
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 22, 2013 (July 23, 2013)

INTL FCStone Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State of Incorporation)

000-23554

(Commission File Number)

59-2921318

(IRS Employer ID No.)

708 Third Avenue, Suite 1500, New York, NY 10017

(Address of principal executive offices, including Zip Code)

(212) 485-3500

(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:

- 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 22, 2013, INTL FCStone Inc. (the “Company”) completed the sale of \$40,000,000 aggregate principal amount of its 8.5% Senior Notes due 2020 (the “Notes”). The Notes were issued under an Indenture (the “Indenture”), dated as of July 22, 2013, between the Company and The Bank of New York Mellon, as Trustee (the “Trustee”), as supplemented by Supplement No. 1, dated as of July 22, 2013, to the Indenture between the Company and the Trustee, establishing the terms and providing for the issuance of the Notes (the “Supplemental Indenture”).

The Indenture, the Supplemental Indenture and the form of the Note, which is included in the Supplemental Indenture, provide, among other things, that the Notes bear interest at a rate of 8.5% per year (payable quarterly on January 30, April 30, July 30 and October 30 of each year, beginning on October 30, 2013), that interest on the Notes begins accruing on July 22, 2013, and that the Notes will mature on July 30, 2020.

The Company may redeem the Notes, in whole or in part, at any time on and after July 30, 2016, at a redemption price equal to 100% of the principal amount redeemed plus accrued and unpaid interest to, but not including, the redemption date. Additionally, the Company may at any time repurchase Notes at any price in the open market and may hold, resell or surrender such Notes to the Trustee for cancellation.

The Notes are the Company's senior unsecured obligations, and rank on a parity with all of the Company's other existing and future senior unsecured obligations.

The Indenture and the Supplemental Indenture contain customary events of default. If an event of default occurs and is continuing with respect to any series of the Notes, then the Trustee or the holders of at least 25% of the principal amount of the outstanding Notes of that series may declare the Notes of that series to be due and payable immediately. In addition, in the case of an event of default arising from certain events of bankruptcy, insolvency or reorganization, all outstanding Notes will become due and payable immediately.

The descriptions of the Indenture, the Supplemental Indenture, and the Notes set forth above are qualified by reference to the Indenture, the Supplemental Indenture, and the form of Note filed as Exhibits 4.1, 4.2, and 4.3, respectively, to this Current Report on Form 8-K and incorporated by reference herein.

Item 8.01. Other Events.

The Notes are registered under the Securities Act of 1933, as amended, pursuant to a Registration Statement on Form S-3 (Registration No. 333-186704) that the Company filed with the Securities and Exchange Commission on February 15, 2013 (as amended and supplemented). The Company is filing certain exhibits as part of this Current Report on Form 8-K for purposes of such Registration Statement. See “Item 9.01. Financial Statements and Exhibits.”

In addition to the exhibits described in Item 1.01 above, a copy of the opinion of Shutts & Bowen LLP relating to the Notes is attached hereto as Exhibit 5.1.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit	
Number	Description
4.1	Indenture, dated as of July 22, 2013, between INTL FCStone Inc. and The Bank of New York Mellon, as Trustee.
4.2	Supplement No. 1, dated as of July 22, 2013, to the Indenture, dated as of July 22, 2013, between INTL FCStone Inc. and The Bank of New York Mellon, as Trustee.
4.3	Form of 8.5% Senior Note due 2020 (included in Exhibit 4.2).
5.1	Opinion of Shutts & Bowen LLP
	Consent of Shutts & Bowen LLP (included in Exhibit 5.1).
23.1	

Signature

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

July 23, 2013

(Date)

INTL FCStone Inc.

(Registrant)

/s/ William J. Dunaway

William J. Dunaway
Chief Financial Officer

INTL FCSTONE INC.

as Issuer

INDENTURE

Dated as of July 22, 2013

THE BANK OF NEW YORK MELLON

as Trustee

CROSS-REFERENCE TABLE

TIA Section	Indenture Section
310(a)(1)	11.5
(a)(2)	11.5
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	11.5
(b)	11.4, 11.5
311(a)	11.9
(b)	11.9
312(a)	4.6(c), 11.11
(b)	11.11
(c)	11.11
313(a)	11.10(a)
(b)(1)	N.A.
(b)(2)	11.10(a)
(c)	11.10(a)
(d)	11.10(b)
314(a)(1)	4.6(a)
(a)(2)	4.6(a)
(a)(3)	4.6(a)
(a)(4)	4.7
(b)	N.A.
(c)	3.7
(d)	N.A.
(e)	3.7
315(a)	11.1(a)
(b)	11.3
(c)	11.1(b)
(d)	11.1(a), 11.1(c)
(e)	7.6
316(a)(1)(A)	7.6
(a)(1)(B)	7.1, 7.5
(a)(2)	N.A.
(b)	7.6
(c)	8.1
317(a)	7.2
(b)	4.8
318(a)	3.3
(b)	3.3

NOTE: This reconciliation and tie shall not, for any purpose, be deemed to be part of the Indenture.

