

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re:

PLATINUM-BEECHWOOD LITIGATION.

Civil Action No. 18-cv-6658 (JSR)

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MARTIN TROTT and CHRISTOPHER SMITH, as Joint  
Official Liquidators and Foreign Representatives of  
PLATINUM PARTNERS VALUE ARBITRAGE FUND  
L.P. (in Official Liquidation) and PLATINUM  
PARTNERS VALUE ARBITRAGE FUND L.P. (in  
Official Liquidation),

Civil Action No. 18-cv-10936 (JSR)

Plaintiffs,

-against-

PLATINUM MANAGEMENT (NY) LLC, *et al.*,

Defendants.  
-----X

**DECLARATION OF RICHARD A. BIXTER JR. IN SUPPORT OF PLAINTIFFS'  
OPPOSITION TO PB INVESTMENT HOLDINGS, LTD.'S MOTION TO DISMISS**

1. I am a member of Holland & Knight LLP, counsel for Plaintiffs Martin Trott and Christopher Smith, as Joint Official Liquidators and Foreign Representatives of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) and for Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (together, the "**Plaintiffs**"). I am duly admitted to practice in the State of Illinois and am admitted *pro hac vice* in this matter.

2. I respectfully submit this Declaration in support of Plaintiffs' Opposition to Defendant PB Investment Holdings, Ltd., successor-in-interest to Beechwood Bermuda Investment Holdings, Ltd.'s ("**BBIHL**") Motion to Dismiss the Plaintiffs' Second Amended Complaint in the above-captioned actions.

3. The information contained herein is based on my review of the relevant documents and is true to the best of my knowledge.

4. Attached hereto as **Exhibit 1** is a true and correct copy of the Register of Members for BBIHL, filed as of December 18, 2014.

5. Attached hereto as **Exhibit 2** is a true and correct copy of an Assignment of Notes and Liens, dated April 1, 2016, by and among Principal Growth Strategies LLC (“PGS”), as Assignor, and the Assignees (as defined therein), including BBIHL.

6. Attached hereto as **Exhibit 3** is a true and correct copy of an Assignment of Secured Convertible Promissory Note, dated June 9, 2016, by and among the Assignors (as defined therein), including BBIHL, and PGS, as Assignee.

7. Attached hereto as **Exhibit 4** is a true and correct copy of an Elevation Assignment Agreement (Golden Gate Oil LLC (“Debtor”)), dated November 29, 2016, by and between BRe BCLIC Sub, as Assignor and BBIHL, as Assignee.

8. Attached hereto as **Exhibit 5** is a true and correct copy of an Elevation Assignment Agreement (Golden Gate Oil LLC (“Debtor”)), dated November 29, 2016, by and between BRe WNIC 2013 LTC Sub, as Assignor and BBIHL, as Assignee.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Chicago, Illinois  
May 29, 2019

By: /s/ Richard A. Bixter Jr.  
Richard A. Bixter Jr. Esq.

# **EXHIBIT 1**

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Registration No.: 49773  
Date of Incorporation: 28 Nov 2014

**REGISTER OF MEMBERS**  
for  
**Beechwood Bermuda Investment Holdings Ltd.**  
as at 18 December 2014

<b>Member</b>	<b>Date of Entry as a Member</b>	<b>Share Class</b>	<b>Nominal Value</b>	<b>No. of Shares</b>	<b>% Paid</b>
Beechwood Bermuda International Ltd. Canon's Court 22 Victoria Street Hamilton HM 12 Bermuda	17-Dec-2014	Common	USD 1.00	100	100.00 %

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## **EXHIBIT 2**

**ASSIGNMENT OF NOTE AND LIENS**  
(this "**Agreement**")

**Principal Growth Strategies LLC, a Delaware limited liability company** ("**PGS**" or "**Assignor**"), for \$15,000,000.00 and other good and valuable consideration, whose receipt and sufficiency are acknowledged, assigns to each of BBIL ULICO 2014 ("**ULICO**"), Beechwood Bermuda Investment Holdings Ltd., for the benefit of its segregated accounts ("**BBIHL**") and Beechwood Bermuda International Limited ("**BBIL**" and together with ULICO and BBIHL, collectively, the "**Assignees**" and each, an "**Assignee**"), without recourse or warranty (except as provided below), the following:

1. That certain amended and restated secured convertible promissory note issued on May 16, 2014 and amended and restated on June 11, 2014, in the principal amount of \$600,071.23, executed by Agera Energy LLC ("**Maker**"), as acknowledged by Agera Holdings LLC ("**Issuer**"), payable to the order of Assignor as specified therein (the "**Note**"); and

2. All rights, titles and interests of Assignor existing and to exist in connection with or as security for the payment of the indebtedness evidenced by the Note, including without limitation all rights, titles and interests arising under or evidenced by (a) the Note; (b) that certain Secured Note Purchase Agreement, dated as of May 16, 2014 by and between Maker and Assignor (as amended, modified or supplemented from time to time, the "**Purchase Agreement**") and (c) that certain Security Agreement, dated as of May 16, 2014 by Maker for the benefit of Assignor (as amended, modified or supplemented from time to time, the "**Security Agreement**") and together with the Note, the Purchase Agreement and all other documents, instruments, amendments and agreements entered into in connection with the transactions contemplated hereby and thereby, collectively, the "**Loan Documents**").

