

“Investment Grade Rating” shall mean a rating equal to or higher than Baa3 (or the equivalent) by Moody’s or BBB- (or the equivalent) by S&P.

“Investment Grade Rating Event” shall mean the first day on which the Borrower’s corporate family rating is assigned an Investment Grade Rating by a Rating Agency and no Default or Unmatured Default has occurred and is continuing.

“Investments” shall mean, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the forms of direct or indirect loans (including guarantees of Indebtedness or other Obligations), advances (other than advances to customers in the ordinary course of business which are recorded as accounts receivable on the balance sheet of the lender and commissions, moving, travel and similar advances to employees and officers made in the ordinary course of business) or capital contributions, purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP.

“Joint Venture” shall mean any Person that is not a direct or indirect Subsidiary of the Borrower in which the Borrower or any of its Restricted Subsidiaries makes any Investment.

“Junior Lien Obligations” shall mean any Obligations in respect of Junior Priority Indebtedness.

“Junior Priority Indebtedness” shall mean any Indebtedness the Liens securing which rank junior to the Liens securing Secured Obligations.

“Latest Maturity Date” shall mean, with respect to the issuance or incurrence of any Indebtedness or Capital Stock, the latest Maturity Date applicable to any Credit Facility that is outstanding hereunder as determined on the date such Indebtedness is issued or incurred or such Capital Stock is issued.

“Lender” shall have the meaning provided in the preamble to this Agreement.

“Lender Default” shall mean (a) the failure (which has not been cured) of a Lender to make available its portion of any Borrowing or (b) a Lender having notified the Administrative Agent and/or the Borrower that it does not intend to comply with the obligations under Section 2.1(a) hereof, or (c) a Lender becoming the subject of a bankruptcy or insolvency proceeding.

“Leverage Ratio” shall mean, with respect to any Person as of any date of determination, the ratio of (x) the total consolidated Indebtedness for borrowed money of such Person and its Restricted Subsidiaries (excluding, for the avoidance of doubt, Hedging Obligations) as of the end of the most recent fiscal quarter for which internal financial statements are available, which would be reflected as a liability on a consolidated balance sheet of such Person and its Restricted Subsidiaries prepared as of such date in accordance with GAAP, to (y) the aggregate amount of Consolidated Cash Flow of such Person for the then most recent four fiscal quarters for which internal financial statements are available, in each case with such *pro forma* adjust-

ments to the amount of consolidated Indebtedness and Consolidated Cash Flow as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio.

“LIBOR Loan” shall mean any Loan bearing interest at a rate determined by reference to the LIBOR Rate.

“LIBOR Rate” shall mean, for any Interest Period with respect to a LIBOR Loan in Dollars, the rate *per annum* equal to the British Bankers Association LIBOR Rate (**“BBA LIBOR”**), as published by Bloomberg (or other commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the “LIBOR Rate” for such Interest Period shall be the rate *per annum* determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBOR Loan being made, continued or converted by the Administrative Agent and with a term equivalent to such Interest Period would be offered by the Administrative Agent’s London branch to major banks in the applicable London interbank eurocurrency market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period.

“Lien” shall mean, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in any asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction) other than a precautionary financing statement respecting a lease not intended as a security agreement. In no event shall a right of first refusal be deemed to constitute a Lien.

“Loan” shall mean an Initial Term Loan or any Extended Term Loan, as applicable.

“Loan Documents” shall mean this Agreement, the Collateral Documents, the ABL Intercreditor Agreement, the Guarantees, any Term Loan Notes issued by the Borrower hereunder and any Customary Intercreditor Agreement entered into after the Effective Date to which the Collateral Agent and/or Administrative Agent is a party.

“Loan Party” shall mean the Borrower, the Guarantors and each other Subsidiary of the Borrower that is a party to a Loan Document.

