

CLEAN ENERGY FUELS CORP.

FORM 8-K (Current report filing)

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): **July 11, 2011**

CLEAN ENERGY FUELS CORP.

(Exact Name of Registrant as Specified in Charter)

Delaware

(State or Other Jurisdiction of
Incorporation)

001-33480

(Commission File Number)

33-0968580

(IRS Employer Identification No.)

**3020 Old Ranch Parkway, Suite 400 Seal Beach,
California**

(Address of Principal Executive Offices)

90740

Zip Code

(562) 493-2804

(Registrant's telephone number, including area code)

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

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

On July 11, 2011, Clean Energy Fuels Corp. (the “Company”) entered into a Loan Agreement (the “Agreement”) with Chesapeake NG Ventures Corporation (“Chesapeake”), an indirect wholly owned subsidiary of Chesapeake Energy Corporation, whereby Chesapeake agreed to purchase from the Company up to \$150 million aggregate principal amount of debt securities for the development, construction and operation of liquefied natural gas stations (the “Financing”) pursuant to the issuance of three convertible promissory notes, each having a principal amount of \$50 million (each a “Note” and collectively the “Notes”). Chesapeake Energy Corporation guaranteed Chesapeake’s commitment to purchase the Notes under the Agreement.

The first Note was issued on July 11, 2011, and the Company expects to issue the second and third Notes on June 29, 2012 and June 28, 2013, respectively. The Notes bear interest at the rate of 7.5% per annum (payable quarterly, in arrears, on March 31, June 30, September 30 and December 31 of each year, beginning on September 30, 2011) and are convertible at Chesapeake’s option into shares of the Company’s common stock (the “Shares”) at a 22.5% premium to the volume weighted average closing price (“VWAP”) of the Shares over the twenty day period prior to July 11, 2011 (such twenty day VWAP was \$12.90 per share, resulting in a “Conversion Price” of \$15.80 per share). Subject to certain restrictions the Company can force conversion of each Note into Shares if, following the second anniversary of the issuance of a Note, the Shares trade at a 40% premium to the Conversion Price for at least twenty trading days in any consecutive thirty trading day period. The entire principal balance of each Note is due and payable seven years following its issuance, and the Company may repay each Note in Shares or cash. The Agreement restricts the use of the Financing proceeds to financing the development, construction and operation of liquefied natural gas stations and payment of certain related expenses. The Agreement also provides for customary events of default which, if any of them occurs, would permit or require the principal of and accrued interest on the Notes to become or to be declared due and payable.

In connection with the Financing, the Company also entered into a Registration Rights Agreement, dated July 11, 2011, with Chesapeake (the “Registration Rights Agreement”) pursuant to which the Company agreed, subject to the terms and conditions of the Registration Rights Agreement, to (i) file with the Securities and Exchange Commission one or more registration statements relating to the resale of Shares issuable upon conversion of the Notes and (ii) at the request of Chesapeake participate in one or more underwritten offerings of Shares issuable upon conversion of the Notes. If the Company does not meet certain of its obligations under the Registration Rights Agreement with respect to the registration of Shares, it will be required to pay monthly liquidated damages of 0.75% of the principal amount of the Note represented by the Shares included (or to be included, as the case may be) in the applicable registration statement until the related obligation is met.

The sale of the Notes and the Shares issuable upon conversion of the Notes has not been registered under the Securities Act of 1933, as amended (the “Securities Act”). The Notes and the Shares issuable upon conversion of the Notes were and will be sold in reliance upon exemptions from registration under Section 4(2) of the Securities Act. The Notes and the Shares issuable upon conversion of the Notes may not be offered or sold in the United States absent registration under or exemption from the Securities Act and any applicable state securities laws. Chesapeake represented that it is an accredited investor as defined in the rules and regulations under the Securities Act and that it was acquiring the Notes and the Shares issuable upon conversion of the Notes for investment only and not with a view towards, or for resale in connection with, the public sale or distribution thereof.

The form of Note, Agreement and Registration Rights Agreement are attached hereto as Exhibits 4.6, 10.57 and 10.58, respectively, and are incorporated herein by reference. The Company’s press release, issued on July 11, 2011, announcing the Financing is attached hereto as Exhibit 99.1 and is incorporated herein by reference. The foregoing description of the Financing, Notes, Agreement and Registration Rights Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Note, Agreement and Registration Rights Agreement attached hereto.

The Agreement has been included to provide investors with information regarding its terms. It is not intended to provide any other factual information about the Company or Chesapeake. The Agreement contains representations and warranties that the Company, on the one hand, and Chesapeake, on the other hand, made to each other. The assertions embodied in those representations and warranties are qualified by information in confidential disclosure schedules that the parties have exchanged in connection with signing the Agreement. The disclosure schedules contain information that modifies, qualifies and creates exceptions to the representations and warranties set forth in the Agreement. Accordingly, investors should not rely on the representations and warranties as characterizations of the actual state of facts at the time they were made or otherwise.

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

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 3.02.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits.

| Exhibit | Description |
|----------------|---|
| 4.6 | Form of Convertible Promissory Note. |
| 10.58 | Loan Agreement, dated July 11, 2011, by and among Clean Energy Fuels Corp., Chesapeake NG Ventures Corporation and Chesapeake Energy Corporation. |
| 10.59 | Registration Rights Agreement, dated July 11, 2011, by and among Clean Energy Fuels Corp. and Chesapeake NG Ventures Corporation. |
| 99.1 | Press release issued by Clean Energy Fuels Corp., dated July 11, 2011. |

SIGNATURES

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

Date: July 11, 2011

Clean Energy Fuels Corp.

By: /s/ Richard R. Wheeler
Name: Richard R. Wheeler
Title: Chief Financial Officer

THIS SECURITY WAS ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") AND HAS NOT BEEN REGISTERED UNDER ANY FEDERAL OR STATE SECURITIES LAWS. THIS PROMISSORY NOTE MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR OTHERWISE DISPOSED OF WITHOUT REGISTRATION UNDER THE SECURITIES ACT, ANY APPLICABLE STATE SECURITIES LAWS AND ANY APPLICABLE BLUE SKY ACTS, UNLESS AND UNTIL THE HOLDER HEREOF PROVIDES (i) INFORMATION SATISFACTORY TO THE BORROWER THAT SUCH REGISTRATION IS NOT REQUIRED, OR (ii) AN OPINION OF COUNSEL ACCEPTABLE TO THE BORROWER THAT SUCH REGISTRATION IS NOT REQUIRED.

CONVERTIBLE PROMISSORY NOTE

\$50,000,000.00

Oklahoma City, Oklahoma
July 11, 2011

FOR VALUE RECEIVED, the undersigned, CLEAN ENERGY FUELS CORP., a Delaware corporation (the "Borrower"), promises to pay to the order of CHESAPEAKE NG VENTURES CORPORATION, an Oklahoma corporation (the "Lender"), at 6100 North Western Avenue, Oklahoma City, Oklahoma 73118, or at such other place as may be designated in writing by the holder of this Note, the principal sum of Fifty Million Dollars (\$50,000,000.00) or so much as is advanced under this Note, together with interest thereon at the rates hereafter specified, payable as follows:

Except as otherwise provided herein, advances on this Note will bear interest from the date advances hereunder are made until payment in full at a per annum rate equal to 7.5%. All interest will be computed for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days.

Provided no Default has occurred or is continuing under that certain Loan Agreement of even date herewith among the Borrower and the Lender (the "Loan Agreement"), the entire unpaid principal balance of this Note and all accrued and unpaid interest will be due and payable on July 11, 2018 (the "Maturity Date").

Except as otherwise defined herein, all terms defined or referenced in the Loan Agreement will have the same meanings herein as therein. Except as provided in the Loan Agreement, each payment will be applied first to the payment of accrued unpaid interest and the balance, if any, will be applied to the unpaid principal balance of this Note. Any sum not paid when due will bear interest at 13% per annum compounded quarterly and will be paid at the time of and as a condition precedent to the curing of any Default. The Borrower will not have the right to prepay this Note, in whole or in part. Any such payment will be applied first to accrued and unpaid interest on the unpaid principal balance of this Note.

THIS NOTE IS TO BE CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO THE PRINCIPLES OF THE CONFLICT OF LAWS. The Borrower agrees that if, and as often as, this Note is placed in the hands of an attorney for collection or to defend or enforce any of the holder's rights hereunder or under any instrument securing payment of the same, the Borrower will pay to such holder its reasonable attorneys' fees and all expenses incurred in connection therewith.

This Note is issued subject to the terms of the Loan Agreement including the restrictions on assignment and transfer contained therein. Subject to the terms of the Loan Agreement, on the occurrence of a Default, at the option of the holder, the entire unpaid indebtedness evidenced by this Note will become due, payable and collectible then or thereafter as the holder may elect, regardless of the date of maturity of this Note. Failure by the holder to exercise such option will not constitute a waiver of the right to exercise the same in the event of any subsequent Default.

This Note may be: (a) voluntarily exchanged for; (b) required to be exchanged for; or (c) repaid in, equity of the Borrower as provided in the Loan Agreement. Advances and payments hereunder may, at the option of the Lender, be recorded on this Note or on the books and records of the Lender and will be prima facie evidence of such advances, payments and unpaid balance of this Note. At no time will the aggregate amount of all advances made under this Note be greater than the face value of this Note.

The makers, endorsers, sureties, guarantors and all other persons who may become liable for all or any part of this obligation severally waive any notices required by applicable law including, without limitation, notices for presentment for payment, protest, demand and notice of nonpayment. Said parties consent to any extension of time (whether one or more) of payment hereof, the modification (whether one or more) of payment hereof, release or substitution of all or part of the security for the payment hereof or release of any party liable for payment of this obligation. Any such extension or release may be made without notice to any such party and without discharging such party's liability hereunder.

IN WITNESS WHEREOF, the Borrower has executed this instrument effective the date first above written.

BORROWER :

CLEAN ENERGY FUELS CORP., a Delaware corporation

By: /S/ Andrew J. Littlefair
Andrew J. Littlefair, President and Chief Executive Officer

LOAN AGREEMENT

THIS LOAN AGREEMENT (the “Agreement”) is entered into effective July 11, 2011, between CHESAPEAKE NG VENTURES CORPORATION, an Oklahoma corporation (the “**Lender**”), CLEAN ENERGY FUELS CORP., a Delaware corporation (the “**Borrower**”) and solely as to the Guaranty attached hereto and incorporated in whole by this reference (the “**Guaranty**”), CHESAPEAKE ENERGY CORPORATION, an Oklahoma corporation.

W I T N E S S E T H:

WHEREAS, the Borrower has formed Clean Energy National LNG Corridor, LLC, a Delaware limited liability company (the “**LNG Subsidiary**”) to engage in the development, construction and operation of liquefied natural gas fueling stations throughout the United States (the “**Business**”); and

WHEREAS, the Lender has agreed to extend loans to the Borrower (the “**Loan**”) in the aggregate amount of up to \$150,000,000.00 to be evidenced by three Convertible Promissory Notes in substantially the form attached to this Agreement as **Exhibit A** (each a “**Note**”) to be used exclusively in connection with the development of the Business.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual agreements among the parties and the funds to be advanced to the Borrower, it is agreed as follows:

1. Definitions. The following terms have the meanings set forth in this paragraph 1, when used in this Agreement:
 - 1.1. “**Adjusted Conversion Price**” means the greater of: (a) the Market Value for the period ending on the Effective Date; and (b) the product of: (i) the Reference Price; and (ii) $66\frac{2}{3}\%$.
 - 1.2. “**Adjustment Notice**” means a certificate from the Borrower to the Lender certifying any adjustments to the Conversion Price and Reference Price calculated pursuant to paragraph 6.6.
 - 1.3. “**Advisors**” means Merrill Lynch, Pierce, Fenner & Smith Incorporated and Citigroup Global Markets, Inc.
 - 1.4. “**Affiliate**” means the same in this Agreement as that term is defined in Rule 405 of the Securities Act.
 - 1.5. “**Board of Directors**” means the Board of Directors of the Borrower or, with respect to any action to be taken by the Board of Directors, any committee of the Board of Directors duly authorized to take such action.
 - 1.6. “**Borrower**” has the meaning ascribed to that term in the preamble.
 - 1.7. “**Business**” has the meaning ascribed to that term in the recitals.
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- 1.8. “**Bylaws**” means the Borrower’s Bylaws, as amended and as in effect on the date hereof.
- 1.9. “**Capital Stock**” means, with respect to any Person, all shares, interests, participations or other equivalents (however designated) of corporate stock and any and all warrants, options and rights with respect thereto (whether or not currently exercisable), including each class of common stock and preferred stock of that Person.
- 1.10. “**Certificate of Incorporation**” means the Borrower’s Restated Certificate of Incorporation, as amended and as in effect on the date of this Agreement.
- 1.11. “**Closing**” has the meaning ascribed to that term in paragraph 3.
- 1.12. “**Closing Sale Price**” of the Common Stock on any date means the last closing trade price for such security prior to 4:00 p.m., New York City time, on the principal securities exchange or trading market where such Common Stock is listed or traded, as reported by Bloomberg, L.P. (or an equivalent, reliable reporting service mutually acceptable and hereafter designated by the Borrower and the Lender).
- 1.13. “**Contingent Obligation**” means, with respect 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.
- 1.14. “**Common Stock**” means the Borrower’s common stock, par value \$0.0001 per share or any other class of stock resulting from successive changes or reclassifications of such Common Stock.
- 1.15. “**Conversion Price**” means \$15.80 per share of Common Stock.
- 1.16. “**Default**” has the meaning ascribed to that term in paragraph 11.
- 1.17. “**Effective Date**” means the date on which a Fundamental Change occurs.
- 1.18. “**Environmental Laws**” means all 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 into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, Permits, plans or regulations issued, entered, promulgated or approved thereunder.