**TO HAVE AND TO HOLD** the Note, together and along with all rights, titles and interests now or hereafter had by Assignor in connection therewith or as security therefor unto the Assignee collectively, their respective successors and assigns forever.

After giving effect to this Agreement, (i) ULICO shall be deemed to hold a 50% interest in the Loan Documents, (ii) BBIHL, for the benefit of its segregated accounts, shall be deemed to hold a 33 1/3% interest in the Loan Documents, and (iii) BBIL shall be deemed to hold a 16 2/3% interest in the Loan Documents.

On the date hereof, the Assignor hereby represents and warrants to each Assignee as to the matters set forth on Annex A hereto as a material inducement to such Assignees to purchase the Note hereunder.

On the date hereof, after giving effect to the purchase of the Note hereunder, each Assignee hereby makes the offer to Assignor to sell the Note to Assignor on the terms set forth on Annex B hereto (the "**Repurchase Offer**"). All capitalized terms used in Annex A or Annex B hereto, if not otherwise defined therein, shall have the meaning ascribed such terms as set forth in this Agreement.

Although the parties hereto intend that the sale of the Note hereunder be treated as a true sale and purchase by the Assignee from Assignor of the Note and not a loan by the Assignee to Assignor, in the event that the sale of the Note is determined to be a loan, Assignor, to secure the prompt and complete performance by Assignor of all of its obligations to the Assignee under this Agreement, hereby pledges, assigns and transfers to BAM Administrative Services, LLC, as agent, for the ratable benefit of the Assignee, a continuing security interest in the Note, the Loan Documents, all income thereon and all proceeds thereof.


The Assignor and the Assignees agree to take all actions reasonably necessary to effectuate the purposes of this Agreement. The Assignor shall use its best efforts to cause Maker and Issuer to acknowledge this assignment and each Assignee's interest in the Note and the Loan Documents, including, without limitation, confirmation as to the outstanding obligations of Maker under the Note and that the Note is convertible into 95.01% of the then outstanding common equity units of the Issuer, subject to all applicable regulatory requirements.

\*\*\* Remainder of page left intentionally blank; Signature page follows \*\*\*

**IN WITNESS WHEREOF**, the Assignor and the Assignee have caused this Agreement to be duly executed by their respective authorized officers as of April 1, 2016.

**ASSIGNOR:**

PRINCIPAL GROWTH STRATEGIES LLC


By:   
Name:  
Title:

AGREED AND ACKNOWLEDGED:

PLATINUM PARTNERS CREDIT OPPORTUNITIES MASTER FUND LP

By:   
Name:  
Title:

PLATINUM PARTNERS VALUE ARBITRAGE FUND, L.P.

By:   
Name:  
Title:

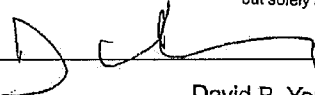
\*\*\* Additional signature page follows \*\*\*



**ASSIGNEES:**

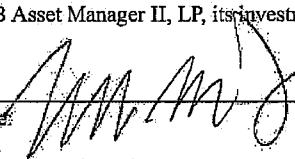
BBIL ULICO 2014

Wilmington Trust, National Association  
not in its individual capacity  
but solely as Trustee

By:   
Name: \_\_\_\_\_  
Title: David B. Young  
Percentage: 50% Vice President

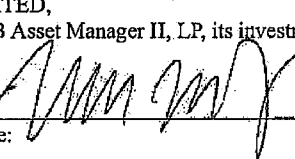
BEECHWOOD BERMUDA INVESTMENT  
HOLDINGS LTD., for the benefit of its segregated  
accounts,

By: B Asset Manager II, LP, its investment manager

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Percentage: 33 1/3%

BEECHWOOD BERMUDA INTERNATIONAL  
LIMITED,

By: B Asset Manager II, LP, its investment manager

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Percentage: 16 2/3%

ANNEX A

Assignor's Representations. Assignor hereby represents and warrants to each Assignee that:

(1) Accredited Investor Status. Assignor is an "accredited investor" within the meaning of Regulation D promulgated under the Securities Act of 1933, as amended (the "**Securities Act**").

(2) Reliance on Exemptions. Assignor understands that the Note being transferred to the Assignee in reliance on specific exemptions from the registration requirements of federal and state securities laws and that each Assignee is relying in part upon the truth and accuracy of, and Assignor's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Assignor set forth herein in order to determine the availability of such exemptions and the eligibility of Assignor to transfer the Note to the Assignee. Assignor has not offered or sold the Note to Assignee by way of any form of general solicitation or general advertising (within the meaning of Regulation D under the Securities Act).

(3) Authorization; Enforcement. This Agreement has been duly and validly authorized, executed and delivered on behalf of Assignor and is a valid and binding agreement of Assignor, enforceable against Assignor in accordance with its terms. Assignor hereby represents and warrants that Assignor (1) is the owner and holder of the Note, (2) has not assigned, mortgaged, hypothecated, or exercised the Note or any of the liens or security interests securing payment thereof to any other party, and (3) has the full right and authority to transfer the Note, all rights, titles, and interests related thereto, and to execute this instrument.

(4) Title; Free of Liens. Assignor holds marketable title to the Note free and clear of all liens, taxes and charges, and upon the delivery of and payment for the Note on the date hereof, Assignors will receive good title thereto, free and clear of all liens, taxes and charges.