“Material Adverse Effect” shall mean a material adverse effect on (i) the business, Property, condition (financial or otherwise), operations or results of operations of the Borrower and its Restricted Subsidiaries taken as a whole, (ii) the ability of the Borrower or any Guarantor to perform its obligations under the Loan Documents, or (iii) the validity or enforcea-

bility of the Loan Documents or the rights or remedies of the Administrative Agent, the Collateral Agent or the Lenders thereunder or their rights with respect to the Collateral.

“Material Indebtedness” shall mean any Indebtedness in an outstanding principal amount of \$75,000,000 or more in the aggregate (or the equivalent thereof in any currency other than Dollars).

“Maturity Date” shall mean, as to the applicable Loan or Commitment, the Initial Term Loan Maturity Date or any maturity date related to any Class of Extended Term Loans, as applicable.

“MLP” shall mean Tesoro Logistics LP, a Delaware limited partnership.

“MLP Parties” shall mean, collectively, Tesoro Logistics GP, LLC, the MLP and each of their respective Subsidiaries.

“Moody’s” shall mean Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Multiemployer Plan” shall mean a multiemployer plan, as defined in Section 4001(a)(3) of ERISA, which is covered by Title IV of ERISA and to which the Borrower or any member of the Controlled Group is obligated to make contributions.

“Net Income” shall mean, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

“Net Proceeds” shall mean the aggregate cash proceeds or Cash Equivalents received by the Borrower or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (i) the direct costs relating to such Asset Sale (including, without limitation, legal, accounting, investment banking and brokers fees, sales and underwriting commissions and other reasonable costs incurred in preparing such asset for sale) any relocation expenses incurred as a result thereof and any related severance and associated costs, expenses and charges of personnel related to the sold assets and related operations, (ii) taxes paid or reserved as payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), (iii) distributions and payments required to be made to minority interest holders in Restricted Subsidiaries as a result of such Asset Sale, (iv) amounts paid in order to satisfy any Lien attaching to an asset in connection with such Asset Sale and (v) any amounts to be set aside in any reserve established in accordance with GAAP or any amount placed in escrow, in either case for adjustment in respect of the sale price of such properties or assets or for liabilities associated with such Asset Sale and retained by the Borrower or any of its Restricted Subsidiaries until such time as such reserve is reversed or such escrow arrangement is terminated, in which case Net Proceeds shall include only the amount of the reserve so reversed or the amount returned to the Borrower or its Restricted Subsidiaries from such escrow arrangement, as the case may be.

“Non-Consenting Lender” shall have the meaning provided in Section 11.7(b) hereof.

“Non-Defaulting Lender” shall mean and include each Lender other than a Defaulting Lender.

“Non-Recourse Indebtedness” shall mean Indebtedness: (i) as to which neither the Borrower nor any of its Restricted Subsidiaries, (a) provides any guarantee or credit support of any kind (including any undertaking, guarantee, indemnity, agreement or instrument that would constitute Indebtedness); or (b) is directly or indirectly liable (as a guarantor or otherwise), in each case, other than a pledge of the Equity Interest of such Unrestricted Subsidiary that is the obligor of such Indebtedness; (ii) the incurrence of which shall not result in any recourse against any of the assets of the Borrower or its Restricted Subsidiaries (other than a pledge of the Equity Interest of such Unrestricted Subsidiary that is the obligor of such Indebtedness); and (iii) no default with respect to which would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Borrower or any of its Restricted Subsidiaries to declare pursuant to the express terms governing such Indebtedness a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity.

“Non-U.S. Lender” shall mean any Lender that is not a “United States person” as defined under Section 7701(a)(30) of the Code.

“Notice of Borrowing” shall have the meaning provided in Section 2.3(a) hereof.

“Notice of Conversion or Continuation” shall have the meaning provided in Section 2.6(a) hereof.

“Obligations” shall mean any principal, interest, penalties, fees, indemnifications, reimbursements (including reimbursement obligations with respect to letters of credit and bankers’ acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities, payable under the documentation governing any Indebtedness.

