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns, including any purchasers of the Note or the Warrants. None of the Credit Parties shall assign this Agreement or any rights or obligations hereunder without the prior written consent of each of the Holders of the Note. Lender may assign some or all of its rights and obligations hereunder in connection with the transfer of any of its Note with the consent of the Borrower (which consent shall not be unreasonably withheld or delayed and which consent shall not be required during the existence of an Event of Default (but which consent will be required at all times for transfers to a direct competitor of the Credit Parties) or in connection with an assignment or transfer to an Affiliate (determined without regard to clause (i) of the definition thereof) of Lender, in which event such assignee shall be deemed to be the Lender hereunder with respect to such assigned rights and obligations, and the Credit Parties shall use their best efforts to ensure that such transferee is registered as a Holder and that any Liens on the Collateral shall issue one or more Notes as provided in Section 2.7 hereof.

Section 11.9 No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

Section 11.10 Survival. The representations, warranties, agreements and covenants of the Credit Parties and the Lenders contained in the Transaction Documents shall survive the Closing. Lender shall be responsible only for its own representations, warranties, agreements and covenants hereunder.

Section 11.11 Further Assurances. Each Credit Party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

Section 11.12 Indemnification. In consideration of each Lender's execution and delivery of the Transaction Documents and acquiring the Note and Warrant thereunder and in addition to all of the Credit Parties' other obligations under the Transaction Documents, the Credit Parties shall jointly and severally defend, protect, indemnify and hold harmless each Lender and each other Holder of any Note and all of their stockholders, partners, members, officers, directors, employees and direct or indirect investors and any of the foregoing Persons' agents or other representatives (including, without limitation, those retained in connection with the transactions contemplated by this Agreement) (collectively, the "**Indemnitees**") from and against any and all actions, causes of action, suits, claims, losses, costs, penalties, fees, liabilities and damages, and expenses in connection therewith (irrespective of whether any such Indemnitee is a party to the action for which indemnification hereunder is sought), and including reasonable attorneys' fees and disbursements (the "**Indemnified Liabilities**"), incurred by any Indemnitee as a result of, or arising out of, or relating to (a) any misrepresentation or breach of any representation or warranty made by any Credit Party in this Agreement or any other Transaction Documents or any other certificate, instrument or document contemplated hereby or thereby, (b) any breach of any covenant, agreement or obligation of any Credit Party contained in this Agreement or any other Transaction Documents or any other certificate, instrument or document contemplated hereby or thereby, (c) the present or former status of any Credit Party as a U.S. real property holding corporation for federal income tax purposes within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, if applicable, (d) any claim for placement agent's fees, financial advisory fees, or brokers' commissions (other than for Persons engaged by the Lenders or their investment advisors) relating to or arising out of the transactions contemplated hereby or (e) any cause of action, suit or claim brought or made against such Indemnitee by a third party (including for these purposes a derivative action brought on behalf of any Credit Party) and arising out of or resulting from (i) the execution, delivery, performance or enforcement of this Agreement or any other Transaction Documents or any other certificate, instrument or document contemplated hereby or thereby, (ii) any transaction financed or to be financed in whole or in part, directly or indirectly, with the proceeds of the issuance of the Note and Warrants, or (iii) the status of such Lender or other Holder of the Note as a lender to the Borrower pursuant to the transactions contemplated by the Transaction Documents. The foregoing notwithstanding, the Credit Parties shall not be obligated to indemnify the Indemnitees to the extent that the Indemnified Liabilities resulted from the gross negligence or wilful misconduct of the Indemnitees, as determined by a court of competent jurisdiction in a final non-appealable judgment or order. To the extent that the foregoing undertakings by the Credit Parties may be unenforceable for any reason, the Credit Parties shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law. The agreements in this Section 11.12 shall survive the payment of the Notes and all other amounts payable hereunder and the termination of this Agreement and the other Transaction Documents.

Section 11.13 No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

Section 11.14 Waiver. No failure or delay on the part of any Holder in the exercise of any power, right or privilege hereunder or any of the other Transaction Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

Section 11.15 Payment Set Aside. To the extent that any of the Credit Parties makes a payment or payments to the Lenders hereunder or pursuant to any of the other Transaction Documents or the Lender enforces or exercises its rights hereunder or thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to any of the Credit Parties, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, foreign, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

Section 11.16 Joint and Several Liability. The Credit Parties hereby agree that such Credit Parties are jointly and severally liable for the full and prompt payment (whether at stated maturity, by acceleration or otherwise) and performance of, all Obligations owed or hereafter owing to the Lender. The Credit Parties agree that their obligations under this Agreement shall not be discharged until payment and performance, in full in cash, of the Obligations has occurred and termination of all commitments to lend under this Agreement, and that its obligations under this Agreement shall be absolute and unconditional, irrespective of, and unaffected by:

(a) the validity, enforceability or any future amendment of, or change in, this Agreement, any other Transaction Document or any other agreement, document or instrument to which any Credit Party is or may become a party;

(b) the existence, value or condition of, or failure to perfect its Lien against, any security for the Obligations or any action, or the absence of any action, by the Lender in respect thereof (including the release of any such security); or

(c) the insolvency of any Credit Party or any Subsidiary of a Credit Party.

Section 11.17 Termination. This Agreement shall terminate upon the payment in full in cash of the Obligations (other than Unasserted Contingent Obligations); provided, however, this Agreement shall be reinstated if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by any holder of the Obligations or any representative of such holder and the Obligations, or portion thereof, intended to have been satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred. Anything herein to the contrary notwithstanding, the provisions of Sections 2.6, 2.10, 2.11, 11.1, 11.12 and this 11.17 shall survive any such termination and payment in full of the Obligations, and shall inure to the benefit of any Person that at any time held a right thereunder (as a Holder, an Indemnitee or otherwise) and, thereafter, its successors and permitted assigns.

[Signature Pages Follow]

IN WITNESS WHEREOF, each party has caused its signature page to this Financing Agreement to be duly executed as of the date first written above.

BORROWER:

MIDWEST ENERGY EMISSIONS CORP.

By: _____
Name: _____
Its: _____

GUARANTOR:

MES, INC.

By: _____
Name: _____
Its: _____

LENDER:

AC MIDWEST ENERGY LLC

By: _____
Name: _____
Its: _____

EXHIBIT 10.2

[FORM OF WARRANT]

THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND APPLICABLE STATE SECURITIES LAWS, OR (B) AN OPINION OF COUNSEL SELECTED BY THE HOLDER, IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT AND APPLICABLE STATE SECURITIES LAWS OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT, PROVIDED SUCH PLEDGE IS MADE IN COMPLIANCE WITH APPLICABLE FEDERAL AND STATE SECURITIES LAWS.

MIDWEST ENERGY EMISSIONS CORP.

WARRANT TO PURCHASE COMMON STOCK

Warrant Certificate No.: AC Midwest-1
Number of Shares of Common Stock: 12,500,000
Original Issue Date: August 14, 2014

FOR VALUE RECEIVED, Midwest Energy Emissions Corp., a Delaware corporation (the "**Company**"), hereby certifies that AC Midwest Energy LLC, a Delaware limited liability company, or its registered assigns (the "**Holder**") is entitled to purchase from the Company 12,500,000 duly authorized, validly issued, fully paid and nonassessable shares of Common Stock at the **Exercise Price** (as hereinafter defined), subject to the terms, conditions and adjustments set forth in this Warrant to Purchase Common Stock (including any Warrants to Purchase Common Stock issued in exchange, transfer or replacement hereof, this "**Warrant**").

This Warrant has been issued pursuant to the terms of that certain Financing Agreement, dated as of [●] (the "**Financing Agreement**"), by and among the Company, the Holder and the other parties thereto. Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Financing Agreement.

1. Definitions. As used in this Warrant, the following terms have the respective meanings set forth below:

"**Adjusted Exercise Price**" has the meaning set forth in Section 3(b)(ii).

"**Aggregate Exercise Price**" has the meaning set forth in Section 3(a).

"**Applicable Price**" has the meaning set forth in Section 4(a).

"**Authorization Failure Shares**" has the meaning set forth in Section 3(f).

"**Authorized Share Failure**" has the meaning set forth in Section 3(f).

"**Black Scholes Value**" means the value of the unexercised portion of this Warrant remaining on the date of the Holder's request pursuant to Section 6(b) which value is calculated using the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg utilizing (a) an underlying price per share equal to the greater of (i) the highest Closing Sale Price of the Common Stock during the period beginning on the Trading Day immediately preceding the earlier to occur of (A) the public announcement of the applicable Fundamental Transaction or (B) the consummation of the applicable Fundamental Transaction, and ending on the Trading Day of the Holder's request pursuant to Section 6(b) and (ii) the sum of the price per share being offered in cash in the applicable Fundamental Transaction, if any, plus the value of the non-cash consideration being offered in the applicable Fundamental Transaction, if any, (b) a strike price equal to the Exercise Price in effect on the date of the Holder's request pursuant to Section 6(b), (c) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the greater of (i) the remaining term of this Warrant as of the date of the Holder's request pursuant to Section 6(b) and (ii) the remaining term of this Warrant as of the date of consummation of the applicable Fundamental Transaction or as of the date of the Holder's request pursuant to Section 6(b) if such request is prior to the date of the consummation of the applicable Fundamental Transaction, (d) a zero cost of borrow, and (e) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the "HVT" function on Bloomberg (determined utilizing a 365 day annualization factor) as of the Trading Day immediately following the earliest to occur of (i) the public disclosure of the applicable Fundamental Transaction and (ii) the consummation of the applicable Fundamental Transaction.

"**Bloomberg**" means Bloomberg Financial Markets.

"**Board**" means the board of directors of the Company.

"**Business Day**" means any day, except a Saturday, Sunday or legal holiday, on which banking institutions in the city of New York are authorized or obligated by law or executive order to close.

"**Buy-In Price**" has the meaning set forth in Section 3(c).

"**Cashless Exercise**" has the meaning set forth in Section 3(d).

"**Closing Bid Price**" and "**Closing Sale Price**" means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or the last trade price, respectively, of such security prior to 4:00:00 p.m., New York time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Closing Bid Price or Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 12. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or other similar transaction during the applicable calculation period.

"**Common Stock**" means the common stock, par value $.001 per share, of the Company, and any capital stock into which such Common Stock shall have been converted, exchanged or reclassified following the date hereof.

"**Company**" has the meaning set forth in the preamble.

"**Convertible Securities**" means any stock or securities (directly or indirectly) convertible into or exercisable or exchangeable for Common Stock, but excluding Options.

"**Corporate Event**" has the meaning set forth in Section 6(a).

"**DTC**" has the meaning set forth in Section 3(a).

"**Dilutive Issuance**" has the meaning set forth in Section 4(a).

"**Distribution**" has the meaning set forth in Section 5.

"**Excluded Issuances**" means any issuance or sale (or deemed issuance or sale in accordance with Section 4) by the Company after the Original Issue Date of shares of Common Stock issued or issuable with respect to any of the following: (a) upon conversion of the Note or the Prior Convertible Notes; (b) upon exercise each of the following warrants which were issued as of the date hereof: (i) this Warrant, (ii) the New Warrants (as defined in the Allonge to the Prior Senior Convertible Notes); and (iii) the warrants to be issued to the Placement Agent; (c) interest on the Note or Prior Senior Convertible Notes as a result of in kind payments of Common Stock in lieu of cash; (d) upon exercise of the existing warrants to the extent outstanding as of the Original Issue Date, including, without limitation: (i) the warrants issued in connection with the Prior Convertible Notes; (ii) the warrants issued to each of Arthur Peterson and James Stanley on September 19, 2013; and (iii) the warrants issued to View Trade Securities, Inc. between July 30, 2013 and May 8, 2014 to purchase up to an aggregate of 572,750 shares of Common Stock at an exercise price of $0.50 per share; (e) pursuant to the existing employment agreements with each of R. Alan Kelley, John F. Norris, Jr., Richard H. Gross and Marc Sylvester (the "**Executive Employment Agreements**"); (f) upon exercise of the following existing options to the extent outstanding as of the Original Issue Date: (i) the options issued pursuant to the 2005 Stock Option Plan (as amended in 2009); (ii) the options issued in connection with the Executive Employment Agreements; and (iii) the options issued to each of Keith McGee and Jim Trettel on January 1, 2014 (the forgoing clauses (a) through (f) collectively, the "**Existing Issuance Obligations**"); (g) in connection with the acquisition of any interest in an entity not affiliated with the Company (whether by merger, purchase of substantially all of the assets, purchase of stock or other otherwise) which is consented to by the Holder; and (h) pursuant to or in connection with any strategic alliance, joint venture or corporate partnership, each with an entity not affiliated with the Company which is consented to by the Holder. Notwithstanding the foregoing, if the total amount of consideration provided for in any Existing Issuance Obligation, or the additional consideration, if any, payable upon the exercise of any Existing Issuance Obligation decreases at any time or from time to time following the Original Issue Date (an "**Existing Issuance Adjustment**", and the resulting difference, an "**Existing Issuance Shortfall**"), then the amount of Common Stock that could have been purchased with the Existing Issuance Shortfall prior to the Existing Issuance Adjustment shall be excluded from the foregoing definition of Excluded Issuances. By way of example and not by way of limitation, if on the Original Issue Date there is an existing outstanding warrant to purchase 100 shares of Common Stock at an exercise price of $0.50 per share, which exercise price is adjusted after the Original Issue Date to $0.40 per share (an Existing Issuance Adjustment), the resulting Existing Issuance Shortfall would be $10.00, and the amount of Common Stock that could have been purchased with the Existing Issuance Shortfall prior to the Existing Issuance Adjustment ($10.00 divided by an exercise price of $0.50 per share, which yields 20 shares of Common Stock) shall be excluded from the foregoing definition of Excluded Issuances.

"**Exercise Date**" means, for any given exercise of this Warrant, the date on which the conditions to such exercise as set forth in Section 3 shall have been satisfied at or prior to 11:59 p.m., New York time, on a Business Day, including, without limitation, the receipt by the Company of the Exercise Notice, the Warrant and the Aggregate Exercise Price.

"**Exercise Notice**" has the meaning set forth in Section 3(a).

"**Exercise Price**" shall mean either the Initial Exercise Price or the Adjusted Exercise Price, each as may be adjusted in accordance with the terms set forth in this Agreement.

"**Exercise Price Adjustment Date**" has the meaning set forth in Section 3(b)(ii).

"**Financing Agreement**" has the meaning set forth in the preamble.

"**Financing Securities**" means the Notes issued pursuant to the Financing Agreement.

"**Fundamental Transaction**" means one or more related transactions in which (a) Company or any of its Subsidiaries shall, directly or indirectly: (i) consolidate or merge with or into (whether or not Company or one or more of the Subsidiaries are the surviving corporation) another Person, (ii) sell, assign, transfer, lease, license, convey or otherwise dispose of all or substantially all of the properties or assets of Company or one or more of the Subsidiaries (to the extent that such Subsidiary sale would comprise all or substantially all of the assets of the Company and its Subsidiaries on a consolidated basis) to another Person, (iii) allow another Person to make a purchase, tender or exchange offer that is accepted by the holders of more than fifty percent (50%) of the outstanding shares of Common Stock or other equity interests (not including any shares of Common Stock of other equity interests held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), (iv) consummate a stock purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than fifty percent (50%) of the outstanding shares of Common Stock or equity interests of the Company or any of the Subsidiaries (provided that if such transaction is with Holder or its Affiiliates, then the shares of Common Stock purchasable from conversion of the Note or exercise of this Warrant shall not be included in the shares to be acquired for purposes of such event being a Fundamental Transaction) or (v) reorganize, recapitalize or reclassify its Common Stock or other equity interests, (b) that with respect to Company, any "person" or "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act) is or shall become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of fifty percent (50%) of the aggregate ordinary voting power represented by issued and outstanding Common Stock, or (c) the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which be defective or inconsistent with the intended treatment of such instrument or transaction.

"**Group**" means a "group" as that term is used in Section 13(d) of the 1934 Act and as defined in Rule 13d-5 thereunder.

"**Holder**" has the meaning set forth in the preamble.

"**Initial Exercise Price**" has the meaning set forth in Section 3(b)(i).

"**Minimum Ownership Percentage**" has the meaning set forth in Section 4(f).

"**Options**" means any warrants or other rights or options to subscribe for or purchase Common Stock or Convertible Securities.

"**Original Issue Date**" means [●], the date on which the Warrant was issued by the Company pursuant to the Financing Agreement.

"**Ownership Percentage Adjustment**" has the meaning set forth in Section 4(f).

"**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person, including such entity whose common shares or common stock or equivalent equity security is quoted or listed on an Eligible Market (or, if so elected by the Holder, any other market, exchange or quotation system), or, if there is more than one such Person or such entity, the Person or such entity designated by the Holder or in the absence of such designation, such Person or entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

"**Person**" means any individual, sole proprietorship, partnership, limited liability company, corporation, joint venture, trust, unincorporated organization or any other entity and a government or department or agency thereof.

"**Principal Market**" means the OTC QB.

"**Purchase Rights**" has the meaning set forth in Section 6.

"**Required Reserve Amount**" has the meaning set forth in Section 3(f).

"**Share Delivery Date**" has the meaning set forth in Section 3(a).

"**Successor Capital Stock**" has the meaning set forth in Section 6(a).

"**Successor Entity**" means one or more Person or Persons (or, if so elected by the Holder, the Company or Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or one or more Person or Persons (or, if so elected by the Holder, the Company or the Parent Entity) with which such Fundamental Transaction shall have been entered into.

"**Trading Day**" means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market on which the Common Stock is then traded; *provided* that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York time).

"**Transfer Agent**" has the meaning set forth in Section 3(a).

"**Unavailable Warrant Shares**" has the meaning set forth in Section 3(c).

"**Valuation Event**" has the meaning set forth in Section 4(b)(iv).

"**Warrant**" has the meaning set forth in the preamble.

"**Warrant Shares**" means the shares of Common Stock or other capital stock of the Company then purchasable upon exercise of this Warrant in accordance with the terms of this Warrant.

2. Term of Warrant. Subject to the terms and conditions hereof, at any time or from time to time on or after the Original Issue Date and until 11:59 p.m., New York time, on the fifth anniversary of the Original Issue Date or, if such day is not a Business Day or Trading Day, on the next preceding Business Day or Trading Day, the Holder hereof may exercise this Warrant for all or any part of the Warrant Shares purchasable hereunder (subject to adjustment as provided herein).

3. Exercise of Warrant.

(a) **Mechanics of Exercise**. Subject to the terms and conditions hereof, this Warrant may be exercised by the Holder at any time or times on or after the Original Issue Date, in whole or in part, by (i) delivery of a written notice, in the form attached hereto as Exhibit A (the "**Exercise Notice**"), of the Holder's election to exercise this Warrant and (ii) (A) payment to the Company of an amount equal to the applicable Exercise Price multiplied by the number of Warrant Shares as to which this Warrant is being exercised (the "**Aggregate Exercise Price**") in cash by wire transfer of immediately available funds, or (B) if the provisions of Section 3(d) are applicable, by notifying the Company that this Warrant is being exercised pursuant to a Cashless Exercise. The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder. Execution and delivery of the Exercise Notice with respect to less than all of the Warrant Shares shall have the same effect as cancellation of the original Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. On or before the first (1st) Trading Day following the date on which the Company has received the Exercise Notice, the Company shall transmit by facsimile an acknowledgment of confirmation of receipt of the Exercise Notice to the Holder and the Company's transfer agent (the "**Transfer Agent**"). On or before the third (3rd) Trading Day following the date on which the Company has received the Exercise Notice, so long as the Holder delivers the Aggregate Exercise Price (or notice of a Cashless Exercise) on or prior to the second (2nd) Trading Day following the date on which the Company has received the Exercise Notice (the "**Share Delivery Date**") (provided that if the Aggregate Exercise Price has not been delivered by such date, the Share Delivery Date shall be one (1) Trading Day after the Aggregate Exercise Price (or notice of a Cashless Exercise) is delivered), the Company shall (X) provided that the Transfer Agent is participating in The Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program, credit such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit / Withdrawal At Custodian system, or (Y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to the address as specified in the Exercise Notice, a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise. The Company shall be responsible for all fees and expenses of the Transfer Agent and all fees and expenses with respect to the issuance of Warrant Shares via DTC, if any. Upon delivery of the Exercise Notice, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date such Warrant Shares are credited to the Holder's DTC account or the date of delivery of the certificates evidencing such Warrant Shares, as the case may be. If this Warrant is submitted in connection with any exercise pursuant to this Section 3(a) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise, then the Company shall as soon as practicable and in no event later than three (3) Trading Days after any exercise and at its own expense, issue a new Warrant representing the right to purchase the number of Warrant Shares issuable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional Warrant Shares are to be issued upon the exercise of this Warrant, but rather the number of Warrant Shares to be issued shall be rounded up to the nearest whole number. The Company shall pay any and all taxes which may be payable with respect to the issuance and delivery of Warrant Shares upon exercise of this Warrant. The Company's obligations to issue and deliver Warrant Shares in accordance with the terms and subject to the conditions hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination.

(b) **Exercise Price**.

(i) Initial Exercise Price. Unless adjusted in accordance with subsection (ii) below, this Warrant may be exercised at a price equal to $1.00 per share (referred to herein as the "**Initial Exercise Price**"), as the same may be adjusted proportionately from time to time upon the occurrence of the adjustment events set forth in Section 4 below.

(ii) Adjusted Exercise Price. In the event the Company's EBITDA (as defined in, and calculated and interpreted in accordance with, the Financing Agreement) is less than $2,500,000 for the twelve-month period ended December 31, 2015 then, as of the date of the filing of the Company's Annual Report on Form 10-K for such fiscal period (referred to herein as the "**Exercise Price Adjustment Date**"), the Initial Exercise Price shall automatically be reduced, without any further action on the part of the Company or the Holder, to $0.75 per share (the "**Adjusted Exercise Price**"). The Adjusted Exercise Price shall be deemed to have been the Exercise Price in effect for this Warrant from the Original Issue Date, and shall be further adjusted as provided herein for all events requiring adjustment after the Original Issue Date, and, if applicable, shall thereafter be adjusted proportionately from time to time upon the occurrence of the adjustment events set forth in Section 4 after the Exercise Price Adjustment Date. Notwithstanding the forgoing, no adjustment shall be made by operation of this Section 3(b)(ii) if such adjustment would result in a decrease in the number of Warrant Shares.

(c) **Company's Failure to Timely Deliver Securities**. If the Company shall fail for any reason or for no reason to issue to the Holder on or prior to the Share Delivery Date either (i) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, a certificate for the number of shares of Common Stock to which the Holder is entitled and register such shares of Common Stock on the Company's share register or if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program, to credit the Holder's balance account with DTC, for such number of shares of Common Stock to which the Holder is entitled upon the Holder's exercise of this Warrant, or (ii) if any required Registration Statement (as defined in the Investor/Registration Rights Agreement) covering the resale of the Warrant Shares that are the subject of the Exercise Notice (the "**Unavailable Warrant Shares**") is not available for the resale of such Unavailable Warrant Shares and the Company fails to promptly, but in no event later than as required pursuant to the Investor/Registration Rights Agreement (A) so notify the Holder and (B) deliver the Warrant Shares electronically without any restrictive legend by crediting such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit/Withdrawal At Custodian system, and if on or after such Trading Day the Holder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Holder of shares of Common Stock issuable upon such exercise that the Holder anticipated receiving from the Company, then the Company shall, within three (3) Trading Days after the Holder's request and in the Holder's discretion, either (i) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (the "**Buy-In Price**"), at which point the Company's obligation to deliver such certificate (and to issue such shares of Common Stock) or credit such Holder's balance account with DTC for such shares of Common Stock shall terminate, or (ii) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such shares of Common Stock or credit such Holder's balance account with DTC, as applicable, and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of shares of Common Stock, times (B) any trading price of the Common Stock selected by the Holder in writing as in effect at any time during the period beginning on the applicable Exercise Date and ending on the applicable Share Delivery Date. Nothing shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity, including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock (or to electronically deliver such shares of Common Stock) upon the exercise of this Warrant as required pursuant to the terms hereof.

(d) **Cashless Exercise**. Notwithstanding anything contained herein to the contrary, the Holder may, in its sole discretion, exercise this Warrant in whole or in part and, in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise in payment of the Aggregate Exercise Price, elect instead to receive upon such exercise the "Net Number" of shares of Common Stock determined according to the following formula (a "**Cashless Exercise**"):

$$\text{Net Number} = \frac{Y (A - B)}{A}$$

For purposes of the foregoing formula

Y = the total number of shares with respect to which this Warrant is then being exercised.
A = the Closing Sale Price of one share of Common Stock on the Trading Day immediately preceding the date of the applicable Exercise Notice
B = the Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

For purposes of Rule 144(d) promulgated under the 1933 Act, as in effect on the date hereof, it is intended that the Warrant Shares issued in a Cashless Exercise shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the Original Issue Date.

(e) **Disputes**. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall promptly issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 12.

(f) **Insufficient Authorized Shares**. If at any time while this Warrant remains outstanding the Company does not have a sufficient number of authorized and unreserved shares of Common Stock to satisfy its obligation to reserve for issuance upon exercise of this Warrant at least a number of shares of Common Stock equal to 100% of the number of shares of Common Stock as shall from time to time be necessary to effect the exercise of all of this Warrant then outstanding (the "**Required Reserve Amount**" and the failure to have such sufficient number of authorized and unreserved shares of Common Stock, an "**Authorized Share Failure**"), then the Company shall immediately take all action necessary to increase the Company's authorized shares of Common Stock to an amount sufficient to allow the Company to reserve the Required Reserve Amount for this Warrant then outstanding. Without limiting the generality of the foregoing, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than sixty (60) days after the occurrence of such Authorized Share Failure, the Company shall hold a meeting of its shareholders for the approval of an increase in the number of authorized shares of Common Stock. In connection with such meeting, the Company shall provide each shareholder with a proxy statement and shall use its best efforts to solicit its shareholders' approval of such increase in authorized shares of Common Stock and to cause its Board to recommend to the shareholders that they approve such proposal. Notwithstanding the foregoing, if any such time of an Authorized Share Failure, the Company is able to obtain the written consent of a majority of the shares of its issued and outstanding Common Stock to approve the increase in the number of authorized shares of Common Stock, the Company may satisfy this obligation by obtaining such consent and submitting for filing with the SEC an Information Statement on Schedule 14C. In the event that upon any exercise of this Warrant, the Company does not have sufficient authorized shares to deliver in satisfaction of such exercise (such unavailable number of shares of Common Stock, the "**Authorization Failure Shares**"), then unless the Holder elects to void such attempted exercise, the Holder may require the Company to pay to the Holder, within three (3) Trading Days of the applicable exercise, in lieu of delivering such Authorization Failure Shares, cash in an amount equal to the sum of (i) the product of (A) such number of Authorization Failure Shares and (B) the greatest Closing Sale Price of the shares of Common Stock on any Trading Day during the period commencing on the date the Holder delivers the applicable Exercise Notice with respect to such Authorization Failure Shares to the Company and ending on the date of such issuance and payment under this Section 3(f) and (ii) to the extent the Holder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Holder of Authorization Failure Shares, any brokerage commissions and other out-of-pocket expenses, if any, incurred by the Holder in connection therewith.

4. Certain Adjustment Events. In order to prevent dilution of the purchase rights granted under this Warrant, the number of Warrant Shares issuable upon exercise of this Warrant shall be adjusted from time to time as set forth in this Section 4; *provided* that this Section 4 will not apply to the issuance or sale of shares of Common Stock owned or held by or for the account of the Company or deemed to have been issued or sold by the Company in connection with any Excluded Issuances.