- 1.19. “**ERISA**” has the meaning ascribed to such term in paragraph 9.30.
- 1.20. “**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.
- 1.21. “**Exchange Event**” has the meaning ascribed to that term in paragraph 6.4.
- 1.22. “**Exchange Shares**” means shares of Common Stock issued or issuable in exchange for principal and interest under the Note.
- 1.23. “**Expiration Date**” means the 30th Trading Day following the Effective Date of a Fundamental Change.
- 1.24. “**Forced Conversion Conditions**” means, with respect to any particular Trading Day, both (a) the Closing Sale Price of the Borrower’s Common Stock is at or above 140% of the Conversion Price then in effect on the immediately preceding Trading Day; and (b) the Lender would be able to sell shares issuable upon exchange of the Note under Rule 144 under the Securities Act (without volume or manner-of-sale restrictions) and/or an effective registration statement without restriction.
- 1.25. “**Fundamental Change**” means any of the following events: (a) the sale, lease, exchange, license or other transfer, in one or a series of related transactions, of all or substantially all of the Borrower’s or LNG Subsidiary’s assets (determined on a consolidated basis) to any Person or group (as such term is used in Section 13(d)(3) of the Exchange Act), other than to Permitted Holders; (b) the adoption of a plan the consummation of which would result in the liquidation or dissolution of the Borrower or LNG Subsidiary; (c) the acquisition, directly or indirectly, by any Person or group (as such term is used in Section 13(d)(3) of the Exchange Act) other than Permitted Holders of beneficial ownership (as defined in Rule 13d-3 under the Exchange Act) of more than 50% of the aggregate voting power of the fully diluted equity interests in the Borrower or LNG Subsidiary; or (d) the Common Stock ceases to be listed on the NYSE or NASDAQ.
- 1.26. “**Fundamental Change Notice**” means a notice from the Borrower or LNG Subsidiary to the Lender stating: (a) that a Fundamental Change has occurred; (b) the Expiration Date with respect to that Fundamental Change; (c) the name and address of the transfer agent; and (d) the procedures that the Borrower must follow to make the election provided in paragraph 6.2.
- 1.27. “**Fundamental Change Option**” has the meaning ascribed to that term in paragraph 6.2.

- 1.28. “ **Hazardous Materials** ” means chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes.
- 1.29. “ **Indebtedness** ” means, with respect to any Person and without duplication: (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of property or services, including (without limitation) “capital leases” in accordance with generally accepted accounting principles (other than trade payables entered into in the ordinary course of business); (c) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses; (e) 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); (f) all monetary obligations under any leasing or similar arrangement which, in connection with generally accepted accounting principles, consistently applied for the periods covered thereby, is classified as a capital lease; (g) all indebtedness referred to in clauses (a) through (f) 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; and (h) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (g) above.
- 1.30. “ **Initial Closing** ” has the meaning ascribed to that term in paragraph 3.
- 1.31. “ **Intellectual Property Rights** ” has the meaning ascribed to that term in paragraph 9.22.
- 1.32. “ **Interest Payment Date** ” means each March 31, June 30, September 30 and December 31 of each year.
- 1.33. “ **Lender** ” has the meaning ascribed to that term in the preamble.
- 1.34. “ **LNG Subsidiary** ” has the meaning ascribed to that term in the recitals.
- 1.35. “ **Loan** ” has the meaning ascribed to that term in the recitals.
- 1.36. “ **Loan Documents** ” means this Agreement, the Note and the other documents executed in connection therewith.
- 1.37. “ **Mandatory Exchange Date** ” has the meaning ascribed to that term in paragraph 6.3.

- 1.38. “ **Mandatory Exchange Notice** ” means a notice from the Borrower to the Lender stating: (a) the Mandatory Exchange Date; (b) the number of shares of Common Stock to be issued upon conversion of the principal and interest to be exchanged; and (c) the amount of principal and interest to be exchanged.
- 1.39. “ **Market Value** ” means the average Closing Sale Price of the Common Stock for a ten consecutive Trading Day period on NASDAQ (or, if the Common Stock is not listed on NASDAQ, on such other national securities exchange or trading market on which the Common Stock is then listed or is authorized for trading) ending immediately prior to the date of determination.
- 1.40. “ **Material Adverse Effect** ” means any material adverse effect on the business, properties, assets, operations, results of operations or condition (financial or otherwise) of the Borrower and its Subsidiaries, taken as a whole, or on the transactions contemplated hereby and the other Transaction Documents or on the agreements and instruments to be entered into in connection herewith or therewith, or on the authority or ability of the Borrower to perform its obligations under the Transaction Documents (as defined below).
- 1.41. “ **Maturity Date** ” means July 11, 2018 with respect to the initial Note, and with respect to each other Note, the date seven years following the issue date of that Note.
- 1.42. “ **Money Laundering Laws** ” means the financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any governmental agency.
- 1.43. “ **NASDAQ** ” means The NASDAQ Stock Market, Inc., including any of its Affiliates.
- 1.44. “ **Note** ” has the meaning ascribed to that term in the recitals.
- 1.45. “ **NYSE** ” means the New York Stock Exchange.
- 1.46. “ **OFAC** ” means the Office of Foreign Assets Control of the U.S. Treasury Department.
- 1.47. “ **Permits** ” means such permits, registrations, licenses, accreditations, franchises, approvals, authorizations and clearances of applicable governmental authorities required for the conduct of the Borrower’s and its Subsidiaries’ respective businesses as currently conducted, except where the failure to possess such permits, registrations, licenses, accreditations, franchises, approvals, authorizations and clearances would not reasonably be expected to have a Material Adverse Effect.
- 1.48. “ **Permitted Holders** ” means T. Boone Pickens and his Affiliates.

- 1.49. “ **Person** ” means any individual, corporation, general partnership, limited partnership, limited liability partnership, joint venture, association, joint-stock company, trust, limited liability company, unincorporated organization or government or any agency or political subdivision thereof.
- 1.50. “ **Private Letter Ruling** ” has the meaning ascribed to that term in paragraph 6.7.
- 1.51. “ **Reference Price** ” means \$12.90 per share of Common Stock, which is the VWAP for the Common Stock for the immediately prior twenty Trading Days before the Initial Closing.
- 1.52. “ **SEC** ” means the United States Securities and Exchange Commission.
- 1.53. “ **SEC Documents** ” means all reports, schedules, forms, statements and other documents required to be filed by the Borrower with the SEC pursuant to the reporting requirements of the Exchange Act filed during the two (2) years prior to the date of this Agreement or prior to the date of the Closing and all exhibits included therein and financial statements, notes and schedules thereto and documents incorporated by reference therein.
- 1.54. “ **Securities** ” means the Note and the Exchange Shares.
- 1.55. “ **Securities Act** ” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.
- 1.56. “ **Senior Indebtedness** ” means any Indebtedness of the Borrower to any bank, commercial lender or other lending institution regularly engaged in the business of lending money that is secured by a lien on any of the material assets of the Borrower, except: (a) Indebtedness convertible or exchangeable for Capital Stock of the Borrower; and (b) Indebtedness in connection with capital leases or operating leases used solely for the purchase, finance or acquisition of equipment secured only by that equipment.
- 1.57. “ **Subsequent Closing** ” has the meaning ascribed to that term in paragraph 3.
- 1.58. “ **Subsidiary** ” means any Person (a) in which the Borrower, directly or indirectly, owns not less than 25% of the capital stock or holds a corresponding equity or similar interest; and (b) which has operations or material assets.
- 1.59. “ **Trading Day** ” means a day during which trading in securities occurs on NASDAQ or, if Common Stock is not listed on NASDAQ, on the principal other national securities exchange on which Common Stock is then listed or, if Common Stock is not listed on a national securities exchange, on the principal trading market on which Common Stock is then traded.
- 1.60. “ **VWAP** ” means the per share volume-weighted average price for the Common Stock as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. to 4:00 p.m., New York City time), or if such volume-weighted average price is

unavailable or if such page or its equivalent is unavailable: (a) the price of each trade in shares of Common Stock multiplied by the number of shares of Common Stock in each such trade; divided by (b) the total number of shares of Common Stock traded, in each case during such Trading Day from 9:30 a.m. to 4:00 p.m., New York City time on NASDAQ or, if the Common Stock is not traded on NASDAQ, the principal national securities exchange or automated quotation system on which the Common Stock is listed or quoted.

2. Lending Agreement. Subject to the terms and conditions of this Agreement, the Lender agrees to lend to the Borrower and the Borrower agrees to borrow from the Lender the principal amount of up to \$150,000,000.00. The Loan will be advanced directly to the LNG Subsidiary for the benefit of the Borrower to be used only for the Business. All advances to the Borrower and all payments to the Lender will be made by wire transfer of immediately available funds using their respective wiring instructions set forth on **Schedule 2**.
3. Closing. The initial advance of \$50,000,000.00 under the initial Note will be made on the execution and delivery of the Loan Documents and satisfaction by the Borrower or waiver by the Lender of the conditions of lending set forth in paragraph 5 (the “**Initial Closing**”). Subject to the satisfaction of the applicable conditions, on each of June 29, 2012, and June 28, 2013, the Lender will make additional advances of \$50,000,000.00 and will be issued an additional Note, each, on the terms and conditions set forth in this Agreement (each, a “**Subsequent Closing**,” and together with the Initial Closing, each, a “**Closing**”).
4. Convertible Promissory Notes. The Borrower and the Lender agrees that the Lender will have no obligation to re-advance any amounts paid or prepaid on each Note issued hereunder. Each such Note will be payable on the following terms:
 - 4.1. Interest. Except as otherwise provided in the Note, the Note will bear interest from the date of the advance thereunder until payment in full at the per annum rate of 7.5% payable on each Interest Payment Date. Except as provided in this Agreement all interest will be paid in immediately available funds on the designated Interest Payment Date. All interest will be computed for the actual number of days elapsed on the basis of a year consisting of 360 days.
 - 4.2. Repayment. Provided there is no Default, the entire unpaid principal balance of each Note and all accrued and unpaid interest thereon will be due and payable on the earliest of: (a) the Maturity Date; or (b) the 31st Trading Day following the Effective Date. The Borrower will not have the right to prepay this Note, in whole or in part. All payments will be applied first to accrued and unpaid interest and second to the principal balance.
 - 4.3. Optional Repayment in Common Stock. Notwithstanding the terms of paragraph 4.2, by a written notice to Lender on or before the Maturity Date of a Note, the Borrower may elect, in the Borrower’s sole discretion, to pay all or any part of the principal and interest due under such Note by delivering to the Lender the number of shares of Common Stock equal to the quotient of: (a) the sum of: (i) the principal to be paid in Common Stock; and (ii) the interest to be paid in Common

Stock; and (b) the VWAP for the Common Stock for the immediately prior twenty Trading Days before the Maturity Date. Notwithstanding the previous sentence, if the Borrower elects to pay all or any portion of the principal and interest due under any Note pursuant to this paragraph 4.3, the issuance of Common Stock in repayment of that Note will be subject solely to the volume restrictions on issuance set forth in the first sentence of paragraph 6.3.2 with the balance of such repayment made on successive Trading Days subject solely to such volume restrictions (without regard to the balance of paragraph 6.3) and will be effected as an exchange pursuant to the procedures set forth in paragraph 6.4.