“OFAC” shall mean Office of Foreign Assets Control of the United States Department of the Treasury.

“Off-Balance Sheet Liability” of a Person shall mean the principal component of (i) any repurchase obligation or liability of such Person with respect to Receivables sold by such Person, (ii) any liability under any Sale and Leaseback Transaction which is not a Capital Lease Obligation, (iii) any liability under any so-called “synthetic lease” or “tax ownership operating lease” transaction entered into by such Person, (iv) any Receivables Purchase Facility, or (v) any obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the consolidated balance sheets of such Person, but excluding from this clause (v) all Operating Leases.

“Off-Balance Sheet Trigger Event” is defined in Section 9.1(m).

“Officer’s Certificate” shall mean a certificate signed by Authorized Officer of the Borrower or any other Person, as the case may be, who must be a Manager or Director, the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Borrower (or of a Subsidiary of the Borrower acting in such capacity for the Borrower and its Subsidiaries, as determined by the Borrower) or such other Person, that meets the requirements set forth in this Agreement.

“Omnibus Agreement” shall mean the Amended and Restated Omnibus Agreement, dated as of April 1, 2012, among the Borrower, Tesoro Refining and Marketing Company, Tesoro Companies, Inc., Tesoro Alaska Company, Tesoro Logistics LP and Tesoro Logistics GP, LLC, and as may be amended, supplemented or modified; *provided* such amendment, supplement or modification is not disadvantageous in any material respect to the Lenders when taken as a whole as compared to the Omnibus Agreement as in effect on the Effective Date, as determined in good faith by the Borrower.

“Operating Lease” of a Person shall mean any lease of Property (other than in respect of a Capital Lease Obligation) by such Person as lessee which has an original term (including any required renewals and any renewals effective at the option of the lessor) of one year or more.

“Other Taxes” shall mean any and all present or future stamp, registration, documentary, intangible, recording, filing or any other excise, property or similar taxes (including interest, fines, penalties, additions to tax and related, reasonable, out-of-pocket expenses with regard thereto) arising from any payment made hereunder or made under any other Loan Document or from the execution or delivery of, registration or enforcement of, consummation or administration of, or otherwise with respect to, this Agreement or any other Loan Document; *provided* that such term shall not include any of the foregoing Taxes (i) that result from an assignment, grant of a participation pursuant to Section 11.6(c) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Loan Document (**“Assignment Taxes”**) to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Loan Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Borrower, or (ii) Excluded Taxes.

“Overnight Rate” shall mean, for any day the greater of (i) the Federal Funds Effective Rate and (ii) an overnight rate determined by the Administrative Agent, as the case may be, in accordance with banking industry rules on interbank compensation.

“Participant” shall have the meaning provided in Section 11.6(c) hereof.

“Patriot Act” shall have the meaning provided in Section 11.18 hereof.

“PBGC” shall mean the Pension Benefit Guaranty Corporation established pursuant to Section 4002 of ERISA, or any successor thereto.

“Permitted Acquisition Indebtedness” shall mean Indebtedness or Disqualified Equity of the Borrower or any of its Restricted Subsidiaries to the extent such Indebtedness or Disqualified Equity (A) incurred to finance an acquisition or (B) was Indebtedness or Disqualified Equity of (i) a Person prior to the date on which such Subsidiary became a Restricted Subsidiary or (ii) a Person that merged with or consolidated into the Borrower or a Restricted Subsidiary; *provided* that on the date of such incurrence, after giving *pro forma* effect thereto, (a) the Borrower would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 8.3 hereof, (b) the Fixed Charge Coverage Ratio for the Borrower would be greater than the Fixed Charge Coverage Ratio for the Borrower immediately prior to such transaction, or (c) the Consolidated Net Worth of the Borrower would be greater than the Consolidated Net Worth of the Borrower immediately prior to such transaction.