(a) **Adjustment to Number of Warrant Shares Upon Issuance of Common Stock**. Except in the case of an event described in Sections 4(d) or 6(a), if and whenever on or after the Original Issue Date, the Company issues or sells, or in accordance with this Section 4(a) is deemed to have issued or sold, any shares of Common Stock without consideration or for consideration per share less than a price (the "**Applicable Price**") equal to the Exercise Price in effect immediately prior to such issue or sale or deemed issuance or sale (the foregoing a "**Dilutive Issuance**"), then immediately following such Dilutive Issuance, the number of Warrant Shares issuable upon exercise of this Warrant shall be increased to a number equal to the product obtained by multiplying (i) the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such Dilutive Issuance, by (ii) a fraction (which shall in no event be less than one) (A) the numerator of which shall be the number of shares of Common Stock then outstanding immediately after such Dilutive Issuance; and (B) the denominator of which shall be the sum of (1) the number of shares of Common Stock then outstanding immediately prior to such Dilutive Issuance plus (2) the aggregate number of shares of Common Stock which the aggregate amount of consideration, if any, received by Company upon such Dilutive Issuance would purchase at the Applicable Price.

(b) **Effect of Certain Adjustment Events on Adjustment to Number of Warrant Shares**. For purposes of determining the adjusted number of Warrant Shares under Section 4(a), the following shall be applicable:

(i) Issuance of Options. If the Company in any manner grants or sells any Options and the price per share (determined in accordance with Section 4(b)(v)) for which Common Stock is issuable upon the exercise of such Options, or upon conversion, exercise or exchange of Convertible Securities issuable upon exercise of such Options, is less than the Applicable Price, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options, or upon conversion, exercise or exchange of the total maximum amount of Convertible Securities issuable upon exercise of such Options, shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the grant or sale of such Options at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 4(a)) of (1) the total amount, if any, received or receivable by Company as consideration for the grant or sale of all such Options, plus (2) the minimum aggregate amount of additional consideration payable to Company upon the exercise of all such Options, plus (3), in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to Company upon the issuance or sale of all such Convertible Securities and the conversion, exercise or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the exercise of all such Options or upon the conversion, exercise or exchange of all Convertible Securities issuable upon the exercise of all such Options. Except as contemplated in Section 4(b)(iii), no further adjustment of the number of Warrant Shares shall be made upon the actual issuance of such shares of Common Stock or of such Convertible Securities upon the exercise of such Options or upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities issuable upon exercise of such Options.

(ii) Issuance of Convertible Securities. If the Company in any manner issues or sells any Convertible Securities and the price per share (determined in accordance with Section 4(b)(v)) for which Common Stock is issuable upon the conversion, exercise or exchange of such Convertible Securities is less than the Applicable Price, then the total maximum number of shares of Common Stock issuable upon conversion, exercise or exchange of such Convertible Securities shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 4(a)) of (1) the total amount, if any, received or receivable by Company as consideration for the grant or sale of such Convertible Securities, plus (2) the minimum aggregate amount of additional consideration payable to Company upon the conversion, exercise or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the conversion, exercise or exchange of all such Convertible Securities. Except as contemplated in Section 4(b)(iii), no further adjustment of the number of Warrant Shares shall be made upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of this Warrant has been or is to be made pursuant to other provisions of this Section 4(a), no further adjustment of the number of Warrant Shares shall be made by reason of such issuance or sale.

(iii) Change in Terms of Options or Convertible Securities. If the total amount of consideration provided for in any Options or Convertible Securities, the additional consideration, if any, payable upon the exercise of any Options or upon issue, conversion, exercise or exchange of any Convertible Securities, the rate at which any Convertible Securities are convertible into or exercisable or exchangeable for shares of Common Stock, or the maximum number of shares of Common Stock issuable in connection with any Options or Convertible Securities increases or decreases at any time, then the number of Warrant Shares issuable upon exercise of this Warrant at the time of such increase or decrease shall be adjusted to the number of Warrant Shares, which would have been in effect at such time had such Options or Convertible Securities still outstanding provided for such increased or decreased consideration, additional consideration, increased or decreased conversion rate or maximum number of shares, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 4(b)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Original Issue Date are increased or decreased in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease. No adjustment pursuant to this Section 4(b)(iii) shall be made if such adjustment would result in a decrease of the number of Warrant Shares.

(iv) Treatment of Expired or Terminated Options or Convertible Securities. Upon expiration or termination of all or portion of any unexercised Option or all or any portion of any unconverted or unexchanged Convertible Security, for which any adjustment was made pursuant to this Section 4 (including, without limitation, upon redemption or purchase for consideration of all or any portion of such Option or Convertible Security by Company), the number of Warrant Shares then issuable upon exercise of this Warrant shall forthwith be changed pursuant to the provisions of this this Section 4 to that number of Warrant Shares which would have been in effect at the time of such expiration or termination had such unexercised Option, or any portion thereof, or such unconverted or unexchanged Convertible Security, or any portion thereof, to the extent outstanding immediately prior to such expiration or termination, never been issued; *provided* that this Section 4(b)(iv) will not apply to the extent the Warrant is exercised.

(v) Calculation of Consideration Received. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for no specially allocated consideration in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction, the amount of consideration therefor shall be deemed to be the fair value of such portion of the aggregate consideration received by the Company in such transaction as is attributable to such shares of Common Stock, Options or Convertible Securities, as the case may be. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration therefor will be deemed to be the net amount received by the Company therefor. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company will be the Closing Sale Price of such publicly traded securities on the date of receipt. If any shares of Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options or Convertible Securities, as the case may be. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Company and the Holder. If such parties are unable to reach agreement within ten (10) days after the occurrence of an event requiring valuation (the "**Valuation Event**"), the fair value of such consideration will be determined within five (5) Business Days after the tenth (10th) day following the Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holder. The determination of such appraiser shall be final and binding upon all parties absent manifest error and the fees and expenses of such appraiser shall be borne by the Company.

(vi) Record Date. If the Company shall take a record of the holders of its Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities or (B) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(c) **Voluntary Adjustment By Company**. The Company may at any time during the term of this Warrant, with the prior written consent of the Holder, reduce the then current Exercise Price to any amount and for any period of time deemed appropriate by the Board of the Company

(d) **Adjustments Upon Subdivision or Combination of Shares of Common Stock**. If the Company at any time on or after the Original Issue Date subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision will be proportionately reduced and the number of Warrant Shares will be proportionately increased. If the Company at any time on or after the Original Issue Date combines (by combination, reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Exercise Price in effect immediately prior to such combination will be proportionately increased and the number of Warrant Shares will be proportionately decreased. Any adjustment under this Section 4(d) shall become effective at the close of business on the date the subdivision or combination becomes effective.

(e) **Certain Events.** In the event that the Company (or any of the Company's Subsidiaries) shall take any action to which the provisions hereof are not strictly applicable, or, if applicable, would not operate to protect the Holder from dilution or if any event occurs of the type contemplated by the provisions of this Section 4 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Company's Board shall in good faith determine and implement an appropriate adjustment in the Exercise Price and the number of Warrant Shares (if applicable) so as to protect the rights of the Holder; *provided* that no such adjustment pursuant to this Section 4(e) will increase the Exercise Price or decrease the number of Warrant Shares as otherwise determined pursuant to this Section 4; *provided further* that if the Holder does not accept such adjustments as appropriately protecting its interests hereunder against such dilution, then the Company's Board and the Holder shall agree, in good faith, upon an independent investment bank of nationally recognized standing to make such appropriate adjustments, whose determination shall be final and binding and whose fees and expenses shall be borne by the Company.

(f) **Additional Adjustments to Maintain Minimum Ownership Percentage of Warrant Coverage.** The Company hereby agrees that, on the initial Exercise Date, the aggregate number of Warrant Shares purchasable upon exercise of this Warrant shall not be less than an amount equal to fifteen percent (15%) of the aggregate number of then outstanding shares of capital stock of the Company (as determined on a fully diluted basis) (the "**Minimum Ownership Percentage**"). If on the initial Exercise Date the aggregate number of Warrant Shares purchasable upon exercise of this Warrant would yield less than the Minimum Ownership Percentage, then the number of Warrant Shares shall be increased to preserve the Minimum Ownership Percentage and the Exercise Price in effect immediately prior to such increase shall be proportionately reduced so as to protect the economic value of this Warrant (an "**Ownership Percentage Adjustment**"). On or within three (3) Trading Days of the initial Exercise Date, the Company shall notify the Holder of any Ownership Percentage Adjustment, with such notice to serve as an addendum to this Warrant. Following the Ownership Percentage Adjustment, if any, there shall be no further adjustments made pursuant to this Section 4(f). However, for the avoidance of doubt, the remaining provisions of this Warrant that impact adjustments shall remain in full force and effect.

5. Other Distributions. If the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property, options, evidence of indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "**Distribution**"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution.

6. Fundamental Transactions; Black Scholes Redemption Right.

(a) **Fundamental Transactions.** The Company shall not enter into or be party to a Fundamental Transaction unless (i) the Successor Entity assumes in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 6(a) pursuant to written agreements in form and substance satisfactory to the Holder and approved by the Holder prior to such Fundamental Transaction, including agreements, if so requested by the Holder, to deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant, including, without limitation, which is exercisable for a corresponding number of shares of capital stock of the Successor Entity (the "**Successor Capital Stock**") equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant prior to such Fundamental Transaction, and satisfactory to the Holder, and with an exercise price which applies the Exercise Price hereunder to such shares of Successor Capital Stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of Successor Capital Stock, such adjustments to the number of shares of Successor Capital Stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the occurrence or consummation of such Fundamental Transaction), and (ii) the Successor Entity (including its Parent Entity) is a publicly traded corporation whose common stock is quoted on or listed for trading on an Eligible Market. Upon the consummation of each Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of the applicable Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Upon consummation of each Fundamental Transaction, the Successor Entity shall deliver to the Holder confirmation that there shall be issued upon exercise of this Warrant at any time after the consummation of the Fundamental Transaction, as elected by the Holder solely at its option, shares of Common Stock, Successor Capital Stock or, in lieu of the shares of Common Stock or Successor Capital Stock (or other securities, cash, assets or other property purchasable upon the exercise of this Warrant prior to such Fundamental Transaction), such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights), which for purposes of clarification may continue to be shares of Common Stock, if any, that the Holder would have been entitled to receive upon the happening of such Fundamental Transaction or the record, eligibility or other determination date for the event resulting in such Fundamental Transaction, had this Warrant been exercised immediately prior to such Fundamental Transaction or the record, eligibility or other determination date for the event resulting in such Fundamental Transaction, as adjusted in accordance with the provisions of this Warrant. In addition to and not in substitution for any other rights hereunder, prior to the occurrence or consummation of any Fundamental Transaction pursuant to which holders of shares of Common Stock are entitled to receive securities, cash, assets or other property with respect to or in exchange for shares of Common Stock (a "**Corporate Event**"), the Company shall make appropriate provision to insure that, and any applicable Successor Entity shall ensure that, and it shall be a required condition to the occurrence or consummation of such Corporate Event that, the Holder will thereafter have the right to receive upon exercise of this Warrant at any time after the occurrence or consummation of the Corporate Event, shares of Common Stock or Successor Capital Stock or, if so elected by the Holder, in lieu of the shares of Common Stock (or other securities, cash, assets or other property) purchasable upon the exercise of this Warrant prior to such Corporate Event (but not in lieu of such items still issuable under Sections 5 and 6(a), which shall continue to be receivable on the Common Stock or on the such shares of stock, securities, cash, assets or any other property otherwise receivable with respect to or in exchange for shares of Common Stock), such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights and any shares of Common Stock) which the Holder would have been entitled to receive upon the occurrence or consummation of such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event, had this Warrant been exercised immediately prior to such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event. Provision made pursuant to the preceding sentence shall be in a form and substance reasonably satisfactory to the Holder. The provisions of this Section 6(a) shall apply similarly and equally to successive Fundamental Transactions and Corporate Events.

(b) **Black Scholes Redemption Right**. Notwithstanding the provisions of Section 6(a) above, in the event of the consummation of a Fundamental Transaction that is an all-cash transaction, a "Rule 13e-3 transaction" as defined in Rule 13e-3 under the 1934 Act or a Fundamental Transaction involving a Successor Entity not traded on an Eligible Market, then at the request of the Holder delivered at any time commencing on the earliest to occur of (i) the public disclosure of the Fundamental Transaction or (ii) the consummation of the Fundamental Transaction, through the date that is ninety (90) days after the public disclosure of the consummation of such Fundamental Transaction by the Company pursuant to a Current Report on Form 8-K filed with the SEC, the Company or the Successor Entity, as the case may be, shall purchase this Warrant from the Holder on the later of (x) the date of consummation of the Fundamental Transaction and (y) the fifth Trading Day following the date of such request, in each case by paying to the Holder cash in an amount equal to the Black Scholes Value.

7. Transfer of Warrant. Subject to the transfer conditions referred to in the legend endorsed hereon, this Warrant and all rights hereunder are transferable, in whole or in part, by the Holder without charge to the Holder, upon surrender of this Warrant to the Company at its then principal executive offices, whereupon the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denominations as the Holder may request, and shall issue to the Holder a new Warrant evidencing the portion of this Warrant, if any, not so assigned and this Warrant shall promptly be cancelled.

8. Holder Not Deemed a Stockholder; Limitations on Liability. Except as otherwise specifically provided herein, prior to the issuance to the Holder of the Warrant Shares to which the Holder is then entitled to receive upon the due exercise of this Warrant, the Holder shall not be entitled to vote or receive dividends or be deemed the holder of shares of capital stock of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, as such, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a stockholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 8, the Company shall provide the Holder with copies of the same notices and other information given to the stockholders of the Company generally, contemporaneously with the giving thereof to the stockholders.

9. Replacement on Loss; Division and Combination.

(a) **Replacement of Warrant on Loss**. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and upon delivery of an indemnity reasonably satisfactory to it (it being understood that a written indemnification agreement or affidavit of loss of the Holder shall be a sufficient indemnity) and, in case of mutilation, upon surrender of such Warrant for cancellation to the Company, the Company at its own expense shall execute and deliver to the Holder, in lieu hereof, a new Warrant of like tenor and exercisable for an equivalent number of Warrant Shares as the Warrant so lost, stolen, mutilated or destroyed; *provided*, that, in the case of mutilation, no indemnity shall be required if this Warrant in identifiable form is surrendered to the Company for cancellation.

(b) **Division and Combination of Warrant**. Subject to compliance with the applicable provisions of this Warrant as to any transfer or other assignment which may be involved in such division or combination, this Warrant may be divided or, following any such division of this Warrant, subsequently combined with other Warrants, upon the surrender of this Warrant or Warrants to the Company at its then principal executive offices, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the respective Holders or their agents or attorneys. Subject to compliance with the applicable provisions of this Warrant as to any transfer or assignment which may be involved in such division or combination, the Company shall at its own expense execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants so surrendered in accordance with such notice. Such new Warrant or Warrants shall be of like tenor to the surrendered Warrant or Warrants and shall be exercisable in the aggregate for an equivalent number of Warrant Shares as the Warrant or Warrants so surrendered in accordance with such notice.

10. No Impairment. The Company hereby covenants and agrees that the Company will not, by amendment of its Articles of Incorporation or Bylaws, or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all of the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (a) shall not increase the par value of any shares of Common Stock receivable upon the exercise of this Warrant above the Exercise Price then in effect, (b) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock upon the exercise of this Warrant, and (c) shall, so long as any of the Warrants are outstanding, take all action necessary to reserve and keep available out of its authorized and unissued shares of Common Stock, solely for the purpose of effecting the exercise of the Warrants, 100% of the number of shares of Common Stock as shall from time to time be necessary to effect the exercise of the Warrants then outstanding.

11. Notices.

(a) **Notification of Certain Events**. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant, including in reasonable detail a description of such action and the reason therefor. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon each adjustment of the Exercise Price and the number of Warrant Shares, setting forth in reasonable detail, and certifying, the calculation of such adjustment(s) and (ii) at least fifteen (15) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the shares of Common Stock, (B) with respect to any grants, issuances or sales of any Options, Convertible Securities or rights to purchase stock, warrants, securities or other property to holders of shares of Common Stock or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder and (iii) at least ten (10) Trading Days prior to the consummation of any Fundamental Transaction. It is expressly understood and agreed that the time of execution specified by the Holder in each Exercise Notice shall be definitive and may not be disputed or challenged by the Company.

(b) **Disclosure.** Upon receipt or delivery by the Company of any notice in accordance with the terms of this Warrant, unless the Company has in good faith determined that the matters relating to such notice do not constitute material, nonpublic information relating to the Company or its Subsidiaries, the Company shall within one (1) Business Day after any such receipt or delivery publicly disclose such material, nonpublic information on a Current Report on Form 8-K or otherwise. In the event that the Company believes that a notice contains material, nonpublic information relating to the Company or its Subsidiaries, the Company so shall indicate to such Holder contemporaneously with delivery of such notice, and in the absence of any such indication, the Holder shall be allowed to presume that all matters relating to such notice do not constitute material, nonpublic information relating to the Company or its Subsidiaries.

(c) **Form of Notice**. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Warrant must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (*provided*, confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) one Business Day after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:

If to the Company:

Midwest Energy Emissions Corp.
Attn: Alan Kelley, CEO
500 W Wilson Bridge Rd Ste 140
Worthington, OH 43085
Phone: (614) 505-6115 x104
Fax: (614) 505-7377
E-mail: akelley@midwestemissions.com

With a copy (for informational purposes only):

Taft Stettinius & Hollister LLP
Attn: Mitchell D. Goldsmith
111 E. Wacker Drive, Suite 2800
Chicago, Illinois 60601-3713
Phone: (312) 836-4006
Fax: (312) 275-7569
E-mail: mgoldsmith@taftlaw.com

If to the Holder:

AC Midwest Energy LLC
c/oAlterna Capital Partners LLC
Attn: Samir Patel
15 River Road, Suite 320
Wilton, Connecticut 06897
Phone: (203) 210-7672
Fax: (203) 563-9210
E-Mail: samir.patel@alternacapital.com

With copies to (for informational purposes only):

Levenfeld Pearlstein, LLC
Attn: David B. Solomon
2 North LaSalle Street-Suite 1300
Chicago, IL 60602
Phone: (312) 476-7526
Fax: (312) 346-8434
E-Mail: dsolomon@lplegal.com

and

Qashu & Schoenthaler LLP
Attn: Vanessa J. Schoenthaler
495 Madison Avenue, 12th Floor
New York, New York 10017
Phone: (646) 274-1450
Fax: (866) 313-3040
E-Mail: vschoenthaler@qsllp.com

or to such other address and/or facsimile number and/or email and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine containing the time, date, recipient facsimile number and an image of the first page of such transmission or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile, e-mail or receipt from an overnight courier service in accordance with clauses (i), (ii) or (iii) above, respectively.

12. Dispute Resolution. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within two (2) Business Days of receipt of the Exercise Notice giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation of the Exercise Price or the Warrant Shares within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two (2) Business Days submit via facsimile (a) the disputed determination of the Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company shall cause at its expense the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

13. Cumulative Remedies. Except to the extent expressly provided in Section 9 to the contrary, the rights and remedies provided in this Warrant are cumulative and are not exclusive of, and are in addition to and not in substitution for, any other rights or remedies available at law, in equity or otherwise.

14. Equitable Relief. Each of the Company and the Holder acknowledges that a breach or threatened breach by such party of any of its obligations under this Warrant would give rise to irreparable harm to the other party hereto for which monetary damages would not be an adequate remedy and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction.

15. Entire Agreement. This Warrant, together with the Financing Agreement and the other Transaction Documents, constitutes the sole and entire agreement of the parties to this Warrant with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Warrant, the Financing Agreement, or any of the other Transaction Documents, the statements in the body of this Warrant shall control.

16. Successor and Assigns. This Warrant and the rights evidenced hereby shall be binding upon and shall inure to the benefit of the parties hereto and the successors of the Company and the successors and permitted assigns of the Holder. Such successors and/or permitted assigns of the Holder shall be deemed to be a Holder for all purposes hereunder.

17. No Third-Party Beneficiaries. This Warrant is for the sole benefit of the Company and the Holder and their respective successors and, in the case of the Holder, permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Warrant.

18. Headings. The headings in this Warrant are for reference only and shall not affect the interpretation of this Warrant.

19. Amendment and Modification; Waiver. Except as otherwise provided herein, this Warrant may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by the Company or the Holder of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Warrant shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

20. Severability. If any term or provision of this Warrant is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Warrant or invalidate or render unenforceable such term or provision in any other jurisdiction.

21. Governing Law. This Warrant shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

22. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this Warrant or the transactions contemplated hereby may be instituted in the federal courts of the United States of America or the courts of the State of New York in each case located in the city of New York and County of New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by certified or registered mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or any proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

23. Waiver of Jury Trial. **EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS WARRANT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS WARRANT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

24. Counterparts/Electronic Signatures. This Warrant may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Warrant delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Warrant.

25. No Strict Construction. This Warrant shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Company has caused this Warrant to Purchase Common Stock to be duly executed on the Original Issue Date.

MIDWEST ENERGY EMISSIONS CORP.

By: _____
Name: _____
Title: _____

Accepted and Agreed:

AC MIDWEST ENERGY LLC

By: _____
Name: _____
Title: _____

Signature Page to Warrant

EXHIBIT A

EXERCISE NOTICE
TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS
WARRANT TO PURCHASE COMMON STOCK
MIDWEST ENERGY EMISSIONS CORP

The undersigned holder, pursuant to the provisions set forth in the attached Warrant (No.____), hereby exercised the right to purchase _____ shares of the Common Stock covered by such Warrant. Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Warrant.

1. Form of Exercise. The Holder intends that payment of the Exercise Price shall be made as:

_____ a "Cash Exercise" with respect to _____ Warrant Shares; and/or
_____ a "Cashless Exercise" with respect to _____ Warrant Shares.

2. Payment of Exercise Price. In the event that the holder has elected a Cash Exercise with respect to some or all of the Warrant Shares to be issued pursuant hereto, the holder shall pay the Aggregate Exercise Price in the sum of $_____ to the Company in accordance with the terms of the Warrant.

3. Delivery of Warrant Shares. The Company shall deliver to Holder, or its designee or agent as specified below, _____ Warrant Shares in accordance with the terms of the Warrant. Delivery shall be made to Holder, or for its benefit, as follows:

_____ Check here if requesting delivery as a certificate to the following name and to the following address:

Issue to: _____

_____

_____

_____ Check here if requesting delivery by Deposit/Withdrawal at Custodian as follows:

DTC Participant: _____

DTC Number: _____

Account Number: _____

Date: _____ __, _____

_____
Name of Registered Holder

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

The Company hereby acknowledges this Exercise Notice and hereby directs Transfer Online to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated _____ from the Company and acknowledged and agreed to by Transfer Online.

MIDWEST ENERGY EMISSIONS CORP.

By: _____
Name: _____
Title: _____

EXHIBIT 10.3

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (the "Agreement") is made as of August 14, 2014, by and among Midwest Energy Emissions Corp., a Delaware corporation ("MEEC"), MES, Inc., a North Dakota corporation ("MES", and collectively with MEEC, the "Debtors") and AC Midwest Energy LLC, a Delaware limited liability company (the "Lender").

PREAMBLE:

WHEREAS, Lender is purchasing a senior secured convertible note from MEEC in the original principal amount of the $10,000,000 (the "Note") pursuant to the terms of that certain Financing Agreement by and among the Lender and the Debtors dated as of the date hereof (as may be further amended, restated, supplemented or otherwise modified from time to time, the "Financing Agreement");

WHEREAS, pursuant to the terms of the Financing Agreement, the obligations of MEEC under the Note are guaranteed by MES; and

WHEREAS, as a condition precedent to executing the Financing Agreement and purchasing the Note, Lender has, among other things, required that this Agreement is executed and delivered by Debtors to Lender.

NOW, THEREFORE, in consideration of the premises which are incorporated herein by this reference and constitute an integral part hereof, the execution and delivery of this Agreement and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties agree as follows:

ARTICLE ONE. DEFINITIONS

SECTION 1.01. DEFINED TERMS. In addition to terms defined elsewhere in this Agreement or any exhibit hereto, when used herein, the following terms shall have the following meanings:

"Account Debtor" shall mean any Person who is or who may become obligated to Debtors under, with respect to, or on account of an Account Receivable or other Collateral.

"Accounts Receivable" shall mean any and all accounts (as such term is defined in the UCC) of Debtors and each and every right of Debtors to (i) the payment of money or (ii) the receipt or disbursement of products, goods, services or other valuable consideration, whether such right now exists or hereafter arises, whether such right arises out of a sale, lease or other disposition of Inventory, or out of a rendering of services, or out of a policy of insurance issued or to be issued, or from a secondary obligation or arising out of the use of a credit or charge card or information contained on or for use with such card, incurred or to be incurred, or any other transaction or event, whether such right is created, generated or earned by Debtors or by some other Person who subsequently transfers its interest to Debtors, whether such right is or is not already earned by performance, and howsoever such right may be evidenced, together with all other rights and interests (including all liens and security interests) which Debtors may at any time have by law or agreement against any Account Debtor or other Person obligated to make any such payment or against any property of such Account Debtor or other Person.

"Affiliate" shall mean individually, and "Affiliates" shall mean collectively, each Person which, directly or indirectly, owns or controls, on an aggregate basis, at least a five percent (5%) interest in any other Person, or which is controlled by or is under common control with any other Person.

"Collateral" shall mean all of Debtors' assets, howsoever arising, wherever located and whether now owned or existing or hereafter existing or acquired, including, but not limited to, the following:

(i) all Equipment including titled Vehicles;

(ii) all Accounts Receivable;

(iii) all Inventory;

(iv) any and all monies, reserves, deposits, deposit accounts, securities, cash, cash equivalents, balances, credits, and interest and dividends on any of the above, of or in the name of Debtors, now or hereafter with the Lender or any financial institution, and any and all other property of any kind and description of or in the name of Debtors, now or hereafter, for any reason or purpose whatsoever, in the possession or control of, or in transit to, the Lender or any agent or bailee for the Lender;

(v) all chattel paper, whether tangible or electronic chattel paper, contract rights, letter of credit rights, and instruments including, without limitation, all supporting obligations of any of the foregoing;

(vi) all General Intangibles;

(vii) all investment property;

(viii) all furniture and fixtures;

(ix) all documents of title and receipts, including, without limitation, all Vehicle Titles, whether negotiable or non-negotiable, including all goods covered by such documents;

(x) any and all substitutions, renewals, improvements, replacements, additions and proceeds of (i) through (ix) above, including, without limitation, proceeds of insurance policies.

"Collateral Locations" shall mean the locations set forth on Exhibit 1.01-A attached hereto.

"Equipment" shall mean all machinery and equipment owned by Debtors, wherever located, whether now owned or hereafter existing or acquired by Debtors, any embedded software thereon, any additions thereon, accessions thereto or replacements of parts thereof. Equipment shall include, without limitation, all titled Vehicles.

"General Intangibles" shall mean all general intangibles (as such term is defined in the UCC) owned by Debtors, including, but not limited to payment intangibles, goodwill, software, trademarks, trade names, licenses, patents, patent applications, copyrights, inventions, franchises, books and records of Debtors, designs, trade secrets, registrations, prepaid expenses, all rights to and payments of refunds, overpayments, rebates and return of monies, including, but not limited to, sales tax refunds, tax refunds, tax refund claims and rights to and payments of refunds, overpayments or overfundings under any pension, retirement or profit sharing plans and any guarantee, security interests or other security held by or granted to Debtors to secure payment by an Account Debtor of any of the Accounts Receivable.