(5) Full Disclosure. To Assignor's knowledge, (i) none of the Loan Documents related to the Note have been amended or waived, except for (a) that certain Subordination Agreement and Amendment to PGS Note, dated as of June 18, 2014 by and among Assignor, BAM Administrative Services LLC and Maker, (b) that certain First Amendment to Amended and Restated Secured Convertible Promissory Note, dated as of July \_\_, 2014 by and between Maker and Assignor and (c) that certain Amendment, dated as of September 30, 2015 by and between Maker and Assignor, and (ii) no Event of Default (as defined in the Note) has occurred. Assignor or its representatives have delivered to the Assignee true and complete executed copies of all material Loan Documents, including any amendments and waivers thereto as of the date of execution of this Agreement.

**ANNEX B**

During the period commencing on April 1, 2016 (the "**Closing Date**") through and including June 15, 2016 (the "**Call Period**"), to the extent and only to the extent that the Call Requirements (as defined below) shall have been satisfied as determined by the parties in good faith, Assignor may elect in writing to purchase all (but not part) of the interests in the Note transferred to the Assignees under the Agreement by making payment to Assignees via wire transfer, on or prior to expiration of such Call Period, of US\$15,200,000 (the "**Repurchase Price**"). During the Call Period, no Assignee may transfer any of its interests under the Note or any Loan Documents to any other party without the prior written consent of the Assignor; provided, that, an Assignee may transfer its interests in the Note and the Loan Documents to an affiliate provided that such affiliate agrees in writing to be bound by the terms hereof.

Upon payment of the Repurchase Price by Assignor to the Assignee during the Call Period and following satisfaction of the Call Requirements, the Assignees shall jointly and severally assign the Note and the Loan Documents to Assignor on substantially the same terms as the Agreement.

Following expiration of the Call Period, the offer by the Assignees to sell the Note to Assignor as described above shall terminate in all respects.

The defined term "**Call Requirements**" shall mean:

PGS, with the consent of each of Platinum Partners Credit Opportunities Master Fund LP, a Delaware limited partnership ("**PPCO**") and Platinum Partners Value Arbitrage Fund, L.P., an exempted limited partnership organized under the laws of the Cayman Islands ("**PPVA**"), shall have issued to the Assignees (exercisable by such Assignees, their nominee(s) and/or affiliates) (collectively, the "**Purchasers**") a purchase option (the "**Option**") for an option price of US\$200,000, to purchase the entirety of the Note and the Loan Documents (together with all other debt and equity interests held by PGS, PPCO, PPVA or any of their affiliates, in the Maker and/or the Issuer) (collectively, the "**Agera Assets**") on such material terms and conditions as set forth below (the "**Terms and Conditions**"):

- A purchase price equal to the product of (i) (a) the enterprise value of Agera Holdings LLC of US\$208,400,000 less (b) all indebtedness of Agera Holdings LLC and each of its direct and indirect subsidiaries (collectively, the "**Agera Group**") plus (c) all cash on the consolidated balance sheet of the Agera Group multiplied by (ii) 0.95 (the "**Purchase Price**");
- It shall be the sole responsibility of PGS to compensate the current management for building the company from inception through the valuation of this transaction directly from the proceeds of the Purchase Price based on prior agreements between the parties.
- US\$90,000,000 of the Purchase Price shall be paid by the Purchasers in cash with the remainder of the Purchase Price (the "**Remainder**") paid through the transfer by the Purchasers of debt and/or equity investments held by such Purchasers in PPCO, PPVA, their respective shareholders or any of their respective affiliates, with an aggregate face value equal to such Remainder, subject, in the case of each transfer of such investments,

to there not arising a violation of law or regulation and/or material breach of contract therefrom

- The Purchasers shall further agree as a condition of such acquisition of the Agera Assets to grant a standard call option to PGS which shall grant PGS the right to purchase 5% of the common equity of the Agera Group for \$25,500,000.00. Such option shall be subject to customary dilutive provisions for all future dilutive capital raises.
- Final definitive documentation for the purchase of the Agera Assets shall include customary terms and conditions for a transaction of this size and nature.

Prior to the purchase of the Agera Assets, the Purchasers and PGS, PPCO and PPVA will each use their best efforts to obtain, in the case of the Purchasers, a buyer fairness opinion and, in the case of PGS, PPCO and PPVA, a seller fairness opinion, in each case, from an investment bank or business appraiser of national or regional standing (the "**Fairness Opinions**"); provided, that, the Purchase Price shall not be adjusted in any way as a result of such Fairness Opinions.

- PGS and the Purchasers shall endeavor in good faith to expeditiously conduct all due diligence and finalize all definitive documentation relating to the purchase of the Agera Assets, the material terms of which shall not deviate from those terms set forth above without the mutual consent of both PGS and the Purchasers.

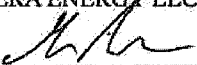
The Option shall be irrevocable until July 30, 2016 (the "**Option Period**"). Until expiration of the Option Period, PGS shall be prohibited from transferring any equity interests of either the Maker or the Issuer or securities convertible or exercisable therein without the prior written consent of the Assignees.