“Permitted Business” shall mean, with respect to the Borrower and its Restricted Subsidiaries, the businesses of (i) the acquisition, development, operation and disposition of interests in oil, gas and other hydrocarbon properties, (ii) the acquisition, gathering, treating, processing, storage and transportation of production from such interests or properties and related logistics activities, (iii) the acquisition, processing, marketing, refining, distilling, storage and/or transportation of hydrocarbons and/or royalty or other interests in crude oil or refined or associated products related thereto, (iv) the acquisition, operation, improvement, leasing and other use of convenience stores, retail service stations, truck stops and other public accommodations in connection therewith, (v) the marketing and distribution of petroleum and marine products and the provision of logistical services to marine and offshore exploration and production industries, (vi) any business engaged in by the Borrower or its Restricted Subsidiaries on the Effective Date, (vii) any other business that generates gross income at least 90% of which constitutes “qualifying income” under Section 7704(d) of the Code; and (viii) any activity or business that is a reasonable extension, development or expansion of, or reasonably related to, any of the foregoing.

“Permitted Credit Enhancement Transaction” shall mean a silent payment undertaking, undisclosed payment guarantee, put arrangement or similar arrangement, contract or agreement relating to one or more Receivables entered into between the Borrower or any Restricted Subsidiary and a financial institution, pursuant to which (a) such financial institution undertakes to promptly pay to the Borrower or such Restricted Subsidiary, following notice by the Borrower or such Restricted Subsidiary and the delivery of related documentation, the amount of payments owed by an Account Debtor under the applicable Receivables to the Borrower or such Restricted Subsidiary if such Account Debtor fails to pay the amount due thereunder in full and (b) immediately upon or following such payment by the financial institution, all of the Borrower’s or such Restricted Subsidiary’s right, title and interest in such Receivable(s) and the underlying contract(s), agreements(s), purchase order(s) or other documentation (the **“Receivables Documentation”**) giving rise to or evidencing such Receivables will be assigned to such financial institution.

“Permitted Debt” shall mean:

- (i) the incurrence by the Borrower or any Restricted Subsidiary of Indebtedness pursuant to one or more Credit Facilities (including the Loans); *provided, however,*

that, immediately after giving effect to any such incurrence, the aggregate principal amount (or accreted value, as applicable) of all Indebtedness incurred under this clause (i) and then outstanding does not exceed the greater of (A) \$4.0 billion and (B) the amount of the Borrowing Base at the time of incurrence;

(ii) the incurrence by the Borrower and the Guarantors of Indebtedness pursuant to the (x) 2017 Notes and (y) 2022 Notes and the subsidiary guarantees thereof, in each case, issued on September 27, 2012;

(iii) the incurrence by the Borrower or any of its Restricted Subsidiaries of Existing Indebtedness (other than Indebtedness incurred under clauses (i) and (ii) of this definition);

(iv) the incurrence by the Borrower or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness, the net proceeds of which are applied to refinance any Indebtedness incurred in respect of any Indebtedness described under clauses (ii), (iii), (iv), (viii) or (xi) of this definition or incurred pursuant to the first paragraph of Section 8.3 hereof;

(v) the incurrence by the Borrower or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Borrower and any of its Restricted Subsidiaries; *provided, however*, that (A) if the Borrower or any Guarantor is the obligor and a Restricted Subsidiary of the Borrower that is not a Guarantor is the obligee on such Indebtedness, such Indebtedness shall be subordinated to the payment in full of all Obligations with respect to the Loans and the Guarantees, as the case may be, and (B) (1) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Borrower or a Restricted Subsidiary of the Borrower and (2) any sale or other transfer of any such Indebtedness to a Person that is not either the Borrower or a Restricted Subsidiary of the Borrower shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Borrower or such Restricted Subsidiary, as the case may be, that is not then permitted by this clause (v);