"Inventory" shall mean any and all goods, finished goods, whole goods, materials, raw materials, work-in-progress, components or supplies, wheresoever located and whether now owned or hereinafter acquired and owned by Debtors, including, without limitation, goods, finished goods, whole goods, materials, raw materials, work-in-process, components or supplies in transit, wheresoever located, whether now owned or hereafter acquired by Debtors, which are held for demonstration, illustration, sale or lease, furnished under any contract of service or held as raw materials, work-in-process for manufacturing or processing or supplies for manufacturing or processing, and all materials used or consumed in the business of Debtors, and shall include such other property, the sale or disposition of which has given rise to an Accounts Receivable and which has been returned to or repossessed or stopped in transit by or on behalf of Debtors, but shall not include property owned by third parties in the possession of Debtors.

"Person" shall mean individually, and "Persons" shall mean collectively, any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity, party or government (whether national, federal, state, county, city, municipal or otherwise including, without limitation, any instrumentality, division, agency, body or department thereof).

"UCC" shall mean the Uniform Commercial Code as enacted and amended in the State of Illinois, and as may be further amended from time to time.

"Vehicle" shall mean individually and "Vehicles" shall mean collectively, any motor vehicle, tank trailers and chassis, wherever located, whether now owned or hereafter existing or acquired by Debtors, and all attachments and accessions thereto or replacements of parts thereof. A list of Vehicles in existence as of the date of this Agreement is attached hereto as Exhibit 1.01-B and made a part hereof.

"Vehicle Title" shall mean, individually, and "Vehicle Titles" shall mean, collectively, each of the titles issued for any Vehicle.

SECTION 1.02. OTHER TERMS. Accounting terms used in this Agreement which are not specifically defined shall have the meanings customarily given them in accordance with generally accepted accounting principles in effect from time to time. Terms used in this Agreement which are defined in the UCC, shall, unless the context indicates otherwise or are otherwise defined in this Agreement, have the meanings provided for by the UCC. Other capitalized terms used in this Agreement which are not specifically defined herein or in the UCC shall have the meanings set forth in the Financing Agreement.

ARTICLE TWO. COLLATERAL

SECTION 2.01. SECURITY INTERESTS. To secure payment of the Obligations, Debtors hereby irrevocably pledge, assigns, transfer, convey and set over to the Lender and hereby grants to the Lender a security interest in and to the Collateral, howsoever arising, wherever located and whether now owned or existing or hereafter existing or acquired. The parties acknowledge and agree that such security interest shall be subordinate to a first and paramount security interest of Lender in the Collateral, and prior to all other liens on the Collateral.

SECTION 2.02. PERFECTION AND FILING REQUIREMENTS. Debtors shall perform any and all acts requested by the Lender to establish, maintain and continue the Lender's security interests and liens in the Collateral, including but not limited to, executing financing statements, executing such documentation as may be necessary to issue Vehicle Titles for any Vehicle showing Lender's lien of record, and such other instruments and documents when and as reasonably requested by the Lender. Debtors hereby authorize Lender through any of Lender's employees, agents or attorneys to file any and all financing statements, including, without limitation, any continuations, transfers or amendments thereof required to perfect Lender's security interest and liens in the Collateral under the UCC without authentication or execution by Debtors.

SECTION 2.03. COLLECTION OF ACCOUNTS RECEIVABLE. Unless otherwise provided herein, Debtors may collect at Debtors' own expense the Accounts Receivable in the ordinary course of business; provided, however, that Debtors' authorization to collect the Accounts Receivable is subject to the following:

(A) The Lender, at any time after the occurrence of an Event of Default, may, in its sole and reasonable discretion, notify any or all of the Account Debtors that (i) the Accounts Receivable have been assigned to the Lender; and/or (ii) that all further payments on the Accounts Receivable should be paid solely to the Lender. When requested by the Lender after the occurrence of an Event of Default, Debtors at their expense will notify or cause to be notified any or all Account Debtors to pay directly to the Lender any sum or sums then due or to become due on the Accounts Receivable or any part thereof and all bills and statements thereafter sent by any Borrower to such Account Debtors shall state that the same have been assigned to the Lender and are payable solely to the Lender.

(B) The Lender, at any time after the occurrence of an Event of Default, may in its sole and reasonable discretion, require Debtors to establish and maintain a "lock box" account at the Lender or at a financial institution acceptable to Lender subject to the control of the Lender, and Debtors, at their expense, will notify or cause to be notified all Account Debtors to pay directly any sum or sums then due or to become due on the Accounts Receivable to such lock box account at the Lender.

(C) In the event an Account Debtors are notified under Subsections 2.03(A) or 2.03(B) of this Agreement or one or more Events of Default have occurred under the terms of this Agreement, the Lender shall have and succeed to all rights, remedies, securities and liens of Debtors in respect to such Accounts Receivable or other Collateral, including, but not limited to, the right of stoppage in transit of any merchandise, guarantees or other contracts or suretyship with respect to any such merchandise, warranties, unpaid seller's liens, statutory liens, artisans' liens, or the right to other collateral security held by or to which Debtors are entitled for the payment of any such merchandise, and shall have the right to enforce the same in its name or to direct the enforcement thereof by Debtors for the benefit of the Lender, and Debtors shall, at the reasonable request of the Lender, deliver to the Lender a separate written assignment of any of the same. The Lender, however, shall not incur any obligation or liability of Debtors to any Account Debtor, including, but not limited to, obligations or liabilities pursuant to any contract, agreement, warranty, guarantee, judicial decree or jury award. The Lender, in such an event, is also hereby irrevocably authorized to receive, open and dispose of all mail addressed to Debtors, to notify the Post Office authorities to change the address for delivery of Debtors' mail to an address designated by the Lender, to endorse Debtors' name on all notes, checks, drafts, bills of exchange, money orders, commercial paper of any kind whatsoever, and any other instruments or documents received howsoever in payment of the Accounts Receivable, or any part thereof, and the Lender or any officer or employee thereof is hereby irrevocably constituted and appointed agent and attorney-in-fact for Debtors for the foregoing purpose.

(D) Debtors shall not collect, compromise or accept any sum in full payment or satisfaction of any of the Accounts Receivable for materially less than the amount due without the express written consent of the Lender, except in the ordinary course of business. The consent of Lender required in this clause shall not be unreasonably withheld or delayed.

(E) The Lender may directly request any Account Debtor for a written confirmation of the Accounts Receivable at any time whether before or after the occurrence of an Event of Default.

SECTION 2.04. USE OF COLLATERAL. Debtors shall at all times keep the Collateral in good condition and repair and free and clear of all unpaid charges (including, but not limited to, taxes), liens and encumbrances, and shall pay or cause to be paid all obligations as they come due, including but not limited to, mortgage payments, real estate taxes, assessments and rent due on the premises where the Collateral is or may be located, except for charges, liens, encumbrances and obligations being contested in good faith by Debtors and for which adequate reserves have been established. Debtors agree that (except as provided in the immediately preceding sentence) in the event Debtors fail to pay such obligations, the Lender may, at its sole and arbitrary discretion, pay such obligations for the account of Debtors. The Lender may, in its sole discretion, discharge taxes, liens or security interests or other encumbrances at any time levied or placed on the Collateral and may, in its sole and arbitrary discretion, pay for the maintenance and preservation of the Collateral. Any payments made by the Lender pursuant to this Section shall be repayable to the Lender by Debtors immediately upon the Lender's demand therefor, with interest at a rate equal to the highest interest rate described in the Notes in effect from time to time during the period from and including the date funds are so expended by the Lender to the date of repayment, and any such amounts due and owing the Lender shall be an additional obligation of Debtors to the Lender secured hereunder.

SECTION 2.05. ORIGINAL VEHICLE TITLES. Debtors shall deliver, or cause to be delivered within five (5) business days of the making of the Loans all original Vehicle Titles to Lender. Each Debtors acknowledge and agree that Lender shall hold the original Vehicle Titles in its possession and may, in Lender's sole discretion and at Debtors' sole expense, cause new or duplicate Vehicle Titles to be issued on any Vehicle showing Lender's lien of record. Upon the sale of any Vehicle and delivery to Lender of such net sale proceeds as Lender may require, Lender shall release the Vehicle Title for such Vehicle to Debtors.

ARTICLE THREE. REPRESENTATIONS AND WARRANTIES

SECTION 3.01. DEBTORS. Debtors represent and warrant to the Lender that:

(A) Organization, Etc. Debtors are duly incorporated, validly existing and in good standing under the laws of the State of Delaware and North Dakota, respectively, and are duly qualified and in good standing or has applied for qualification as a foreign corporation authorized to do business in each jurisdiction where, because of the nature of their activities or properties, such qualification is required.

(B) Authorization: No Conflict. The execution and delivery of this Agreement are all within the corporate powers of the Debtors, have been duly authorized by all necessary action, have, or by the time of their execution and delivery shall have, received all necessary governmental or regulatory approval (if any shall be required), and do not and will not contravene or conflict with any provision of (i) law, rule, regulation or ordinance, (ii) their organizational documents; or (iii) any agreement binding upon Debtors or any of their properties, as the case may be.

(C) Validity and Binding Nature. The Agreement is the legal, valid and binding obligations of Debtors, enforceable against Debtors in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization and other similar laws of general application affecting the rights and remedies of creditors and except as the availability of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefor may be brought.

(D) Title to Assets. Except as set forth in the Lien Section of this Article Three, it has good and marketable title to all assets owned by it, including, but not limited to, the Collateral, subject to no (i) liens, encumbrances, security interests, or mortgages; (ii) zoning, building, fire, health or environmental code violations of any governmental authority; and (iii) violations of any covenants, conditions or restrictions of record.

(E) Liens. None of its assets are subject to any lien, encumbrance or security interest, except for Permitted Liens.

(F) Genuineness of Accounts Receivable. All the Accounts Receivable of it are genuine and were incurred in the ordinary course of business and are not in default.

(G) Collateral Locations. Except for Vehicles currently in operation by Debtors, all of the tangible Collateral is located at the Collateral Locations.

ARTICLE FOUR. COVENANTS

SECTION 4.01. DEBTORS. Until all the Obligations are paid in full, the Debtors covenant and agree that:

(A) Books, Records and Inspections. Debtors will (i) maintain complete and accurate books and records; (ii) permit reasonable access by the Lender to the Debtors' books and records; (iii) make entries on their books and records, in form and manner satisfactory to Lender, disclosing Lender's security interest in the Collateral and shall keep a separate account on its books of all collections received thereon; and (iv) permit the Lender, upon reasonable notice, to inspect the properties, whether real or personal, and operations of Debtors.

(B) Insurance. Debtors will maintain such insurance as may be required by law and such other insurance to the extent and against such hazards and liabilities as is customarily maintained by companies similarly situated. All property insurance policies with respect to the Collateral shall contain loss payable clauses in form and substance reasonably satisfactory to the Lender, naming the Lender as a loss payee as its interest may appear, and providing that such policies and loss payable clauses may not be canceled, amended or terminated unless at least thirty (30) days prior written notice thereof has been given to the Lender. All insurance proceeds received by the Lender may be retained by the Lender, in its sole discretion, for application to the payment of any of the principal or interest on the Obligations then due and owing the Lender by it as the Lender may determine.

(C) Liens. Debtors will not create or permit to exist any mortgage, pledge, title retention lien, or other lien, encumbrance or security interest with respect to any assets now owned or hereafter acquired and owned, except for Permitted Liens.

(D) Mergers, Consolidations and Sales. Debtors will not be a party to any merger or consolidation with, or purchase or otherwise acquire all or substantially all of the assets or stock of any class of, or any partnership or joint venture interest in, any other Person, or sell, transfer, convey or lease all or any substantial part of its assets, or sell or assign, with or without recourse, any Accounts Receivable, except with the prior written consent of the Lender.

(E) Violation of Law. Debtors will not materially violate any law, statute, ordinance, rule, regulation, judgment, decree, order, writ or injunction of any federal, state or local authority, court, agency, bureau, board, commission, department or governmental body.

(F) Good Title. Debtors shall at all times maintain good and marketable title to all of its assets other than Permitted Liens.

(G) Collateral Locations. Debtors shall give the Lender 30 days prior written notice of the location of any Collateral at any place other than the Collateral Locations other than Vehicles currently in operation by Debtor.

ARTICLE FIVE. EVENTS OF DEFAULT

SECTION 5.01. EVENTS OF DEFAULT. Each of the following acts, occurrences or omissions shall constitute an event of default under this Agreement (herein referred to as an "Event of Default"), whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment or order of any court or any order, rule or regulation of any governmental or nongovernmental body or tribunal:

(A) Any representation or warranty made by Debtor contained in this Agreement shall at any time prove to have been incorrect in any material respect when made;

(B) Debtor shall default in the performance or observance of any term, covenant, condition or agreement on its part to be performed or observed under this Agreement; or

(C) An Event of Default shall occur under the Financing Agreement or any of the other Transaction Documents.

ARTICLE SIX. REMEDIES

SECTION 6.01. REMEDIES UPON DEFAULT. Upon the occurrence and continuance of any Event of Default, and the expiration of any applicable cure period, and in every such event:

(A) Lender may, in its sole and arbitrary discretion, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, exercise all of the remedies of a secured party and mortgage holder under applicable law, including, but not limited to, the UCC, and all of its rights and remedies under the other Transaction Documents; and

(B) Lender may require Debtors to make the Collateral and the records pertaining to the Collateral available to the Lender at a place designated by the Lender which is reasonably convenient or may take repossession of the Collateral and the records pertaining to the Collateral without the use of any judicial process and without any prior notice thereof to Debtors; and

(C) Except as otherwise provided by law, Lender may, at its option, and in its sole and arbitrary discretion, sell the Collateral at public or private sale upon such terms and conditions as Lender may reasonably deem proper, and Lender may purchase the Collateral at any such sale, and apply the net proceeds, after deducting all costs, expenses and attorneys' fees incurred at any time in the collection of the indebtedness of Debtors to the Lender and in the protection and sale of the Collateral, to the payment of said indebtedness, returning the remaining proceeds, if any, to Debtors, with Debtors remaining liable for any amount remaining unpaid after such application; and

(D) The Lender may, at its option, and in its reasonable discretion, grant extensions, compromise claims and settle Accounts Receivable for less than face value, all without prior notice to Debtors; and

(E) Lender may, at its option, and in its sole and arbitrary discretion, use, in connection with any assembly or disposition of the Collateral, any trademark, trade name, trade style, copyright, patent right or technical process used or utilized by Debtors; and

(F) Debtors shall, upon the request of the Lender, forthwith upon receipt, transmit and deliver to the Lender in the form received, all cash, checks, drafts and other instruments for the payment of money (properly endorsed, where required, so that such items may be collected by Lender) which may be received by Debtors at any time in full or partial payment of any Collateral. Debtors shall not commingle any such items which may be so received by Debtors with any other of its funds or property but shall hold them separate and apart from their own funds or property and in trust for the Lender until delivery is made to Lender.

SECTION 6.02. ATTORNEY-IN-FACT. Upon the occurrence and during the continuation of an Event of Default, Debtors hereby appoint Lender as such Person’s attorney-in-fact, with full authority in such Person's place and stead and in such Person’s name or otherwise, from time to time in Lender’s sole and arbitrary discretion, to take any action and to execute any instrument which Lender may deem necessary or advisable to accomplish the purpose of this Agreement.

SECTION 6.03. REMEDIES ARE SEVERABLE AND CUMULATIVE. All provisions contained herein pertaining to any remedy of the Lender shall be and are severable and cumulative and in addition to all other rights and remedies available in the other Transaction Documents, at law and in equity, any one or more may be exercised simultaneously or successively. Any notification required pursuant to this Article or under applicable law shall be reasonably and properly given to Debtors at the address and by any of the methods of giving such notice as set forth in Section 7.03 of this Agreement, at least 10 days before taking any action.

ARTICLE SEVEN. MISCELLANEOUS

SECTION 7.01. NO WAIVER; MODIFICATIONS IN WRITING. No failure or delay on the part of Lender in exercising any right, power or remedy pursuant to this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof, or the exercise of any other right, power or remedy. No amendment, modification, supplement, termination or waiver of any provision of this Agreement, nor any consent by Lender to any departure by Debtors therefrom, shall be effective unless the same shall be in writing and signed by Lender. Any waiver of any provision of this Agreement and any consent by Lender to any departure by Debtors from the terms of any provision of this Agreement shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Debtors in any case shall entitle Debtors to any other or further notice or demand in similar or other circumstances.

SECTION 7.02. SET-OFF. Lender shall have the right to set-off, appropriate and apply toward payment of any of the Obligations, in such order of application as Lender may from time to time and at any time elect, any cash, credit, deposits, accounts, securities and any other property of Debtors which is in transit to or in the possession, custody or control of Lender, or any agent, bailee, or Affiliate of Lender. Debtors hereby grants to Lender a security interest in all such property.

SECTION 7.03. NOTICES, ETC. All notices, demands, instructions and other communications required or permitted to be given to or made upon any party hereto shall be in writing personally delivered or sent by overnight courier or by facsimile machine, and shall be deemed to be given for purposes of this Agreement on the day that such writing is delivered or sent by facsimile machine or one (1) days after such notice is sent by overnight courier to the intended recipient thereof in accordance with the provisions of this Section 7.03. Unless otherwise specified in a notice sent or delivered in accordance with the foregoing provisions of this Section 7.03 of this Agreement, notices, demands, instructions and other communications in writing shall be given to or made upon the respective parties hereto at their respective addresses indicated for such party below:

If to the Debtors: Midwest Energy Emissions Corp.
Attn: Alan Kelley, CEO
500 W Wilson Bridge Rd Ste 140
Worthington, OH 43085
Fax: (614) 505-7377
E-mail: akelley@midwestemissions.com

With copies to: Taft Stettinius & Hollister LLP
Attn: Mitchell D. Goldsmith
111 E. Wacker Drive, Suite 2800
Chicago, Illinois 60601-3713
Fax: (312) 275-7569
E-mail: mgoldsmith@taftlaw.com

If to the Lender: Alterna Capital Partners LLC
Attn: Samir Patel
15 River Road, Suite 320
Wilton, Connecticut 06897
Fax: (203) 563-9210
E-Mail: samir.patel@alternacapital.com

With a copy to: Levenfeld Pearlstein, LLC
Attn: David B. Solomon
2 North LaSalle Street-Suite 1300
Chicago, IL 60602
Fax (312) 346-8434
E-Mail: dsolomon@lplegal.com

SECTION 7.04. COSTS, EXPENSES AND TAXES. Debtors agree to pay all out-of-pocket fees and expenses of Lender (including, but not limited to, UCC filing and search fees and fees and expenses of outside counsel to Lender and paralegals) incurred by Lender in connection with the transactions contemplated in the Financing Agreement and this Agreement. In addition, Debtors shall pay any and all stamp, transfer and other taxes payable or determined to be payable in connection with the execution and delivery of this Agreement and agrees to hold the Lender harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes. If any suit or proceeding arising from any of the foregoing is brought against Lender, Debtors, to the extent and in the manner directed by Lender, will resist and defend such suit or proceeding or cause the same to be resisted and defended by counsel approved by Lender. If Debtors shall fail to do any act or thing which it has covenanted to do under this Agreement or any representation or warranty on the part of Debtors contained in this Agreement shall be breached, Lender may, in its sole and arbitrary discretion, after 10 days written notice is sent to Debtors, do the same or cause it to be done or remedy any such breach, and may expend its funds for such purpose; and any and all amounts so expended by the Lender shall be repayable to the Lender by Debtors immediately upon the Lender's demand therefor, with interest at a rate equal to the highest interest rate set forth in the Notes in effect from time to time during the period from and including the date funds are so expended by Lender to the date of repayment, and any such amounts due and owing Lender shall be deemed to be part of the Obligations secured hereunder. The obligations of Debtors under this Section shall survive the termination of this Agreement and the discharge of the other obligations of Debtors hereunder.

SECTION 7.05. COMPUTATIONS. Where the character or amount of any asset or liability or item of income or expense is required to be determined, or any consolidation or other accounting computation is required to be made, for the purpose of this Agreement, such determination or calculation shall, to the extent applicable and except as otherwise specified in this Agreement, be made in accordance with generally accepted accounting principles applied on a basis consistent with those at the time in effect.

SECTION 7.06. FURTHER ASSURANCES. Debtors agree to do such further acts and things and to execute and deliver to Lender such additional assignments, agreements, powers, documents and instruments as Lender may reasonably require or deem advisable to carry into effect the purposes of this Agreement, or to confirm unto Lender its rights, powers and remedies under this Agreement.

SECTION 7.07. COUNTERPARTS; SIGNATURES. This Agreement may be executed in any number of counterparts, each of which counterparts, once they are executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same agreement. This Agreement may be executed by any party to this Agreement by original signature, facsimile and/or electronic signature.

SECTION 7.08. BINDING EFFECTS; ASSIGNMENT. This Agreement shall be binding upon, and inure to the benefit of, Lender, Debtors and their respective successors, assigns, representatives and heirs. Debtors shall not assign any of its rights nor delegate any of its obligations under this Agreement without the prior written consent of Lender and no such consent by Lender shall, in any event, relieve Debtors of any of its obligations hereunder.

SECTION 7.09. HEADINGS. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision of this Agreement and shall not affect the construction of this Agreement.

SECTION 7.10. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated herein and supersedes all prior representations, agreements, covenants and understandings, whether oral or written, related to the subject matter of the Agreement. Except as specifically set forth in this Agreement, Lender makes no covenants to Debtors, including, but not limited to, any commitments to provide any financing to Debtors.

SECTION 7.11. GOVERNING LAW. This Agreement shall be deemed to be a contract made under the laws of the State of New York and for all purposes shall be construed in accordance with the laws of the State of New York.

SECTION 7.12. SEVERABILITY OF PROVISIONS. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 7.13. CONFLICT. In the event of any conflict between this Agreement and any other Transaction Documents, the terms and provisions of this Agreement shall govern and control.

SECTION 7.14. DEBTORS' ACKNOWLEDGMENT. Debtors expressly acknowledge and agrees that (A) MEEC's financing by the Lender described in this Agreement and the other Transaction Documents constitutes good and valuable consideration to Debtors in exchange for Debtors' various covenants and agreements set forth in this Agreement; and (B) Debtors have been represented and advised by counsel in connection with the execution and delivery of this Agreement and that such attorney has explained the terms and provisions of this Agreement to Debtor.

SECTION 7.15. CUSTOMER IDENTIFICATION - USA PATRIOT ACT NOTICE; OFAC AND BANK SECRECY ACT. Lender hereby notifies Debtors that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), and Lender's policies and practices, Lender is required to obtain, verify and record certain information and documentation that identifies Debtors, which information includes the name and address of Debtors and such other information that will allow Lender to identify Debtors in accordance with the Act. In addition, Debtors shall (a) ensure that no person who owns a controlling interest in or otherwise controls Debtors or any subsidiary of Debtors is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

SECTION 7.16. JURISDICTION; WAIVER. DEBTORS ACKNOWLEDGE THAT THIS AGREEMENT IS BEING SIGNED BY THE LENDER IN PARTIAL CONSIDERATION OF LENDER'S RIGHT TO ENFORCE IN THE JURISDICTION STATED BELOW THE TERMS AND PROVISION OF THIS AGREEMENT. DEBTORS CONSENT TO JURISDICTION IN THE STATE OF NEW YORK AND VENUE IN ANY FEDERAL OR STATE COURT IN NEW YORK NEW YORK FOR SUCH PURPOSES AND WAIVE ANY AND ALL RIGHTS TO CONTEST SAID JURISDICTION AND VENUE AND ANY OBJECTION THAT SAID COUNTY IS NOT CONVENIENT. DEBTORS WAIVE ANY RIGHTS TO COMMENCE ANY ACTION AGAINST LENDER IN ANY JURISDICTION EXCEPT THE AFORESAID CITY AND STATE. LENDER AND DEBTORS HEREBY EACH EXPRESSLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY WITH RESPECT TO ANY MATTER WHATSOEVER RELATING TO, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT AND/OR THE TRANSACTIONS WHICH ARE THE SUBJECT OF THIS AGREEMENT.

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

DEBTORS:

MIDWEST ENERGY EMISSIONS CORP.

By: _____
Name: _____
Title: _____

MES, INC.

By: _____
Name: _____
Title: _____

LENDER:

AC ENERGY MIDWEST LLC

By: _____
Name: _____
Title: _____

Signature Page-Security Agreement

EXHIBIT 1.01-A TO

SECURITY AGREEMENT

Collateral Locations

1. MEEC Corporate Offices, 500 W. Wilson Bridge Rd. Ste. 140, Worthington, OH 43085
2. MES, Inc. – 913 Big Hanaford Rd., Centralia, WA 98531
3. MES, Inc. – 341 Interstate 45 West, Fairfield, TX 75840
4. c/oBNB Electric – 2580 Jackson Highway, Chehalis, WA 98532
5. c/o Albermarle – 1664 Highland Rd., Twinsburg OH 44087

EXHIBIT 1.01-B TO MIDWEST ENERGY EMISSIONS, INC.

SECURITY AGREEMENT

Vehicles

N/A

EXHIBIT 10.4

INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof, this "Agreement") is entered into as of August 14, 2014, by and among Richard Galterio ("Agent") as agent for the Investors (as defined in that certain Noteholder Agency Appointment Agreement by and between the Investors and Agent, the "Agency Agreement")) (each a "Subordinated Creditor" and collectively the "Subordinated Creditors"), Midwest Energy Emissions Corp., a Delaware corporation ("Borrower") and MES, Inc., a North Dakota corporation (the "Guarantor") (Borrower and Guarantor shall be referred to herein as the "Credit Parties") and AC Midwest Energy LLC, a Delaware limited liability company ("Senior Lender").

R E C I T A L S

A. Borrower, Guarantor and Senior Lender have entered into that certain Financing Agreement] dated the date of this Agreement (as the same may be amended, restated, supplemented or otherwise modified from time to time as permitted hereunder, the "Senior Credit Agreement") pursuant to which, among other things, Senior Lender has agreed, subject to the terms and conditions set forth in the Senior Credit Agreement, to make certain loans and financial accommodations to Borrower. All of Borrower's and Guarantor's obligations to Senior Lender under the Senior Credit Agreement and the other Senior Debt Documents (as hereinafter defined)are secured by junior Liens (as hereinafter defined) in certain of the now existing and hereafter acquired personal property of Borrower and Guarantor (the "Collateral").

B. Borrower has issued certain promissory notes (as listed on the attached Exhibit A) to Subordinated Creditors (as the same may be amended, restated, supplemented or otherwise modified from time to time as permitted hereunder, the "Subordinated Notes") in the aggregate original principal amount of $1,902,500.00. All of Borrower's obligations to Subordinated Creditors under the Subordinated Notes are secured by senior Liens on the Collateral.

C. As an inducement to and as one of the conditions precedent to the agreement of Senior Lender to make the loans and financial accommodations contemplated by the Senior Credit Agreement, Senior Lender has required the execution and delivery of this Agreement by Agent on behalf of the Subordinated Creditors and the Credit Parties in order to set forth the relative rights and priorities of Senior Lender and Subordinated Creditors under the Senior Debt Documents (as hereinafter defined) and the Subordinated Debt Documents (as hereinafter defined).

NOW, THEREFORE, in order to induce Senior Lender to consummate the transactions contemplated by the Senior Credit Agreement, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto hereby agree as follows:

1. Definitions. The following terms shall have the following meanings in this Agreement:

"Bankruptcy Code" shall mean the provisions of Title 11 of the United States Code, as amended from time to time and any successor statute and all rules and regulations promulgated thereunder.

"Credit Parties" shall mean, collectively, Borrower and Guarantor.

"Distribution" shall mean, with respect to any indebtedness, obligation or security any payment or distribution by any Credit Party of cash on account of such indebtedness, obligation or security.