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INDENTURE dated as of the 22nd day of July, 2013, between **INTL FCSTONE INC.**, an Delaware corporation (the “Company”), and **THE BANK OF NEW YORK MELLON**, a New York banking corporation, as Trustee hereunder (the “Trustee”);

WHEREAS, the Company for its lawful corporate purposes has duly authorized the execution and delivery of this Indenture (as defined herein) to provide for the issuance from time to time of its Debt Securities (as defined herein), to be issued in one or more series as herein provided.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

THAT, in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Debt Securities by the Holders (as defined herein) thereof, and for other valuable consideration the receipt whereof is hereby acknowledged, and intending to be legally bound hereby, it is hereby agreed between the Company and the Trustee, for the benefit of each other and of those who shall hold the Debt Securities, as follows:

ARTICLE I
DEFINITIONS; TRUST INDENTURE ACT CONTROLLING

SECTION 1.1 Definitions. Unless otherwise specified or the context otherwise requires, the terms defined in this Article I shall for all purposes of this Indenture and of any indenture supplemental hereto have the meanings herein specified, the following definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in the United States of America, and the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

“**Affiliate**” of any specified person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For purposes of this definition, “control,” as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

“**Agent Member**” has the meaning specified in Section 2.13.

“**Authenticating Agent**” means any Person authorized by the Trustee pursuant to Section 11.14 to act on behalf of the Trustee to authenticate Debt Securities of one or more series.

“**Authorized Newspaper**” means a newspaper in the English language or in an official language of the country of publication, customarily printed on each Business Day, whether or not published on Saturdays, Sundays or holidays, and of general circulation in the place in connection

with which the term is used or in the financial community of such place. If, because of temporary suspension of publication or general circulation of any newspaper or for any other reason, it is impossible or, in the opinion of the Company, impracticable to make any publication of any notice required by this Indenture in the manner herein provided, such publication or other notice in lieu thereof which is made at the written direction of the Company by the Trustee shall constitute a sufficient publication of such notice. Where successive publications are required to be made in Authorized Newspapers, the successive publications may be made in the same or in different newspapers in the same place meeting the foregoing requirements and in each case on any Business Day, as directed in writing by the Company.

“**Bankruptcy Law**” means Title 11, U.S. Code, or any similar federal or state law for the relief of debtors.

“**Board**” or “**Board of Directors**” means the (i) Board of Directors (or similar governing body) of the Company or (ii) the Executive Committee, if any, thereof, (iii) any other committee of such Board duly authorized to act hereunder, or (iv) any Officers of the Company duly authorized by such Board or by any duly authorized committee of such Board to act hereunder.

“**Business Day**” means, with respect to any series of Debt Securities, any day other than a (i) Saturday or Sunday, (ii) day upon which the Trustee is authorized by law, regulation or executive order to close, or (iii) day that, in The City of New York or in the city (or in any of the cities, if more than one) in which amounts are payable, as specified in the terms of such Debt Securities, is not a day upon which banking institutions are authorized by law, regulation or executive order to close.

“**Capital Stock**” means any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of corporate stock, including each class of Common Shares and Preferred Stock of the Company, and all options, warrants or other rights to purchase or acquire any of the foregoing.

“**Certified Resolution**” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification.

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

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

“**Common Shares**” means any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or non-voting) of the Company's common shares, whether outstanding on any issue date of any Debt Securities or issued thereafter, and includes without limitation, all series and classes of such common shares including the common shares, no par value, of the Company.

“**Company**” has the meaning set forth in the pre-amble hereof and, subject to the provisions of Article X, shall include such entity's successors and assigns.

“**Company Order**” or “**Company Request**” means a written order or request signed in the name of the Company by at least one Officer of the Company and delivered to the Trustee.

“**Corporate Trust Office**” means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 101 Barclay Street, Floor 4E, New York, New York 10286, Attention: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

“**Debt Security**” means one of the debentures, notes or other evidences of indebtedness that are issued from time to time in one or more series under this Indenture and, more particularly, any series of Debt Securities authenticated and delivered under this Indenture.

“**Depository**” has the meaning specified in Section 2.13.

“**Event of Default**” means an event listed in Section 7.1, continued for the period of time, if any, and after the required notices, if any, therein designated.