(vi) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, Synthetic Lease Obligations, mortgage financings or purchase money obligations (including any Acquired Debt), in each case, incurred in connection with the purchase of, or for the purpose of financing the purchase of, the cost of construction, improvement or development of, property, plant or equipment used or useful in the Permitted Business (including, without limitation, oil and gas properties) of the Borrower or a Restricted Subsidiary of the Borrower or incurred to extend, refinance, renew, replace, defease or refund any such purchase price or cost of construction, improvement or development, in an aggregate principal amount at any time outstanding not to exceed the greater of (a) \$350.0 million and (b) 5.0% of the Borrower's Consolidated Net Tangible Assets;

(vii) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness consisting of Hedging Obligations not entered into for speculative purposes;

(viii) Indebtedness arising from agreements of the Borrower or any of its Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earn-outs or similar obligations or Guarantees or letters of credit, surety bonds or performance bonds securing any obligations of the Borrower or any of its Restricted Subsidiaries pursuant to such agreements, in each case, incurred in connection with the disposition or acquisition of any business, assets or a Subsidiary of the Borrower or any business or assets of its Subsidiaries, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary of the Borrower or any of its Subsidiaries for the purposes of financing such acquisition;

(ix) the guarantee by the Borrower or any Restricted Subsidiary of Indebtedness of the Borrower or a Restricted Subsidiary of the Borrower that was permitted to be incurred pursuant to Section 8.3 hereof;

(x) the issuance by a Restricted Subsidiary of the Borrower of preferred stock to the Borrower or to any of its Restricted Subsidiaries; *provided, however*, that any subsequent event or issuance or transfer of any Equity Interests that results in the owner of such preferred stock ceasing to be the Borrower or any of its Restricted Subsidiaries or any subsequent transfer of such preferred stock to a Person, other than the Borrower or one of its Restricted Subsidiaries, shall be deemed to be an issuance of preferred stock by such Subsidiary that was not permitted by this clause (x);

(xi) the incurrence by the Borrower or any of its Restricted Subsidiaries of Permitted Acquisition Indebtedness;

(xii) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness incurred in the ordinary course of business under (A) documentary letters of credit, or surety bonds or insurance contracts, which are to be repaid in full not more than one year after the date on which such Indebtedness is originally incurred to finance the purchase of inventory and other goods by the Borrower or a Restricted Subsidiary of the Borrower, (B) standby letters of credit, surety bonds or insurance contracts issued for the purpose of supporting (1) workers' compensation or similar liabilities, (2) health or other types of social security benefits, unemployment or other insurance or self-insurance obligations, insurance contracts, (3) reclamation, statutory obligations, bankers' acceptances, in each case, of the Borrower or any of its Restricted Subsidiaries or (4) performance, payment, deposit or surety obligations of the Borrower or any of its Restricted Subsidiaries and (C) bid, advance payment and performance bonds and surety bonds or similar insurance contracts for the Borrower and its Restricted Subsidiaries, and refinancings thereof, including in the case of each of (A), (B) and (C), standby letters of credit supporting such obligations, to the extent not drawn (in each case other than an obligation for money borrowed) and replacements of any of the foregoing;

(xiii) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness (in addition to Indebtedness permitted by any other provision of Section 8.3 hereof) in an aggregate principal amount (or accreted value, as applicable) at any time

outstanding not to exceed the greater of (a) \$750.0 million and (b) 10.0% of the Consolidated Net Tangible Assets of the Borrower;

(xiv) the guarantee by the Borrower or any Restricted Subsidiary of the Borrower of the Indebtedness incurred by Joint Ventures constituting Permitted Investments;

(xv) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds, so long as such Indebtedness is extinguished within five Business Days of its incurrence;

(xvi) the issuance by the Borrower or any of its Restricted Subsidiaries of Disqualified Equity to the Borrower or any of its Restricted Subsidiaries, as the case may be; *provided, however*, that: (a) any subsequent issuance or transfer of Equity Interests of a Restricted Subsidiary that results in any such Disqualified Equity being held, directly or indirectly, by a Person other than the Borrower or a Restricted Subsidiary of the Borrower; and (b) any sale or other transfer of any such Disqualified Equity to a Person that is not either the Borrower or a Restricted Subsidiary of the Borrower, shall be deemed, in each case, to constitute issuance of such Disqualified Equity by the Borrower or such Restricted Subsidiary that was not permitted by this clause (xvi); and

(xvii) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness under Permitted Credit Enhancement Transactions.