"Enforcement Action" shall mean (a) to take from or for the account of any Credit Party, by set-off or in any other manner, the whole or any part of any moneys which may now or hereafter be owing by any Credit Party with respect to the Subordinated Debt, (b) to sue for payment of, or to initiate or participate with others in any suit, action or proceeding against any Credit Party to (i) enforce payment of or to collect the whole or any part of the Subordinated Debt or (ii) commence judicial enforcement of any of the rights and remedies under the Subordinated Debt Documents or applicable law with respect to the Subordinated Debt, (c) to accelerate the Subordinated Debt, (d) to exercise any put option or to cause any Credit Party to honor any redemption or mandatory prepayment obligation under any Subordinated Debt Document, or (e) to take any action under the provisions of any state or federal law, including, without limitation, the Uniform Commercial Code, or under any contract or agreement, to enforce, foreclose upon, take possession of or sell any property or assets of any Credit Party, including the Collateral.

"Lien" shall mean "Lien" as defined in the Senior Credit Agreement or any similar term in any Senior Debt Document that replaces the Senior Credit Agreement in connection with a Permitted Refinancing.

"Paid in Full" or "Payment in Full" shall mean the payment in full in cash of all Senior Debt and termination of all commitments to lend under the Senior Debt Documents.

"Permitted Refinancing" shall mean any refinancing, extension or replacement of the Senior Debt under the Senior Debt Documents).

"Permitted Refinancing Senior Debt Documents" shall mean any financing documentation which replaces the Senior Debt Documents and pursuant to which the Senior Debt under the Senior Debt Documents is refinanced, extended or replaced, as such financing documentation may be amended, supplemented, replaced, refinanced, extended or otherwise modified from time to time in compliance with this Agreement.

"Permitted Subordinated Debt Payments" shall mean payments of principal or interest by awarding the equivalent value of the same in stock of Borrower. For purposes of clarity, Permitted Subordinated Debt Payments shall not include payments of cash of any kind, including, but not limited to, checks, wires, money orders, certificates of deposit, cashier's checks, or certified checks.

"Person" shall mean any natural person, corporation, general or limited partnership, limited liability company, firm, trust, association, government, governmental agency or other entity, whether acting in an individual, fiduciary or other capacity.

"Proceeding" shall mean any voluntary or involuntary insolvency, bankruptcy, receivership, custodianship, liquidation, dissolution, reorganization, assignment for the benefit of creditors, appointment of a custodian, receiver, trustee or other officer with similar powers or any other proceeding for the liquidation, dissolution or other winding up of a Person, whether initiated under the Bankruptcy Code, any other similar federal or state statute or any other applicable law.

"Senior Debt' shall mean, collectively, all obligations, liabilities and indebtedness of every nature of each Credit Party from time to time owed to Senior Lender under the Senior Debt Documents, including, without limitation, the principal amount of all debts, claims and indebtedness, accrued and unpaid interest accruing thereon (including, without limitation, interest accruing after the commencement of a Proceeding, without regard to whether or not such interest is an allowed claim) and all fees, costs and expenses, whether primary, secondary, direct, contingent, fixed or otherwise, heretofore, now and from time to time hereafter owing, due or payable, whether before or after the filing of a Proceeding under the Bankruptcy Code together with any interest, fees, costs and expenses accruing thereon after the commencement of a Proceeding under the Bankruptcy Code, without regard to whether or not such interest, fees, costs and expenses are an allowed claim.

"Senior Debt Documents" shall mean the Senior Credit Agreement and all loan documents executed in connection therewith and, after the consummation of any Permitted Refinancing, the Permitted Refinancing Senior Debt Documents.

"Senior Default" shall mean any "Event of Default" under the Senior Debt Documents.

"Senior Lender" shall mean the holder of the Senior Debt.

"Subordinated Debt" shall mean all of the obligations, liabilities and indebtedness of each Credit Party to each Subordinated Creditor evidenced by or incurred pursuant to the Subordinated Debt Documents.

"Subordinated Debt Documents" shall mean the Subordinated Notes, any pledge, security or other collateral agreements with respect to the Subordinated Debt, any other guaranties with respect to the Subordinated Debt and all other documents, agreements and instruments now existing or hereinafter entered into evidencing or pertaining to all or any portion of the Subordinated Debt, as the same may be amended, restated, supplemented or otherwise modified from time to time, as permitted hereunder.

2. Subordination.

2.1. Subordination of Subordinated Debt to Senior Debt. Each Credit Party covenants and agrees, and each Subordinated Creditor hereby covenants and agrees, notwithstanding anything to the contrary contained in any of the Subordinated Debt Documents, that the payment of any and all of the Subordinated Debt shall be subordinate and subject in right and time of payment, to the extent and in the manner hereinafter set forth, to the Payment in Full of all Senior Debt; provided, however, in the event of a default under the Subordinated Debt Documents, and a liquidation of the Collateral, proceeds from such liquidation may be paid first to the Subordinated Creditors until Payment in Full of the Subordinated Debt. Each holder of Senior Debt, whether now outstanding or hereafter created, incurred, assumed or guaranteed, shall be deemed to have acquired Senior Debt in reliance upon the provisions contained in this Agreement.

2.2. Liquidation, Dissolution, Bankruptcy. In the event of any Proceeding involving any Credit Party prior to the Payment in Full of the Senior Debt:

(a) All Senior Debt shall first be Paid in Full before any Distribution, whether in cash, securities or other property, shall be made to any Subordinated Creditor on account of Subordinated Debt, except in the case of liquidation of the Collateral, in which case the proceeds from the liquidation of the Collateral shall be paid first to the Subordinated Creditors until Payment in Full of the Subordinated Debt.

(b) Except as set forth below, any Distribution, whether in cash which would otherwise, but for the terms hereof, be payable or deliverable in respect of the Subordinated Debt shall be paid or delivered directly to Senior Lender (to be held and/or applied by Senior Lender in accordance with the terms of the Senior Debt Documents) until all Senior Debt is Paid in Full; provided, however that Distributions constituting proceeds from the liquidation of the Collateral, in which case the proceeds from the liquidation of the Collateral shall be paid first to the Subordinated Creditors until Payment in Full of the Subordinated Debt. Each Subordinated Creditor irrevocably authorizes, empowers and directs any debtor, debtor in possession, receiver, trustee, liquidator, custodian, conservator or other Person having authority, to pay or otherwise deliver all such Distributions to Senior Lender, for the benefit of the Senior Lender, for application to the Senior Debt until Payment in Full of all Senior Debt. Each Subordinated Creditor also irrevocably authorizes and empowers Senior Lender, in the name of such Subordinated Creditor, to demand, sue for, collect and receive any and all such Distributions.

(c) Each Subordinated Creditor agrees not to initiate, prosecute or participate in any claim, action or other proceeding challenging the enforceability, validity, perfection or priority of the Senior Debt or any Liens securing the Senior Debt.

(d) Each Subordinated Creditor agrees to execute, verify, deliver and file any proofs of claim in respect of the Subordinated Debt reasonably requested by Senior Lender in connection with any such Proceeding and hereby irrevocably authorizes, empowers and appoints Senior Lender his agent and attorney-in-fact to (i) execute, verify, deliver and file such proofs of claim upon the failure of such Subordinated Creditor promptly to do so prior to 15 days before the expiration of the time to file any such proof of claim and (ii) vote such claim in any such Proceeding upon the failure of such Subordinated Creditor to do so prior to 10 days before the expiration of the time to vote any such claim; provided Senior Lender shall not have any obligation to execute, verify, deliver, file and/or vote any such proof of claim. In the event that Senior Lender votes any claim in accordance with the authority granted hereby, no Subordinated Creditor shall be entitled to change or withdraw such vote.

(e) This Agreement shall constitute a "subordination agreement" for the purposes of Section 510(a) of the Bankruptcy Code and shall be enforceable in any Proceeding in accordance with its terms. The Senior Debt shall continue to be treated as Senior Debt and the provisions of this Agreement shall continue to govern the relative rights and priorities of Senior Lender and Subordinated Creditors even if all or part of the Senior Debt or the Liens securing the Senior Debt are subordinated, set aside, avoided, invalidated or disallowed in connection with any such Proceeding, and this Agreement shall be reinstated if at any time any payment of any of the Senior Debt is rescinded or must otherwise be returned by any holder of Senior Debt or any representative of such holder.

2.3. Subordinated Debt Payment Restrictions. Notwithstanding the terms of the Subordinated Debt Documents, each Credit Party hereby agrees that it may not make, and each Subordinated Creditor hereby agrees that he will not accept, any Distribution with respect to the Subordinated Debt until the Senior Debt is Paid in Full. Notwithstanding the immediately preceding sentence, subject to the terms of Section 2.2, the Credit Parties may make, and Subordinated Creditor may accept, Permitted Subordinated Debt Payments so long as no Senior Default then exists or would be caused thereby.

2.4. Subordinated Debt Standstill Provisions. Until the Senior Debt is Paid in Full, no Subordinated Creditor shall, without the prior written consent of Senior Lender take any Enforcement Action with respect to the Subordinated Debt. Notwithstanding the foregoing, subject to the provisions of Section 2.2(d), each Subordinated Creditor may file proofs of claim against any Credit Party in any Proceeding involving such Credit Party. Any Distributions or other proceeds of any Enforcement Action obtained by any Subordinated Creditor, except for Distributions resulting from the sale of the Collateral, shall in any event be held in trust by him for the benefit of Senior Lender and promptly paid or delivered to Senior Lender for the benefit of Senior Lender in the form received until all Senior Debt is Paid in Full.

2.5. Incorrect Payments. If any Distribution on account of the Subordinated Debt not permitted to be made by any Credit Party or accepted by any Subordinated Creditor under this Agreement is made and received by any Subordinated Creditor, such Distribution shall be held in trust by such Subordinated Creditor for the benefit of Senior Lender and shall be promptly paid over to Senior Lender, with any necessary endorsement, for application (in accordance with the Senior Debt Documents) to the payment of the Senior Debt then remaining unpaid, until all of the Senior Debt is Paid in Full.

2.6. Subordination of Liens and Security Interests; Agreement Not to Contest; Sale of Collateral; Release of Liens and Security Interests.

(a) Until the Subordinated Debt has been Paid in Full, any Liens of Senior Lender in the Collateral which may exist shall be and hereby are subordinated for all purposes and in all respects to the Liens of Subordinated Creditors in the Collateral, regardless of the time, manner or order of the creation, granting, attachment or perfection of any such Liens. Each of Senior Lender and Subordinated Creditor agrees that it (A) will not at any time contest the validity, perfection, priority or enforceability of the Senior Debt, the Senior Debt Documents, the Subordinated Debt, the Subordinated Loan Documents, the Liens of the Subordinated Creditors or the Liens of Senior Lender in the Collateral, (B) will not object to or oppose any motion by Senior Lender or Subordinated Creditors to lift any automatic stay arising under the Bankruptcy Code (or any order issued by a court in a Proceeding), (C) not object to or oppose any use of, and will consent to, any cash collateral use or debtor in possession financing consented to by Senior Lender on such terms and conditions as Senior Lender, in its sole discretion, may decide. Each Subordinated Creditor further agrees that it shall not, without the prior written consent of the Senior Lender, (i) commence or continue any Proceeding, propose any plan of reorganization, compromise, arrangement or proposal or file any motion, pleading or material in support of any motion or plan of reorganization, compromise, arrangement or proposal that would impair the rights of the Senior Lender or (ii) at any time that it has any Lien in any Collateral, commence or continue any Proceeding, propose any plan of reorganization, compromise, arrangement or proposal or file any motion, pleading or material in support of any motion or plan of reorganization, compromise, arrangement or proposal that is opposed by Senior Lender, or oppose any plan of reorganization, compromise, arrangement, proposal or liquidation supported by Senior Lender.

(b) Until the Payment in Full of the Senior Debt occurs, each Subordinated Creditor hereby irrevocably constitutes and appoints the Senior Lender and any officer or agent of the Senior Lender, with full power of substitution, as his true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Subordinated Creditor or such holder or in the Senior Lender's own name, from time to time in the Senior Lender's discretion, for the purpose of carrying out the terms of this Section 2.6, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary to accomplish the purposes of this Section 2.6, including any endorsements or other instruments of transfer or release.

(c) Until the Payment in Full of the Senior Debt occurs, no Subordinated Creditor shall demand or accept the grant of any additional Liens on any asset of any Credit Party or any of its Subsidiaries to secure any Subordinated Debt unless such Credit Party or such Subsidiary has granted, or concurrently therewith grants, a Lien on such asset to secure the Senior Debt.

2.7. Sale, Transfer or other Disposition of Subordinated Debt.

(a) No Subordinated Creditor shall sell, assign, pledge, dispose of or otherwise transfer all or any portion of the Subordinated Debt or any Subordinated Debt Document without the prior written consent of Senior Lender.

(b) Notwithstanding the failure of any Subordinated Creditor to comply with Section 2.7(a), the subordination effected hereby shall survive any sale, assignment, pledge, disposition or other transfer of all or any portion of the Subordinated Debt, and the terms of this Agreement shall be binding upon the successors, assigns, heirs and legal representatives of such Subordinated Creditor, as provided in Section 10 hereof.

2.8. Intentionally left blank.

2.9. Obligations Hereunder Not Affected. All rights and interest of Senior Lender hereunder, and all agreements and obligations of Subordinated Creditors and Credit Parties hereunder, shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any document evidencing any of the Senior Debt;

(b) any change in the time, manner or place of payment of, or any other term of, all or any of the Senior Debt, or any other permitted amendment or waiver of or any release or consent to departure from any of the Senior Debt Documents;

(c) any exchange, release or non-perfection of any collateral for all or any of the Senior Debt;

(d) any failure of Senior Lender to assert any claim or to enforce any right or remedy against any other party hereto under the provisions of this Agreement or any Senior Debt Document other than this Agreement;

(e) any reduction, limitation, impairment or termination of the Senior Debt for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to (and Credit Parties and Subordinated Creditors hereby waive any right to or claim of) any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of invalidity, illegality, nongenuiness, irregularity, compromise, unenforceability of, or any other event or occurrence affecting, any Senior Debt; and

(f) any other circumstance which might otherwise constitute a defense available to, or a discharge of, Credit Parties (other than payment or performance) in respect of the Senior Debt or any Subordinated Creditor in respect of this Agreement.

Each Subordinated Creditor acknowledges and agrees that each Senior Lender may in accordance with the terms of the Senior Debt Documents, without notice or demand and without affecting or impairing any Subordinated Creditor's obligations hereunder, from time to time (i) renew, compromise, extend, increase, accelerate or otherwise change the time for payment of, or otherwise change the terms of the Senior Debt or any part thereof, including, without limitation, to increase or decrease the rate of interest thereon or the principal amount thereof; (ii) take or hold security for the payment of the Senior Debt and exchange, enforce, foreclose upon, waive and release any such security; (iii) apply such security and direct the order or manner of sale thereof as Senior Lender in its sole discretion, may determine; (iv) release and substitute one or more endorsers, warrantors, borrowers or other obligors; and (v) exercise or refrain from exercising any rights against any Credit Party or any other Person.

2.10. Marshaling. Each Subordinated Creditor hereby waives any rights he may have under applicable law to assert the doctrine of marshaling or to otherwise require Senior Lender to marshal any property of any Credit Party for the benefit of such Subordinated Creditor.

2.11. Application of Proceeds from Sale or other Disposition of the Collateral. In the event of any sale, transfer or other disposition (including a casualty loss or taking through eminent domain) of the Collateral, the proceeds resulting therefrom (including insurance proceeds) shall be applied first to the Subordinated Debt in the order and manner determined by Subordinated Creditors in accordance with the Subordinated Debt Documents until such time as the Subordinated Debt is Paid in Full, thereafter, all remaining proceeds shall be applied to the Senior Debt.

2.12. Rights Relating to Subordinated Lender's Actions with respect to the Collateral. Each Subordinated Creditor hereby agrees that it will not sell the Collateral, or authorize the sale of the Collateral without Senior Lender's consent, which consent shall not be unreasonably withheld.

3. Modifications.

3.1. Modifications to Senior Debt Documents. Senior Lender may at any time and from time to time without the consent of or notice to any Subordinated Creditor, without incurring liability to any Subordinated Creditor and without impairing or releasing the obligations of any Subordinated Creditor under this Agreement, change the manner or place of payment or extend the time of payment of or renew or alter any of the terms of the Senior Debt, or amend or otherwise modify in any manner any agreement, note, guarantee or other instrument evidencing or securing or otherwise relating to the Senior Debt.

3.2. Modifications to Subordinated Debt Documents. Until the Senior Debt has been Paid in Full, and notwithstanding anything to the contrary contained in the Subordinated Debt Documents, no Subordinated Creditor shall without the prior written consent of Senior Lender, agree to any amendment, modification or supplement to the Subordinated Debt Documents.

4. Waiver of Certain Rights by Subordinated Creditors. Each Subordinated Creditor hereby waives all notice of the acceptance by Senior Lender of the subordination and other provisions of this Agreement, and each Subordinated Creditor expressly consents to reliance by the Senior Lender upon the subordination and other agreements as herein provided.

5. Representations and Warranties of Subordinated Creditors. To induce Senior Lender to execute and deliver this Agreement, Agent, on behalf of each Subordinated Creditor, hereby represents and warrants to Senior Lender that as of the date hereof: (a) this Agreement has been duly executed and delivered by the Agent who has the authority to act on behalf of the Subordinated Creditors; (b) this Agreement is the legal, valid and binding obligation of the Subordinated Creditors, enforceable against such Subordinated Creditors in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by equitable principles; and (c) the Subordinated Creditors are the sole owners, beneficially and of record, of the Subordinated Debt Documents and the Subordinated Debt on the date hereof.

6. **Subrogation**. Subject to the Payment in Full of the Senior Debt and the terms of this Agreement, except as specifically provided in this Agreement to the contrary, each Subordinated Creditor shall be subrogated to the rights of Senior Lender to receive Distributions with respect to the Senior Debt until the Subordinated Debt is paid in full. If Senior Lender is required to disgorge any proceeds of Collateral, payment or other amount received by such Person (whether because such proceeds, payment or other amount is invalidated, declared to be fraudulent or preferential or otherwise) or turn over or otherwise pay any amount (a "Recovery") to the estate or to any creditor or representative of a Credit Party or any other Person, then the Senior Debt shall be reinstated (to the extent of such Recovery) as if such Senior Debt had never been paid and to the extent any Subordinated Creditor has received proceeds, payments or other amounts to which such Subordinated Creditor would not have been entitled under this Agreement had such reinstatement occurred prior to receipt of such proceeds, payments or other amounts, such Subordinated Creditor shall turn over such proceeds, payments or other amounts to Senior Lender for reapplication to the Senior Debt. A Distribution made pursuant to this Agreement to Senior Lender which otherwise would have been made to any Subordinated Creditor is not, as between the Credit Parties and Subordinated Creditors, a payment by the Credit Parties to or on account of the Subordinated Debt.

7. **Right To Purchase Loan**. Without limiting any provisions of applicable law, Subordinated Creditors agree that Senior Lender shall be entitled to purchase the Subordinated Notes and Subordinated Debt Documents (excluding the warrants issued by the Borrower to the Subordinated Creditors) by paying to Subordinated Creditors the full amount of the Subordinated Debt. The foregoing purchase right shall be exercisable upon not less than ten (10) days' notice given at any time after an event of default under either the Senior Debt Documents or the Subordinated Debt Documents. The following provisions shall apply to any sale of the Subordinated Debt and Subordinated Debt Documents pursuant to this provision:

(a) Such sale shall be non-recourse to Subordinated Creditors and shall be on an "as-is, where-is" basis, without representation or warranty by Subordinated Creditors, except that Subordinated Creditors shall represent with respect to its own interest that: (i) Subordinated Creditors have good title to the Subordinated Debt Documents; (ii) Subordinated Creditors have all requisite right and authority to sell and assign the same; and (iii) the amount of the of the Subordinated Debt is accurate;

(b) At the written request of either Subordinated Creditors or Senior Lender, the parties shall open escrow with Chicago Title Insurance Company or another nationally recognized title insurance company, its affiliate, successor or assign ("Escrow Holder");

(c) Agent and/or the Subordinated Creditors shall deliver at the closing of such sale, or promptly deposit with the Escrow Holder, if applicable: (i) an allonge executed in favor of Junior Lender (or its Nominee) to be affixed to the Subordinated Notes, in form and substance acceptable to Senior Lender in its reasonable discretion; (ii) the original Subordinated Notes; (iii) a UCC-3, assigning Subordinated Creditors' UCC-1 filings (if any) against any of the Credit Parties to Senior Lender; (iv) an "omnibus" assignment of the Subordinated Debt Documents; and (v) other documents reasonably required in connection with and in order to more completely effectuate such sale;

(d) The closing date of the sale of the Loan shall take place no less than ten (10) days nor more than thirty (30) days (provided that if the thirtieth day is not a Business Day, then no later than the first Business Day immediately following such 30th day) after the date Senior Lender notifies Agent and/or the Subordinated Creditors that it has exercised the foregoing purchase right (or such earlier date as agreed upon by Senior Lender and Subordinated Creditors);

(e) After such sale, to the extent reasonably required by and at the cost and expense of Senior Lender, Agent and the Subordinated Creditors shall from time to time execute any other documents required to more completely effectuate such sale.

8. **Modification**. Any modification or waiver of any provision of this Agreement, or any consent to any departure by any party from the terms hereof, shall not be effective in any event unless the same is in writing and signed by Senior Lender and each Subordinated Creditor, and then such modification, waiver or consent shall be effective only in the specific instance and for the specific purpose given. Any notice to or demand on any party hereto in any event not specifically required hereunder shall not entitle the party receiving such notice or demand to any other or further notice or demand in the same, similar or other circumstances unless specifically required hereunder.

9. **Further Assurances**. Each party to this Agreement promptly will execute and deliver such further instruments and agreements and do such further acts and things as may be reasonably requested in writing by any other party hereto that may be necessary in order to effect fully the terms of this Agreement.

10. **Notices**. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, as follows:

if to Subordinated Creditors, to Richard Galterio, at

_____
_____
Fax: (___) ___-_____
E-mail:_____

if to any of the Borrower or the Guarantor, to Midwest EnergyEmissions Corp.

Attn: Alan Kelley, CEO
500 W Wilson Bridge Rd Ste. 140
Worthington, OH 43085
Fax: (614) 505-7377
E-mail: akelley@midwestemissions.com

In each case, with a copy (for informational purposes only):

Taft Stettinius & Hollister LLP
Attn: Mitchell D. Goldsmith
111 E. Wacker Drive, Suite 2800
Chicago, Illinois 60601-3713
Fax: (312) 275-7569
E-mail: mgoldsmith@taftlaw.com

If to the Senior Lender:

c/o Alterna Capital Partners LLC
Attn: Samir Patel
15 River Road, Suite 320
Wilton, Connecticut 06897
Fax: (203) 563-9210
E-Mail: samir.patel@alternacapital.com

With a copy to (for informational purposes only):

Levenfeld Pearlstein, LLC
E-Mail: dsolomon@lplegal.com

All such notices and other communications (i) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received or (ii) sent by facsimile or electronic mail shall be deemed to have been given when sent, provided that if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient.

11. **Successors and Assigns**. This Agreement shall inure to the benefit of, and shall be binding upon, the respective successors and assigns of Senior Lender and the Credit Parties and the successors, assigns, heirs and legal representatives of Agent and Subordinated Creditors. To the extent permitted under the Senior Debt Documents, Senior Lender may, from time to time, without notice to Agent or any of the Subordinated Creditors, assign or transfer any or all of the Senior Debt or any interest therein to any Person and, notwithstanding any such assignment or transfer, or any subsequent assignment or transfer, the Senior Debt shall, subject to the terms hereof, be and remain Senior Debt for purposes of this Agreement, and every permitted assignee or transferee of any of the Senior Debt or of any interest therein shall, to the extent of the interest of such permitted assignee or transferee in the Senior Debt, be entitled to rely upon and be the third party beneficiary of the subordination provided under this Agreement and shall be entitled to enforce the terms and provisions hereof to the same extent as if such assignee or transferee were initially a party hereto. Each Subordinated Creditor agrees that any party that consummates a Permitted Refinancing may rely on and enforce this Agreement. Agent and each Subordinated Creditor further agree that he, she or it will, at the request of Senior Lender, enter into an agreement, in the form of this Agreement, *mutatis mutandis*, with the party that consummates the Permitted Refinancing; provided, that the failure of any Subordinated Creditor to execute such an agreement shall not affect such party's right to rely on and enforce the terms of this Agreement.

12. **Relative Rights**. This Agreement shall define the relative rights of Senior Lender and Subordinated Creditors. Nothing in this Agreement shall (a) impair, as among the Credit Parties, and Senior Lender and as between the Credit Parties and Subordinated Creditors, the obligation of the Credit Parties with respect to the payment of the Senior Debt and the Subordinated Debt in accordance with their respective terms or (b) affect the relative rights of Senior Lender or Subordinated Creditors with respect to any other creditors of the Credit Parties. The terms of this Agreement shall govern even if all or any part of the Senior Debt or the Liens in favor of Senior Lender are avoided, disallowed, unperfected, set aside or otherwise invalidated in any judicial proceeding or otherwise.

13. **Conflict**. In the event of any conflict between any term, covenant or condition of this Agreement and any term, covenant or condition of any of the Subordinated Debt Documents or the Senior Debt Documents, the provisions of this Agreement shall control and govern.

14. **Headings**. The paragraph headings used in this Agreement are for convenience only and shall not affect the interpretation of any of the provisions hereof.

15. **Counterparts/Electronic Signatures**. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

16. **Severability**. In the event that any provision of this Agreement is deemed to be invalid, illegal or unenforceable by reason of the operation of any law or by reason of the interpretation placed thereon by any court or governmental authority, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby, and the affected provision shall be modified to the minimum extent permitted by law so as most fully to achieve the intention of this Agreement.

17. **Continuation of Subordination; Termination of Agreement**. This Agreement shall remain in full force and effect until Payment in Full of the Senior Debt, on which date this Agreement shall automatically terminate without the necessity of further action on the part of the parties hereto; provided, that if any payment is, subsequent to such termination, recovered from any holder of Senior Debt, this Agreement shall be reinstated; provided, further, that a Permitted Refinancing shall not be deemed to be Payment in Full of the Senior Debt.

18. **GOVERNING LAW; SUBMISSION TO JURISDICTION**. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS) OF THE STATE OF NEW YORK. EACH SUBORDINATED CREDITOR AND EACH CREDIT PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR STATE COURT SITTING IN NEW YORK, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH STATE OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH PARTY TO THIS AGREEMENT IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 9. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.**

19. **WAIVER OF JURY TRIAL. EACH SUBORDINATED CREDITOR AND EACH CREDIT PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH SUBORDINATED CREDITOR AND EACH CREDIT PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Subordinated Creditors, the Credit Parties and Senior Lender have caused this Agreement to be executed as of the date first above written.

SUBORDINATED CREDITORS:

_____

Richard Galterio, as agent for the Subordinated Creditors

CREDIT PARTIES:

MIDWEST ENERGY EMISSIONS CORP.,
a Delaware corporation

By: _____
Name: _____
Title: _____

MES, INC., a North Dakota corporation

By: _____
Name: _____
Title: _____

SENIOR LENDER:
AC ENERGY MIDWEST LLC
By: _____
Name: _____
Title: _____

EXHIBIT 10.5

INVESTOR/REGISTRATION RIGHTS AGREEMENT

This Investor/Registration Rights Agreement (the "**Agreement**") is made and entered into as of the 14th day of August, 2014, by and Midwest Energy Emissions Corp., a Delaware corporation (the "**Company**") and AC Midwest Energy LLC, a Delaware limited liability company (the "**Holder**").