ACKNOWLEDGEMENT AND AGREEMENT:


Each of Agera Energy LLC ("Maker") and Agera Holdings LLC ("Issuer") hereby acknowledges and agrees to that certain Assignment of Notes and Liens, dated as of April 1, 2016, by and between Principal Growth Strategies LLC ("Assignor") and BBIL ULLICO 2014 ("ULICO"), Beechwood Bermuda Investment Holdings Ltd., for the benefit of its segregated accounts ("BBIHL") and Beechwood Bermuda International Limited ("BBIL" and together with ULICO and BBIHL, collectively, the "Assignees" and each, an "Assignee") in respect of the purchase of that certain amended and restated secured convertible promissory note issued on May 16, 2014 and amended and restated on June 11, 2014, in the principal amount of \$600,071.23, executed by Maker and originally issued to Assignor (as amended, modified or supplemented, the "Note"). Maker hereby confirms that as of the end of business on March 31, 2016, the total outstanding obligations under the Note are \$610,921.83 and that neither Maker nor Issuer has any claim of offset or challenge to the validity or enforceability thereof. Issuer also hereby confirms that, subject to all applicable regulatory requirements, the Note is convertible at any time at the election of the holder thereof into 95.01% of the outstanding common equity interests of Issuer and that Issuer has no challenge to the validity or enforceability thereof. Furthermore, Issuer hereby represents and warrants that on the date hereof, the issued and outstanding equity interests of the Issuer or securities convertible or exercisable therein, is limited to the Note, 950.1 common units issued to Michael Nordlicht, 49.9 common units issued to MF Energy Holdings LLC and grants made in connection with an employee equity plan (if any) not to exceed 19.99% of the common units issued to Michael Nordlicht.

Each of the Maker and Issuer hereby acknowledge that the representations and warranties set forth above are additional material inducements made by Maker and Issuer to Assignees, and that Assignees are relying thereon in making their investment decision to purchase the Note from Assignor.

AGERA ENERGY LLC

By:   
Name: Michael Nordlicht  
Title:

AGERA HOLDINGS LLC

By:   
Name: Michael Nordlicht  
Title:

**EXHIBIT 3**

**ASSIGNMENT OF SECURED CONVERTIBLE PROMISSORY NOTE**

THIS ASSIGNMENT OF SECURED CONVERTIBLE PROMISSORY NOTE (this "**Assignment**"), dated as of June 9, 2016 (the "**Effective Date**"), is entered into by and among (i) BBIL ULICO 2014 ("**ULICO**"); (ii) Beechwood Bermuda Investment Holdings Ltd. linked to its segregated accounts ("**BBIHL**"); (iii) Beechwood Bermuda International Limited ("**BBIL**"); (iv) BBLN-Agera Corp, a Delaware corporation ("**BBLN-Agera**" and, together with ULICO, BBIHL and BBIL, the "**Assignors**" and each, an "**Assignor**"); and (v) Principal Growth Strategies LLC, a Delaware limited liability company ("**Assignee**").

WHEREAS, the Assignors are the owner of all right, title, and interest in and to that certain Amended and Restated Secured Convertible Promissory Note issued on May 16, 2014 (as the same has been amended, restated, supplemented or otherwise modified from time to time, the "**Note**") in the original principal amount of \$600,071.23 and issued by Agera Energy LLC (the "**Company**"), as agreed to and accepted via amendment by Agera Holdings, LLC ("**Holdings**");

WHEREAS, the Note is subject to and governed by that certain Note Purchase Agreement, dated as of May 16, 2014 (as the same has been amended, restated, supplemented or otherwise modified from time to time, the "**Note Purchase Agreement**"), between the Company and Assignor;

WHEREAS, the Assignors desire to sell, assign, and transfer all of its right, title, and interest in and to the Note to Assignee, and Assignee desires to assume and accept the same, subject in all respects to the terms of the Note and the Note Purchase Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. As of the Effective Date, each Assignor hereby sells, assigns, and transfers unto Assignee, and Assignee hereby assumes and accepts from each Assignor, the Note. Following the Effective Date, each Assignor agrees that it shall have no right, title, or interest in or to the Company (including, without limitation, in or to any interests pursuant to the Note Purchase Agreement or the Note).

2. By execution of this Assignment, Assignee hereby joins the Note Purchase Agreement and agrees that the Note is bound by and subject to in all respects all of the covenants, promises, agreements, and undertakings contained in the Note Purchase Agreement and the Note. Assignee hereby makes, as of the Effective Date, all of the representations and warranties made by the Assignors in the Note Purchase Agreement as if Assignee were the Purchaser (as defined in the Note Purchase Agreement) making such representations and warranties for the benefit of the Company. Without limiting the foregoing, Assignee hereby represents and warrants that it is an "accredited investor," as defined in Rule 501(a) promulgated under the Securities Act of 1933.

3. It is understood that no consent is required from any other party to the Note Purchase Agreement, except for Company and the Assignors, in order for the transfer to become effective as of the date of execution of this agreement.

4. The Assignors and Assignee agree to deliver to the Company an executed copy of this Assignment and either the originally executed Note or a lost note affidavit reasonably acceptable to the Company in exchange for a Convertible Promissory Note in form identical to the Note in favor of Assignee.

5. This Assignment shall be governed by, construed and enforced in accordance with, the laws of the State of New York, without regard to the conflicts of law provisions of the State of New York or any other state. This Assignment may be executed in counterparts, each of which will be deemed an original, and both of which together will constitute one and the same agreement. For purposes of this Assignment, an electronic copy of a party's signature printed by a receiving printer shall be deemed an original signature. This Assignment shall be binding upon and shall inure to the benefit of each of the parties hereto and to their respective successors and permitted assigns. The Company shall be deemed a third-party beneficiary of this Assignment. This Assignment may not be modified or amended except by written agreement of the Assignors, Assignee, and the Company.