5. Conditions of Lending. The obligation of the Lender to perform this Agreement at each Closing is subject to the performance of the following conditions:

- 5.1. Loan Documents. At the Initial Closing, the Loan Documents will have been duly executed, acknowledged (where appropriate) and delivered to the Lender by the Borrower, all in form and substance satisfactory to the Lender.
- 5.2. Authority. The Lender will have received: (a) certified copies of the Borrower's Certificate of Incorporation and Bylaws, complete with all amendments thereto and certificates to be filed in connection therewith; (b) certified copies of the LNG Subsidiary's Certificate of Formation and Limited Liability Company Agreement with all amendments thereto and certificates to be filed in connection therewith; (c) satisfactory evidence that each of the Borrower and LNG Subsidiary is qualified to do business and in good standing each in each jurisdictions listed on **Schedule 5.2**; and (d) certified copies of resolutions and other documents reasonably required to authorize the execution, delivery and performance of the Loan Documents and other instruments provided for herein, all in form and substance reasonably satisfactory to the Lender.
- 5.3. No Default. There will have occurred and be continuing no event of Default as of the date of such closing.
- 5.4. Other Documents. The Borrower will have executed and delivered or caused to be amended such other documents and instruments as the Lender may reasonably request including, without implied limitation, a compliance certificate in form reasonably acceptable to the Lender's counsel.
- 5.5. Approvals. At the Initial Closing, the Borrower will have obtained any required consent of the Borrower's other lenders to the Loan Documents and Loan to be made at that Closing.
- 5.6. Closing Certificate. At the Initial Closing, the Lender will have received a certificate from the Borrower's president (or equivalent officer) certifying that the Borrower's representations and warranties contained in this Agreement are true and correct as of such Closing, except for representations and warranties as of a date certain, which will be certified as correct as of that date certain.

- 5.7. Representations and Warranties. At the Initial Closing, each of the representations and warranties made by Borrower in or pursuant to the Loan Documents shall be true and correct in all material respects on and as of such date as if made on and as of such date.
- 5.8. Opinion Letter. At the Initial Closing, the Lender will have received the opinion of Morrison & Foerster LLP, counsel for the Borrower, dated as of the Closing Date, in substantially the form attached to this Agreement as **Exhibit B**.
6. Exchange Events. The Note will be exchangeable for Common Stock as follows:
- 6.1. Voluntary Exchange. The Lender has the right to exchange all or any portion of the principal and accrued and unpaid interest with respect to each Note at the Conversion Price for fully paid and nonassessable shares of Common Stock and cash in lieu of fractional shares as described in paragraph 6.4 upon written notice to Borrower.
- 6.2. Exchange on Fundamental Change. If: (a) a Fundamental Change occurs; (b) the Market Value for the period ending on the Effective Date is less than the Conversion Price; and (c) the Lender so elects by delivering written notice to Borrower during the period beginning on the first Trading Day after the Effective Date and ending on the Expiration Date, then, in lieu of repayment as provided in paragraph 4.2, the Lender will have the one-time option to exchange some or all principal and accrued and unpaid interest with respect to each Note at the Adjusted Conversion Price for fully paid and nonassessable shares of Common Stock and cash in lieu of fractional shares as described in paragraph 6.4. The Borrower must deliver a Fundamental Change Notice to the Lender not later than five days following the Effective Date.
- 6.3. Mandatory Exchange. At any time after the second anniversary of each Closing, if the Closing Price of the Common Stock is greater than or equal to 140% of the Conversion Price then in effect for at least 20 Trading Days in any consecutive 30 Trading Day Period, then the Borrower may require the Lender to exchange all or any portion of the principal and accrued and unpaid interest advanced at that Closing at the Conversion Price for fully paid and nonassessable shares of Common Stock and cash in lieu of fractional shares as described in paragraph 6.4.
- 6.3.1 Mandatory Exchange Notice. The Borrower must deliver a Mandatory Exchange Notice to the Lender that the Borrower intends to exercise the Borrower's right to require exchange pursuant to this paragraph 6.3 specifying the date that the Borrower elects to require the exchange (the "**Mandatory Exchange Date**") which must be within five days of such notice.
- 6.3.2 Exchange Restrictions. Notwithstanding the balance of this paragraph 6.3, beginning on the Mandatory Exchange Date, and each subsequent consecutive Trading Day thereafter, the amount of principal and interest exchanged for Common Stock will not exceed 15% of the average daily

trading volume of the Common Stock of the Borrower computed for the 30-day period immediately prior to such conversion. No such conversion will occur on any Trading Day on which Forced Conversion Conditions are not satisfied. The mandatory conversion provisions of this paragraph 6.3 will continue to apply only upon each successive Trading Day after the Mandatory Exchange Date upon which the Forced Conversion Conditions are satisfied until all of the principal and interest that can be required to be exchanged for Common Stock pursuant to this paragraph 6.3 has been exchanged for Common Stock pursuant to this paragraph 6.3.

6.3.3 Interest. Notwithstanding the provisions of paragraph 6.4, any accrued and unpaid interest not exchanged pursuant to this paragraph 6.3 that accrued prior to the Mandatory Exchange Date will be due and payable on the next Interest Payment Date.

6.4. Mechanism for Exchange. Each exchange of principal or interest due under the Note pursuant to paragraphs 4.3, 6.1, 6.2 or 6.3 (each, an “**Exchange Event**”) will be deemed to have been effective on written notice of the related Exchange Event, whether or not the Note has been surrendered to the Borrower and the applicable amount of the Note will be deemed satisfied and all rights with respect to the amount of the Note deemed satisfied will cease and terminate, including, without limitation, the right to accrue and be paid interest on any applicable Note. The Lender agrees that on the exchange of the entire unpaid principal amount of any one of the Notes plus all accrued and unpaid interest thereon, the Lender will deliver the original Note or Notes to the Borrower. At the time any exchange has been effected, the Lender will credit the principal amount and interest of the Note that has been exchanged upon issuance to the Lender of the applicable number of shares of the Borrower’s Common Stock. The Borrower will deliver to the Lender a certificate or certificates representing the number of shares of the Common Stock issuable by reason of such exchange in the name of the Lender or one of its Affiliates and in such denomination or denominations as the Lender may specify upon receipt (if required) of the original Note or Notes being exchanged. The issuance of the certificates in connection with the exchange of any portion of the principal amount of the Note to Common Stock of the Borrower will be made without charge to the Lender for any issuance tax or other cost incurred by the Borrower in connection with such exchange. Each exchange (other than an exchange under paragraph 4.3) will entitle the Lender to receive the number of shares of the Borrower’s Common Stock equal to the quotient of: (a) the amount of principal and interest to be exchanged; divided by (b) the Conversion Price or Adjusted Conversion Price then in effect, as applicable. Notwithstanding the foregoing sentence, no fractional shares will be issued in any exchange. If the Lender would be entitled to receive a fractional share, the Borrower will pay to the Lender cash equal to the product of: (y) the Conversion Price; and (z) the fraction of a share that would otherwise have been issued but for the prohibition on issuing fractional shares pursuant to this paragraph 6.4.

- 6.5. Legends. The Lender understands that the certificates or other instruments representing the Exchange Shares 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 stock certificates):

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, OR (B) AN OPINION OF COUNSEL, IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT.

The legend set forth above shall be removed from the Exchange Shares and the Borrower shall issue a certificate without such legend to the holder of the Exchange Shares upon which it is stamped, if, unless otherwise required by state securities laws, (a) such Exchange Shares are registered for resale under the 1933 Act, (b) in connection with a sale, assignment or other transfer, such holder provides the Borrower with an opinion of a law firm reasonably acceptable to the Borrower, in a form reasonably acceptable to the Borrower, to the effect that such sale, assignment or transfer of the Exchange Shares may be made without registration under the applicable requirements of the 1933 Act; or (c) such holder provides the Borrower with reasonable assurance that the Exchange Shares can be sold, assigned or transferred pursuant to Rule 144 or Rule 144A of the Securities Act.

- 6.6. Adjustments to Conversion Price. While any part of any Note remains outstanding, if the Borrower: (a) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock with respect to the then outstanding shares of the Borrower’s Capital Stock; (b) subdivides outstanding shares of Common Stock into a larger number of shares; or (c) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, then the Conversion Price and Reference Price will be adjusted by multiplying the Conversion Price and the Reference Price, respectively, by the quotient of: (y) the number of shares of Common Stock issued and outstanding immediately before such event; divided by (z) the number of shares of Common Stock issued and outstanding immediately after such event. Any adjustment made pursuant to this paragraph 6.6 will be effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution or immediately after the Effective Date in the case of a subdivision or combination. Upon the occurrence of any adjustment described in this paragraph 6.6, the Borrower will deliver an Adjustment Notice.

6.7. Limitation on Exchange. Notwithstanding any other provision of this Agreement, in no event will the Lender be required to exchange principal and interest for a number of shares of Common Stock that would cause the Lender to hold a “significant ownership” interest, as defined in 26 U.S.C. § 613A or Treasury Regulations § 1.613A-7(m), in the Borrower, unless and to the extent: (a) the Lender receives a private letter ruling from the Internal Revenue Service in form and substance satisfactory to the Lender, in the Lender’s sole discretion, indicating that the Lender’s owning a “significant ownership” interest in the Borrower will not affect the Lender’s classification as an independent producer of petroleum products (the “**Private Letter Ruling**”) and the facts upon which the Private Letter Ruling are based continue to exist in relevant part and are applicable to the transactions contemplated hereby; or (b) the applicable provisions of the Internal Revenue Code or Treasury Regulations are repealed or otherwise rendered inapplicable to the Lender as determined in the sole discretion of the Lender. The Lender agrees to use commercially reasonable efforts to obtain the Private Letter Ruling as soon as possible and to ensure that the facts upon which the Private Letter Ruling are based continue to exist in relevant part.

7. Covenants. Until payment in full of the Note, unless the Lender otherwise consents in writing, the Borrower will perform or cause to be performed the following:

7.1. Notice of Default. The Borrower will give prompt written notice to the Lender of its actual knowledge of any Default under the Loan Documents.

7.2. Corporate Existence. The Borrower will take the necessary steps to preserve the corporate existence of the Borrower and the LNG Subsidiary and their respective rights to conduct business in those states in which the nature of the properties or businesses of the Borrower or the LNG Subsidiary, as applicable, requires qualification to do business therein, and will comply in all material respects with all valid and applicable statutes, rules and regulations. The jurisdictions set forth on **Schedule 5.2** are all the jurisdictions where the Borrower and the LNG Subsidiary are required to register to do business where the failure to so qualify would have a Material Adverse Effect on the Borrower or the LNG subsidiary.

7.3. Insurance. The Borrower shall provide or cause to be provided, for itself and each of its Subsidiaries, insurance against loss or damage of the kinds that, in the reasonable, good faith opinion of the Borrower, are adequate and appropriate for the conduct of the business of the Borrower and such Subsidiaries in a reasonably prudent manner, with reputable insurers or with the government of the United States or an agency or instrumentality thereof, in such amounts, with such deductibles, and by such methods as shall be customary, in the reasonable, good faith opinion of the Borrower, for corporations similarly situated in the industry.