“**Exchange Act**” means the Securities Exchange Act of 1934.

“**Global Security**” has the meaning specified in Section 2.13.

“**Holders,**” “**Holders of Debt Securities**” or other similar term means any person who shall at the time be the registered holder of any Debt Security or Debt Securities as shown by the register or registers kept by the Company or its agent for that purpose in accordance with the terms of this Indenture.

“**Indenture**” means this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented and, unless the context otherwise indicates, shall include the form and terms of each particular series of Debt Securities established as contemplated hereunder.

“**Officer**” means (a) with respect to any Person that is a corporation, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Assistant Secretary or any Vice-President of such Person and (b) with respect to any other Person, the individuals selected by such Person to perform functions similar to those of the officers listed in clause (a).

“**Officer's Certificate**” means a certificate in form and substance reasonably acceptable to the Trustee signed on behalf of the Company by one Officer of the Company, and as to any Officer's Certificate pursuant to Section 4.7, one of whom must be the principal executive officer, the principal financial officer or the principal accounting officer of the Company, and delivered to the Trustee. Each such certificate other than an Officer's Certificate pursuant to Section 4.7 shall include the statements provided for in Section 3.7, if and to the extent required by the provisions thereof.

“**Opinion of Counsel**” means an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Company or a subsidiary of the Company, or other counsel reasonably acceptable to the Trustee and delivered to the Trustee. Such opinion shall include the statements provided for in Section 3.7, if and to the extent required by the provisions thereof.

“**Original Issue Discount**” with respect to any Debt Security, including an Original Issue Discount Security, has the same meaning as set forth in Section 1273 of the Code, or any successor provision, and the applicable Treasury Regulations thereunder.

“**Original Issue Discount Security**” means any series of a Debt Security that provides for an amount less than the Principal Amount thereof to be due and payable upon a declaration of acceleration of the maturity thereof pursuant to Section 7.1.

“**Outstanding**” when used with respect to the Debt Securities, means, subject to Section 3.2, as of the date of determination, all Debt Securities theretofore authenticated and delivered under this Indenture, except: (a) Debt Securities for the payment or redemption of which cash (or other form of payment if permitted by the terms of such Debt Securities) in the necessary amount shall have been deposited in trust with the Trustee or any Paying Agent (other than the Company); provided, however, that, if such Debt Securities are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or provision satisfactory to the Trustee shall have been made for giving such notice; (b) Debt Securities converted or exchanged into Capital Stock in accordance with the provisions of such Debt Securities or the resolution of the Board of Directors or the indenture supplement pursuant to which such Debt Securities were issued, if the terms of such Debt Securities provide for convertibility or exchangeability pursuant to Section 2.2; (c) Debt Securities paid or in lieu of or in substitution for which other Debt Securities shall have been authenticated and delivered pursuant to the terms of Section 2.9, unless proof satisfactory to the Trustee is presented that any such Debt Securities are held by persons in whose hands such Debt Securities are valid, binding and legal obligations; and (d) Debt Securities which have been cancelled by the Trustee or delivered to the Trustee or its designee for cancellation.

“**Paying Agent**” means any person authorized by the Company to pay the Principal of, premium, if any, make-whole amount, if any and interest on any Debt Securities.

“**Person**” means an individual, partnership, corporation, company (including limited liability company and joint-stock company), unincorporated organization, trust or joint venture, association, or a government or agency or political subdivision thereof or any other entity.

“**Preferred Stock**” means any Capital Stock that has preferential rights to any other Capital Stock with respect to dividends or redemptions or upon liquidation.

“**Principal**” of a debt security, including any series of Debt Securities, on any day and for any purpose means the amount (including, without limitation, in the case of an Original Issue Discount Security, any accrued Original Issue Discount, but excluding interest) that is payable with respect to such debt security as of such date and for such purpose (including, without limitation, in connection with any sinking fund, upon any redemption at the option of the Company upon any

purchase or exchange at the option of the Company or the Holder of such debt security and upon any acceleration of the maturity of such debt security).

“**Principal Amount**” of a debt security, including any series of Debt Securities, means the principal amount as set forth on the face of such debt security.

“**Responsible Officer**” when used with respect to the Trustee, means any officer within the corporate trust department of the Trustee (or any similar or successor group of the Trustee), including any vice president, assistant vice president, assistant secretary, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers or to whom any matter arising under this Indenture is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“**Securities Act**” means the Securities Act of 1933.

“**Significant Subsidiary**” means any subsidiary of the Company that satisfies the criteria for a “significant subsidiary” set forth in Article 1, Rule 1-02(w) of Regulation S-X under the Securities Act.