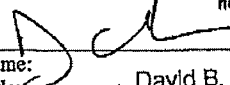
*[Signature follows on next page]*



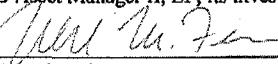
IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment effective as of the Effective Date.

**ASSIGNORS:**

**BBIL ULICO 2014** Wilmington Trust, National Association  
not in its individual capacity  
but solely as Trustee


By:   
Name: David B. Young  
Title: Vice President

**BEECHWOOD BERMUDA INVESTMENT HOLDINGS LTD.**, linked to its segregated accounts,  
By: B Asset Manager II, LP, its investment manager

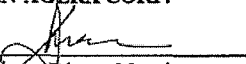
By:   
Name: Mark Feuer  
Title: Authorized Signatory

**BEECHWOOD BERMUDA INTERNATIONAL LIMITED,**

By: B Asset Manager II, LP, its investment manager

By:   
Name: Mark Feuer  
TITLE: Authorized Signatory

**BBLN-AGERA CORP.**

By:   
Name: Dhruv Narain  
Title: Chairman, President and Secretary

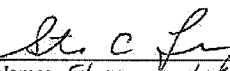
*[Signature page to Assignment of Amended and Restated Secured Convertible Promissory Note]*



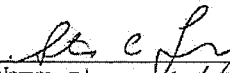
**ACKNOWLEDGED AND AGREED**

Reference is made to the foregoing Assignment. Each of the Company and Holdings hereby acknowledges receipt and acceptance of the foregoing Assignment. Upon receipt by the Company of an executed copy of the Assignment and either the originally executed Note or a lost note affidavit reasonably acceptable to the Company, the Company shall destroy such Note and issue to Assignee a Convertible Promissory Note in form identical to the Note in favor of Assignee, and Holdings shall acknowledge and accept same..

**AGERA ENERGY LLC**

By:   
Name: *Steven E. Lake*  
Title: *CEO*

**AGERA HOLDINGS, LLC**

By:   
Name: *Steven E. Lake*  
Title: *Vice President*

*[Signature page to Assignment of Amended and Restated Secured Convertible Promissory Note]*

## **EXHIBIT 4**

ELEVATION ASSIGNMENT AGREEMENT

(Golden Gate Oil LLC (“Debtor”))

This ELEVATION ASSIGNMENT AGREEMENT (this “Assignment Agreement”), dated as of November 29, 2016, for effectiveness as of November 1, 2016 (the “Effective Date”), by and between BRE BCLIC SUB (“Assignor”) and BEECHWOOD BERMUDA INVESTMENT HOLDINGS LTD. (linked to its segregated accounts), as assignee (“Assignee”).

WITNESSETH:

WHEREAS, the Assignor is obligated to Assignee in respect of a participation interest in certain indebtedness owing to Assignor by Debtor (and its affiliated debtors as applicable) (the “Debtor Debt”) as described on each line in Exhibit A hereto that sets forth the name of each of the “Debtor,” “Assignor” and “Assignee” (collectively, the “Existing Participation Interests” and each, an “Existing Participation Interest”) and Assignor wishes to elevate each of the Existing Participation Interests to an assignment of the portion of the Debtor Debt held by Assignor that is subject of each such Existing Participation Interest (such portion, the “Existing Participated Debt”), and the Assignee wishes to acquire and accept assignment of, the Existing Participated Debt in satisfaction of such Existing Participation Interests. Exhibit A may be supplemented pursuant to Section 5 below or otherwise amended, further supplemented, or otherwise modified by mutual agreement of the parties from time to time;

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, and for good and valuable consideration, the Assignor and the Assignee each hereby agrees as follows:

1. **Elevation of Participation.** Effective as of the Effective Date, each Existing Participation Interest is hereby elevated through assignment as described in Section 2 below (each, an “Elevation”), and upon consummation of each such Elevation, each Existing Participation Interest shall thereafter be deemed cancelled and satisfied in full, and neither Assignor nor Assignee shall have any further obligation to the other party under any such Existing Participation Interests thereafter other than in respect to the trust and turnover requirements described in Section 3 below.

2. **Assignment.** Effective as of the Effective Date, the Assignor does hereby transfer, convey and assign, set over and otherwise convey (or “Assign”) to the Assignee all of its right, title and interest in, to and under the Existing Participated Debt, including, to the extent applicable, (a) all payments paid or prepaid in respect thereof and all monies due, to become due or paid in respect thereof accruing on and after the effective date of the Existing Participation Interests that remain unpaid on the Effective Date and all liquidation proceeds and recoveries thereon; (b) the Assignor’s pro rata portion of any and all security interests and liens and related property subject thereto from time to time securing payment by obligors under any such Existing Participated Debt (the

“Collateral”); (c) the Assignor’s pro rata portion of all guaranties, indemnities and warranties, and other agreements or arrangements of whatever character from time to time supporting or securing payment of any indebtedness evidenced by the Existing Participated Debt; (d) the Assignor’s pro rata portion of all cash and investments relating to the Existing Participated Debt on deposit in or otherwise credited to any of the Assignor’s accounts; (e) all records of whatever nature with respect to the foregoing (provided that Assignee hereby acknowledges that the Assignor may retain possession of all such original records for the benefit of Assignor and Assignee to the extent that delivery of such original records could otherwise adversely impact Assignor’s rights and remedies as relates to the Debtor; provided, that, notwithstanding the foregoing, copies all such records shall be delivered by Assignor to Assignee upon written demand); and (f) the Assignor’s pro rata portion of all income, payments, proceeds and other benefits of any and all of the foregoing relating to the Existing Participated Debt accruing on and after the Effective Date in exchange for the cancelation and satisfaction of Existing Participation Interests as described in Section 1 above.