WHEREAS, the Company and the Holder have entered into a certain Financing Agreement dated as of the date hereof (the "**Financing Agreement**") pursuant to which the Company has agreed, upon the terms and conditions set forth in the Financing Agreement, to issue and sell to the Holder a senior secured convertible note in the principal amount of $10,000,000 (the "**Note**"), which Note shall be convertible into shares of the Company's common stock, par value $0.001 per share (the "**Common Stock,**" and the shares of Common Stock issuable upon conversion of the Note, the "**Conversion Shares**") and warrants (the "**Warrants**") which will be exercisable to purchase shares of Common Stock (as exercised, collectively, the "**Warrant Shares**") in accordance with the terms of the Warrants; and

WHEREAS, in accordance with the terms of the Financing Agreement the Company has agreed to provide the Holder with certain rights, including, without limitation: (i) registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any successor statute (collectively, the "**1933 Act**"), and applicable state securities laws; (ii) to consent to certain actions taken by the Company and its subsidiaries once the Note is repaid in full at which time the covenants set forth in the Financing Agreement no longer apply, (iii) to consult with management from time to time and to attend meetings of the Company's Board of Directors (the "**Board**") as an observer once the Note is repaid in full at which time the covenants set forth in the Financing Agreement no longer apply.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the parties hereto hereby agree as follows:

1. Definitions. For purposes of this Agreement:

"**1933 Act**" has the meaning set forth in the recitals.

"**1934 Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, or any successor statute thereto.

"**Additional Effective Date**" means the date the Additional Registration Statement is declared effective by the SEC.

"**Additional Effectiveness Deadline**" means the date which is the earlier of: (i) in the event that the Additional Registration Statement (a) is not subject to a full review by the SEC, 30 calendar days after the earlier of the Additional Filing Date and the Additional Filing Deadline, or (b) in the event that the Additional Registration Statement is subject to a full review by the SEC, 60 calendar days after the earlier of the Additional Filing Date and the Additional Filing Deadline, and (ii) the 5 Business Day after the date the Company is notified (orally or in writing, whichever is earlier) by the SEC that such Additional Registration Statement will not be reviewed or will not be subject to further review; *provided*, *however*, that if the Additional Effectiveness Deadline falls on a Saturday, Sunday or other day that the SEC is closed for business, the Additional Effectiveness Deadline shall be extended to the next Business Day on which the SEC is open for business.

"**Additional Filing Date**" means the date on which the Additional Registration Statement is filed with the SEC.

"**Additional Filing Deadline**" means if Cutback Shares are required to be included in any Additional Registration Statement, the later of (i) the date 60 calendar days after the date substantially all of the Registrable Securities registered under the immediately preceding Registration Statement are sold, and (ii) the date six months from the Initial Effective Date or the most recent Additional Effective Date, as applicable.

"**Additional Registrable Securities**" means: (i) any Cutback Shares not previously included on a Registration Statement, and (ii) any capital stock of the Company issued or issuable with respect to the Notes, Conversion Shares, Purchased Convertible Notes, Purchased Convertible Note Shares, Warrants, Warrant Shares or Cutback Shares, as applicable, as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise.

"**Additional Registration Statement**" means a registration statement or registration statements of the Company filed under the 1933 Act covering the resale of any Additional Registrable Securities.

"**Additional Required Registration Amount**" means (i) any Cutback Shares not previously included on a Registration Statement, all subject to adjustment as provided in Section 2.1(e), or (ii) such other amount as may be permitted by the staff of the SEC pursuant to Rule 415.

"**Affiliate**" means, with respect to a specified Person, another Person that is a director or officer of such Person, or directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the Person specified

"**Agreement**" has the meaning set forth in the preamble.

"**Allowable Grace Period**" has the meaning set forth in Section 2.2(p).

"**Approved Plan and Budget**" has the meaning set forth in Section 3.

"**Bloomberg**" means Bloomberg Financial Markets.

"**Blue Sky Filing**" has the meaning set forth in Section 2.5(a).

"**Board**" has the meaning set forth in the preamble.

"**Business Day**" means any day other than Saturday, Sunday or any other day on which commercial banks in the City of New York are authorized or required by law to remain closed.

"**Claims**" has the meaning set forth in Section 2.5(a).

"**Closing Bid Price**" and "**Closing Sale Price**" means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or the last trade price, respectively, of such security prior to 4:00:00 p.m., New York time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Closing Bid Price or Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the affected Investors. If the Company and such Investors are unable to agree upon the fair market value of such security, then the Company and the Investors shall agree, in good faith, upon an independent investment bank of nationally recognized standing to make such determination, whose determination shall be final and binding and whose fees and expenses shall be borne by the Company.

"**Common Stock**" has the meaning set forth in the recitals.

"**Company**" has the meaning set forth in the preamble.

"**Conversion Shares**" has the meaning set forth in the recitals.

"**Current Public Information Failure**" has the meaning set forth in Section 2.1(f).

"**Cutback Shares**" means any of the Initial Required Registration Amount or the Additional Required Registration Amount (without regard to clause (ii) in the definition thereof) of Registrable Securities not included in all Registration Statements previously declared effective hereunder as a result of a limitation on the maximum number of shares of Common Stock of the Company permitted to be registered by the staff of the SEC pursuant to Rule 415. For the purpose of determining the Cutback Shares, in order to determine any applicable Required Registration Amount, unless an Investor gives written notice to the Company to the contrary with respect to the allocation of its Cutback Shares, first the Warrant Shares shall be excluded on a pro rata basis among the Investors until all of the Warrant Shares have been excluded, second, the Purchased Convertible Note Shares shall be excluded on a pro rata basis among the Investors until all of the Purchased Convertible Note Shares have been excluded, and finally the Conversion Shares shall be excluded on a pro rata basis among the Investors until all of the Conversion Shares have been excluded.

"**Effective Date**" means the Initial Effective Date and the Additional Effective Date, as applicable.

"**Effectiveness Deadline**" means the Initial Effectiveness Deadline and the Additional Effectiveness Deadline, as applicable.

"**Effectiveness Failure**" has the meaning set forth in Section 2.1(f).

"**Eligible Market**" means the Principal Market, The New York Stock Exchange, Inc., the NYSE MKT LLC, The NASDAQ Capital Market, The NASDAQ Global Select Market or The NASDAQ Global Market.

"**Filing Deadline**" means the Initial Filing Deadline and the Additional Filing Deadline, as applicable.

"**Filing Failure**" has the meaning set forth in Section 2.1(f).

"**Financing Agreement**" has the meaning set forth in the recitals.

"**Grace Period**" has the meaning set forth in Section 2.2(p).

"**Holder**" has the meaning set forth in the preamble and shall also include or any transferee or assignee of the Holder identified in the preamble to whom the Holder identified in the preamble assigns its rights under this Agreement and who agrees to be bound by the provisions of this Agreement in accordance with Section 7.1 and any transferee or assignee thereof to whom a transferee or assignee assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 7.1.

"**Indemnified Damages**" has the meaning set forth in Section 2.5(a).

"**Indemnified Party**" has the meaning set forth in Section 2.5(b).

"**Indemnified Person**" has the meaning set forth in Section 2.5(a).

"**Initial Effective Date**" means the date that the Initial Registration Statement has been declared effective by the SEC.

"**Initial Effectiveness Deadline**" means the date which is the earlier of: (i) in the event that the Initial Registration Statement (a) is not subject to a full review by the SEC, 90 calendar days after the Request Date, or (b) is subject to a full review by the SEC, 120 calendar days after the Request Date, and (ii) the fifth Business Day following the date on which the Company is notified (orally or in writing, whichever is earlier) by the SEC that such Initial Registration Statement will not be reviewed or will not be subject to further review; *provided*, *however*, that if the Initial Effectiveness Deadline falls on a Saturday, Sunday or other day that the SEC is closed for business, the Initial Effectiveness Deadline shall be extended to the next Business Day on which the SEC is open for business.

"**Initial Filing Date**" means the date on which the Initial Registration Statement is filed with the SEC.

"**Initial Filing Deadline**" means the date which is 30 calendar days after the Request Date.

"**Initial Registrable Securities**" means (i) the Warrant Shares issuable or issued upon exercise of the Warrant; (ii) the Conversion Shares issuable or issued pursuant to the terms of the Note; (iii) the Purchased Convertible Note Shares issuable or issued pursuant to the terms of the Purchased Convertible Notes; and (iv) any other capital stock issued or issuable with respect to the Note, Conversion Shares, Purchased Convertible Notes, Purchased Convertible Note Shares, Warrant or Warrant Shares as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise.

"**Initial Registration Statement**" means a registration statement or registration statements of the Company filed under the 1933 Act covering the resale of the Initial Registrable Securities.

"**Initial Required Registration Amount**" means (i) the sum of: (a) 135% of the maximum number of Conversion Shares issued and issuable pursuant to the Notes, (b) 100% of the maximum number of Warrant Shares issued and issuable pursuant to the Warrant, and (c) 100% of the maximum number of Purchased Convertible Note Shares issued and issuable pursuant to the Purchased Convertible Notes, each as of the Trading Day immediately preceding the applicable date of determination and all subject to adjustment as provided in Section 2.1(e), or (ii) such other amount as may be permitted by the staff of the SEC pursuant to Rule 415.

"**Inspectors**" has the meaning set forth in Section 2.2(g)(ii).

"**Investor**" means the Holder or any transferee or assignee of the Holder to whom the Holder assigns its rights under this Agreement and who agrees to be bound by the provisions of this Agreement in accordance with Section 7.1 and any transferee or assignee thereof to whom a transferee or assignee assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 7.1.

"**Note**" has the meaning set forth in the recitals.

"**Maintenance Failure**" has the meaning set forth in Section 2.1(f).

"**Major Action**" has the meaning set forth in Section 3.

"**Permitted Issuances**" means any issuance or sale (or deemed issuance or sale in accordance with Section 4) by the Company after the Original Issue Date of shares of Common Stock issued or issuable with respect to any of the following: (a) upon conversion of the Note or the Prior Convertible Notes; (b) upon exercise each of the following warrants which were issued as of the date hereof: (i) this Warrant, (ii) the New Warrants (as defined in the Allonge to the Prior Senior Convertible Notes); and (iii) the warrants to be issued to the Placement Agent; (c) interest on the Note or Prior Senior Convertible Notes as a result of in kind payments of Common Stock in lieu of cash; (d) upon exercise of the existing warrants to the extent outstanding as of the Original Issue Date, including, without limitation: (i) the warrants issued in connection with the Prior Convertible Notes; (ii) the warrants issued to each of Arthur Peterson and James Stanley on September 19, 2013; and (iii) the warrants issued to View Trade Securities, Inc. between July 30, 2013 and May 8, 2014 to purchase up to an aggregate of 572,750 shares of Common Stock at an exercise price of $0.50 per share; (e) pursuant to the existing employment agreements with each of R. Alan Kelley, John F. Norris, Jr., Richard H. Gross and Marc Sylvester (the "**Executive Employment Agreements**"); (f) upon exercise of the following existing options to the extent outstanding as of the Original Issue Date: (i) the options issued pursuant to the 2005 Stock Option Plan (as amended in 2009); (ii) the options issued in connection with the Executive Employment Agreements; and (iii) the options issued to each of Keith McGee and Jim Trettel on January 1, 2014 (the forgoing clauses (a) through (f) collectively, the "**Existing Issuance Obligations**"); (g) in connection with the acquisition of any interest in an entity not affiliated with the Company (whether by merger, purchase of substantially all of the assets, purchase of stock or other otherwise) which is consented to by the Holder; and (h) pursuant to or in connection with any strategic alliance, joint venture or corporate partnership, each with an entity not affiliated with the Company which is consented to by the Holder, (i) shares issuable to EERCF and/or its designees as set forth in the Fifth Amendment to the EERCF License Agreement, in the event of exercise by MES of its option to cause EERCF to transfer the Patent Rights (as such term is defined in the EERCF License Agreement) to MES (or any of its assignees or Affiliates) pursuant to the EERCF License Agreement; provided that Holder has consented to MES exercising such right; and (j) the equity securities or equity linked securities as necessary to provide sufficient net proceeds to the Company to enable it to pay off at any time on or following maturity, the indebtedness evidenced by any of the "Prior Convertible Notes" (as that term is defined in the Financing Agreement).

"**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.

"**Principal Market**" means The OTC QB.

"**Purchased Convertible Note Shares**" means the shares of Common Stock issuable upon conversion of any Purchased Convertible Notes.

"**Purchased Convertible Notes**" means any of the Prior Senior Convertible Notes purchased by the Holder.

"**Records**" has the meaning set forth in Section 2.2(g)(ii).

"**register**", "**registered**" and "**registration**" mean a registration effected by preparing and filing one or more Registration Statements in compliance with the 1933 Act and pursuant to Rule 415, and the declaration or ordering of effectiveness of such Registration Statement or Registration Statements by the SEC.

"**Registrable Securities**" means the Initial Registrable Securities and the Additional Registrable Securities.

"**Registration Delay Payments**" has the meaning set forth in Section 2.1(f).

"**Registration Failure**" has the meaning set forth in Section 2.1(f)

"**Registration Period**" has the meaning set forth in Section 2.2(a).

"**Registration Statement**" means the Initial Registration Statement and the Additional Registration Statement, as applicable.

"**Required Holders**" means the holders of at least a majority of the Registrable Securities and shall include the Holder so long as the Holder or any Affiliate of the Holder holds any Registrable Securities.

"**Request Date**" means the date that the Required Holder have delivered a notice to the Company requesting that the Company file the Initial Registration Statement, such notice in accordance with the notice provisions set forth in Section 7.3 hereof.

"**Required Registration Amount**" means either the Initial Required Registration Amount or the Additional Required Registration Amount, as applicable.

"**Rule 144**" has the meaning set forth in Section 2.7.

"**Rule 415**" means Rule 415 promulgated under the 1933 Act or any successor rule providing for offering securities on a continuous or delayed basis.

"**SEC**" means the U.S. Securities and Exchange Commission.

"**Trading Day**" means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market on which the Common Stock is then traded; *provided* that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York time).

"**Transaction Documents**" means the Financing Agreement, the Note, the Warrant, and each of the other agreements, documents and certificates entered into by the Holder and the Company in connection with the transactions contemplated by the Financing Agreement.

"**Violations**" has the meaning set forth in Section 2.5(a).

"**Warrant**" has the meaning set forth in the recitals.

"**Warrant Shares**" has the meaning set forth in the recitals.

Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Financing Agreement.

2. **Registration Rights**.

2.1 **Demand Registration**.

(a) Initial Registration. Promptly following the Request Date, the Company shall prepare, and, as soon as practicable but in no event later than the Initial Filing Deadline, file with the SEC the Initial Registration Statement on Form S-3. The Initial Registration Statement prepared pursuant hereto shall register for resale at least the number of shares of Common Stock equal to the Initial Required Registration Amount determined as of the date the Initial Registration Statement is initially filed with the SEC, subject to adjustment as provided in Section 2.1(e). The Initial Registration Statement shall contain (except if otherwise directed by the Required Holders) the "Plan of Distribution" and "Selling Shareholders" sections in substantially the form attached hereto as Exhibit B. The Company shall use its commercially reasonable efforts to have the Initial Registration Statement declared effective by the SEC as soon as practicable, but in no event later than the Initial Effectiveness Deadline. By 9:30 a.m. New York time on the Business Day following the Initial Effective Date, the Company shall file with the SEC in accordance with Rule 424 under the 1933 Act the final prospectus to be used in connection with sales pursuant to such Initial Registration Statement.

(b) Additional Registrations. The Company shall prepare, and, as soon as practicable but in no event later than the Additional Filing Deadline, file with the SEC an Additional Registration Statement on Form S-3 covering the resale of all of the Additional Registrable Securities not previously registered on an Additional Registration Statement hereunder. To the extent the staff of the SEC does not permit the Additional Required Registration Amount to be registered on an Additional Registration Statement, the Company shall file Additional Registration Statements successively trying to register on each such Additional Registration Statement the maximum number of remaining Additional Registrable Securities until the Additional Required Registration Amount has been registered with the SEC. Each Additional Registration Statement prepared pursuant hereto shall register for resale at least that number of shares of Common Stock equal to the Additional Required Registration Amount determined as of the date such Additional Registration Statement is initially filed with the SEC, subject to adjustment as provided in Section 2.1(e). Each Additional Registration Statement shall contain (except if otherwise directed by the Investors) the "Plan of Distribution" and "Selling Shareholders" sections in substantially the form attached hereto as Exhibit B. The Company shall use its commercially reasonable efforts to have each Additional Registration Statement declared effective by the SEC as soon as practicable, but in no event later than the Additional Effectiveness Deadline. By 9:30 a.m. New York time on the Business Day following the Additional Effective Date, the Company shall file with the SEC in accordance with Rule 424 under the 1933 Act the final prospectus to be used in connection with sales pursuant to such Additional Registration Statement.

(c) Allocation of Registrable Securities. The initial number of Registrable Securities included in any Registration Statement and any increase or decrease in the number of Registrable Securities included therein shall be allocated pro rata among the Investors based on the number of Registrable Securities held by each Investor at the time the Registration Statement covering such initial number of Registrable Securities or increase or decrease thereof is declared effective by the SEC. In the event that an Investor sells or otherwise transfers any of such Investor's Registrable Securities, each transferee shall be allocated a pro rata portion of the then remaining number of Registrable Securities included in such Registration Statement for such transferor. Any shares of Common Stock included in a Registration Statement and which remain allocated to any Person which ceases to hold any Registrable Securities covered by such Registration Statement shall be allocated to the remaining Investors, pro rata based on the number of Registrable Securities then held by such Investors which are covered by such Registration Statement. In no event shall the Company include any securities other than Registrable Securities on any Registration Statement without the prior written consent of the Required Holders.

(d) Ineligibility for Form S-3. Notwithstanding anything herein to the contrary, in the event that Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall: (i) register the resale of the Registrable Securities on Form S-1 or another appropriate form reasonably acceptable to the Required Holders, and (ii) undertake to register the Registrable Securities on Form S-3 as soon as such form is available; *provided* that the Company shall maintain the effectiveness of the Registration Statement then in effect until such time as a Registration Statement on Form S-3 covering the Registrable Securities has been declared effective by the SEC.

(e) Sufficient Number of Shares Registered. In the event the number of shares available under a Registration Statement filed pursuant to Sections 2.1(a) or 2.1(b) is insufficient to cover the Required Registration Amount of Registrable Securities required to be covered by such Registration Statement or an Investor's allocated portion of the Registrable Securities pursuant to Section 2.1(c), the Company shall amend the applicable Registration Statement, or file a new Registration Statement (on the short form available therefor, if applicable), or both, so as to cover at least the Required Registration Amount as of the Trading Day immediately preceding the date of the filing of such amendment or new Registration Statement, in each case, as soon as practicable, but in any event not later than 15 calendar days after the necessity therefor arises. The Company shall use its commercially reasonable efforts to cause such amendment or new Registration Statement, or both, to become effective as soon as practicable following the filing thereof. For purposes of the foregoing provision, the number of shares available under a Registration Statement shall be deemed "insufficient to cover all of the Registrable Securities" if at any time the number of shares of Common Stock available for resale under the Registration Statement is less than the Required Registration Amount. The calculation set forth in the foregoing sentence shall assume: (i) that the Note is then convertible in full into shares of Common Stock at the then prevailing Conversion Price (as defined in the Financing Agreement) and (ii) the Warrant is then exercisable in full into shares of Common Stock at the then prevailing Exercise Price (as defined in the Warrant).

(f) Effect of Failure to File and Obtain and Maintain Effectiveness of Registration Statement. If: (i) the Initial Registration Statement when declared effective fails to register the Initial Required Registration Amount of Initial Registrable Securities (a "**Registration Failure**"), (ii) a Registration Statement covering all of the Registrable Securities required to be covered thereby and required to be filed by the Company pursuant to this Agreement is: (A) not filed with the SEC on or before the applicable Filing Deadline (a "**Filing Failure**"), or (B) not declared effective by the SEC on or before the Effectiveness Deadline (an "**Effectiveness Failure**"), (iii) on any day after the applicable Effective Date, sales of all of the Registrable Securities required to be included on such Registration Statement cannot be made (other than during an Allowable Grace Period) pursuant to such Registration Statement or otherwise (including, without limitation, because of the suspension of trading or any other limitation imposed by an Eligible Market, a failure to keep such Registration Statement effective, a failure to disclose such information as is necessary for sales to be made pursuant to such Registration Statement, a failure to register a sufficient number of shares of Common Stock or a failure to maintain the quotation or listing of the Common Stock) (a "**Maintenance Failure**"), or (iv) if a Registration Statement is not effective for any reason or the prospectus contained therein is not available for use for any reason, the Company fails to file with the SEC any required reports under Section 13 or 15(d) of the 1934 Act such that it is not in compliance with Rule 144(c)(1) (or Rule 144(i)(2), if applicable) (a "**Current Public Information Failure**") as a result of which any of the Investors are unable to sell Registrable Securities without restriction under Rule 144 (including, without limitation, volume restrictions) then, as partial relief for the damages to any holder by reason of any such delay in or reduction of its ability to sell the underlying shares of Common Stock (which remedy shall not be exclusive of any other remedies available at law or in equity, including, without limitation, specific performance or the additional obligation of the Company to register any Cutback Shares), the Company shall pay to each holder of Registrable Securities relating to such Registration Statement an amount in cash equal to (x) 0.5% of the aggregate value of such holder's Registrable Securities (such value being determined by multiplying the number of such holder's Registerable Securities by: the Closing Sale Price of one share of Common Stock on the Trading Day immediately preceding the date of determination, on each of the following dates: (i) the day of a Registration Failure, (ii) the day of a Filing Failure; (iii) the day of an Effectiveness Failure; (iv) the initial day of a Maintenance Failure; (v) the initial day of a Current Public Information Failure, and (y) 1.0% of the aggregate value of such holder's Registrable Securities, whether or not included in such Registration Statement, on each of the following dates: (i) on the thirtieth day after the date of a Registration Failure and every thirtieth day thereafter (prorated for periods totaling less than thirty days) until such Registration Failure is cured; (ii) on the thirtieth day after the date of a Filing Failure and every thirtieth day thereafter (prorated for periods totaling less than thirty days) until such Filing Failure is cured; (iii) on the thirtieth day after the date of an Effectiveness Failure and every thirtieth day thereafter (prorated for periods totaling less than thirty days) until such Effectiveness Failure is cured; (iv) on the thirtieth day after the initial date of a Maintenance Failure and every thirtieth day thereafter (prorated for periods totaling less than thirty days) until such Maintenance Failure is cured; and (v) on the thirtieth day after the initial date of a Public Information Failure and every thirtieth day thereafter (prorated for periods totaling less than thirty days) until such Public Information Failure is cured. The payments to which a holder shall be entitled pursuant to this Section 2.1(f) are referred to herein as "**Registration Delay Payments.**" Registration Delay Payments shall be paid on the earlier of (I) the dates set forth above, and (II) the third Business Day after the event or failure giving rise to the Registration Delay Payments is cured. In the event the Company fails to make Registration Delay Payments in a timely manner, such Registration Delay Payments shall bear interest at the rate of one and 1.0% per month (prorated for partial months) until paid in full. Notwithstanding anything herein to the contrary, (i) Registration Delay Payments shall cease to accrue when all of the Registrable Securities may be sold pursuant to Rule 144 without any restrictions or limitations, (ii) in no event shall the aggregate amount of all Registration Delay Payments (without regard to any accrued interest thereon in accordance with the preceding sentence) paid to an Investor exceed an amount equal to 2.5% of the original principal amount stated in the Note on the Closing Date (as defined in the Financing Agreement), (iii) no single event or failure shall give rise to more than one type of Registration Delay Payment, or (iv) if an Investor would be required to be named as an "underwriter" in the Registration Statement by the SEC and such Investor elects, pursuant to Section 2.2(q) below not to include any Registrable Securities of such Investor in the Registration Statement, no Registration Delay Payments shall accrue with respect to such Registrable Securities of such Investor.

2.2 **Obligations of the Company**. At such time as the Company is obligated to file a Registration Statement with the SEC pursuant to Section 2.1(a), 2.1(b), 2.1(d) or 2.1(e), the Company will use its reasonable commercially reasonable efforts to effect the registration of the Registrable Securities in accordance with the intended method of disposition thereof and, pursuant thereto, the Company shall have the following obligations:

(a) The Company shall promptly prepare and file with the SEC a Registration Statement with respect to the Registrable Securities and use its commercially reasonable efforts to cause such Registration Statement relating to the Registrable Securities to become effective as soon as practicable after such filing (but in no event later than the Effectiveness Deadline). The Company shall keep each Registration Statement effective pursuant to Rule 415 at all times until the earlier of: (i) the date as of which the Investors may sell all of the Registrable Securities covered by such Registration Statement without restriction or limitation pursuant to Rule 144 and without the requirement to be in compliance with Rule 144(c)(1) (or any successor thereto) promulgated under the 1933 Act, or (ii) the date on which the Investors shall have sold all of the Registrable Securities covered by such Registration Statement (the "**Registration Period**"). The Company shall ensure that each Registration Statement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein (in the case of prospectuses, in the light of the circumstances in which they were made) not misleading. The term "commercially reasonable efforts" shall mean, among other things, that the Company shall submit to the SEC, within two Business Days after the later of the date that the Company learns that no review of a particular Registration Statement will be made by the staff of the SEC or that the staff has no further comments on a particular Registration Statement, as the case may be, a request for acceleration of effectiveness of such Registration Statement to a time and date not later than two Business Days after the submission of such request. The Company shall respond in writing to comments made by the SEC in respect of a Registration Statement as soon as practicable, but in no event later than fifteen days after the receipt of comments by or notice from the SEC that an amendment is required in order for a Registration Statement to be declared effective.

(b) The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to a Registration Statement and the prospectus used in connection with such Registration Statement, which prospectus is to be filed pursuant to Rule 424 promulgated under the 1933 Act, as may be necessary to keep such Registration Statement effective at all times during the Registration Period, and, during such period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by such Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in such Registration Statement. In the case of amendments and supplements to a Registration Statement which are required to be filed pursuant to this Agreement (including pursuant to this Section 2.2(b)) by reason of the Company filing a report on Form 10-K, Form 10-Q, Form 8-K or any analogous report under the 1934 Act, the Company shall have incorporated such report by reference into such Registration Statement, if applicable, or shall file such amendments or supplements with the SEC on the same day on which the 1934 Act report is filed which created the requirement for the Company to amend or supplement such Registration Statement.

(c) The Company shall furnish to each Investor, without charge, (i) promptly after the same is prepared and filed with the SEC, at least one copy of such Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference, if requested by an Investor, all exhibits and each preliminary prospectus, (ii) upon the effectiveness of any Registration Statement, ten copies of the prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as such Investor may reasonably request), and (iii) such other documents, including copies of any preliminary or final prospectus, as such Investor may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities.

(d) The Company shall use its commercially reasonable efforts to (i) register and qualify, unless an exemption from registration and qualification applies, the resale by the Investors of the Registrable Securities covered by a Registration Statement under such other securities or "blue sky" laws of all applicable jurisdictions in the United States, (ii) prepare and file in those jurisdictions such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; *provided*, *however*, that the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 2.2(d), (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. The Company shall promptly notify the Investors of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threatening of any proceeding for such purpose.