- 7.4. Compliance with Obligations. The Borrower will perform and observe, or cause to be performed or observed as the case may be, all of its and its Subsidiaries' material obligations pursuant to the terms, agreements and covenants of their respective certificates of incorporation, other formation documents and this Agreement.
- 7.5. Reservation. The Borrower will take whatever actions are required to ensure that a sufficient number of shares of Common Stock have been reserved and are available for issuance as Exchange Shares pursuant to the terms of the Loan Documents.
- 7.6. Replacement. The Borrower will issue a new Note or stock certificate in place of any previously issued instrument alleged to have been lost, stolen or destroyed, upon such terms and conditions as the Borrower's board of directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction (provided that an affidavit of the Lender will be satisfactory for such purpose) and the giving of such indemnity as the Borrower's board of directors may reasonably request for the protection of the Borrower or any transfer agent or registrar (provided that as to the Lender, its own indemnification agreement will under all circumstances be satisfactory and no bond will be required). On surrender of any previously issued instrument described above that has been mutilated, the Borrower will issue a new instrument in place thereof.
- 7.7. Taxes and Other Obligations. Except as set forth on **Schedule 7.7**, the Borrower and each of its Subsidiaries' will (a) pay and discharge all material taxes, assessments, interest on taxes and governmental charges against them or against any of their properties, upon the respective dates when due, except (i) to the extent that such material taxes, assessments, interest on taxes, installments and governmental charges are contested in good faith and by appropriate proceedings or (ii) as would not be reasonably expected to have a Material Adverse Effect; and (b) take all necessary actions to prevent any material tax lien from attaching to any of their properties, except tax liens contested in good faith and by appropriate proceedings.
- 7.8. Use of Proceeds. The Borrower will cause the LNG Subsidiary not to use the Loan proceeds for any reason other than: (a) to pay the Borrower's expenses in connection with documenting the Loan; (b) for expenditures relating to LNG Subsidiary's pursuing the Business; (c) paying interest or principal on the Loan; and (d) paying any other Business related expenditures of the LNG Subsidiary. The advances under the Notes may not, without the Lender's prior written consent, be used for any purpose other than as set forth in the preceding sentence. Except as provided in clauses (a) and (c) of this paragraph 7.8, the Borrower will cause the LNG Subsidiary not to make any distributions of cash or property with respect to the equity of the LNG Subsidiary to any Person.

- 7.9. LNG Subsidiary Activities. The Borrower will cause the LNG Subsidiary: (a) not to engage in any activities other than the Business; and (b) to diligently pursue the development and operation of the Business. The Borrower will deliver reports to the Lender, not less often than quarterly, indicating the financial performance of the LNG Subsidiary, the number of LNG stations completed, under construction and presently planned for construction together with such other information the Lender reasonably requests.
- 7.10. Form D and Blue Sky Filings. The Borrower will file a Form D with respect to the Note and Exchange Shares as required under Regulation D and to provide a copy thereof to the Lender when filed. The Borrower will make all filings and reports as it reasonably determines are necessary relating to the offer and sale of the Securities required under applicable securities or “Blue Sky” laws of the states of the United States following the Closing Date, except in cases where the Borrower would be required to qualify generally to transact business as a foreign corporation in any jurisdiction where it is not so qualified or to consent to general service of process in any such jurisdiction.
- 7.11. Listing. The Borrower will promptly secure the listing of all of the Exchange Shares upon each national securities exchange and automated quotation system, if any, upon which shares of Common Stock are then listed (subject to official notice of issuance) and will maintain, so long as any other shares of Common Stock will be so listed, such listing of all Exchange Shares from time to time issuable under the terms of the Loan Documents. The Borrower will maintain the Common Stock’s authorization for quotation on the NASDAQ or the NYSE. Neither the Borrower nor any of its Subsidiaries will take any action which would be reasonably expected to result in the delisting or suspension of the Common Stock on the NASDAQ. The Borrower will pay all fees and expenses in connection with satisfying its obligations under this paragraph 7.11.
- 7.12. Certain Fees and Expenses. The Borrower will pay all transfer agent fees, stamp or transfer taxes and other taxes (not including income or similar taxes) and duties levied in connection with the sale and issuance of the Exchange Shares. Except as otherwise expressly set forth in the Loan Documents, each party to this Agreement will bear its own fees and expenses in connection with the Loan (including, without limitation, each party’s legal, accounting and other expenses).
8. Public Statements. The Borrower and Lender agree not to issue or cause the publication of any press release or other announcement with respect to the transactions contemplated by this Agreement without the prior consent of the other party, unless such party determines, after consultation with counsel, that it is required by an applicable statute, ordinance, rule or regulation or by any listing agreement with or the listing rules of a national securities exchange or trading market to issue or cause the publication of any press release or other announcement with respect to the transactions contemplated by this Agreement, in which event such party will endeavor, on a basis reasonable under the circumstances, to provide a meaningful opportunity to the other party to review and comment upon such press release or other announcement and will give due consideration to all reasonable additions, deletions or changes suggested thereto.

9. Borrower's Representations and Warranties. In order to induce the Lender to enter into the Loan Documents, the Borrower represents and warrants to the Lender as follows:

- 9.1. Organization and Qualification. Each of the Borrower and its Subsidiaries are entities duly incorporated or organized, as the case may be, and validly existing in good standing under the laws of the jurisdiction in which they are incorporated or organized, as applicable, and have the requisite power and authority to own their properties and to carry on their business as now being conducted. Each of the Borrower and its Subsidiaries is duly qualified as a foreign corporation 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 reasonably be expected to have a Material Adverse Effect. The Borrower has no Subsidiaries except as set forth on Schedule 9.1 or as disclosed in the SEC Documents.
- 9.2. Authorization; Enforcement; Validity. The Borrower has the requisite corporate power and authority to enter into and perform its obligations under the Loan Documents and to issue the Exchange Shares in accordance with the terms of the Loan Documents. The execution and delivery of the Loan Documents by the Borrower and the consummation by the Borrower of the transactions contemplated by the Loan Documents have been duly authorized by the Borrower's Board of Directors and no further filing, consent or authorization is required by the Borrower, its Board of Directors or its stockholders. The Loan Documents have been duly executed and delivered by the Borrower, and constitute the legal, valid and binding obligations of the Borrower, enforceable against the Borrower 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.
- 9.3. Issuance of Securities. The Exchange Shares have been duly reserved for issuance, are duly authorized and, upon issuance in accordance with the terms hereof, will be validly issued and free from all preemptive or similar rights, taxes, liens and charges with respect to the issue thereof and the Exchange Shares will be fully paid and nonassessable with the holders being entitled to all rights accorded to a holder of Common Stock. Assuming the accuracy of each of the representations and warranties set forth in paragraph 10 of this Agreement, the offer and issuance by the Borrower of the Note and the Exchange Shares are exempt from registration under the Securities Act and will be issued in compliance with all applicable federal and state securities laws.
- 9.4. No Conflicts. The execution, delivery and performance of the Loan Documents by the Borrower and the consummation by the Borrower of the transactions contemplated hereby and thereby will not (a) result in a violation of any certificate of incorporation, certificate of formation, any certificate of

designations or other constituent documents of the Borrower or any of its Subsidiaries, any capital stock of the Borrower or any of its Subsidiaries or bylaws of the Borrower or any of its Subsidiaries; (b) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Borrower or any of its Subsidiaries is a party; or (c) result in a violation of any applicable law, rule, regulation, order, judgment or decree, including without limitation, federal and state securities laws and regulations and the rules and regulations of NASDAQ or any other national securities exchange applicable to the Borrower or any of its Subsidiaries or by which any property or asset of the Borrower or any of its Subsidiaries is bound or affected, except in the cases of clauses (b) and (c) such as would not reasonably be expected to have a Material Adverse Effect.

- 9.5. Consents. Assuming the accuracy of the representations and warranties set forth in paragraph 10 of this Agreement, the Borrower is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court, governmental agency or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its obligations under or contemplated by the Loan Documents, in each case in accordance with the terms hereof or thereof, other than (a) any consent, authorization or order that has been obtained as of the date hereof; (b) any filing or registration that has been made as of the date hereof; or (c) any filings which may be required to be made by the Borrower with the SEC, state securities administrators or NASDAQ, subsequent to the Closing. The Borrower is not in violation of the listing requirements of NASDAQ.
- 9.6. No General Solicitation. Neither the Borrower nor any of its Subsidiaries, or to the Borrower's knowledge, any of its or their Affiliates, nor any Person acting on its or 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 Securities. The Borrower will be responsible for the payment of any placement agent's fees, financial advisory fees, or brokers' commissions (other than for Persons engaged by the Lender or its investment advisor) relating to or arising out of the transactions contemplated hereby. The Borrower acknowledges that it has engaged the Advisors as advisors in connection with the sale of the Securities.
- 9.7. No Integrated Offering. None of the Borrower, its 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 the issuance of any of the Securities under the Securities Act, whether through integration with prior offerings or otherwise, or cause this offering of the Securities to require approval of stockholders of the Borrower for purposes of any applicable stockholder 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 Borrower, its Subsidiaries, their affiliates and any Person acting on their behalf will take any action or steps referred to in the preceding sentence that would require registration of the issuance of any of the Securities under the Securities Act or cause the offering of the Securities to be integrated with other offerings for purposes of any such applicable stockholder approval provisions.

- 9.8. SEC Documents; Financial Statements. During the two (2) years prior to the date hereof, the Borrower has timely filed all appropriate SEC Documents. As of their respective filing dates, the SEC Documents complied in all material respects with the requirements of the Exchange 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 (solely to the extent any information contained in such SEC Documents has not been amended, modified, supplemented, corrected, rescinded or otherwise withdrawn in subsequent material filed by the Borrower 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 financial statements of the Borrower 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 have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (a) as may be otherwise indicated in such financial statements or the notes thereto; or (b) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Borrower as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments and to the extent that such unaudited statements exclude footnotes). To the best of the Borrower's knowledge, no other information provided by the Borrower to the Lender which is not included in the SEC Documents 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 circumstances under which they are or were made not misleading; provided, however, the Borrower makes no representations or warranties regarding any projections, forecasts or other forward looking statements. KPMG LLP, which has reported on the consolidated financial statements and schedules contained in the SEC Documents, are registered independent public accountants as required by the Securities Act and the rules and regulations promulgated thereunder and by the rules of the Public Accounting Oversight Board.

- 9.9. Absence of Certain Changes. Since December 31, 2010, other than as set forth on **Schedule 9.9** or as disclosed in the SEC Documents, (a) there has been no material adverse change and no material adverse development in the business, properties, operations, condition (financial or otherwise) or results of operations of the Borrower or its Subsidiaries; (b) the Borrower and its Subsidiaries have not paid or declared any dividends or other distributions with respect to their capital stock; and (c) there has not been any change in the capital stock of the Borrower or its Subsidiaries other than grants, exercises, terminations, or forfeitures of securities under the Borrower's equity or compensation plans.
- 9.10. No Undisclosed Events, Liabilities, Developments or Circumstances. Except for the Loan pursuant to this Agreement, no event, liability, development or circumstance has occurred or exists with respect to the Borrower or its Subsidiaries or their respective business, properties, prospects, operations or financial condition, that would be required to be disclosed by the Borrower under applicable securities laws on a registration statement on Form S-1 filed with the SEC or financial statements and related footnotes according to GAAP relating to an issuance and sale by the Borrower of its Common Stock and which has not been publicly announced or disclosed.
- 9.11. Conduct of Business; Regulatory Permits. Neither the Borrower nor any of its Subsidiaries is in material violation of any term of or in default under its Certificate of Incorporation or the Bylaws or their organizational charter or bylaws, respectively. Except as described in the SEC Documents, neither the Borrower nor any of its Subsidiaries is in violation of any judgment, decree or order or any statute, ordinance, rule or regulation applicable to the Borrower or its Subsidiaries, except for possible violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. During the past two (2) years prior to the date hereof, (a) the Common Stock has been designated for quotation or included for listing on NASDAQ; (b) trading in the Common Stock has not been suspended by the SEC or NASDAQ; and (c) the Borrower has received no communication, written or oral, from the SEC or NASDAQ regarding the suspension or delisting of the Common Stock from NASDAQ. Except as described in the SEC Documents, the Borrower and its Subsidiaries hold, and are operating in material compliance with the Permits, and all of the Permits are in full force and effect. Except as described in the SEC Documents, neither the Borrower nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of, or non-compliance with, any such Permit which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in a Material Adverse Effect.
- 9.12. Foreign Corrupt Practices. Neither the Borrower nor, to the Borrower's knowledge, any director, officer, agent, employee or other Person acting on behalf of the Borrower has, in the course of its actions for, or on behalf of, the Borrower: (a) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (b) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (c) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended; or (d) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