3. **Representations and Warranties.** The Assignor hereby severally represents and warrants that it is the owner of the Existing Participated Debt as of the Effective Date and as of the date hereof. Each of Assignor and Assignee hereby represent and warrant that as of the Effective Date, neither party has amounts due or owing to it from the other party under the Existing Participation Interests other than that which has been assigned from Assignor to Assignee pursuant to the assignment set forth in Section 2 above. Should either party receive or be in possession of any amounts due or owing to the other party in respect of the Existing Participated Debt, such party shall hold such amounts in trust for the benefit of such other party and promptly turn over such amount to the other party.

4. **Joinder.** To the extent that any joinder to any document is required by the Debtor in connection with the assignment of such Existing Participated Debt as contemplated herein, the Assignor and Assignee hereby each agree to take such additional actions and enter into such additional document, as may be so required as a condition to such Assignment.

5. **Further Assurances.** The Assignor and the Assignee agree to take all actions reasonably necessary to effectuate the purposes of this Assignment Agreement, including, without limitation, updating **Exhibits B-1 and B-2** hereto to provide additional identifying information in respect to the Elevation of the Existing Participation Interest to the Existing Participated Debt hereunder as reflected in the Master Schedule referred to in **Exhibit A** (which updated Exhibits will form part of this Assignment Agreement in all respects). In addition, the Assignor shall use its best efforts to cause the issuer of each note to which the Existing Participated Debt relates to issue to Assignee a separate note evidencing Assignee’s interest therein, provided that the failure to cause such separate note to be issued shall not impair or otherwise affect in any manner whatsoever the assignment contemplated hereby nor the effectiveness of this Assignment Agreement.

6. **No Recourse.** The Assignor and the Assignee each hereby acknowledge that the Existing Participated Debt assigned hereunder is being assigned without any

representation as to the collectability thereof. The Assignee hereby acknowledges and agrees that it shall have no recourse to any Assignor for any losses on the Existing Participated Debt due to default or delinquency of the Debtor (or any of such Debtor's related parties).

7. **Governing Law.** This Assignment Agreement shall be construed in accordance with the laws of the State of New York, without reference to its conflict of law principles, and the obligations, rights, and remedies of the parties under this Assignment Agreement shall be determined in accordance with such laws.

8. **Effectiveness.** This Assignment Agreement shall be effective as of the Effective Date following the execution and delivery of this Assignment Agreement by the Assignor and the Assignee.

9. **Counterparts.** This Agreement may be executed in two or more counterparts (and by different parties in separate counterparts), each of which shall be an original but all of which together shall constitute one and the same instrument. Any signature delivered by facsimile or electronic transmission shall be deemed to be an original signature hereto.

\*\*\* Remainder of page intentional left blank; signature page follows\*\*\*

IN WITNESS WHEREOF, the undersigned has caused this Assignment Agreement to be duly executed on the date written above.

**BRE BCLIC SUB**

as the Assignor

Wilmington Trust, National Association  
not in its individual capacity  
but solely as Trustee

By: 

Name:

Title:

David B. Young  
Vice President

**BEECHWOOD BERMUDA**

**INVESTMENT HOLDINGS LTD.,**

Linked to its segregated accounts,

By: B Asset Manager II, LP, its

investment manager

as the Assignee

By: 

Name: Moshe Menachem Feuer

Title: Authorized Signatory



Consented to:

GOLDEN GATE OIL LLC, as Borrower

By: \_\_\_\_\_

Name:

Title:

\*\*\* Remainder of page intentionally left blank \*\*\*

Exhibit A

See Attached Master Schedule

Golden Gate Oil LLC– BRe BCLIC Sub (Assignor) and BBIHL-SEG (Assignee)  
12751306.3

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Exhibit B-1

Grantor	Participant	Borrower	Description of Participation and participated Notes	Principal Indebtedness Outstanding under Participation	Accrued and Unpaid Interest Owing to Participant under the Participation
BRe BCLIC Sub	Beechwood Bermuda Investment Holdings Ltd. (linked to its segregated accounts)	Golden Gate Oil LLC	That certain Fifth Amended and Restated Senior Secured Promissory Note, issued to Assignor on March 21, 2016 by the borrower in the initial principal amount of \$551,147.03 (as further amended, amended and restated, supplemented or otherwise modified from time to time).	US\$282,409.62	US\$1,765.06 <sup>1</sup>
Total				US\$282,409.62	US\$1,765.06

<sup>1</sup> Stated amount of accrued interest will be capitalized on the close of business on November 1, 2016.