(e) The Company shall notify the Investors in writing of the happening of any event, as promptly as practicable after becoming aware of such event, as a result of which the prospectus included in a Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (provided that in no event shall such notice contain any material, nonpublic information), and, subject to Section 2.2(p), promptly prepare a supplement or amendment to such Registration Statement to correct such untrue statement or omission, and deliver ten copies of such supplement or amendment to each Investor (or such other number of copies as such Investor may reasonably request). The Company shall also promptly notify the Investors in writing: (i) when a prospectus or any prospectus supplement or post-effective amendment has been filed, and when a Registration Statement or any post-effective amendment has become effective (notification of such effectiveness shall be delivered to the Investors by facsimile or email on the same day of such effectiveness and by overnight mail), (ii) of any request by the SEC for amendments or supplements to a Registration Statement or related prospectus or related information, and (iii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate. By 9:30 a.m. New York City time on the date following the date any post-effective amendment has become effective, the Company shall file with the SEC in accordance with Rule 424 under the 1933 Act the final prospectus to be used in connection with sales pursuant to such Registration Statement.

(f) The Company shall use its commercially reasonable efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, or the suspension of the qualification of any of the Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible moment and to each Investor of the issuance of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding for such purpose.

(g) If any Investor is required under applicable securities laws to be described in the Registration Statement as an underwriter or an Investor believes that it could reasonably be deemed to be an underwriter of Registrable Securities, the Company shall

(i) furnish the Investor, on the date of the effectiveness of the Registration Statement and thereafter from time to time on such dates as the Investor may reasonably request (A) a letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the Investor, and (B) an opinion, dated as of such date, of counsel representing the Company for purposes of such Registration Statement, in form, scope and substance as is customarily given in an underwritten public offering, addressed to the Investor; and

(ii) make available for inspection by (A) the Investor, (B) the Investor's legal counsel, and (C) one firm of accountants or other agents retained by the Investor (collectively, the "**Inspectors**"), all pertinent financial and other records, and pertinent corporate documents and properties of the Company (collectively, the "**Records**"), as shall be reasonably deemed necessary by each Inspector, and cause the Company's officers, directors and employees to supply all information which any Inspector may reasonably request; *provided*, *however*, that each Inspector shall agree to hold in strict confidence and shall not make any disclosure (except to the Investor) or use of any Record or other information which the Company determines in good faith to be confidential, and of which determination the Inspectors are so notified, unless (x) the disclosure of such Records is necessary to avoid or correct a misstatement or omission in any Registration Statement or is otherwise required under the 1933 Act, (y) the release of such Records is ordered pursuant to a final, non-appealable subpoena or order from a court or government body of competent jurisdiction, or (z) the information in such Records has been made generally available to the public other than by disclosure in violation of this Agreement. Each Investor agrees that it shall, upon learning that disclosure of such Records is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Company and allow the Company, at its expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, the Records deemed confidential. Nothing herein shall be deemed to limit an Investor's ability to sell Registrable Securities in a manner which is otherwise consistent with applicable laws and regulations.

(h) The Company shall hold in confidence and not make any disclosure of information concerning an Investor provided to the Company unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this Agreement or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning an Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt written notice to the Investor and allow the Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

(i) The Company shall use its commercially reasonable efforts either to (i) cause all of the Registrable Securities covered by a Registration Statement to be listed on each securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange or (ii) secure the inclusion for quotation of all of the Registrable Securities on the Principal Market or (iii) if, despite the Company's commercially reasonable efforts, the Company is unsuccessful in satisfying the preceding clauses (i) and (ii), to secure the inclusion for quotation on another Eligible Market for such Registrable Securities and, without limiting the generality of the foregoing, to use its commercially reasonable efforts to arrange for at least two market makers to register with the Financial Industry Regulatory Authority, Inc. as such with respect to such Registrable Securities. The Company shall pay all fees and expenses in connection with satisfying its obligation under this Section 2.2(i).

(j) The Company shall cooperate with the Investors and, to the extent applicable, facilitate the timely preparation and delivery of certificates (not bearing any restrictive legend) representing the Registrable Securities to be offered pursuant to a Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the Investors may reasonably request and registered in such names as the Investors may request.

(k) If requested by an Investor, the Company shall as soon as practicable: (i) incorporate in a prospectus supplement or post-effective amendment such information as the Investor reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; (ii) make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment; and (iii) supplement or make amendments to any Registration Statement if reasonably requested by an Investor holding Registrable Securities.

(l) The Company shall use its commercially reasonable efforts to cause the Registrable Securities covered by a Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to consummate the disposition of such Registrable Securities.

(m) The Company shall make generally available to its security holders as soon as practical, but not later than 90 days after the close of the period covered thereby, an earnings statement (in form complying with, and in the manner provided by, the provisions of Rule 158 under the 1933 Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the applicable Effective Date of a Registration Statement.

(n) The Company shall otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the SEC in connection with any registration here.

(o) Within two Business Days after a Registration Statement which covers Registrable Securities is ordered effective by the SEC, the Company shall deliver, and shall cause legal counsel for the Company to deliver, to the transfer agent for such Registrable Securities (with copies to the Investors) confirmation that such Registration Statement has been declared effective by the SEC in the form attached hereto as Exhibit A

(p) Notwithstanding anything herein to the contrary, at any time after the Effective Date, the Company may delay the disclosure of material, non-public information concerning the Company the disclosure of which at the time is not, in the good faith opinion of the Board and its counsel, in the best interest of the Company and, in the opinion of counsel to the Company, otherwise required (a "**Grace Period**"); *provided*, that the Company shall promptly (i) notify the Investors in writing of the existence of material, non-public information giving rise to a Grace Period (provided that in each such notice the Company will not disclose the content of such material, non-public information to the Investors) and the date on which the Grace Period will begin, and (ii) notify the Investors in writing of the date on which the Grace Period ends; *provided further*, that (x) no Grace Period shall exceed ten consecutive Trading Days, (y) during any 365-day period such Grace Periods shall not exceed an aggregate of twenty (20) Trading Days, and (z) the first day of any Grace Period must be at least five (5) Trading Days after the last day of any prior Grace Period (each, an "**Allowable Grace Period**"). For purposes of determining the length of a Grace Period, the Grace Period shall begin on and include the date the Investors receive the notice referred to in clause (i) and shall end on and include the later of the date the Investors receive the notice referred to in clause (ii) and the date referred to in such notice. The provisions of Section 2.1(f) shall not be applicable during the period of any Allowable Grace Period. Upon expiration of the Grace Period, the Company shall again be bound by the first sentence of Section 2.2(e) with respect to the information giving rise thereto unless such material, non-public information is no longer applicable. Notwithstanding anything to the contrary, the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of an Investor in accordance with the terms of the Transaction Documents in connection with any sale of Registrable Securities with respect to which the Investor has entered into a contract for sale, prior to the Investor's receipt of the notice of a Grace Period and for which the Investor has not yet settled.

(q) Neither the Company nor any Subsidiary or affiliate thereof shall identify an Investor as an underwriter in any public disclosure or filing with the SEC, the Principal Market or any Eligible Market and any Investor being deemed an underwriter by the SEC shall not relieve the Company of any obligations it has under this Agreement or any other Transaction Document; *provided*, *however*, that the foregoing shall not prohibit the Company from including the disclosure found in the "Plan of Distribution" section attached hereto as Exhibit B in the Registration Statement.

(r) Neither the Company nor any of its Subsidiaries has entered, as of the date hereof, nor shall the Company or any of its Subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holder in this Agreement or otherwise conflicts with the provisions hereof.

2.3 **Obligations of the Investors**.

(a) At least five Business Days prior to the first anticipated Filing Date of a Registration Statement, the Company shall notify each Investor in writing of the information the Company requires from such Investor. It shall be a condition precedent to the obligations of the Company to complete any registration pursuant to this Agreement with respect to the Registrable Securities of a particular Investor that such Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect and maintain the effectiveness of the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request.

(b) Each Investor, by such Investor's acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of any Registration Statement hereunder, unless such Investor has notified the Company in writing of such Investor's election to exclude all of such Investor's Registrable Securities from such Registration Statement.

(c) Each Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in the first sentence of Section 2.2(e) or in Section 2.2(f), the Investor will immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement covering such Registrable Securities until the such Investor's receipt of copies of the supplemented or amended prospectus as contemplated by the first sentence of Section 2.2(e) or Section 2.2(f) or receipt of notice that no supplement or amendment is required. Notwithstanding anything to the contrary, the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of an Investor in accordance with the terms of the Transaction Documents in connection with any sale of Registrable Securities with respect to which the Investor has entered into a contract for sale prior to the Investor's receipt of a notice from the Company of the happening of any event of the kind described in the first sentence of Section 2.2(e) or in Section 2.2(f) and for which the Investor has not yet settled.

(d) Each Investor covenants and agrees that it will comply with the prospectus delivery requirements of the 1933 Act as applicable to it or an exemption therefrom in connection with sales of Registrable Securities pursuant to the Registration Statement.

2.4 **Expenses of Registration**. All expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications of Registrable Securities pursuant to Sections 2.1 and 2.2, (which right may be assigned as provided in Section 7.1), including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, and fees and disbursements of counsel for the Company shall be paid by the Company. The Company shall also reimburse the Investors for the reasonable fees and disbursements of counsel for the Investors in connection with each registration, filing or qualification pursuant Sections 2.1 and 2.2 of this Agreement.

2.5 **Indemnification**. In the event any Registrable Securities are included in a registration statement under this Section 1:

(a) To the fullest extent permitted by law, the Company will, and hereby does agree to, indemnify, hold harmless and defend each Investor, the directors, officers, partners, members, employees, agents, representatives of, and each Person, if any, who controls any Investor within the meaning of the 1933 Act or the 1934 Act (each, an "**Indemnified Person**"), against any losses, claims, damages, liabilities, judgments, fines, penalties, charges, costs, reasonable attorneys' fees, amounts paid in settlement or expenses, joint or several (collectively, "**Claims**"), incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the SEC, whether pending or threatened, whether or not an indemnified party is or may be a party thereto ("**Indemnified Damages**"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("**Blue Sky Filing**"), or the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement or (iv) any violation of this Agreement (the matters in the foregoing clauses (i) through (iv) being, collectively, "**Violations**"). Subject to Section 2.5(c), the Company shall reimburse the Indemnified Persons, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 2.5(a): (i) shall not apply to a Claim by an Indemnified Person arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by such Indemnified Person for such Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 2.2(c); and (ii) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investors pursuant to Section 7.1.

(b) In connection with any Registration Statement in which an Investor is participating, each such Investor agrees to severally and not jointly indemnify, hold harmless and defend, to the same extent and in the same manner as is set forth in Section 2.5(a), the Company, each of its directors, each of its officers who signs the Registration Statement and each Person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act (each, an "**Indemnified Party**"), against any Claim or Indemnified Damages to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or are based upon any Violation, in each case to the extent, and only to the extent, that such Violation occurs in reliance upon and in conformity with written information furnished to the Company by such Investor expressly for use in connection with such Registration Statement; and, subject to Section 2.5(c), such Investor shall reimburse the Indemnified Party for any legal or other expenses reasonably incurred by an Indemnified Party in connection with investigating or defending any such Claim; *provided*, *however*, that the indemnity agreement contained in this Section 2.5(b) and the agreement with respect to contribution contained in Section 2.6 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Investor, which consent shall not be unreasonably withheld or delayed; *provided*, *further*, that the Investor shall be liable under this Section 2.5(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to such Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investors pursuant to Section 7.1.

(c) Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 2.5 of notice of the commencement of any action or proceeding (including any governmental action or proceeding) involving a Claim, such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 2.5, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses of not more than one counsel for all such Indemnified Person or Indemnified Party to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the Indemnified Person or Indemnified Party, as applicable, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. In the case of an Indemnified Person, legal counsel referred to in the immediately preceding sentence shall be selected by the Investors holding at least a majority in interest of the Registrable Securities included in the Registration Statement to which the Claim relates. The Indemnified Party or Indemnified Person shall reasonably cooperate with the indemnifying party in connection with any negotiation or defense of any such action or Claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to the Indemnified Party or Indemnified Person which relates to such action or Claim. The indemnifying party shall keep the Indemnified Party or Indemnified Person fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its prior written consent, provided, however, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Indemnified Party or Indemnified Person, consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party or Indemnified Person of a release from all liability in respect to such Claim or litigation and such settlement shall not include any admission as to fault on the part of the Indemnified Party. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Indemnified Party or Indemnified Person with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 2.5, except to the extent that the indemnifying party is prejudiced in its ability to defend such action.

(d) The indemnification required by this Section 2.5 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or Indemnified Damages are incurred.

(e) The indemnity agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnified Party or Indemnified Person against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to the law

2.6 **Contribution.** To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 2.5 to the fullest extent permitted by law; *provided*, *however*, that: (i) no Person involved in the sale of Registrable Securities which Person is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) in connection with such sale shall be entitled to contribution from any Person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited in amount to the amount of net proceeds received by such seller from the sale of such Registrable Securities pursuant to such Registration Statement.

2.7 **Reports Under Securities Exchange Act of 1934**. With a view to making available to the Investors the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investors to sell securities of the Company to the public without registration ("**Rule 144**"), the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144;

(b) file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

(c) furnish to each Investor so long as such Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company, if true, that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the Investors to sell such securities pursuant to Rule 144 without registration.

3. **Major Action Approval Rights**.

3.1 Subject to the Section 3.2 below, the Company shall not be authorized to take, and the Company shall not take any of the actions that are set out below (each a "**Major Action**") without the prior written consent of the Holder:

(a) amending this Agreement;

(b) merging, consolidating or reorganizing the Company;

(c) purchasing another business (whether by a purchase of assets, purchase of stock, merger or otherwise) involving the expenditure of $2,000,000 or more in cash or comparable value.

(d) selling, exchanging or otherwise disposing of all or substantially all of the assets of the Company;

(e) dissolving, liquidating and/or winding up the Company;

(f) making an assignment for the benefit of creditors or admitting in writing the inability of the Company to pay its debts generally as they become due or petitioning or applying to any tribunal for the appointment of a custodian, trustee, receiver or liquidator for the Company or of any substantial part of the assets, or commencing of any proceeding relating to the Company under any bankruptcy, reorganization, arrangement insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction;

(g) paying dividends to stockholder of the Company other than quarterly dividends as approved by the board of directors;

(h) issuing additional equity interests in the Company or any debt security which by its terms is convertible into or exchangeable for any equity interests of the Company to new or existing equity holders or otherwise recapitalizing the Company, except for Permitted Issuances;

(i) creating, incurring or assuming any indebtedness, refinancing any indebtedness other than Permitted Indebtedness (as defined in the Financing Agreement);

(j) changing any annual business plan and budget approved by the Company's board of directors (the "**Approved Plan and Budget**") and engaging in any transaction that is not provided for in an Approved Plan and Budget, except to the extent that such item is incurred in the ordinary course of business (including but not limited to taking on new business and incurring customary expenses and obligations associated with servicing such new business) or otherwise incurs any obligation which does not exceed $250,000.

(k) amend or terminate the EERCF License Agreement, or permit MES (or any of its assignees or Affiliates) to cause EERCF to transfer the Patent Rights (as such term is defined in the EERCF License Agreement) to MES (or any of its assignees or Affiliates) pursuant to the EERCF License Agreement;

(l) taking any action that constitutes or could, with the giving of notice or the passage of time, reasonably be expected to constitute an event of default under any contract that could have an impact of $2,000,000 or more regarding the Company;

(m) taking any action that requires the consent of a lender to the Company where such consent is not obtained from the lender;

(n) transacting any business with an officer of the Company or a member of the Company's board of directors based upon a rate of compensation that is less than an arm's length rate as determined by a majority of those members of the board of directors unaffiliated with the officer or director in question;

(o) making any investments, other than holding working capital and reserves in short term depository accounts or financial instruments or holding an interest in a subsidiary where the Company is not actively involved in the operations of the subsidiary;

(p) entering into any contract, agreement or other commitment to undertake any Major Action;

(q) engaging in any other transaction or matter or making any decision outside of the ordinary course of the Company's business;

(r) taking any act in contravention of this Agreement or the Company's organizational documents; or

(s) taking, permitting or allowing to occur any of the foregoing on behalf of, or by, a Subsidiary of the Company.

3.2 The provisions of Section 3.1 above shall take effect upon the earlier to occur of (i) the repayment in full of the Note or (i) Holder's conversion of the Note into Common Stock representing at least 10 percent of the Common Stock of the Company on a fully-diluted basis, provided however, that at such point in time thereafter as Holder holds less than 10 percent of the Common Stock on a fully diluted basis, then the provisions of this Section 3.1 shall no longer be of force or effect. Holder may assign its rights under this Section 3 to one or more of its Affiliates, but Holder may not assign any of its rights under this Section 3 to any non-Affiliate third party without the prior written consent of the Company.

4. **Changes in Common Stock.** If, and as often as, there is any change in the Common Stock by way of a stock split, stock dividend, combination or reclassification, or through a merger, consolidation, reorganization or recapitalization, or by any other means, appropriate adjustment shall be made in the provisions hereof so that the rights and privileges granted hereby shall continue with respect to the Common Stock as so changed.

5. **Rights of Inspection**. The Company shall permit Holder to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times as may be requested; *provided*, *however*, the Company shall not be obligated under this Section 4 with respect to information the Company determines in good faith to be confidential, and therefore, not to be disclosed. The Company's covenant pursuant to this Section 4 shall be in addition to, and not in limitation of, any other Holder right of inspection as a stockholder, director or creditor of the Company.

6. **Board Meeting Notice Requirement/Observation Rights.** If notice is given of an annual meeting or special meeting of the Board of Directors at any time when the Board of Directors consists of no individuals who are Holder nominees, the Company shall deliver written notice of such meeting to Holder concurrently with the delivery of meeting notices to the Board of Directors. Holder shall be entitled to designate, and the Company shall accept, one (1) individual to attend any such meeting, subject to the right to recuse the individual from attending that portion of the meeting that deals with: (a) the relationship between the Company and/or its Subsidiaries on the one hand and Holder or its Affiliates on the other hand; or (b) any matter where such recusal is necessary to preserve attorney client privilege as to the matters being discussed.

7. **Miscellaneous**.

7.1 **Successors and Assigns; Assignment**.

(a) Generally. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties hereto (including transferees of any shares of the Common Stock, the Note or the Warrant). Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. No party to this Agreement other than Holder may assign its rights or delegate its obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other parties to this Agreement and delivery by the assigning party to the non-assigning parties of a writing by its assignee containing such assignee's agreement to be bound by this Agreement.

(b) Registration Rights. The registration rights provided in Section 2 of this Agreement shall be automatically assignable by the Investors to any transferee of all or any portion of such Investor's Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company within a reasonable time after such assignment; (ii) the Company is, within a reasonable time after such transfer or assignment, furnished with written notice of (A) the name and address of such transferee or assignee, and (B) the securities with respect to which such registration rights are being transferred or assigned; (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act or applicable state securities laws; (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein; (v) such transfer shall have been made in accordance with the applicable requirements of the Transaction Documents; and (vi) the limitations on liability of the Company pursuant to this Agreement shall apply to Holder and all assignees collectively, and not individually.

7.2 **Amendments and Waivers**. Any term of this Agreement may be amended or waived only with the written consent of the parties hereto. Any amendment or waiver effected in accordance with this Section 7.2 shall be binding upon Holder of any Registrable Securities then outstanding, each future holder of all such Registrable Securities, the Common Holders, each future holder of the Common Stock now held by the Common Holders and the Company.

7.3 **Consents**. All consents and other determinations required to be made by the Investors pursuant to this Agreement shall be made, unless otherwise specified in this Agreement, by the Required Holders, determined as if any portion of the outstanding Note then held by the Investors has been converted for Registrable Securities and the outstanding Warrants then held by Investors have been exercised for Registrable Securities.

7.4 **Notices**.

(a) A Person is deemed to be a holder of Registrable Securities whenever such Person owns or is deemed to own of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from such record owner of such Registrable Securities.

(b) All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, as follows:

If to the Company:

Midwest Energy Emissions Corp.
Attn: Alan Kelley, CEO
500 W Wilson Bridge Rd Ste 140
Worthington, OH 43085
Fax: (614) 505-7377
E-mail: akelley@midwestemissions.com

With a copy (for informational purposes only):

Taft Stettinius & Hollister LLP
Attn: Mitchell D. Goldsmith
111 E. Wacker Drive, Suite 2800
Chicago, Illinois 60601-3713
Fax: (312) 275-7569
E-mail: mgoldsmith@taftlaw.com

If to the Holder:

c/o Alterna Capital Partners LLC
Attn: Samir Patel
Wilton, Connecticut 06897
Fax: (203) 563-92110
E-Mail: samir.patel@alternacapital.com

With copies to (for informational purposes only):

Levenfeld Pearlstein, LLC
Attn: David B. Solomon
2 North LaSalle Street-Suite 1300
Chicago, IL 60602
E-Mail: dsolomon@lplegal.com

and

Qashu & Schoenthaler, LLP
Attn.: Vanessa J. Schoenthaler
495 Madison Avenue, 12th Floor
New York, New York 10017
E-Mail: vschoenthaler@qsllp.com

7.5 **Severability**. It is the intent of the parties hereto that each of the provisions of this Agreement be read and interpreted with every reasonable inference given to its enforceability. However, it is also the intent of the parties that if any term, provision or condition hereof is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions thereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated. Finally, it is also the intent of the parties that if a court should determine any of the terms, provisions or conditions hereof are unenforceable, then the court shall modify said term, provision or condition so as to make it reasonable and enforceable under the prevailing circumstances.

7.6 **Investor Obligations Several and Not Joint**. The obligations of each Investor hereunder are several and not joint with the obligations of any other Investor, and no provision of this Agreement is intended to confer any obligations on any Investor vis-à-vis any other Investor. Nothing contained herein or in any other Transaction Document, and no action taken by any Investor pursuant hereto or thereto, shall be deemed to constitute the Investors as, and the Company acknowledges that the Investors do not so constitute, a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Investors are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by the Transaction Documents or any matters, and the Company acknowledges that the Investors are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or the transactions contemplated by this Agreement or any of the other the Transaction Documents. Each Investor shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of any other Transaction Documents, and it shall not be necessary for any other Investor to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained herein was solely in the control of the Company, not the action or decision of any Investor, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Investor. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and an Investor, solely, and not between the Company and the Investors collectively and not between and among Investors.

7.7 **Governing Law; Submission to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the internal laws (without regard to the conflict of laws provisions) of the State of New York. The Parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any U.S. Federal or State court sitting in New York, New York in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 6.5. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

7.8 **Waiver of Jury Trial. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH SUBORDINATED CREDITOR AND EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

7.9 **Counterparts/Electronic Signatures**. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

7.10 **Entire Agreement**. This Agreement, the Transaction Documents and the documents referred to herein, constitute the entire agreement between the parties hereto pertaining to the subject matter hereof and supersede any and all other written or oral agreements existing among the parties hereto, which agreements are expressly canceled.

7.11 **Conflict**. In the event of any conflict between any term, covenant or condition of this Agreement and any term, covenant or condition of any of the Company's or its Subsidiaries' organizational documents, the provisions of this Agreement shall control and govern.

7.12 **Titles and Subtitles**. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

7.13 **Attorneys' Fees**. Notwithstanding anything to the contrary contained herein, in the event of any dispute between the parties hereto with respect to this Agreement and the transactions contemplated hereby, the prevailing party shall be entitled to receive from the other part(ies) its reasonable attorneys' fees and court costs.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have caused this Investor/Registration Rights Agreement to be duly executed and delivered as of the date first written above.

MIDWEST ENERGY EMISSIONS CORP.,
a Delaware corporation

By: _____
Name: _____
Title: _____

AC MIDWEST ENERGY, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT 10.6

ALLONGE TO
SECURED PROMISSORY NOTE

THIS ALLONGE TO SECURED PROMISSORY NOTE (the "Allonge"), dated and effective as of the Effective Date set forth below, is attached to and made part of that certain Secured Promissory Note (Note") issued by Midwest Energy Emissions Corp., a Delaware corporation ("Company"), payable to the order of each of the holders listed on Exhibit A attached hereto and made a part hereof (each a "Holder" and with the notes issued to all the Holders being collectively, the "Notes") pursuant to the 2013 offering of up to $6,000,000 of Notes by Holder and pursuant to which Richard Galterio is serving as "Noteholder Agent" for the Holders of the Notes, with authority to amend each Note pursuant to actions taken with respect to the Noteholder Agency Appointment Agreement among the Holders of the Notes, Company and Agent. Capitalized terms used herein and not otherwise defined shall have the same meaning as set forth in the Note.

The Note of each Holder set forth on Exhibit A is hereby amended effective as of the date of initial funding of a loan from AC Midwest Energy LLC, a Delaware limited liability company to Borrower in the following manner:

1. Stock Issuance Option. The following sentence is added to the end of the paragraph on page 1 of the Note that commences "FOR VALUE RECEIVED:"

> "Notwithstanding anything to the contrary contained in this Note, effective as of the date of initial funding of a secured loan ("New Loan Closing Date") from AC Midwest Energy LLC (such entity or its designees being the "New Lender" and the amount loaned by the New Lender to the Company from time to time being the "New Loan" with the obligations evidenced thereby being the "New Loan Obligations" and the note evidencing the same being the "New Note") to the Company: (i) the Company shall make all future payments of interest called for hereunder pursuant to the Stock Issuance Option until notice is otherwise provided by the Company to Holder; and (ii) the Maturity Date for this Note shall be the later of the original maturity date set forth in this Note and the maturity date of the New Loan (presently July 31, 2018, or as extended from time to time by agreement between the Company and the New Lender), provided that, subject to the terms of the Intercreditor Agreement (as such term is defined herein), the Company shall have the right to pay off this Note without penalty or premium at any time following December 20, 2016 and prior to its Maturity Date after giving at least 10 days' notice of the proposed date of payment so as to provide the Holder the opportunity to convert this Note to Common Stock prior to tender of payment."

2. Prepayment. Section 2 (Prepayment) of the Note is amended and restated in its entirety as follows:

> "This Note may not be prepaid in whole or part without the consent of the Holder at any time prior to December 20, 2016."

3. Ranking, New Warrant. The following paragraph is added at the end of Section 4 of the Note:

> "Holder acknowledges and agrees that effective as of the New Loan Closing Date: (i) the definition of "Permitted Senior Debt" has been amended to include the New Loan; (ii) Richard Galterio, in his capacity as "Noteholder Agent" for the benefit of Holder pursuant to the Noteholder Agency Appointment Agreement to which Holder is subject with respect to this Note (in the form included with the original subscription materials for the issuance of this Notes including this Note, with the holders of all the Notes being the "Holders") is authorized to execute such form of intercreditor agreement ("Intercreditor Agreement") among the Holders, the Company and one or more of its subsidiaries with the New Lender, as the Noteholder Agent deems necessary and proper), which shall provide among other things for the subordination as to right of payment of this Note and the other Notes to payment to the New Lender, except in certain instances of liquidation of the collateral securing the New Loan, and the Holder shall be bound by the terms of the Intercreditor Agreement, which shall supersede any inconsistencies with the terms of this Note. The Intercreditor Agreement shall contain a right in favor of the New Lender to purchase this Note following the occurrence of an event of default with respect to the New Loan for the outstanding principal amount of this Note. In the event of a purchase of this Note by the New Lender in accordance with the terms of the Intercreditor Agreement, then the Company shall prepare and issue to Holder a warrant ("New Warrant") substantially identical to the form attached hereto as Exhibit B, and the New Warrant shall be for a term ending on the original Maturity Date of this Note in 2016, to purchase Common Stock of the Company at a price equal to fifty cents ($0.50) per share, subject to adjustment as set forth on Exhibit B and shall be for an amount of shares equal to two times the number of dollars paid by the New Lender for the purchase of this Note, rounded up to the nearest whole share, subject to adjustment (to be adjusted equitably to account for forward or reverse stock splits of the Company or other changes in its capital structure for transactions occurring after August 1, 2014 as set forth in Section 4 of the form of New Warrant)."