- 9.13. Sarbanes-Oxley Act. The Borrower is in material compliance with all applicable requirements of the Sarbanes-Oxley Act of 2002 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.
- 9.14. Transactions With Affiliates. Except as set forth in the SEC Documents, none of the executive officers or directors of the Borrower is presently a party to any transaction with the Borrower (other than for ordinary course services as executive 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 executive officer or director or, to the knowledge of the Borrower, any corporation, partnership, trust or other entity in which any such executive officer or director has a substantial interest or is an officer, director, trustee or partner.
- 9.15. Equity Capitalization. As of June 30, 2011, the authorized capital stock of the Borrower consists of 149,000,000 shares of Common Stock and 1,000,000 shares of preferred stock. As of the date hereof, no shares of preferred stock are issued and outstanding. As of June 30, 2011, (x) 70,317,747 shares of Common Stock were issued and outstanding, (y) 14,349,383 shares were reserved for issuance pursuant to the Borrower's equity incentive plans (including 10,802,152 shares reserved for issuance pursuant to outstanding options and 3,547,231 shares reserved for future grant), and (z) 17,130,682 shares reserved for issuance pursuant to outstanding warrants. All of such outstanding shares have been, or upon issuance will be, validly issued and are fully paid and nonassessable. Except as set forth above in this paragraph 9.15 or on **Schedule 9.15**, or as disclosed in the SEC Documents: (a) none of the Borrower's capital stock is subject to preemptive rights or any other similar rights or any liens or encumbrances suffered or permitted by the Borrower; (b) there are no outstanding options, warrants, 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 of the Borrower or any of its Subsidiaries, or contracts, commitments, understandings or arrangements by which the Borrower or any of its Subsidiaries is or may become bound to issue additional capital stock of the Borrower or any of its Subsidiaries 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 of the Borrower or any of its Subsidiaries; (c) there are no agreements or arrangements under which the Borrower or any of its Subsidiaries is obligated to register the sale of any of their securities under the Securities Act; (d) there are no outstanding securities or instruments of the Borrower or any of its Subsidiaries which contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Borrower

or any of its Subsidiaries is or may become bound to redeem a security of the Borrower or any of its Subsidiaries; (e) there are no securities or instruments containing anti-dilution or similar provisions that will be triggered by the issuance of the Securities; and (f) the Borrower does not have any stock appreciation rights or “phantom stock” plans or agreements or any similar plan or agreement. The Borrower has furnished or made available to the Lender upon the Lender’s request, true, correct and complete copies of the Certificate of Incorporation and Bylaws and the terms of all securities convertible into, or exercisable or exchangeable for, shares of Common Stock and the material rights of the holders thereof in respect thereto.

- 9.16. Indebtedness and Other Contracts. Except as disclosed in **Schedule 9.16** or in the SEC Documents, neither the Borrower nor any of its Subsidiaries: (a) has any outstanding Indebtedness to any one Person or group of Affiliated Persons in excess of \$10,000,000.00; or (b) is in violation of any term of or in default under any contract, agreement or instrument relating to any Indebtedness, except where such violations and defaults would not result, individually or in the aggregate, in a Material Adverse Effect. Any Indebtedness of the Borrower or any of its Subsidiaries required to be disclosed in the SEC Documents has been so disclosed.
- 9.17. Absence of Litigation. Except as set forth in **Schedule 9.17** or as disclosed in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by NASDAQ, any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any of its Subsidiaries that would reasonably be expected to have a Material Adverse Effect.
- 9.18. Insurance. The Borrower and each of its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Borrower believes to be prudent and customary in the businesses in which the Borrower and its Subsidiaries are engaged.
- 9.19. Employee Relations. Neither the Borrower nor any of its Subsidiaries is a party to any collective bargaining agreement or employs any member of a union. The Borrower and its Subsidiaries believe that their relations with their employees are good. No named executive officer of the Borrower or any of its Subsidiaries has notified the Borrower or any such Subsidiary that such officer intends to leave the Borrower or any such Subsidiary or otherwise terminate such officer’s employment with the Borrower or any such Subsidiary.
- 9.20. Labor Laws. The Borrower and its Subsidiaries, to their knowledge, are 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.

- 9.21. Title. Except as set forth in **Schedule 9.21** or as disclosed in the SEC Documents, the Borrower and its Subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them which is material to the business of the Borrower and its Subsidiaries, in each case free and clear of all liens, encumbrances and defects except such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Borrower and any of its Subsidiaries. Any real property and facilities held under lease by the Borrower and any of its Subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Borrower and its Subsidiaries.
- 9.22. Intellectual Property Rights. The Borrower and its Subsidiaries own, possess or can acquire on reasonable terms sufficient trademarks, trade names, patent rights, copyrights, domain names, licenses, approvals, trade secrets and other similar rights (collectively, “**Intellectual Property Rights**”) reasonably necessary to conduct their businesses as now conducted; except to the extent failure to own, possess or acquire such Intellectual Property Rights would reasonably be expected to result in a Material Adverse Effect. Neither the Borrower nor any of its Subsidiaries has received any notice of infringement or conflict with asserted Intellectual Property Rights of others. Except as disclosed in the SEC Documents or as would not be reasonably likely to result, individually or in the aggregate, in a Material Adverse Effect, (a) to the Borrower’s knowledge, there is no infringement, misappropriation or violation by third parties of any of the Intellectual Property Rights owned by the Borrower; (b) there is no pending or, to the Borrower’s knowledge, threatened action, suit, proceeding, investigation, inquiry or claim by others challenging the rights of the Borrower and its Subsidiaries in or to any such Intellectual Property Rights; (c) the Intellectual Property Rights owned by the Borrower and its Subsidiaries and, to the Borrower’s knowledge, the Intellectual Property Rights licensed to the Borrower and its Subsidiaries have not been adjudged by a court of competent jurisdiction invalid or unenforceable, in whole or in part, and there is no pending or, to the Borrower’s knowledge, threatened action, suit, proceeding or claim by others challenging the validity or scope of any such Intellectual Property Rights; and (d) there is no pending or, to the Borrower’s knowledge, threatened action, suit, proceeding or claim by others that the Borrower or its Subsidiaries infringe, misappropriate or otherwise violate any Intellectual Property Rights or other proprietary rights of others, and the Borrower and its Subsidiaries have not received any written notice of such claim.
- 9.23. Environmental Laws. Except as described in the SEC Documents, the Borrower and its Subsidiaries (a) are in compliance with any and all applicable Environmental Laws; (b) have received all Permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses as currently conducted; and (c) are in compliance with all terms and conditions of any such Permit, license or approval where, in each of the foregoing clauses (a), (b) and (c), the failure to so comply would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

- 9.24. Tax Status. Except as set forth in **Schedule 9.24** or as disclosed in the SEC Documents, and except as, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect, the Borrower and each of its Subsidiaries (a) has made or filed all foreign, federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject or has properly requested extensions thereof; (b) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith; and (c) has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. Except as set forth in **Schedule 9.24** or as disclosed in the SEC Documents, there are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction.
- 9.25. Internal Accounting and Disclosure Controls. The Borrower and each of its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (a) transactions are executed in accordance with management's general or specific authorizations; (b) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset and liability accountability; (c) access to assets or incurrence of liabilities is permitted only in accordance with management's general or specific authorization; and (d) 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 maintains disclosure controls and procedures (as such term is defined in Rule 13a-15 under the Exchange Act) that are effective at the reasonable assurance level to ensure that information required to be disclosed by the Borrower in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the 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 Exchange 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.
- 9.26. Off Balance Sheet Arrangements. There is no transaction, arrangement, or other relationship between the Borrower and an unconsolidated or other off balance sheet entity that is required to be disclosed by the Borrower in the SEC Documents or financial statements and related footnotes according to GAAP and is not so disclosed.

- 9.27. Investment Company Status. The Borrower is not, and upon consummation of the sale of the Securities will not be, an “investment company,” 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.
- 9.28. Form S-3 Eligibility. The Borrower is eligible to register the Exchange Shares for resale by the Lender using Form S-3 promulgated under the Securities Act.
- 9.29. Manipulation of Price. The Borrower has not, and to its knowledge no one acting on its behalf has, taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Borrower to facilitate the sale or resale of any of the Securities.
- 9.30. ERISA Compliance. The Borrower and its Subsidiaries and any “employee benefit plan” (as defined under the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, “ERISA”)) established or maintained by the Borrower and its Subsidiaries are in compliance in all material respects with ERISA. No “reportable event” (as defined under ERISA) has occurred with respect to any “employee benefit plan” established or maintained by the Borrower and its Subsidiaries.
- 9.31. Money Laundering Laws. The operations of the Borrower and its Subsidiaries are, and have been conducted at all times, in compliance with applicable Money Laundering Laws and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Borrower or any of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Borrower, threatened.
- 9.32. OFAC. Neither the Borrower nor any of its Subsidiaries nor, to the Borrower’s knowledge, any director, officer, agent, employee, Affiliate or Person acting on behalf of the Borrower or any of its Subsidiaries is currently subject to any U.S. sanctions administered by OFAC; and the Borrower will not directly or indirectly use the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person or entity, for the purpose of financing the activities of any Person currently subject to any U.S. sanctions administered by OFAC.
- 9.33. Survival of Representations. All representations and warranties made by the Borrower herein will survive the delivery of the Loan Documents and the making of the loans evidenced thereby solely for purposes of paragraph 11.4, and any investigation at any time made by or on behalf of the Lender will not diminish the Lender’s right to rely thereon.
10. Lender’s Representations and Warranties. The Lender represents and warrants to the Borrower as follows:

- 10.1. Organization and Standing. The Lender is a corporation duly organized, validly existing and in good standing under the laws of the State of Oklahoma.
- 10.2. Authorization; Power. The Lender has all requisite legal power to execute, deliver and perform this Agreement. The Lender has taken all necessary action for the authorization, execution, delivery and performance of this Agreement and the consummation of the transactions contemplated thereby. This Agreement constitutes a legal, valid and binding obligation of the Lender, which is enforceable against the Lender in accordance with its terms.
- 10.3. Investment Representations. The Lender understands that the Note and the Exchange Shares to be issued upon an exchange of the Note are restricted securities which are not registered under the Securities Act. The Lender also understands that the Note is being offered and sold pursuant to an exemption from registration contained in the Securities Act based in part upon the Lender's representations contained in this Agreement. The Lender hereby represents and warrants as follows:
- 10.3.1 Economic Risk. The Lender has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Borrower so the Lender is capable of evaluating the merits and risks of this transaction. The Lender understands that: (a) the investment contemplated by this Agreement involves a substantial degree of risk; (b) the Lender must bear the economic risk of this investment indefinitely unless the interests to be acquired hereunder are registered pursuant to the Securities Act, or an exemption from registration is available; and (c) the Borrower has no present intention of registering the interests to be acquired hereunder. The Lender also understands that there is no assurance that any exemption from registration under the Securities Act will be available and that, even if available, such exemption may not allow the Lender to transfer any interests acquired in connection with the Note or Exchange Shares.
- 10.3.2 Acquisition for Own Account. The Lender is acquiring the Note for such Lender's own account for investment purposes only, and does not intend to distribute the Note or Exchange Shares.
- 10.3.3 Protection. The Lender represents that the Lender: (a) is an accredited investor within the meaning of Regulation D promulgated under the Securities Act; (b) has the capacity to protect its own interests in connection with the transactions contemplated in this Agreement; and (c) is aware of no publication of any advertisement in connection with the transactions contemplated in this Agreement.

- 10.3.4 Borrower Information. The Lender has: (a) received and read all information that the Lender has requested regarding the Borrower's business, management and financial affairs; (b) had the opportunity to discuss such matters with directors, officers and management of the Borrower; (c) had the opportunity to review the Borrower's operations and facilities; and (d) had the opportunity to ask questions of and receive answers from the Borrower and its management regarding the terms and conditions of this investment.
- 10.3.5 Residence. The office of the Lender in which its investment decision was made is located at the address of the Lender set forth in paragraph 14.2 and no offer to purchase securities of the Borrower was made to the Lender outside such jurisdiction.