Golden Gate Oil LLC– BRe BCLIC Sub (Assignor) and BBIHL-SEG (Assignee)  
12751306.3

Exhibit B-2

Assignor	Assignee	Borrower	Description of Instrument	Principal Indebtedness Outstanding under instrument being assigned as part of elevation	Accrued and unpaid interest under instrument being assigned as part of elevation	Any Prepaid Interest to be transferred	Total Value Ascribed	Required Action
BRe BCLIC Sub	Beechwood Bermuda Investment Holdings Ltd. (linked to its segregated accounts)	Golden Gate Oil LLC	That certain Fifth Amended and Restated Senior Secured Promissory Note, issued to Assignor on March 21, 2016 by the borrower in the initial principal amount of \$551,147.03 (as further amended, amended and restated, supplemented or otherwise modified from time to time)	US\$282,409.62	US\$1,765.06 <sup>2</sup>	0	US\$284,174.68	
TOTAL							US\$284,174.68	

<sup>2</sup> Stated amount of accrued interest will be capitalized on the close of business on November 1, 2016.

Golden Gate Oil LLC- BRe BCLIC Sub (Assignor) and BBIHL-SEG (Assignee)  
12751306.3

## **EXHIBIT 5**

ELEVATION ASSIGNMENT AGREEMENT

(Golden Gate Oil LLC (“Debtor”))

This ELEVATION ASSIGNMENT AGREEMENT (this “Assignment Agreement”), dated as of November 29, 2016, for effectiveness as of November 1, 2016 (the “Effective Date”), by and between BRE WNIC 2013 LTC SUB (“Assignor”) and BEECHWOOD BERMUDA INVESTMENT HOLDINGS LTD. (Linked to its segregated accounts), as assignee (“Assignee”).

WITNESSETH:

WHEREAS, the Assignor is obligated to Assignee in respect of a participation interest in certain indebtedness owing to Assignor by Debtor (and its affiliated debtors as applicable) (the “Debtor Debt”) as described on each line in Exhibit A hereto that sets forth the name of each of the “Debtor,” “Assignor” and “Assignee” (collectively, the “Existing Participation Interests” and each, an “Existing Participation Interest”) and Assignor wishes to elevate each of the Existing Participation Interests to an assignment of the portion of the Debtor Debt held by Assignor that is subject of each such Existing Participation Interest (such portion, the “Existing Participated Debt”), and the Assignee wishes to acquire and accept assignment of, the Existing Participated Debt in satisfaction of such Existing Participation Interests. Exhibit A may be supplemented pursuant to Section 5 below or otherwise amended, further supplemented, or otherwise modified by mutual agreement of the parties from time to time;

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, and for good and valuable consideration, the Assignor and the Assignee each hereby agrees as follows:

1. **Elevation of Participation.** Effective as of the Effective Date, each Existing Participation Interest is hereby elevated through assignment as described in Section 2 below (each, an “Elevation”), and upon consummation of each such Elevation, each Existing Participation Interest shall thereafter be deemed cancelled and satisfied in full, and neither Assignor nor Assignee shall have any further obligation to the other party under any such Existing Participation Interests thereafter other than in respect to the trust and turnover requirements described in Section 3 below.

2. **Assignment.** Effective as of the Effective Date, the Assignor does hereby transfer, convey and assign, set over and otherwise convey (or “Assign”) to the Assignee all of its right, title and interest in, to and under the Existing Participated Debt, including, to the extent applicable, (a) all payments paid or prepaid in respect thereof and all monies due, to become due or paid in respect thereof accruing on and after the effective date of the Existing Participation Interests that remain unpaid on the Effective Date and all liquidation proceeds and recoveries thereon; (b) the Assignor’s pro rata portion of any and all security interests and liens and related property subject thereto from time to time securing payment by obligors under any such Existing Participated Debt (the

“Collateral”); (c) the Assignor’s pro rata portion of all guaranties, indemnities and warranties, and other agreements or arrangements of whatever character from time to time supporting or securing payment of any indebtedness evidenced by the Existing Participated Debt; (d) the Assignor’s pro rata portion of all cash and investments relating to the Existing Participated Debt on deposit in or otherwise credited to any of the Assignor’s accounts; (e) all records of whatever nature with respect to the foregoing (provided that Assignee hereby acknowledges that the Assignor may retain possession of all such original records for the benefit of Assignor and Assignee to the extent that delivery of such original records could otherwise adversely impact Assignor’s rights and remedies as relates to the Debtor; provided, that, notwithstanding the foregoing, copies all such records shall be delivered by Assignor to Assignee upon written demand); and (f) the Assignor’s pro rata portion of all income, payments, proceeds and other benefits of any and all of the foregoing relating to the Existing Participated Debt accruing on and after the Effective Date in exchange for the cancelation and satisfaction of Existing Participation Interests as described in Section 1 above.

3. **Representations and Warranties.** The Assignor hereby severally represents and warrants that it is the owner of the Existing Participated Debt as of the Effective Date and as of the date hereof. Each of Assignor and Assignee hereby represent and warrant that as of the Effective Date, neither party has amounts due or owing to it from the other party under the Existing Participation Interests other than that which has been assigned from Assignor to Assignee pursuant to the assignment set forth in Section 2 above. Should either party receive or be in possession of any amounts due or owing to the other party in respect of the Existing Participated Debt, such party shall hold such amounts in trust for the benefit of such other party and promptly turn over such amount to the other party.