4. Conversion of this Note at the Option of the Company. The following paragraph is added at the end of Section 5(b) of this Note:

"Notwithstanding anything to the contrary contained in this Note, the forced conversion rights of the Company set forth in this Section 5(b) shall only be exercisable in the following instance: (i) the Company has applied for listing of its shares on NASDAQ, the NYSE or another national securities exchange of the United States (collectively, a "National Exchange"); (ii) the Company has met the conditions to exercise the forced conversion rights set forth in this Section 5(b); and (iii) the listing on the National Exchange is ready for approval, conditioned upon the forced conversion of the Notes in order to meet the listing requirements of the National Exchange."

5. Negative Covenants of the Company. The lead in sentence of Section 8 preceding Section 8(a) is amended and restated in its entirety as follows:

"The Company hereby agrees that, so long as all or any portion of the Notes remains outstanding and unpaid it will not, nor will it permit any of its subsidiaries, if any, without the consent of either: (i) the Noteholder Agent; or (ii) the New Lender, for so long as the New Loan or any portion thereof is issued and outstanding, to:"

6. Agency Agreement. The following sentence is added at the end of Section 9 of this Note.

"Holder ratifies, confirms and approves the appointment of Richard Galterio as Noteholder Agent. The Holder authorizes the Noteholder Agent to take all actions on behalf of Holder pursuant to the Intercreditor Agreement as the Noteholder Agent deems necessary and proper.

7. Most Favored Nation Status. The following sentence is added at the end of Section 10 of this Note.

"Notwithstanding anything to the contrary contained herein, "New Financing" shall not include any issuance of equity linked securities to the New Lender in connection with the funding of the New Loan or in connection with any modification or amendment thereof; provided however, to the extent that the conversion price for the New Note is reduced below $0.50 per share of Common Stock (as equitably adjusted for forward or reverse splits), then the conversion price for this Note shall be reduced to the same per share conversion price as applies to the New Note. "

8. Transfer of Note. The following sentence is added to the end of Section 15 of this Note:

"Notwithstanding anything to the contrary contained herein, while the Intercreditor Agreement is in effect, no transfer of this Note may be made without the prior written consent of the New Lender, which consent shall not be unreasonably withheld."

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Noteholder Agent on behalf of each of the Holders named on Exhibit A attached hereto and made a part hereof and the Company have executed this Allonge as of the date set forth above amending the Note issued by the Company to each of the Holders named on Exhibit A hereto effective as of the date of execution by Company set forth below (the "Effective Date").

COMPANY:

Midwest Energy Emissions Corp.

By: _____
Name: _____
Title: _____
Effective Date: August ___, 2014

NOTEHOLDER AGENT:

_____
Richard Galterio[1]

[1] On behalf of each of the Holders set forth on Exhibit A.

Signature Page
MEEC Allonge to Secured Promissory Note

EXHIBIT A
LIST OF NOTEHOLDERS

Name	Principal as of 07/15/14
	$ 50,000
	100,000
	100,000
	50,000
	20,000
	100,000
	65,000
	50,000
	100,000
	10,000
	5,000
	30,000
	150,000
	40,000
	10,000
	30,000
	20,000
	50,000
	10,000
	50,000
	30,000
	100,000
	25,000
	15,000
	125,000
	50,000
	40,000
	50,000
	10,000
	75,000
	100,000
	50,000
	75,000
	10,000
Total:	$ 1,795,000

EXHIBIT B
FORM OF NEW WARRANT

THIS WARRANT AND THE COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***SECURITIES ACT***"), AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED UNLESS REGISTERED UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE OR FOREIGN SECURITIES LAWS, OR UNLESS AN OPINION OF COUNSEL HAS BEEN RENDERED TO THE COMPANY, IN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY AND ITS COUNSEL, TO THE EFFECT THAT SUCH REGISTRATION IS NOT REQUIRED.

WARRANT
TO PURCHASE SHARES OF
COMMON STOCK, PAR VALUE $.001 PER SHARE OF
MIDWEST ENERGY EMISSIONS CORP.
AT $0.50 PER SHARE

Warrant Certificate No.: [**NUMBER**]

Original Issue Date: **[**_____ _____**]**, 201_

FOR VALUE RECEIVED, Midwest Energy Emissions Corp., a Delaware corporation (the "***Company***"), hereby certifies that [**NAME OF HOLDER**], a [**JURISDICTION AND TYPE OF ENTITY**], or its registered assigns (the "***Holder***"), is entitled to purchase from the Company [**SPECIFIED NUMBER**] duly authorized, validly issued, fully paid and non-assessable shares of Common Stock at a purchase price per share of $0.50 (the "***Exercise Price***"), all subject to the terms, conditions and adjustments set forth below in this Warrant. Certain capitalized terms used herein are defined in **Section 1** hereof.

This Warrant has been issued in connection with the rights granted to Holder as a result of the purchase by AC Midwest Energy, LLC or its assigns of the 10% Convertible Promissory Note issued to Holder or Holder's predecessors in interest in 2013 by Company (the "***Convertible Note***" and the date of issuance being the ***"Convertible Note Issuance Date"***), between the Company and the Holder. AC Midwest Energy, LLC funded a $10,000,000 loan to the Company in August, 2014 (the "***Senior Loan).***"

1. Definitions. As used in this Warrant, the following terms have the respective meanings set forth below:

"***Aggregate Exercise Price***" means an amount equal to the product of (a) the number of Warrant Shares in respect of which this Warrant is then being exercised pursuant to **Section 3** hereof, multiplied by (b) the Exercise Price in effect as of the Exercise Date in accordance with the terms of this Warrant.

"***Board***" means the Board of Directors of the Company.

"***Business Day***" means any day, except a Saturday, Sunday or legal holiday, on which banking institutions in the city of Wilmington, Delaware are authorized or obligated by law or executive order to close.

"***Common Stock***" means the common stock, par value $0.001 per share, of the Company, and any capital stock into which such Common Stock shall have been converted, exchanged or reclassified following the date hereof.

"***Company***" has the meaning set forth in the preamble.

"***Convertible Note***" has the meaning set forth in the preamble.

"*Convertible Note Issuance Date"* has the meaning set forth in the preamble.

"***Convertible Securities***" means any securities (directly or indirectly) convertible into or exchangeable for Common Stock, but excluding Options.

"***Exercise Date***" means, for any given exercise of this Warrant, the date on which the conditions to such exercise as set forth in **Section 3** shall have been satisfied at or prior to 5:00 p.m., Delaware time, on a Business Day, including, without limitation, the receipt by the Company of the Exercise Agreement, the Warrant and the Aggregate Exercise Price.

"***Exercise Agreement***" has the meaning set forth in **Section 3(a)(i)**.

"***Exercise Period***" has the meaning set forth in **Section 2**.

"***Exercise Price***" has the meaning set forth in the preamble.

"***Holder***" has the meaning set forth in the preamble.

"***Options***" means any warrants or other rights or options to subscribe for or purchase Common Stock or Convertible Securities.

"***Original Issue Date***" means the date on which the Warrant was issued by the Company.

"***Nasdaq***" means The Nasdaq Stock Market, Inc.

"***OTC Bulletin Board***" means the OTC Bulletin Board.

"***Person***" means any individual, sole proprietorship, partnership, limited liability company, corporation, joint venture, trust, incorporated organization or government or department or agency thereof.

"***SEC Filings***" means the Company's most recent Annual Report on Form 10-K filed with the SEC and any Form 10-Q and Form 8-K filed thereafter.

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

"Senior Loan Date" means the original date of issuance of the Senior Loan

"***Senior Loan Note"*** means the promissory note issued by the Company to evidence the Senior Loan, and all modifications, replacements and substitutions thereof.

"***Subscription Agreement***" means the subscription agreement pursuant to which the Convertible Note was originally purchased by the Holder or the Holder's predecessors in interest..

"***Warrant***" means this Warrant and all warrants issued upon division or combination of, or in substitution for, this Warrant.

"***Warrant Shares***" means the shares of Common Stock of the Company then purchasable upon exercise of this Warrant in accordance with the terms of this Warrant.

2. Term of Warrant. Subject to the terms and conditions hereof, at any time or from time to time after the date hereof and prior to 5:00 p.m., Delaware time, on the later of: (i) the three year anniversary of the Convertible Note Issuance Date, or (ii) two years following the date of issuance of this Warrant, provided if such day (per subparagraph (i) or (ii)) is not a Business Day, on the next preceding Business Day (the "***Exercise Period***"), the Holder of this Warrant may exercise this Warrant for all or any part of the Warrant Shares purchasable hereunder (subject to adjustment as provided herein); provided, however, the Exercise Period will terminate upon the closing of a sale of the Company (pursuant to merger, stock sale, or otherwise).

3. Exercise of Warrant

(a) Exercise Procedure. This Warrant may be exercised on any Business Day, for all or any part of the unexercised Warrant Shares, during the Exercise Period upon

i. surrender of this Warrant to the Company at its then principal executive offices (or an indemnification undertaking with respect to this Warrant in the case of its loss, theft or destruction), together with an Exercise Agreement in the form attached hereto as **Exhibit A** (each, an "***Exercise Agreement***"), duly completed (including specifying the number of Warrant Shares to be purchased) and executed; and

ii. payment to the Company of the Aggregate Exercise Price in accordance with **Section 3(b)**.

(b) Payment of the Aggregate Exercise Price. Payment of the Aggregate Exercise Price shall be made by delivery to the Company of a certified or official bank check payable to the order of the Company or by wire transfer of immediately available funds to an account designated in writing by the Company, in the amount of the Aggregate Exercise Price.

(c) Delivery of Stock Certificates. Upon receipt by the Company of the Exercise Agreement, surrender of this Warrant (in accordance with **Section 3(a)** hereof) and payment of the Aggregate Exercise Price (in accordance with **Section 3(b)** hereof) or cashless exercise (in accordance with **Section 3(i)** hereof), the Company shall, as promptly as practicable, and in any event within 30 Business Days thereafter, execute (or cause to be executed) and deliver (or cause to be delivered) to the Holder a certificate or certificates representing the Warrant Shares issuable upon the exercise, together with cash in lieu of any fraction of a share, as provided in **Section 3(d)** hereof. The stock certificate or certificates delivered shall be, to the extent possible, in the denomination or denominations as the exercising Holder shall reasonably request in the Exercise Agreement and shall be registered in the name of the Holder or, subject to compliance with **Section 5** below, any other Person's name as shall be designated in the Exercise Agreement. This Warrant shall be deemed to have been exercised and the certificate or certificates of Warrant Shares shall be deemed to have been issued, and the Holder or any other Person designated to be named therein shall be deemed to have become a holder of record of the Warrant Shares for all purposes, as of the Exercise Date.

(d) Fractional Shares. The Company shall not be required to issue a fractional Warrant Share upon exercise of any Warrant. As to any fraction of a Warrant Share that the Holder would otherwise be entitled to purchase upon the exercise, the Company shall pay to the Holder an amount in cash (by delivery of a check or by wire transfer of immediately available funds) equal to the product of (i) the fraction multiplied by (ii) the Fair Market Value of one Warrant Share on the Exercise Date.

(e) Delivery of New Warrant. Unless the purchase rights represented by this Warrant shall have expired or shall have been fully exercised, the Company shall, at the time of delivery of the certificate or certificates representing the Warrant Shares being issued in accordance with **Section 3(c)** hereof, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unexpired and unexercised Warrant Shares called for by this Warrant. Such new Warrant shall in all other respects be identical to this Warrant.

(f) Valid Issuance of Warrant and Warrant Shares; Payment of Taxes. With respect to the exercise of this Warrant, the Company represents, covenants and agrees:

i. This Warrant is, and any Warrant issued in substitution for or replacement of this Warrant shall be, upon issuance, duly authorized and validly issued.

ii. All Warrant Shares issuable upon the exercise of this Warrant pursuant to the terms hereof shall be, upon issuance, and the Company shall take all such actions as may be necessary or appropriate in order that the Warrant Shares are, validly issued, fully paid and non-assessable, issued without violation of any preemptive or similar rights of any stockholder of the Company and free and clear of all taxes, liens and charges.

iii. The Company shall take all commercially reasonable actions as may be necessary to ensure that all Warrant Shares are issued without material violation by the Company of any applicable law or governmental regulation.

iv. The Company shall pay all expenses in connection with, and all taxes and other governmental charges that may be imposed with respect to, the issuance or delivery of Warrant Shares upon exercise of this Warrant; provided, that the Company shall not be required to pay any tax or governmental charge that may be imposed with respect to any applicable withholding or the issuance or delivery of the Warrant Shares to any Person other than the Holder, and no issuance or delivery shall be made unless and until the Person requesting issuance has paid to the Company the amount of the tax, or has established to the satisfaction of the Company that the tax has been paid.

(g) Conditional Exercise. Notwithstanding any other provision hereof, if an exercise of any portion of this Warrant is to be made in connection with a public offering or a sale of the Company (pursuant to a merger, sale of stock, or otherwise), such exercise may at the election of the Holder be conditioned upon the consummation of such transaction, in which case such exercise shall not be deemed to be effective until immediately prior to the consummation of such transaction.

(h) Reservation of Shares. During the Exercise Period, the Company shall at all times reserve and keep available out of its authorized but unissued Common Stock or other securities constituting Warrant Shares, solely for the purpose of issuance upon the exercise of this Warrant, the maximum number of Warrant Shares issuable upon the exercise of this Warrant, and the par value per Warrant Share shall at all times be less than or equal to the applicable Exercise Price. The Company shall not increase the par value of any Warrant Shares receivable upon the exercise of this Warrant above the Exercise Price then in effect, and shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and non-assessable shares of Common Stock upon the exercise of this Warrant.

(i) Cashless Exercise. Notwithstanding any provisions herein to the contrary, in lieu of exercising this Warrant in the manner set forth in Sections 3(a) and 3(b), the Holder may elect to exercise this Warrant, or a portion hereof, and to pay for the Warrant Shares by way of cashless exercise. If the Holder wishes to effect a cashless exercise, the Holder shall surrender this Warrant, with an Exercise Agreement duly completed (including specifying the number of Warrant Shares to be purchased) and executed, at the principal office of the Company, or at such other office or agency as the Company may designate in writing prior to the date of such exercise, in which event the Company shall issue to the Holder the number of Warrant Shares computed according to the following equation:

$$X=\frac{Y * (A-B)}{A}$$

X = the number of Warrant Shares to be issued to the Holder.

Y = the Warrant Shares purchasable under this Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant Shares being exercised.

A = the Fair Market Value (defined below) of one share of Common Stock (on the exercise date).

B = the Exercise Price (as adjusted pursuant to the provisions of this Warrant).

For purposes of this Section 3(i), the "***Fair Market Value***" of one share of Common Stock on the exercise date shall have one of the following meanings:

i. if the Company's Common Stock is traded on a national securities exchange, the Fair Market Value shall be deemed to be the average of the Closing Prices over a five trading day period ending on the exercise date. For the purposes of this Warrant, "***Closing Price***" means the final price at which one share of Common Stock is traded during any trading day; or

ii. if the Company's Common Stock is actively traded over-the-counter, the Fair Market Value shall be deemed to be the average of the closing sales price over the thirty (30) day period ending three (3) days before the date of exercise; or

iii. if neither (1) nor (2) is applicable, the Fair Market Value shall be at the highest price per share which the Company could obtain on the date of exercise from a willing buyer (not a current employee or director) for shares of Common Stock sold by the Company, from authorized but unissued shares, as determined in good faith by the Company's Board of Directors.

For illustration purposes only, if this Warrant entitles the Holder the right to purchase 100,000 Warrant Shares and the Holder were to exercise this Warrant for 50,000 Warrant Shares at a time when the Fair Market Value of each share of Common Stock was $2.00 on the Exercise Date, the cashless exercise calculation would be as follows:

$$X = \frac{50{,}000 \ (\$2.00-\$1.00)}{\$2.00}$$

$$X = 25{,}000$$

Therefore, the number of Warrant Shares to be issued to the Holder after giving effect to the cashless exercise would be 25,000 Warrant Shares and the Company would issue the Holder a new Warrant to purchase 50,000 Warrant Shares, reflecting the portion of this Warrant not exercised by the Holder.

4. Adjustment to Exercise Price and Number of Warrant Shares. The Exercise Price and the number of Warrant Shares issuable upon exercise of this Warrant shall be subject to adjustment from time to time as provided in this **Section 4**.

(a) Adjustment to Exercise Price and Warrant Shares Upon Subdivision or Combination of Common Stock. If the Company shall, at any time or from time to time after the Senior Loan Date, subdivide (by any stock split, recapitalization or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to the subdivision shall be proportionately reduced and the number of Warrant Shares issuable upon exercise of this Warrant shall be proportionately increased. If the Company at any time combines (by combination, reverse stock split or otherwise) its outstanding shares of Common Stock into a smaller number of shares, the Exercise Price in effect immediately prior to the combination shall be proportionately increased and the number of Warrant Shares issuable upon exercise of this Warrant shall be proportionately decreased. Any adjustment under this **Section 4(a)** shall become effective at the close of business on the date the dividend, subdivision or combination becomes effective. If the conversion price per share with respect to the Senior Loan Note is reduced below 50 cents per share (after adjustments in the Senior Loan Note for subdivisions or combinations in any of the categories outlined above in this Section 4(a) or due to the weighted average anti-dilution adjustments), then the Exercise Price shall be adjusted to the same price per share as is applicable to the Senior Loan Note.

(b) Merger Sale, Reclassification, Etc. In case of any (i) consolidation or merger (including a merger in which the Company is the surviving entity), (ii) sale or other disposition of all or substantially all of the Company's assets or distribution of property to shareholders (other than distributions payable out of earnings or retained earnings), or reclassification, change or conversion of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar corporate reorganization on or after the date hereof, then and in each such case the holder of this Warrant, upon the exercise hereof at any time thereafter shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consolidation, merger, sale or other disposition, reclassification, change, conversion or reorganization, the stock or other securities or property to which such holder would have been entitled upon such consummation if such holder had exercised this Warrant immediately prior thereto, all subject to further adjustment as provided in Section 4(a) or 4(b); and in each such case, the terms of this Section 4 shall be applicable to the shares of stock or other securities properly receivable upon the exercise of this Warrant after such consolidation, merger, sale or other disposition, reclassification, change, conversion or reorganization.

(c) Weighted Average Adjustment. If the Company Issues (hereinafter defined) Additional Common Shares (defined hereunder) after the date of the Warrant and the consideration per Additional Common Share is less than the Exercise Price in effect immediately before such Issuance (a "***Diluting Issuance***"), other than with respect to Excluded Securities (hereinafter defined), the Exercise Price in effect immediately before such Diluting Issue shall be reduced, concurrently with such Diluting Issuance, to a price (calculated to the nearest hundredth of a cent) determined by multiplying the Exercise Price by a fraction:

i. the numerator of which is the number of shares of Common Stock outstanding immediately before such Diluting Issuance plus the number shares of Common Stock that the aggregate consideration received by Company for the Additional Common Shares would purchase at the Exercise Price in effect immediately before such Diluting Issuance, and

ii. the denominator of which is the number of shares of Common Stock outstanding immediately before such Diluting Issuance plus the number of such Additional Common Shares.

For purposes of clarity, the exercise shall be determined in accordance with the following formula:

EP2 = EP1 x (A + B) / (A + C)

For purposes of the foregoing formula, the following definitions shall apply:

i. "EP2" shall mean the Exercise Price in effect immediately after such Diluting Issuance of Additional Common Shares;

ii. "EP1" shall mean the Exercise Price in effect immediately prior to such Diluting Issuance of Additional Common Shares;

iii. "A" shall mean the number of shares of Common Stock outstanding and deemed outstanding immediately prior to such Diluting Issuance of Additional Common Shares;

iv. "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Common Shares had been issued at a price per share equal to EP1 (determined by dividing the aggregate consideration received or receivable by the Company in respect of such issue by EP1); and

v. "C" shall mean the number of such Additional Common Shares issued in such transaction.

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

i. "***Issue***" means to grant, issue or sell Additional Common Shares, whichever of the foregoing is the first to occur.

ii. "***Additional Common Shares***" means all Common Stock (including reissued shares) Issued after the date of the Warrant during the term of the Warrant.

iii. "***Excluded Securities***" means any of the following: (a) shares of Common Stock issued pursuant to any employee benefit plan which has been approved by the Board of Directors of the Company, pursuant to which the Company's securities may be issued to any employee, officer, director or consultant for services provided to the Company and (b) issuances of Common Stock upon exercise or conversion of currently outstanding derivative securities.

(d) Certificate as to Adjustment.

i. As promptly as reasonably practicable following any adjustment of the Exercise Price, but in any event not later than 10 Business Days thereafter, the Company shall furnish to the Holder a certificate of an executive officer setting forth in reasonable detail such adjustment and the facts upon which it is based and certifying the calculation thereof.

ii. As promptly as reasonably practicable following the receipt by the Company of a written request by the Holder, but in any event not later than 10 Business Days thereafter, the Company shall furnish to the Holder a certificate of an executive officer certifying the Exercise Price then in effect and the number of Warrant Shares or the amount, if any, of other shares of stock, securities or assets then issuable upon exercise of the Warrant.

(e) Notices. In the event:

i. that the Company shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon exercise of the Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, to vote at a meeting (or by written consent), to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

ii. of any capital reorganization of the Company, any reclassification of the Common Stock of the Company, any consolidation or merger of the Company with or into another Person, or sale of all or substantially all of the Company's assets to another Person; or the Company;

iii. of the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then, and in each such case, the Company shall send or cause to be sent to the Holder at least 20 days prior to the applicable record date or the applicable expected effective date, as the case may be, for the event, a written notice specifying, as the case may be, (A) the record date for the dividend, distribution, meeting or consent or other right or action, and a description of the dividend, distribution or other right or action to be taken at such meeting or by written consent, or (B) the effective date on which the reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up is proposed to take place, and the date, if any is to be fixed, as of which the books of the Company shall close or a record shall be taken with respect to which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon exercise of the Warrant) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon the reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, and the amount per share and character of the exchange applicable to the Warrant and the Warrant Shares.

5. Transfer of Warrant. Subject to the transfer conditions referred to in the legend endorsed hereon this Warrant and all rights hereunder are transferable in whole or in part by the Holder without charge to the Holder, upon surrender of this Warrant to the Company at its then principal executive offices with a properly completed and duly executed Assignment in the form attached hereto as **Exhibit B**, together with funds sufficient to pay any transfer taxes described in **Section 3(f)(iv)** in connection with the making of such transfer. Upon such compliance, surrender and delivery and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant, if any, not so assigned and this Warrant shall promptly be cancelled.

6. Holder Not Deemed a Stockholder; Limitations on Liability. Except as otherwise specifically provided herein, prior to the issuance to the Holder of the Warrant Shares to which the Holder is then entitled to receive upon the due exercise of this Warrant, the Holder shall not be entitled to vote or receive dividends or be deemed the holder of shares of capital stock of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, as such, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a stockholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company

7. Replacement on Loss; Division and Combination.

(a) Replacement of Warrant on Loss. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and upon delivery of an indemnity reasonably satisfactory to it (it being understood that a written indemnification agreement or affidavit of loss of the Holder shall be a sufficient indemnity) and, in case of mutilation, upon surrender of the Warrant for cancellation to the Company, the Company shall, at its own expense, execute and deliver to the Holder, in lieu hereof, a new Warrant of like tenor and exercisable for an equivalent number of Warrant Shares as the Warrant lost, stolen, mutilated or destroyed; provided, that, in the case of mutilation, no indemnity shall be required if this Warrant in identifiable form is surrendered to the Company for cancellation.

(b) Division and Combination of Warrant. Subject to compliance with the applicable provisions of this Warrant as to any transfer or other assignment which may be involved in the division or combination, this Warrant may be divided, or following any division of this Warrant, subsequently combined with other Warrants, upon the surrender of this Warrant or Warrants to the Company at its then principal executive offices, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the respective Holders or their agents or attorneys. Subject to compliance with the applicable provisions of this Warrant as to any transfer or assignment which may be involved in the division or combination, the Company shall, at its own expense, execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants so surrendered in accordance with the notice. The new Warrant or Warrants shall be of like tenor to the surrendered Warrant or Warrants and shall be exercisable in the aggregate for an equivalent number of Warrant Shares as the Warrant or Warrants so surrendered in accordance with such notice.

8. Compliance with the Securities Act.

(a) Agreement to Comply with the Securities Act; Legend. The Holder, by acceptance of this Warrant, agrees to comply in all respects with the provisions of this **Section 8** and the restrictive legend requirements set forth on the face of this Warrant and further agrees that the Holder shall not offer, sell or otherwise dispose of this Warrant or any Warrant Shares to be issued upon exercise hereof except under circumstances that will not result in a violation of the Securities Act of 1933, as amended (the "***Securities Act***"). This Warrant and all Warrant Shares issued upon exercise of this Warrant (unless registered under the Securities Act) shall be stamped or imprinted with a legend in substantially the following form (in addition to any legend required by state securities laws):

"THIS WARRANT AND THE COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***SECURITIES ACT***"), AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED UNLESS REGISTERED UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE OR FOREIGN SECURITIES LAWS, OR UNLESS AN OPINION OF COUNSEL HAS BEEN RENDERED TO THE COMPANY, IN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY AND ITS COUNSEL, TO THE EFFECT THAT SUCH REGISTRATION IS NOT REQUIRED."