11. Default. The Lender may terminate all of the Lender's obligations under the Loan Documents, accelerate the Note and declare the Note and all other Indebtedness and obligations of the Borrower owing to the Lender to be due and payable if any of the following events of default (a " **Default** ") occur and have not been waived in writing by the Lender:

- 11.1. Nonpayment of Principal. The Borrower fails to pay when due any principal of the Notes; or
- 11.2. Nonpayment of Interest. The Borrower fails to pay any installment of interest on the Notes when due and payable; or
- 11.3. Breach of Agreement. The Borrower fails to perform or observe any covenant contained in this Agreement; or
- 11.4. Representations and Warranties. Any representation or warranty made to the Lender in paragraph 9 of this Agreement, in any schedule to this Agreement or in any certificate delivered by the Borrower pursuant to this Agreement proves to be false or erroneous in any material respect when made; or
- 11.5. Bankruptcy. The institution of bankruptcy, reorganization, readjustment of any debt, liquidation or receivership proceedings by or against the Borrower or LNG Subsidiary occurs under the Bankruptcy Code, as amended, or any part thereof, or under any other laws, whether state or federal, for the relief of debtors, now or hereafter existing which is not dismissed within sixty (60) days of the institution thereof; or
- 11.6. Insolvency. Any admission by the Borrower or LNG Subsidiary that the Borrower or LNG Subsidiary is unable to pay its debts as such debts mature or an assignment for the benefit of the creditors of the Borrower or LNG Subsidiary; or
- 11.7. Judgment. Entry by any court of a final judgment in an amount in excess of \$15,000,000.00 against the Borrower which is not discharged or stayed within sixty (60) days thereof; or
- 11.8. Receivership. The appointment of a receiver or trustee for the Borrower or LNG Subsidiary; or

- 11.9. Acceleration of Other Debt. The acceleration of the maturity of any indebtedness for borrowed money of the Borrower owing to any other Person in an amount in excess of \$20,000,000.00, provided however, if the documents evidencing the accelerated indebtedness do not provide for a cure period prior to acceleration and the Borrower causes the acceleration to be rescinded within thirty (30) days after the date of acceleration, then the event of Default under this paragraph 11.9 will be deemed to be cured as a result of such rescission of acceleration within such thirty (30) day period.

If the Borrower cures or causes to be cured such Default within thirty (30) days after receiving written notice thereof, the parties will be restored to their respective rights and obligations under this Agreement as if no Default had occurred, except that no right to cure will be given as to events of Default in paragraphs 11.1, 11.5, 11.6, 11.7 or 11.9 of this Agreement.

12. Subordination. The Lender will execute and deliver customary forms of subordination agreements requested from time to time by holders of Senior Indebtedness in form and substance reasonably satisfactory to Lender and such holder.

13. Remedies. On the occurrence of an event of Default which has not been timely cured, the Lender may, at the Lender's option:

- 13.1. Acceleration of Note. Declare all Notes and all sums due to the Lender pursuant to the Loan Documents to be immediately due and payable, whereupon the same will become forthwith due and payable and the Lender will be entitled to proceed to selectively and successively enforce the Lender's rights under the Loan Documents or any other instruments delivered to the Lender in connection with the Loan Documents.
- 13.2. Waiver of Default. The Lender may, by an instrument or instruments in writing signed by the Lender, waive any Default which has occurred together with any of the consequences of such Default and, in such event, the Lender and the Borrower will be restored to their respective former positions, rights and obligations hereunder. Any Default so waived will, for all purposes of this Agreement with respect to the Lender, be deemed to have been cured and not to be continuing, but no such waiver will extend to any subsequent or other Default or impair any consequence of such subsequent or other Default.
- 13.3. Cumulative Remedies. No failure on the part of the Lender to exercise and no delay in exercising any right hereunder will operate as a waiver thereof, nor will any single or partial exercise by the Lender of any right hereunder preclude any other or further right of exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not alternative.

14. Miscellaneous . It is further agreed as follows:

- 14.1. Expenses . Except as otherwise provided in this Agreement, the Borrower and the Lender will each pay their own expenses in connection with the transactions described in this Agreement and the preparation of the Loan Documents. The Borrower agrees to pay all reasonable out-of-pocket expenses incurred by the Lender in connection with the enforcement of the Loan Documents including, without limitation, reasonable attorneys' fees.
- 14.2. Notices . All notices, requests and demands will be served by hand delivery, telefacsimile, overnight courier or by registered or certified mail, with return receipt requested, as follows:

if to the Borrower: Clean Energy Fuels Corp.
3020 Old Ranch Parkway, Suite 400
Seal Beach, California 90740
Telephone: (562) 493-2804
Facsimile: (562) 493-4956
Attention: J. Nathan Jensen, Vice President and General Counsel

with a copy to: Morrison & Foerster LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130
Telephone: (858) 720-5100
Facsimile: (858) 720-5125
Attention: Steven G. Rowles, Esquire

if to the Lender: Chesapeake NG Ventures Corporation
6100 North Western Avenue
Oklahoma City, Oklahoma 73118
Telephone: (405) 935-6125
Facsimile: (405) 849-6125
Attention: Nick Dell'Osso, Executive Vice President and Chief Financial Officer

with a copy to: Commercial Law Group, P.C.
5520 North Francis Avenue
Oklahoma City, Oklahoma 73118
Telephone: (405) 232-3001
Facsimile: (405) 232-5553
Attention: Ray Lees

or at such other address as any party designates for such purpose in writing to the other party. Notices will be deemed to have been given on the date actually received in the event of personal, telefacsimile or overnight courier delivery or on the date three (3) days after notice is deposited in the mail, properly addressed, postage prepaid.

- 14.3. Severability. If any one or more of the provisions contained in any of the Loan Documents is determined to be invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of such provision or provisions will not in any way be affected or impaired thereby in any other jurisdiction, nor will the validity, legality and enforceability of the remaining provisions contained in the Loan Documents in any way be affected or impaired thereby.
- 14.4. Construction and Venue. All questions concerning the construction, validity, enforcement and interpretation of this Agreement and the Guaranty will be governed by the internal laws of the State of Delaware, without giving effect to

any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of Delaware. Each party hereby irrevocably submits to the exclusive jurisdiction of the Delaware Court of Chancery or, if no such state court has proper jurisdiction, the United States District Court for the District of Delaware, 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. Nothing contained herein will 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 TRANSACTION CONTEMPLATED HEREBY.**

- 14.5. No Waiver. No advance of loan proceeds under the Loan Documents will constitute a waiver of any of the Borrower's representations, warranties, conditions or covenants under the Loan Documents.
- 14.6. Amendment; Entire Agreement. The Loan Documents may not be amended, altered, modified or changed verbally, but only by an agreement in writing signed by the party against whom enforcement of any amendment, waiver, change, modification or discharge is sought. This Agreement, the Notes and the other Loan Documents supersede all other prior oral or written agreements between the Lender, the Borrower, their Affiliates and Persons acting on their behalf with respect to the matters discussed herein and therein and constitute the entire understanding of the parties with respect to the matters covered herein or therein, and except as specifically set forth herein or therein, neither the Borrower nor the Lender makes any representation, warranty, covenant or undertaking with respect to such matters.
- 14.7. Time. Time is of the essence of this Agreement and each provision of the other Loan Documents.
- 14.8. Headings. Except for the headings in paragraph 1, the headings of this Agreement are for convenience, are not part of and will not affect the interpretation of this Agreement.
- 14.9. Counterparts. This Agreement may be executed in two or more counterparts, and it will not be necessary that the signatures of all parties hereto be contained on any one counterpart hereof. The counterpart will be deemed an original, but all counterparts together will constitute one and the same instrument. The parties agree that a telefacsimile of this Agreement signed by the parties will constitute an agreement in accordance with the terms hereof as if all of the parties had executed an original of this Agreement.

- 14.10. Usury. No provision of this Agreement, any other Loan Document or any other instrument executed in connection herewith is intended or will be construed to require or permit the payment or collection of interest at a rate that exceeds the highest non-usurious lawful rate permitted by applicable law. If any excess of interest in such respect is provided for, or is adjudicated to be so provided for, then: (a) the provisions of this paragraph 14.10 will govern and control; (b) neither the Borrower nor the Borrower's successors or assigns or any other party liable for the payment thereof will be obligated to pay the amount of such interest to the extent that, with respect to such liable party, it is in excess of the maximum amount permitted by law; (c) any such excess which may have been collected will be, at the option of the Lender, either applied as a credit against the then unpaid principal amount of the Loan or refunded to the Borrower; and (d) the effective rate of interest will be automatically subject to reduction to the maximum lawful contract rate allowed under applicable usury laws as now or hereafter construed by the courts having jurisdiction over the Loan Documents.
- 14.11. Successors and Assigns. Neither party may assign or transfer this Agreement or any rights or obligations hereunder or any Note without the prior written consent of the other party, except that the Lender may assign the Lender's rights (but not obligations) under this Agreement and other Loan Documents to any wholly-owned subsidiary of Chesapeake Energy Corporation without the Borrower's consent upon written notice to the Borrower. This Agreement will be binding upon and inure to the benefit of the parties and their successors and permitted assigns.
- 14.12. 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.
- 14.13. Further Assurances. Each party will do and perform, or cause to be done and performed, all such further acts and things, and will 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.

[Signature Pages Follow]

SIGNATURE PAGE TO LOAN AGREEMENT

IN WITNESS WHEREOF, the Borrower and the Lender have executed this Agreement effective on the date first above written.

BORROWER :

CLEAN ENERGY FUELS CORP., a Delaware corporation

By: /S/ Andrew J. Littlefair
Andrew J. Littlefair, President and Chief Executive Officer

SIGNATURE PAGE TO LOAN AGREEMENT

IN WITNESS WHEREOF, the Borrower and the Lender have executed this Agreement effective on the date first above written.

LENDER :

CHESAPEAKE NG VENTURES CORPORATION, an Oklahoma corporation

By: /S/ Domenic J. Dell'Osso, Jr.
Domenic J. Dell'Osso, Jr., Executive Vice President and Chief
Financial Officer

GUARANTY

The undersigned hereby irrevocably guarantees to Borrower the funding of the loan amounts set forth in paragraph 3 of this Agreement, subject to the conditions to funding set forth in this Agreement.

In witness whereof, the undersigned has caused this Guaranty to be executed by a duly authorized representative as of July 11, 2011.

CHESAPEAKE ENERGY CORPORATION, an Oklahoma
corporation

By: /S/ Domenic J. Dell'Oso, Jr.
Domenic J. Dell'Oso, Jr., Executive Vice President and Chief
Financial Officer

REGISTRATION RIGHTS AGREEMENT

This **REGISTRATION RIGHTS AGREEMENT** (this “**Agreement**”), dated as of July 11, 2011, is entered into by and between Clean Energy Fuels Corp., a Delaware corporation (the “**Company**”) and Chesapeake NG Ventures Corporation, an Oklahoma corporation (the “**Lender**”).

RECITALS

WHEREAS, the Company and Lender have entered into the Loan Agreement, dated as of July 11, 2011 (the “**Loan Agreement**”), in connection with the Company’s borrowing up to \$150,000,000 from Lender (the “**Loan**”);

WHEREAS, under certain conditions all or part of the Loan is exchangeable for shares of the Company’s Common Stock (the “**Exchange Shares**”);

WHEREAS, in order to induce Lender to make the Loan, the Company has agreed to provide certain rights to Lender as set forth in this Agreement; and

WHEREAS, this Agreement is being executed and delivered in connection with the Initial Closing under the Loan Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

1. REGISTRATION RIGHTS

(a) Definitions.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Loan Agreement. As used in this Agreement, the following terms shall have the following meanings:

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

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

“**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.

“**Common Stock**” means the shares of common stock of the Company, par value \$0.0001.

“**Effective Date**” means the date the Registration Statement has been declared effective by the SEC.

“**Effectiveness Deadline**” means the date that is (i) thirty (30) days after each respective Filing Deadline if the Registration Statement is not subject to review by the SEC, or (ii) ninety (90) days after each respective Filing Deadline if the Registration Statement is subject to review by the SEC.

“ **Filing Deadline** ” means the 180th calendar day following the issuance of Registrable Securities received in exchange for some portion of the Loan.

“ **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.

“ **register** ”, “ **registered** ” and “ **registration** ” refer to a registration effected by preparing and filing one or more Registration Statements (as defined below) in compliance with the 1933 Act and the declaration or ordering of effectiveness of such Registration Statement(s) by the SEC.

“ **Registrable Securities** ” means the Exchange Shares, together with any shares of capital stock issued or issuable with respect to the Exchange Shares as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise, issued to or held by Lender.