4. **Joinder.** To the extent that any joinder to any document is required by the Debtor in connection with the assignment of such Existing Participated Debt as contemplated herein, the Assignor and Assignee hereby each agree to take such additional actions and enter into such additional document, as may be so required as a condition to such Assignment.

5. **Further Assurances.** The Assignor and the Assignee agree to take all actions reasonably necessary to effectuate the purposes of this Assignment Agreement, including, without limitation, updating **Exhibits B-1 and B-2** hereto to provide additional identifying information in respect to the Elevation of the Existing Participation Interest to the Existing Participated Debt hereunder as reflected in the Master Schedule referred to in **Exhibit A** (which updated Exhibits will form part of this Assignment Agreement in all respects). In addition, the Assignor shall use its best efforts to cause the issuer of each note to which the Existing Participated Debt relates to issue to Assignee a separate note evidencing Assignee’s interest therein, provided that the failure to cause such separate note to be issued shall not impair or otherwise affect in any manner whatsoever the assignment contemplated hereby nor the effectiveness of this Assignment Agreement.

6. **No Recourse.** The Assignor and the Assignee each hereby acknowledge that the Existing Participated Debt assigned hereunder is being assigned without any

representation as to the collectability thereof. The Assignee hereby acknowledges and agrees that it shall have no recourse to any Assignor for any losses on the Existing Participated Debt due to default or delinquency of the Debtor (or any of such Debtor's related parties).

7. **Governing Law.** This Assignment Agreement shall be construed in accordance with the laws of the State of New York, without reference to its conflict of law principles, and the obligations, rights, and remedies of the parties under this Assignment Agreement shall be determined in accordance with such laws.

8. **Effectiveness.** This Assignment Agreement shall be effective as of the Effective Date following the execution and delivery of this Assignment Agreement by the Assignor and the Assignee.

9. **Counterparts.** This Agreement may be executed in two or more counterparts (and by different parties in separate counterparts), each of which shall be an original but all of which together shall constitute one and the same instrument. Any signature delivered by facsimile or electronic transmission shall be deemed to be an original signature hereto.


\*\*\* Remainder of page intentional left blank; signature page follows\*\*\*



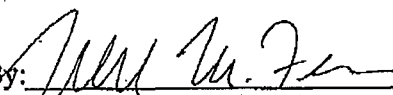
IN WITNESS WHEREOF, the undersigned has caused this Assignment Agreement to be duly executed on the date written above.

**BRE WNIC 2013 LTC SUB**  
as the Assignor

Wilmington Trust, National Association  
not in its individual capacity  
but solely as Trustee

By:   
Name: David B. Young  
Title: Vice President

**BEECHWOOD BERMUDA  
INVESTMENT HOLDINGS LTD.,**  
Linked to its segregated accounts, by B  
Asset Manager II LP, its Investment  
Manager  
as the Assignee

By:   
Name: Moshe Menachem Feuer  
Title: Authorized Signatory

Consented to:

GOLDEN GATE OIL LLC, as Borrower

By: \_\_\_\_\_  
Name:  
Title:

Exhibit A

See Attached Master Schedule

Golden Gate Oil LLC – BRe WNIC 2013 LTC Sub (Assignor) to BBIHL-SEG (Assignee)  
12751309.4

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Exhibit B-1

Grantor	Participant	Borrower	Description of Participation and participated Notes	Principal Indebtedness Outstanding under Participation	Accrued and Unpaid Interest Owing to Participant under the Participation
BRe WNIC 2013 LTC Sub	Beechwood Bermuda Investment Holdings Ltd. (Linked to its Segregated accounts)	Golden Gate Oil LLC	That certain Fifth Amended and Restated Senior Secured Promissory Note issued to Assignor on March 21, 2016 by borrower in the initial principal amount of \$999,370.23 (as further amended, amended and restated supplemented or otherwise modified from time to time).	US\$513,472.04	US\$3,209.20 <sup>1</sup>
Total				US\$513,472.04	US\$3,209.20

<sup>1</sup> Stated amount of accrued interest will be capitalized on the close of business on November 1, 2016.

Golden Gate Oil LLC – BRe WNIC 2013 LTC Sub (Assignor) to BBIHL-SEG (Assignee)  
12751309.4

Exhibit B-2

Assignor	Assignee	Borrower	Description of Instrument	Principal Indebtedness Outstanding under instrument being assigned as part of elevation	Accrued and unpaid interest under instrument being assigned as part of elevation	Any Prepaid Interest to be transferred	Total Value Ascribed	Required Action
BRe WNIC 2013 LTC Sub	Beechwood Bermuda Investment Holdings Ltd. (Linked to its Segregated accounts)	Golden Gate Oil LLC	That certain Fifth Amended and Restated Senior Secured Promissory Note, issued to Assignor on March 21, 2016 by borrower, in the initial principal amount of \$999,370.23 (as further amended, amended and restated, supplemented or otherwise modified from time to time).	US\$513,472.04	US\$3,209.20 <sup>2</sup>	0	US\$516,681.24	Borrower Consent unless EOD exists (See Section 7.7 of NPA).
TOTAL							US\$516,681.24	

<sup>2</sup> Stated amount of accrued interest will be capitalized on the close of business on November 1, 2016.

Golden Gate Oil LLC – BRe WNIC 2013 LTC Sub (Assignor) to BBIHL-SEG (Assignee)  
12751309.4