“Permitted Investments” shall mean:

- (a) any Investment in the Borrower or in a Restricted Subsidiary of the Borrower;
- (b) any Investment in (i) cash or Cash Equivalents or (ii) deposit accounts maintained in the ordinary course of business;
- (c) any Investment by the Borrower or any Restricted Subsidiary of the Borrower in a Person, if as a result of such Investment (i) such Person becomes a Restricted Subsidiary of the Borrower; or (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, the Borrower or a Restricted Subsidiary of the Borrower;
- (d) any security or other Investment received or Investment made as a result of the receipt of non-cash consideration from (i) an Asset Sale that was made pursuant to and in compliance with Section 8.4 hereof; (ii) a disposition of assets that does not constitute an Asset Sale or (iii) any sale or other disposition pursuant to the Omnibus Agreement;
- (e) any acquisition of assets or any Investment in any Person solely in exchange for the issuance of Equity Interests (other than Disqualified Equity) of the Borrower;

- (f) any Investment received in settlement of debts, claims or disputes owed to the Borrower or any Restricted Subsidiary of the Borrower that arose out of transactions in the ordinary course of business;
- (g) any Investment received in connection with or as a result of a bankruptcy, workout or reorganization of any Person;
- (h) advances and extensions of credit in the nature of accounts receivable arising from the sale or lease of goods or services or the licensing of property in the ordinary course of business;
- (i) relocation allowances for, and advances and loans to, employees, officers and directors (including, without limitation, loans and advances the net cash proceeds of which are used solely to purchase Equity Interests of the Borrower in connection with restricted stock or employee stock purchase plans, or to exercise stock received pursuant thereto or other incentive plans in a principal amount not to exceed the aggregate exercise or purchase price), or loans to refinance principal and accrued interest on any such loans, *provided* that the aggregate principal amount of such loans, advances and allowances shall not exceed at any time \$20.0 million;
- (j) other Investments by the Borrower or any Restricted Subsidiary of the Borrower in any Person having an aggregate Fair Market Value (measured as of the date each such Investment is made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (j) (net of returns of capital, dividends and interest paid on Investments and sales, liquidations and redemptions of Investments), at any time outstanding equal to the greater of (i) \$350.0 million and (ii) 5% of Consolidated Net Tangible Assets of the Borrower;
- (k) Investments in the form of intercompany Indebtedness or guarantees of Indebtedness of a Restricted Subsidiary of the Borrower permitted under clauses (v) and (x) of the definition of “Permitted Debt”;
- (l) Investments arising in connection with Hedging Obligations that are incurred in the ordinary course of business for the purpose of fixing or hedging currency, commodity or interest rate risk in connection with the conduct of the business of the Borrower and its Subsidiaries and not for speculative purposes;
- (m) Investments in the form of, or pursuant to, operating agreements, joint ventures, partnership agreements, working interests, royalty interests, mineral leases, processing agreements, farm-out agreements, contracts for the sale, transportation or exchange of oil and natural gas, unitization agreements, pooling agreements, area of mutual interests agreements, production sharing agreements or other similar or customary agreements, transactions, properties, interests or arrangements, and investments and expenditures in connection therewith or pursuant thereto, in each case, made or entered into the ordinary course of the business described in clauses (i) and (ii) of the definition of “Permitted Business” excluding, however, investments in corporations;