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

“ **Rule 144** ” means Rule 144 promulgated under the 1933 Act or any successor rule or other similar rule or regulation of the SEC that may at any time permit Lender to sell securities of the Company to the public without registration.

“ **SEC** ” means the United States Securities and Exchange Commission.

(b) Mandatory Registration .

(i) The Company shall prepare, and no later than the applicable Filing Deadline, file with the SEC, a Registration Statement on Form S-3 covering the resale of all unregistered Exchange Shares then issued or issuable with respect to the amounts advanced under the Note as of the date the Registration Statement is initially filed with the SEC. If Form S-3 is unavailable for such a registration, the Company shall use such other form as is available for such a registration.

(ii) The Company shall use its commercially reasonable efforts to have such Registration Statement declared effective by the SEC as soon as practicable, but in no event later than the applicable Effectiveness Deadline, and shall use its commercially reasonable efforts to keep such Registration Statement continuously effective under the 1933 Act until all Registrable Securities covered by such Registration Statement (A) have been sold, thereunder or pursuant to Rule 144, or (B) may be sold without volume or manner-of-sale restrictions pursuant to Rule 144 and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144, as determined by counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company’s transfer agent and Lender (the “ **Effectiveness Period** ”).

(c) Piggyback Registration.

(i) If (but without any obligation to do so) following the expiration of the Effectiveness Period the Company proposes to register (including for this purpose a registration effected by the Company for stockholders other than Lender) any of its capital stock or other securities under the 1933 Act in connection with a fully underwritten firm commitment public offering of such securities (other than a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities), the Company shall, at such time, give Lender written notice of such registration in accordance with Section 2(f). Upon the written request of Lender given within five (5) Business Days after delivery of such notice by the Company, the Company shall, subject to the provisions of Section 1(c)(iii), use all commercially reasonable efforts to cause to be registered under the Act all of the Registrable Securities that Lender requests to be registered.

(ii) The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 1(c) prior to the effectiveness of such registration whether or not Lender has elected to include securities in such registration. The expenses of such withdrawn registration shall be borne by the Company in accordance with Section 1(j) hereof.

(iii) The Company shall not be required under this Section 1(c) to include any of Lender's securities in such underwriting unless Lender accepts the terms of the underwriting as reasonably agreed upon between the Company and the underwriters selected by the Company (or by other Persons entitled to select the underwriters) and enters into an underwriting agreement in customary form with such underwriters, and then only in such quantity as the underwriters determine in their sole discretion will not jeopardize the success of the offering by the Company. If the total amount of securities, including Registrable Securities, requested to be included in such offering exceeds the amount of securities that the underwriters determine in their sole discretion is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of Registrable Securities that the underwriters determine in their sole discretion will not jeopardize the success of the offering. Any reduction in the number of Registrable Securities will be made pro rata with the other securities to be registered on behalf of third parties in such offering.

(d) Effect of Failure to File and Obtain and Maintain Effectiveness of Registration Statement. If (i) a Registration Statement covering all of the Registrable Securities required to be covered thereby and required to be filed by the Company pursuant to Section 1(b) of this Agreement is (A) not filed with the SEC on or before the Filing Deadline (a “**Filing Failure**”) or (B) not declared effective by the SEC on or before the Effectiveness Deadline (an “**Effectiveness Failure**”); or (ii) for more than thirty days in any one calendar year during the applicable Effectiveness Period, Registrable Securities that have previously been covered by an effective Registration Statement are no longer covered by an effective Registration Statement (a “**Maintenance Failure**”, and a Filing Failure, Effectiveness Failure and Maintenance Failure each being referred to herein as a “**Failure**”) then, in lieu of the damages to any holder of Registrable Securities by reason of such delay in or reduction of its ability to sell such Registrable Securities (which payments shall be the exclusive remedies available under this Agreement or under applicable law), the Company shall pay to Lender an amount in cash equal

to 0.75% of the aggregate original Loan represented by the Registrable Securities included in such Registration Statement or, in the case of a Filing Failure, the Registrable Securities required by this Agreement to be included in such Registration Statement, (i) within five (5) Trading Days of a Failure and (ii) on every monthly anniversary of such Failure (in each case, on a pro rata basis for periods less than 30 days) until such Failure is cured or the end of the Effectiveness Period, whichever is earlier. The payments to which Lender shall be entitled pursuant to this Section 1(d) are referred to herein as “**Registration Delay Payments**.” If the Company fails to make Registration Delay Payments within five (5) Business Days after the date payable, such Registration Delay Payments shall bear interest at the rate of 18% per annum until paid in full. Notwithstanding anything to the contrary herein or in the Loan Agreement, in no event shall the Company be liable in any 30-day period, for Registration Delay Payments in excess of 0.75% of the aggregate original Loan represented by the Registrable Securities included in a Registration Statement that is the subject of a Failure.

(e) Request for Registration and/or Underwriting.

(i) At any time during an Effectiveness Period, the Company shall, at the request of Lender, participate in an underwritten offering of Registrable Securities by Lender under a Registration Statement effected pursuant to Section 1(b) hereof, and shall file any supplements and amendments to such Registration Statement as may be required by applicable law or rules of the SEC. At any time after an Effectiveness Period, if the Company shall receive a written request from Lender that the Company effect a registration on Form S-3 with respect to an underwritten offering of Registrable Securities, the Company shall use commercially reasonable efforts to file a Registration Statement covering the Registrable Securities as soon as reasonably practicable after receipt of the request. For purposes of this Agreement, a “Demand” shall refer to a Lender request, pursuant to this Section 1(e), for the Company to (1) participate in an underwritten offering of Registrable Securities or (2) effect a registration on Form S-3 with respect to an underwritten offering of Registrable Securities. In any underwritten offering under this Section 1(e), the investment banker or bankers and manager or managers that will administer the offering will be selected by, and the underwriting arrangements with respect thereto (including the size of the offering) will be approved by Lender; provided, however, that such investment bankers and managers and underwriting arrangements must be reasonably satisfactory to the Company. The Company shall not be required to participate in any underwritten offering contemplated hereby unless (A) Lender agrees to sell its Registrable Securities to be included in the underwritten offering in accordance with any approved underwriting arrangements and (B) Lender completes and executes all reasonable questionnaires, powers of attorney, indemnities, underwriting agreements, lock-up letters and other documents required under the terms of such approved underwriting arrangements. Lender shall be responsible for any underwriting discounts and commissions and fees and expenses of its own counsel. The Company shall pay all expenses customarily borne by issuers in an underwritten offering, including, but not limited to, filing fees, the fees and disbursements of its counsel and independent public accountants and any printing expenses incurred in connection with such underwritten offering.

(ii) The Company shall not be required to participate in or effect any Demand pursuant to this Section 1(e):

(1) after the Company has participated in or effected two (2) Demands (Lender shall be deemed to have forfeited its right to a Demand if (i) Lender withdraws its request that the Company effect a registration on Form S-3 with respect to an underwritten offering of Registrable Securities and does not, within thirty (30) days of any such withdrawal, pay all of the Company's expenses in connection with such registration or (ii) an underwritten offering that is the subject of a Demand is terminated subsequent to the marketing thereof);

(2) if the Company has participated in or effected a Demand within the preceding twelve (12) months;

(3) during the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of the filing of, and ending on a date one hundred eighty (180) days following the effective date of, a Company-initiated registration subject to Sections 1(c), provided that the Company is actively employing in good faith all reasonable efforts to cause such registration statement to become effective; or

(4) if the Company shall furnish to Lender a certificate signed by the Company's Chief Executive Officer or Chairman of the Board stating that in the good faith judgment of the Board of Directors of the Company (the "**Board**"), it would be seriously detrimental to the Company and its stockholders for the Company to participate in or effect a Demand at such time, in which event the Company shall have the right to defer such Demand for a period of not more than one hundred twenty (120) days after receipt of the request of Lender.

(f) Related Obligations. Whenever required under this Section 1 to effect the registration of any Registrable Securities, except as otherwise expressly provided herein, the Company shall:

(i) prepare and file with the SEC a Registration Statement with respect to such Registrable Securities and use all commercially reasonable efforts to cause such Registration Statement to become and remain effective;

(ii) prepare and file with the SEC such amendments and supplements to such Registration Statement and the prospectus used in connection with such Registration Statement as may be necessary to comply with the provisions of the 1933 Act with respect to the disposition of all securities covered by such Registration Statement;

(iii) furnish to Lender such number of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the 1933 Act, and such other documents as it may reasonably request in order to facilitate the disposition of Registrable Securities owned by it;

(iv) if required by applicable law, use all commercially reasonable efforts to register and qualify the securities covered by such Registration Statement under such other securities or "blue sky" laws of such jurisdictions as shall be reasonably requested by Lender, provided that the Company shall not be required in connection therewith or as a

condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions;

(v) with a view to making available to Lender the benefits of Rule 144:

Rule 144; (1) make and keep public information available, as those terms are understood and defined in

(2) 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

(3) furnish or otherwise make available, as applicable, to Lender so long as Lender 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 Lender to sell such securities without registration pursuant to Rule 144;

(vi) in the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering; and

(vii) notify the holder of Registrable Securities covered by such Registration Statement at any time when a prospectus relating thereto is required to be delivered under the 1933 Act of the happening of any event as a result of which the prospectus included in such Registration Statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing; and

Notwithstanding the provisions of this Section 1, the Company shall be entitled to postpone or suspend the filing, effectiveness or use of, or trading under, any Registration Statement during any period when (i) the SEC or the national securities exchange upon which shares of Common Stock are then listed requests that the Company amend or supplement the Registration Statement or the prospectus included therein or requests additional information relating thereto, (ii) the SEC or the national securities exchange upon which shares of Common Stock are then listed issues a stop order or similar order suspending the effectiveness or restricting the use of the Registration Statement or initiates proceedings to issue a stop order or similar order, (iii) the Board of Directors of the Company in good faith determines that the Registration Statement, the prospectus included therein, any amendment or supplement thereto or any document incorporated or deemed to be incorporated therein contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, in light of the circumstances then existing; provided, however, that the Company uses commercially reasonable efforts to prepare and file with the

SEC such amendments and supplements to the such Registration Statement or amendment as shall be reasonably necessary to cure such untrue statement or omission, or (iv) the Company's management or the Board in good faith determines that the failure to so postpone or suspend would require disclosure of material nonpublic information that, if disclosed at such time, would be materially harmful to the interests of the Company and its stockholders; provided, further, that such postponement or suspension (A) shall not exceed a period of forty-five (45) days and (B) shall be exercised by the Company not more than twice in any twelve (12) month period (for a maximum of ninety (90) days within any such twelve (12) month period) (each, an "**Allowable Grace Period**").

(g) Information from Holder. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 1 with respect to the Registrable Securities of Lender that Lender shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as shall be reasonably required to effect the registration of such Registrable Securities.

(h) Indemnification. If any Registrable Securities are included in a Registration Statement under this Agreement:

(i) To the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend Lender, the directors, officers, members, partners, employees, agents, representatives of, and each Person, if any, who controls Lender 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: (A) 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, 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, (B) 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 the light of the circumstances under which the statements therein were made, not misleading, or (C) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, 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 (the matters in the foregoing clauses (A) through (C) being, collectively, "**Violations**"). Subject to Section 1(h)(iii), 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 1(h)(i): (A) 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 expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, and (B) 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.

(ii) In connection with any Registration Statement in which Lender is participating, Lender agrees to indemnify, hold harmless and defend, to the same extent and in the same manner as is set forth in Section 1(h)(i), the Company, each of its directors, officers, employees and agents 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 Lender expressly for use in connection with such Registration Statement; and, subject to Section 1(h)(iii), Lender will reimburse 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 1(h)(ii) and the agreement with respect to contribution contained in Section 1(i) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Lender, which consent shall not be unreasonably withheld or delayed; provided, further, however, that Lender shall be liable under this Section 1(h)(ii) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to such Lender 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.

(iii) Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 1(h) 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 1(h), 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 such Indemnified Person or Indemnified Party to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, 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 Lender. The Indemnified Party or Indemnified Person shall cooperate fully 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 reasonably 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 1(h), except to the extent that the indemnifying party is prejudiced in its ability to defend such action.