(b) Representations of the Holder. In connection with the issuance of this Warrant, the Holder specifically represents, as of the date hereof, to the Company by acceptance of this Warrant as follows:

i. The Holder is an "accredited investor" as defined by Rule 501 under the Securities Act, and has such knowledge and experience in financial and business matters that he/she/it is capable of evaluating the merits and risks of an investment in this Warrant and the Warrant Shares to be issued upon exercise hereof and of making an informed investment decision, and has the capacity to protect the Holder's own interests.

ii. The Holder understands and acknowledges that this Warrant and the Warrant Shares to be issued upon exercise hereof are "***restricted securities***" under the federal securities laws, have not been, and will not be, registered under the Securities Act or the securities laws of any state by reason of a specific exemption from the registration provisions of the Securities Act and the applicable state securities laws, the availability of which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Holder's representations as expressed herein.

iii. Holder acknowledges and understands that this Warrant and the Warrant Shares to be issued upon exercise hereof are being purchased for investment purposes and not with a view to distribution or resale, nor with the intention of selling, transferring or otherwise disposing of all or any part of this Warrant or the Warrant Shares to be issued upon exercise hereof for any particular price, or at any particular time, or upon the happening of any particular event or circumstances, except selling, transferring, or disposing of this Warrant or the Warrant Shares to be issued upon exercise hereof made in full compliance with all applicable provisions of the Securities Act, the rules and regulations promulgated by the Securities and Exchange Commission thereunder, and applicable state securities laws; and that this Warrant and the Warrant Shares to be issued upon exercise hereof are not a liquid investment. The Company has no obligation or intention to register this Warrant or the Warrant Shares to be issued upon exercise hereof for resale at this time, nor has the Company made any representations, warranties, or covenants regarding the registration of this Warrant and the Warrant Shares to be issued upon exercise hereof.

iv. The Holder acknowledges that this Warrant and the Warrant Shares to be issued upon exercise hereof must be held indefinitely unless subsequently registered under the Securities Act or unless an exemption from such registration is available. The Holder is aware of the provisions of Rule 144 promulgated under the Securities Act which permit investors who have satisfied a certain holding period such securities purchased in a private placement. The Holder acknowledges that the Holder is not relying on the Company in any way to satisfy the conditions precedent for resale of securities pursuant to Rule 144 under the Securities Act.

v. The Holder acknowledges that the Holder has had the opportunity to ask questions of, and receive answers from the Company or any person acting on its behalf concerning the Company and its business and to obtain any additional information, to the extent possessed by the Company (or to the extent it could have been acquired by the Company without unreasonable effort or expense) necessary to verify the accuracy of the information received by the Holder. In connection therewith, the Holder acknowledges that the Holder has had the opportunity to discuss the Company's business, management and financial affairs with the Company's management or any person acting on its behalf. The Holder has received and reviewed all the information, both written and oral, that it desires. Without limiting the generality of the foregoing, the Holder has been furnished with or has had the opportunity to acquire, and to review, (i) copies of the Company's most recent Annual Report on Form 10-K filed with the SEC and any Form 10-Q and Form 8-K filed thereafter (the "***SEC Filing***s"), and other publicly available documents, and (ii) all information, both written and oral, that it desires with respect to the Company's business, management, financial affairs and prospects. In determining whether to make this investment, the Holder has relied solely on the Subscription Agreement, the SEC Filings, the Convertible Note and the Holder's own knowledge and understanding of the Company and its business based upon the Holder's own due diligence investigations and the information furnished pursuant to this paragraph. Except as set forth herein, the Subscription Agreement and the Convertible Note, the Holder understands that no person has been authorized to give any information or to make any representations which were not furnished pursuant to this paragraph and the Holder has not relied on any other representations or information.

vi. The Holder has all requisite legal and other power and authority to execute and deliver this Warrant and to carry out and perform the Holder's obligations under the terms of this Warrant. This Warrant constitutes a valid and legally binding obligation of the Holder, enforceable in accordance with its terms, and subject to laws of general application relating to bankruptcy, insolvency and the relief of debtors and rules of law governing specific performance, injunctive relief or other general principals of equity, whether such enforcement is considered in a proceeding in equity or law.

vii. The Holder has not, and will not, incur, directly or indirectly, as a result of any action taken by the Holder, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with this Warrant.

viii. To the extent the Holder deems necessary, the Holder has reviewed with the Holder's own tax advisors the federal, state, local and foreign tax consequences of this investment and the transactions contemplated by this Warrant. The Holder relies solely on such advisors and not on any statements or representations of the Company or any of its agents, other than the statements or representations set forth in the Subscription Agreement, the SEC Filings, herein and in the Convertible Note. The Holder understands that the Holder (and not the Company) shall be responsible for the Holder's own tax liability that may arise as a result of this investment or the transactions contemplated by this Warrant.

ix. There are no actions, suits, proceedings or investigations pending against the Holder or the Holder's properties before any court or governmental agency (nor, to the Holder's knowledge, is there any threat thereof) which would impair in any way the Holder's ability to enter into and fully perform the Holder's commitments and obligations under this Warrant or the transactions contemplated hereby.

x. The execution, delivery and performance of and compliance with this Warrant, and the issuance of the Securities will not result in any material violation of, or conflict with, or constitute a material default under, any of Holder's articles of incorporation, bylaws or other; governing documents, if applicable, or any of the Holder's material agreements nor result in the creation of any mortgage, pledge, lien, encumbrance or charge against any of the assets or properties of the Holder or the Securities.

xi. Holder acknowledges that this Warrant and the Warrant Shares to be issued upon exercise hereof are speculative and involve a high degree of risk and that the Holder can bear the economic risk of the purchase of this Warrant and the Warrant Shares to be issued upon exercise hereof, including a total loss of his/her/its investment. Holder acknowledges that he/she/it has carefully reviewed and considered the risk factors contained in the Subscription Agreement, as well as the factors described under "Risk Factors" in the Company's SEC Filings.

xii. The Holder recognizes that no federal, state or foreign agency has recommended or endorsed the purchase of this Warrant and the Warrant Shares to be issued upon exercise hereof.

xiii. Holder understands that any and all certificates representing this Warrant and the Warrant Shares to be issued upon exercise hereof and any and all securities issued in replacement thereof or in exchange therefor shall bear the legend, or one substantially similar thereto, described in **Section 8(a)**, which Holder has read and understands.

xiv. In addition, the certificates representing this Warrant and the Warrant Shares to be issued upon exercise hereof, and any and all securities issued in replacement thereof or in exchange therefor, shall bear such legend as may be required by the securities laws of the jurisdiction in which the Holder resides.

xv. Holder further represents that the address set forth below is his/her principal residence (or, if the Holder is a corporation, partnership or other entity, the address of its principal place of business).

xvi. The Holder represents that Holder has not received any general solicitation or general advertising regarding the purchase of this Warrant and the Warrant Shares to be issued upon exercise hereof.

xvii. The Holder further represents that the social security number or taxpayer identification set forth below is correct, and the Holder is not subject to backup withholding because (i) the Holder has not been notified that he/she/it is subject to backup withholding as a result of a failure to report all interest and dividends, or (ii) the Internal Revenue Service has notified the Holder that he/she/it is no longer subject to backup withholding.

9. Warrant Register. The Company shall keep and properly maintain at its principal executive offices books for the registration of the Warrant and any transfers thereof. The Company may deem and treat the Person in whose name the Warrant is registered on such register as the Holder thereof for all purposes, and the Company shall not be affected by any notice to the contrary, except any assignment, division, combination or other transfer of the Warrant effected in accordance with the provisions of this Warrant.

10. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient (with confirmation of transmission); or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses indicated below (or at such other address for a party as shall be specified in a notice given in accordance with this **Section 10**).

If to the Company:

Midwest Energy Emissions Corp.
500 West Wilson Bridge Road
Suite 140
Worthington, Ohio 43085
Phone: 614-505-6115
Fax: 614-505-7377
Email: rgross@midwestemissions.com
Attention: Chief Financial Officer

If to the Holder:

[HOLDER ADDRESS]

Facsimile: **[FAX NUMBER]**
E-mail: **[E-MAIL ADDRESS]**
Attention: **[NAME (AND TITLE, IF APPLICABLE) OF PERSON]**

11. Cumulative Remedies. Except to the extent expressly provided in **Section 6** to the contrary, the rights and remedies provided in this Warrant are cumulative and are not exclusive of, and are in addition to and not in substitution for, any other rights or remedies available at law, in equity or otherwise.

12. Equitable Relief. Each of the Company and the Holder acknowledges that a breach or threatened breach by such party of any of its obligations under this Warrant would give rise to irreparable harm to the other party hereto for which monetary damages would not be an adequate remedy and hereby agrees that in the event of a breach or a threatened breach by party of any obligation, the other party hereto shall, in addition to any and all other rights and remedies that may be available to it in respect of breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction.

13. Entire Agreement. This Warrant, together with the Convertible Note and the Subscription Agreement, constitutes the sole and entire agreement of the parties to this Warrant with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Warrant, the Convertible Note and the Subscription Agreement, the statements in the body of this Warrant shall control.

14. Successor and Assigns. The Company may not assign this Agreement or its rights and obligations hereunder without the prior written consent of the Holder. This Warrant and the rights evidenced hereby shall be binding upon and shall inure to the benefit of the parties hereto and the successors of the Company and the successors and permitted assigns of the Holder. Such successors and/or permitted assigns of the Holder shall be deemed to be a Holder for all purposes hereunder.

15. No Third-Party Beneficiaries. This Warrant is for the sole benefit of the Company and the Holder and their respective successors and, in the case of the Holder, permitted assigns. Nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Warrant.

16. Headings. The headings in this Warrant are for reference only and shall not affect the interpretation of this Warrant.

17. Amendment and Modification; Waiver. Except as otherwise provided herein, this Warrant may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by the Company or the Holder of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Warrant shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

18. Severability. If any term or provision of this Warrant is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Warrant or invalidate or render unenforceable such term or provision in any other jurisdiction.

19. Governing Law. This Warrant shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Delaware.

20. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this Warrant or the transactions contemplated hereby may be instituted in the federal courts of the United States of America or the courts of the State of Delaware in each case located in the city of Wilmington, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by certified or registered mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or any proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

21. Waiver of Jury Trial. Each party acknowledges and agrees that any controversy which may arise under this Warrant is likely to involve complicated and difficult issues and, therefore, each such party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Warrant or the transactions contemplated hereby.

22. Counterparts. This Warrant may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Warrant delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Warrant.

23. No Strict Construction. This Warrant shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

[SIGNATURE PAGE FOLLOWS]

The Company has duly executed this Warrant on the Original Issue Date.

MIDWEST ENERGY EMISSIONS CORP.

By: _____
Name:
Title:

Accepted and agreed,

[HOLDER NAME]

By: _____
Name:
Title:
SSN or EIN:

_____

EXHIBIT A:
EXERCISE AGREEMENT

(to be signed only on exercise of Warrant)

TO: MIDWEST ENERGY EMISSIONS CORP.

The undersigned, pursuant to the provisions set forth in the attached Warrant (No._____), hereby irrevocably elects to purchase _____ shares of the Common Stock covered by such Warrant.

The undersigned herewith makes payment of the full purchase price for the shares at the price per share provided for in the Warrant of $0.50 per share, for an Aggregate Exercise Price of $_____, by delivery to the Company of a certified or official bank check payable to the order of the Company or by wire transfer of immediately available funds to an account designated in writing by the Company, in the amount of the Aggregate Exercise Price (if cashless exercise, insert "cashless").

The undersigned requests that the certificates for such shares be issued in the name of, and delivered to _____ whose address is _____.

_____
(Signature must conform to name of holder as specified on the face of the Warrant)

_____
(Address)

EXHIBIT B:

ASSIGNMENT

(To be signed only on transfer of Warrant)

For value received, the undersigned hereby sells, assigns, and transfers unto the person(s) named below under the heading "***Transferees***" the right represented by the within Warrant to purchase the number of shares of Common Stock of MIDWEST ENERGY EMISSIONS CORP. to which the within Warrant relates specified under the headings "***Percentage Transferred***" and "***Number Transferred***," respectively, opposite the name(s) of such person(s) and appoints each such person Attorney to transfer its respective right on the books of MIDWEST ENERGY EMISSIONS CORP. with full power of substitution in the premises.

Transferees	Number Transferred

Dated:

_____,

_____

_____

Signature must conform to name of holder as specified on the face of the Warrant)

Signed in the presence of:

_____

(Name)

_____

_____

(Address)

ACCEPTED AND
AGREED:
[TRANSFEREE]

_____ _____

(Name)

_____

(Address)

EXHIBIT 10.7

AMENDMENT NO. 5

This Amendment No. 5 ("Amendment No. 5") to that certain "EXCLUSIVE PATENT AND KNOW-HOW LICENSE AGREEMENT INCLUDING TRANSFER OF OWNERSHIP", dated January 15, 2009 and entered into by and between RLP Energy, Inc. (as predecessor in interest to MES (as defined below) and Licensor (as defined below)) (as amended prior to this Amendment No. 5, the "LICENSE AGREEMENT"), is made to be effective as of the date this Amendment No. 5 is last executed by the Parties below (the "EFFECTIVE DATE") and is made by and among (each, a "Party" together the "Parties"):

1. **Energy & Environmental Research Center Foundation ("LICENSOR"),** a nonprofit entity, organized under the laws of the State of North Dakota, having its principal place of business at 15 N 23rd Street, Stop 9017, Grand Forks, North Dakota, 58202-9017, and

2. **MES Inc. ("MES")**, a North Dakota corporation, a wholly owned subsidiary of Midwest Energy Emissions Corp., and a successor to all the rights, titles and interests of RLP Energy, Inc. arising under the LICENSE AGREEMENT.

3. **Midwest Energy Emissions Corp. (**together with MES, **"COMPANY"),** a Delaware corporation.

RECITALS

WHEREAS, COMPANY desires to become party to that certain Financing Agreement dated as of August __, 2014 (together with all exhibits, schedules and attachments thereto, the "FINANCING AGREEMENT"); and

WHEREAS, The conditions and covenants set out in FINANCING AGREEMENT include, among others, a covenant that (1) COMPANY shall execute and deliver a Collateral Assignment of License Agreement (the "COLLATERAL ASSIGNMENT"), whereby COMPANY agrees to assign as collateral to AC Midwest Energy, LLC (together with its affiliates, "FINANCIER") its rights in the license granted COMPANY under the LICENSE AGREEMENT; and (2) each INVENTOR (as defined in the LICENSE AGREEMENT) shall execute and deliver to COMPANY and to FINANCIER a Conformatory Assignment (each, a "CONFORMATORY ASSIGNMENT") of such INVENTOR's rights in the INTELLECTUAL PROPERTY (as defined in the LICENSE AGREEMENT) ; and

WHEREAS, The terms of the LICENSE AGREEMENT require that COMPANY obtain the consent of LICENSOR prior to any assignment of rights arising under the LICENSE AGREEMENT, and therefore COMPANY has requested LICENSOR to execute and deliver an Acknowledgement and Consent to Collateral Assignment of Patent and Know-How Agreement (the "ACKNOWLEDGEMENT AND CONSENT"), concurrently with the execution and delivery of the FINANCING AGREEMENT and the COLLATERAL ASSIGNMENT; and

WHEREAS, in consideration of its execution and delivery of the ACKNOWLEDGEMENT AND CONSENT and each CONFORMATORY ASSIGNMENT and of the representations and warranties contained herein and therein, LICENSOR and each INVENTOR desires to obtain additional common shares of Midwest Energy Emissions Corp., subject to the remaining provisions of this Amendment No. 5.

NOW THEREFORE, each of LICENSOR and COMPANY agree as follows:

REPRESENTATIONS, WARRANTIES AND COVENANTS

A) As a material inducement to LICENSOR to enter into this Amendment No. 5, in addition to any other representations and warranties of LICENSOR contained in this Amendment No. 5, in the ACKNOWLEDGEMENT AND CONSENT, or in the LICENSE, each of MES and Midwest Energy Emissions Corp. (as applicable) delivers to LICENSOR the following representations and warranties, each as of the EFFECTIVE DATE, and the following covenant:

1) Each of MES and Midwest Energy Emissions Corp. is a corporation, validly existing and in good standing in its respective jurisdiction of incorporation.

2) MES has good, valid and defensible title to all and not less than all of the right, title and interest granted by LICENSOR to RLP Energy, Inc. under the LICENSE as amended, and, except pursuant to the COLLATERAL ASSIGNMENT and as previously disclosed to LICENSOR, no other person or entity has a share or interest in such right, title or interest.

3) The LICENSE AGREEMENT is in full force and effect and is enforceable in accordance with its respective terms without amendment or modification, except: (a) as modified herein; (b) as modified by the COLLATERAL ASSIGNMENT; and (c) as qualified by that certain Assurance Letter of Midwest Energy Emissions Corporation addressed to LICENSOR and dated January 14, 2014 (the "Assurance Letter") and as further qualified by that certain Memorandum of Understanding by and between LICENSOR and Grünenergy Technologies USA Inc. as predecessor in interest to Midwest Energy Emissions Corporation and dated November 9, 2010 (the "MoU")..

4) The COLLATERAL ASSIGNMENT effective as of the date of closing ("Closing Date") of the loan to be funded by FINANCIER to Midwest Energy Emissions Corp. will be in full force and effect and will be enforceable in accordance with its respective terms without amendment or modification.

5) No default or condition which, with the giving of notice or the passage of time or both would constitute a default, exists under the FINANCING AGREEMENT, the LICENSE AGREEMENT (or the License granted thereunder), the COLLATERAL ASSIGNMENT.

6) MES has not assigned or pledged or otherwise encumbered any rights in the License granted under the LICENSE AGREEMENT to anyone other than the collateral assignment to FINANCIER as set forth in the COLLATERAL ASSIGNMENT and subject to the understanding that the MES granted a blanket lien for its general intangibles to the holders of $1,795,000 in principal amount of secured notes outstanding, which effective as of the Closing Date shall be subject to an intercreditor agreement by such holders through their Noteholder Agent in favor of FINANCIER—the "Intercreditor Agreement".

7) Midwest Energy Emissions Corp. is not insolvent, and nothing contained in the LICENSE AGREEMENT, in the FINANCING AGREEMENT, the COLLATERAL ASSIGNMENT or as related to the issuance of common shares of Midwest Energy Emissions Corp. as set out herein shall render Midwest Energy Emissions Corp. insolvent, or cause Midwest Energy Emissions Corp. to breach any financial or other covenants as contained in any instrument whatsoever.

8) Assuming the prior receipt by the Company from LICENSOR and each INVENTOR (as defined below) of customary private placement investment representations, warranties and covenants, including a representation that LICENSOR and each INVENTOR is an "Accredited Investor" (as defined in Rule 501 of Regulation D of the Securities Act of 1933, as amended (the "Securities Act") at the time of the issuance of the common stock of Midwest Energy Emissions Corp. as set forth herein, the execution of this Amendment No. 5, of the FINANCING AGREEMENT, the COLLATERAL ASSIGNMENT the LICENSE AGREEMENT and the consummation of the transactions contemplated herein and therein, shall not cause either MES or Midwest Energy Emissions Corp. to violate any law or regulation (in particular, but without limiting the generality of the foregoing, the Securities Act or any applicable state law regulating the issuance and transfer of securities and any regulation promulgated under any of the foregoing), any court judgment or administrative ruling to which MES or Midwest Energy Emissions Corp.is subject, any consent decree, or any contract, agreement, warrant, option, or other instrument.

9) Execution of this Amendment No. 5, of the FINANCING AGREEMENT, the COLLATERAL ASSIGNMENT the LICENSE AGREEMENT and the consummation of the transactions contemplated herein and therein shall not(a)be forbidden or result in a breach of the articles of incorporation, bylaws, or other governing documents of either MES or Midwest Energy Emissions Corp.; or (b) give rise to a breach or an event of default under any instrument or certificate to which either MES or Midwest Energy Emissions Corp. is party; or (c) cause or result in the acceleration of any debt owed by either MES or Midwest Energy Emissions Corp.

10) COMPANY shall perform all filings pertaining to the issuance of securities as set out herein, to the extent such filing is required by applicable law or regulation.

11) Each of MES and Midwest Energy Emissions Corp. has the requisite power and authority to enter into and perform its obligations under this Amendment No. 5, the FINANCING AGREEMENT, the COLLATERAL ASSIGNMENT the LICENSE AGREEMENT and the consummation of the transactions contemplated herein and therein to which, in each case, such entity is a party, and, in the case of Midwest Energy Emissions Corp., to issue the ADDITIONAL LICENSOR SHARES and the ADDITIONAL INVENTOR SHARES (in each case, as defined below), in accordance with the terms hereof and thereof.

12) Each of the transactions (including all issuances of securities by Midwest Energy Emissions Corp.) as contemplated herein (a) has been authorized by all necessary and appropriate corporate action on the part of Midwest Energy Emissions Corp. or MES, as the case may be , and (b) has been consented to by FINANCIER. Other than FINANCIER, no consent is required of any person or entity for the issuance of the ADDITIONAL LICENSOR SHARES or the ADDITIONAL INVENTOR SHARES by Midwest Energy Emissions Corp., or for the COMPANY to enter into this Amendment No. 5, the FINANCING AGREEMENT, the COLLATERAL ASSIGNMENT, or to enter into the transactions herein and therein contemplated.

13) Each person executing this Amendment No. 5 and the RECIPIENT AGREEMENT on behalf of MES and Midwest Energy Emissions Corp. has all necessary power and authority to do so, and by so doing, shall bind its respective principal.

14) Upon issuance, each of the ADDITIONAL LICENSOR SHARES and the ADDITIONAL INVENTOR SHARES shall be authorized, fully paid, and non-assessable, and, upon issue, shall be validly issued, and free of all taxes and encumbrances thereon.

15) Except as disclosed in writing to LICENSOR: none of Midwest Energy Emissions Corp.'s common stock is subject to preemptive rights or any other similar rights or any liens or encumbrances suffered or permitted by MES or Midwest Energy Emissions Corp. The holders of the Prior Notes (as defined below) have a most favored nations right to convert their loans into the next round of financing of Company (which right will be waived as a condition to closing of the loan from FINANCIER as it relates to that financing).

16) Upon execution and delivery, each of this Amendment No. 5 and the RECIPIENT AGREEMENT as attached hereto are each valid and enforceable and binding on the COMPANY in accordance with the terms of the respective instrument.

B) COMPANY acknowledges that LICENSOR executes both this Amendment No. 5 and the ACKNOWLEDGEMENT AND CONSENT in reliance upon the completeness and accuracy of each of the aforementioned representations, warranties and covenants.

C) Each of the COMPANY's representations, warranties and covenants as set out herein shall survive the performance of the transactions contemplated herein and in the LICENSE AGREEMENT, the FINANCING AGREEMENT, the COLLATERAL ASSIGNMENT, and the ACKNOWLEDGEMENT AND CONSENT. Further, each of the COMPANY's representations, warranties and covenants as set out herein shall survive the termination of the License granted under the LICENSE AGREEMENT.

D) LICENSOR and each INVENTOR represents and warrants that it or he or she, as applicable, is an "Accredited Investor" as such term is defined in Rule 501 of Regulation D of the Securities Act.

E) COMPANY acknowledges that the Recipient Agreements entered into by and between the COMPANY, LICENSOR and each INVENTOR shall remain in full force and effect.

AMENDMENT

SECTION 5. CONSIDERATION**,** Subparagraph 5.6 Consideration for ASSIGNMENT (as contained in Amendment No. 4 to the LICENSE AGREEMENT) be and hereby is deleted in its entirety and replaced with the following:

5.6 Consideration for ASSIGNMENT. At COMPANY's option the COMPANY may pay LICENSOR for the execution and delivery of the ASSIGNMENT of the PATENT RIGHTS, under SECTION 2. GRANT OF RIGHTS, Subparagraph 2.8 Transfer of Ownership, as set forth therein, as the Consideration for ASSIGNMENT (i) two million five-hundred thousand dollars ($2,500,000);(ii) six hundred forty seven thousand five hundred (647,500) shares of common stock of Midwest Energy Emissions Corp. (such shares the "ADDITIONAL LICENSOR SHARES") to LICENSOR; and two-hundred seventy seven thousand five hundred (277,500) shares of common stock of Midwest Energy Emissions Corp. (such shares the "ADDITIONAL INENTOR SHARES") to each INVENTOR, such shares issued to each INVENTOR in accordance with the table immediately following.

INVENTOR name	Number of shares of common stock of Midwest Energy Emissions Corporation	Percentage of issuance of shares of common stock of Midwest Energy Emissions Corporation
John Pavlish	94,350	34%
Ed Olson	94,350	34%
Mike Holmes	83,250	30%
Ye Zhaung	5,550	2%

The common stock component of the Consideration shall be issued within 30 days of the date of ASSIGNMENT. Such payment may be executed at any time beginning January 1, 2015, and its acceptance will not be withheld by LICENSOR. Upon payment of the cash consideration, LICENSOR must execute an ASSIGNMENT of the PATENT RIGHTS to COMPANY for the INTELLECTUAL PROPERTY associated with Appendix A attached. The common stock component of the Consideration shall be subject to the RECIPIENT AGREEMENT, and shall be fully paid and non-assessable.

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 5 to the "Exclusive Patent and Know-How License Agreement including Transfer of Ownership," dated January 15, 2009, to be executed by their duly authorized representatives.

The EFFECTIVE DATE of this Amendment No. 5 is the __th day of August, 2014.

Energy & Environmental Research Center Foundation	MES, Inc.	Midwest Energy Emissions Corp.
Robert Harris, President	R. Alan Kelley, President	R. Alan Kelly, President

EXHIBIT A

EXHIBIT B

MIDWEST ENERGY EMISSION CORP.
RECIPIENT AGREEMENT

Undersigned is to be a recipient of shares of common stock of Midwest Energy Emissions Corp. ("ME2C") pursuant to Amendment No. 5 (the "Amendment") to the Exclusive Patent and Know-How License by and between Energy & Environment Research Center Foundation, a North Dakota nonprofit entity ("EERCF"), and ME2C.

The Amendment was finalized effective as of August __, 2014.

I. To facilitate the receipt of the shares of common stock of ME2C (the "ME2C Stock") by Undersigned pursuant to and as set out in the Amendment, Undersigned represents and warrants to ME2C as follows:

(a) Undersigned is capable of evaluating the merits and risks of ownership of ME2C and has the capacity to protect Undersigned's financial interests.

(b) Undersigned understands that the ME2C Stock being issued pursuant to the Amendment has not been, and will not be, registered under the Securities Act of 1933 (the "Act") or the securities laws of any country, state or other jurisdiction by reason of a specific exemption from the registration provisions of the Act and other applicable securities laws, the availability of which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of Undersigned's representations as expressed herein.

(c) Undersigned acknowledges and understands that the ME2C Stock being acquired by the Undersigned pursuant to the Amendment is being acquired for investment purposes and not with a view to distribution or resale, nor with the intention of selling, transferring or otherwise disposing of all or any part of the ME2C Stock, except selling, transferring, or disposing of the ME2C Stock made in full compliance with all applicable provisions of the Act, the rules and regulations promulgated by the Securities and Exchange Commission thereunder, applicable state securities laws; and that the ME2C Stock is not a liquid investment. ME2C has no obligation to register the ME2C Stock for resale in any jurisdiction nor has it made any representations, warranties, or covenants regarding the registration of the ME2C Stock or any other exemption under the Act.

(d) Undersigned acknowledges that the ME2C Stock must be held indefinitely unless subsequently registered under the Act or unless an exemption from such registration is available. Undersigned is aware of the provisions of Rule 144 promulgated under the Act ("Rule 144"), which permit investors who have satisfied a certain holding period to resell under certain conditions such securities.

(e) Undersigned recognizes that no U.S. federal, state or foreign agency has recommended or endorsed the issuance or ownership of the ME2C Stock.

(f) Undersigned is aware that the ME2C Stock is and will be, when issued, "restricted securities" as that term is defined in Rule 144.

(g) Undersigned understands that any and all certificates representing the ME2C Stock and any and all securities issued in replacement thereof or in exchange therefor shall bear the following legend or one substantially similar thereto, which Undersigned has read and understands:

"The securities represented by this certificate have not been registered under the Securities Act of 1933. The securities have been acquired for investment and may not be sold, transferred or assigned in the absence of an effective registration statement for these securities under the Securities Act of 1933 or an opinion of ME2C's counsel that registration is not required under said Act."

(h) Undersigned acknowledges that Undersigned has such knowledge and experience in financial and business matters that Undersigned is capable of evaluating the merits and risks of an investment in the ME2C Stock.

(i) Undersigned represents that Undersigned has not received any general solicitation or general advertising regarding the issuance of the ME2C Stock.

(j) Undersigned further represents that the U.S. social security number or U.S. taxpayer identification set forth below is correct.

II. Covenants of ME2C

(a) ME2C shall raise no objection to the transfer of the ME2C Stock and shall remove any restrictive legend placed upon the ME2C Stock as soon as practicable following only the receipt by ME2C of an opinion of counsel stating that the holding period applicable for purposes of Rule 144 has been satisfied with respect to the ME2C Stock issued to the respective Undersigned.

(b) ME2C shall cooperate with counsel to Undersigned in preparing the opinion referenced in Item II (a) above and shall cooperate with counsel, any broker or market maker in otherwise enabling Undersigned to confirm that Undersigned has satisfied the conditions required for resale of the ME2C Stock under Rule 144.

(c) ME2C covenants to file timely all reports required to be filed by ME2C under the Sections 13 or 15(d) (as applicable) of the Securities and Exchange Act of 1934.

III. General. Each of ME2C and the Undersigned shall be responsible for its own costs, fees and expenses, including fees of the counsel of its choice, in performing the transactions contemplated herein.

UNDERSIGNED:

_____
(Signature)

_____
(Print Name)
Tax ID or SS No.: _____
Date of Execution: _____

ME2C:

Midwest Energy Emissions Corp.

By: _____
Its: _____