(iv) The indemnification required by this Section 1(h) shall be made by periodic payments of the amount thereof during the course of the investigation or defense, promptly following when bills are received or Indemnified Damages are incurred, and in each case submitted to the indemnifying party for payment subject to and in accordance with this Section 1(h).

The indemnity agreements contained herein shall be in addition to (A) any cause of action or similar right of the Indemnified Party or Indemnified Person against the indemnifying party or others, and (B) any liabilities the indemnifying party may be subject to pursuant to the law.

(i) 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 1(h) to the fullest extent permitted by law; provided, however, that: (i) no Person involved in the sale of Registrable Securities who 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 Lender that sells Registrable Securities shall be limited in amount to the excess of the net amount of proceeds received by such Lender from the sale of such Registrable Securities pursuant to such Registration Statement over the amount of any damages that such Lender has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission.

(j) Expenses of Registration. All expenses (other than (i) underwriting discounts and commissions relating to the Registrable Securities that are being sold by Lender and (ii) fees of any counsel for Lender) that are incurred in connection with registrations, filings or qualifications pursuant to Sections 1(b) and 1(c), including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company, shall be borne by the Company.

2. MISCELLANEOUS.

(a) Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of Delaware. Each party hereby irrevocably submits to the exclusive jurisdiction of the Delaware Court of Chancery, or, if no such state court has proper jurisdiction, the United States District Court for the District of Delaware, 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 TRANSACTION CONTEMPLATED HEREBY.**

(b) 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 the other parties; provided that a facsimile 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 signature.

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

(d) 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.

(e) Entire Agreement; Amendments. This Agreement, the Loan Agreement and the other Loan Documents supersede all other prior oral or written agreements between Lender, the Company, their affiliates and Persons acting on their behalf with respect to the matters discussed herein, and this Agreement, the Loan Agreement, the other Loan 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, neither the Company nor Lender makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be amended other than by an instrument in writing signed by the Company and Lender. No provision hereof may be waived other than by an instrument in writing signed by the party against whom enforcement is sought.

(f) 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 the Company:

Clean Energy Fuels Corp.
3020 Old Ranch Parkway, Suite 400
Seal Beach, California 90740
Telephone: (562) 493-2804
Facsimile: (562) 493-4956
Attention: J. Nathan Jensen, Vice President and General Counsel

with a copy (for informational purposes only) to:

Morrison & Foerster LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130
Telephone: (858) 720-5100
Facsimile: (858) 720-5125
Attention: Steven G. Rowles, Esq.

if to Lender:

Chesapeake Energy Corporation
6100 North Western Avenue
Oklahoma City, Oklahoma 73118
Telephone: (405) 935-6125
Facsimile: (405) 849-6125
Attention: Nick Dell'Osso, Executive Vice President and Chief Financial Officer

with a copy (for informational purposes only) to:

Commercial Law Group, P.C.
5520 North Francis Avenue
Oklahoma City, Oklahoma 73118
Telephone: (405) 232-3001
Facsimile: (405) 232-5553
Attention: Ray Lees

or to such other address and/or facsimile number and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) 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 or receipt from an overnight courier service in accordance with clause (i), (ii) or (iii) above, respectively.

(g) Successors and Assigns. Neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

(h) 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.

(i) Further Assurances. Each 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.

[Signature Page Follows]

IN WITNESS WHEREOF , the Company and Lender have caused this Registration Rights Agreement to be duly executed as of the date first written above.

COMPANY:

CLEAN ENERGY FUELS CORP.

By: /S/ Andrew J. Littlefair
Andrew J. Littlefair, President and Chief Executive Officer

LENDER:

CHESAPEAKE NG VENTURES CORPORATION

By: /S/ Domenic J. Dell'Osso, Jr.
Domenic J. Dell'Osso, Jr., Executive Vice President and Chief
Financial Officer



3020 Old Ranch Parkway, Suite 400
Seal Beach, California 90740 USA
562.493.2804 fax: 562.546.0097
www.cleanenergyfuels.com

News Release

Chesapeake Energy to Invest \$150 Million in Clean Energy

— Investment Is Focused on Building a Network of LNG Truck Fueling Stations
To Form the Backbone of America’s Natural Gas Highway —

Conference Call to be held today, July 11 at 4:45 pm Eastern/1:45 pm Pacific

Seal Beach, Calif. (July 11, 2011) — In a major alliance supporting the growing transition by major shippers and trucking operators from diesel to natural gas fuel, Chesapeake Energy Corporation (NYSE: CHK), the nation’s second largest natural gas producer, is investing \$150 million in Clean Energy Fuels Corp. (Nasdaq: CLNE), North America’s largest provider of natural gas fuel for transportation. The investment is dedicated to help fund the development of approximately 150 LNG truck fueling stations at strategic truck-stop locations along major trucking corridors to form the backbone of “America’s Natural Gas Highway.” Chesapeake is the sole investor in the transaction, and will make the investment in Clean Energy through its newly formed, wholly owned subsidiary, Chesapeake NG Ventures Corporation (CNGV).

“With the advent of new natural gas truck engines well-suited for heavy-duty, over-the-road trucking, it is time to build America’s Natural Gas Highway,” said Andrew J. Littlefair, President and CEO of Clean Energy. “The investment by Chesapeake will help us accelerate the development of this important fueling network.”

“This new initiative is in addition to our growing development program of stations serving local fleets in the refuse, transit, airport, municipal and regional trucking markets around the country,” added Littlefair.

The investment is in the form of convertible debt issued in three tranches of \$50 million each that will provide the funding for a newly formed subsidiary of Clean Energy that will be dedicated to the LNG station build out. The first \$50 million investment closed today, July 11, 2011, and the second and third tranches are expected to close in June 2012 and June 2013, respectively. The debt carries an interest rate of 7.5% and is convertible at CNGV’s option into Clean Energy’s common stock at a 22.5% premium to the volume-weighted average closing price of the 20-day period prior to the initial closing. In addition, Clean Energy can, under certain circumstances, force conversion of the debt if its common stock is trading at a 40% premium to the conversion price. The entire principal balance of each note is due and payable seven years following its issuance, and Clean Energy may repay each note in cash or shares of its common stock.

North America’s leader in clean transportation

Aubrey K. McClendon, Chief Executive Officer of Chesapeake commented, “There is clearly ample demand for the benefits of abundant, affordable and American natural gas among consumers who face the high costs of OPEC oil at the fuel pump every day, especially America’s truckers and goods and product shippers. We are investing our capital in Clean Energy to accelerate the delivery of the natural gas fueling infrastructure needed to assure truck operators that they can transition away from high-priced diesel, the cost of which is set by foreign oil, and choose a better road powered by American natural gas.”

Many of the LNG fueling stations will be co-located at Pilot-Flying J Travel Centers already serving goods movement trucking across the country. Clean Energy has an agreement with privately held Pilot Travel Centers LLC of Knoxville, Tennessee to build, own and operate public access, compressed and liquefied natural gas fueling facilities at agreed-upon Pilot-Flying J travel centers. Pilot-Flying J is the nation’s largest operator of travel centers with over 440 retail properties in more than 40 states.

Littlefair concluded, “Deployment of new and innovative heavy-duty natural gas engines by world-class engine manufacturers and original equipment truck manufacturers such as Cummins-Westport, Kenworth, Peterbilt, Navistar, Freightliner and Caterpillar, combined with Clean Energy’s LNG fueling station construction expertise through our NorthStar subsidiary, the strategic locations afforded by Pilot-Flying J and the investment by Chesapeake, should serve to quicken the transition to natural gas fuel as a game-changer for heavy-duty trucking.”

Currently priced \$1.50 - \$2.00 per gallon lower than diesel or gasoline (depending upon local markets), the use of natural gas fuels reduces greenhouse gas emissions up to 30% in light-duty vehicles and lowers emissions by approximately 23% in medium to heavy-duty vehicle applications. The U.S. Department of Energy reports that 98% of the natural gas consumed in the U.S. is sourced in the U.S. and Canada, making natural gas a secure North American energy choice.

This news release shall not constitute an offer to sell or the solicitation of an offer to buy securities. The securities offered and sold in the private placement have not been registered under the Securities Act of 1933, as amended (the “Securities Act”), or any state securities laws, and may not be offered or sold in the United States absent registration, or an applicable exemption from registration under the Securities Act and applicable state securities laws.

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Conference Call — A conference call will be held today, July 11 at 4:45 pm Eastern/1:45 pm Pacific to discuss these developments. For callers within the U.S., please dial 1-877-407-4018, and for international callers, please dial 1-201-689-8471. A telephone replay will be available approximately two hours after the call concludes through August 7, 2011 by dialing 1.877.870.5176 from the U.S. and 1.858.384.5517 from outside the U.S. The replay pin number is 375465. This call also will be available on the investor relations section of the Company’s web site at www.cleanenergyfuels.com

About Chesapeake — Chesapeake Energy Corporation is the second-largest producer of natural gas, a Top 15 producer of oil and natural gas liquids and the most active driller of new wells in the U.S. Headquartered in Oklahoma City, the company's operations are focused on discovering and developing unconventional natural gas and oil fields onshore in the U.S. Chesapeake owns leading positions in the Barnett, Haynesville, Bossier, Marcellus and Pearsall natural gas shale plays and in the Granite Wash, Cleveland, Tonkawa, Mississippian, Bone Spring, Avalon, Wolfcamp, Wolfberry, Eagle Ford, Niobrara, Three Forks/Bakken and Utica unconventional liquids plays. The company has also vertically integrated its operations and owns substantial midstream, compression, drilling and oilfield service assets. Chesapeake's stock is listed on the New York Stock Exchange under the symbol CHK. Further information is available at www.chk.com where Chesapeake routinely posts announcements, updates, events, investor information, presentations and press releases.

About Clean Energy Fuels — Clean Energy (Nasdaq: CLNE) is the largest provider of natural gas fuel for transportation in North America and a global leader in the expanding natural gas vehicle market. It has operations in CNG and LNG vehicle fueling, construction and operation of CNG and LNG fueling stations, biomethane production, vehicle conversion and compressor technology.

Clean Energy fuels over 22,700 vehicles at 238 strategic locations across the United States and Canada with a broad customer base in the refuse, transit, trucking, shuttle, taxi, airport and municipal fleet markets. Clean Energy del Peru, a joint venture, fuels vehicles and provides CNG to commercial customers in Peru. We own (70%) and operate a landfill gas facility in Dallas, Texas, that produces renewable natural gas, or biomethane, for delivery in the nation's gas pipeline network, and we plan to build a second facility in Michigan. We own and operate LNG production plants in Willis, Texas and Boron, Calif. with combined capacity of 260,000 LNG gallons per day and that are designed to expand to 340,000 LNG gallons per day as demand increases. NorthStar, a wholly owned subsidiary, is the recognized leader in LNG/LCNG (liquefied to compressed natural gas) fueling system technologies and station construction and operations. BAF Technologies, Inc., a wholly owned subsidiary, is a leading provider of natural gas vehicle systems and conversions for taxis, vans, pick-up trucks and shuttle buses. IMW Industries, Ltd., a wholly owned subsidiary based in Canada, is a leading supplier of compressed natural gas equipment for vehicle fueling and industrial applications with more than 1,200 installations in 24 countries. www.cleanenergyfuels.com

Forward-Looking Statements — This news release contains forward looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 that involve risks, uncertainties and assumptions, including statements about the closing of future tranches of the Chesapeake investment, the number of stations to be included in the natural gas highway system, the timing for the completion of construction

of these stations and the demand for and deployment of heavy-duty natural gas vehicles. Actual results and the timing of events could differ materially from those anticipated in these forward-looking statements as a result of several factors, including Clean Energy's performance of its obligations under its agreements with Chesapeake, permitting or other delays encountered during the construction of the stations for the natural gas highway system, the performance, availability and price of heavy-duty natural gas vehicles relative to gasoline and diesel vehicles and the price per gallon of natural gas relative to diesel and gasoline. The forward-looking statements made herein speak only as of the date of this press release and, unless otherwise required by law, the company undertakes no obligation to publicly update such forward-looking statements to reflect subsequent events or circumstances. Additionally, Clean Energy's Form 10-Q filed on May 9, 2011 with the SEC (www.sec.gov) contains risk factors which may cause actual results to differ materially from the forward-looking statements contained in this press release.

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