“**Trust Indenture Act**” means the Trust Indenture Act of 1939, as amended, as in effect on the date on which this Indenture is qualified under the Trust Indenture Act.

“**Trustee**” means the Trustee or Trustees hereunder for the time being, whether original or successor. “Trustee” as used with respect to the Debt Securities of any series means the Trustee with respect to Debt Securities of such series.

“**U.S. Government Obligations**” means securities which are (i) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (ii) obligations of a person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the full and timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such U.S. Government Obligations or a specific payment of interest on or principal of any such U.S. Government Obligations held by such custodian for the account of the holder of a depository receipt; provided, however, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of interest on or principal of the U.S. Government Obligations evidenced by such depository receipt.

SECTION 1.2 Trust Indenture Act Definitions Controlling. All terms used in this Indenture which are defined in the Trust Indenture Act, or which are by reference therein defined in the Securities Act (except as herein otherwise expressly provided or unless the context otherwise requires) shall have the meanings assigned to such terms in the Trust Indenture Act and the Securities

Act as they were respectively in force at the date of this Indenture, except as otherwise provided in Section 3.3.

ARTICLE II
FORM, ISSUE AND REGISTRATION OF DEBT SECURITIES

SECTION 2.1 *Forms Generally and Dating.* The Debt Securities of each series shall be in the form or forms (including temporary or permanent global form) established from time to time by or pursuant to a resolution of the Board of Directors or in one or more supplemental indentures, which shall set forth the information required by Section 2.2. The Debt Securities and the Trustee's certificate of authentication shall have such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture or by a resolution of the Board of Directors and may have such notations, legends or endorsements as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture or as may be required by law, securities exchange rule or usage. The Company shall approve and provide the form of the Debt Securities and any notation, legend or endorsement thereon. If the form of Debt Securities of any series is established by action taken pursuant to a resolution of the Board of Directors, a Certified Resolution shall be delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 2.5 for the authentication and delivery of such Debt Securities.

Each Debt Security shall be dated the date of its authentication. The form of the Trustee's certificate of authentication to be borne by the Debt Securities shall be substantially as follows:

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the Debt Securities of the series referred to in the within-mentioned Indenture.

[_____]

Dated:

By: Authorized Signatory

SECTION 2.2 *Amount Unlimited; Issuable in Series.*

The aggregate Principal Amount of the Debt Securities which may be authenticated and delivered under this Indenture is unlimited.

The Debt Securities may be issued in one or more series. There shall be established in or pursuant to one or more resolutions of the Board of Directors, or established in or pursuant to one or more indentures supplemental hereto, prior to the issuance of the Debt Securities of any series:

(1) the title and designation of the Debt Securities of the series (which shall distinguish Debt Securities of the series from Debt Securities of any other series) including whether the Debt Securities of the series shall be issued as senior Debt Securities, senior subordinated Debt Securities or subordinated Debt Securities, any subordination provisions

particular to such series of Debt Securities, and whether such Debt Securities are convertible and/or exchangeable for other securities;

(2) the aggregate Principal Amount of the Debt Securities of the series and any limit upon the aggregate Principal Amount of the Debt Securities of the series which may be authenticated and delivered under this Indenture (except for the Debt Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Debt Securities of the series pursuant to Section 2.6, 2.8, 2.9, 2.10, 2.11, 5.2 or 12.5);

(3) the date or dates (whether fixed or extendable) on which the Principal of the Debt Securities of the series is payable or the method of determination thereof;

(4) the rate or rates (which may be fixed, floating or adjustable) at which the Debt Securities of the series shall bear interest, if any, the method of calculating such rates, the date or dates from which such interest shall accrue or the manner of determining such dates, the interest payment dates on which such interest shall be payable and the record dates for the determination of Holders of Debt Securities to whom interest is payable, and the basis upon which interest shall be calculated if other than that of a 360-day year consisting of twelve 30-day months;

(5) the place or places where the Principal of and premium, if any, make-whole amount, if any, and interest on the Debt Securities of the series, if any, shall be payable, where the Holders of the Debt Securities may surrender Debt Securities for conversion, transfer or exchange, and where notices or demands to or upon the Company in respect of the Debt Securities and this Indenture may be served;

(6) any provisions relating to the issuance of the Debt Securities of the series at an Original Issue Discount;

(7) the price or prices at which, the period or periods within which and the terms and conditions upon which the Debt Securities of the series may be redeemed, in whole or in part, at the option of the Company, pursuant to any sinking fund or otherwise (including, without limitation, the form or method of payment thereof if other than in cash);

(8) the obligation, if any, of the Company to redeem, purchase or repay the Debt Securities of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a Holder of Debt Securities thereof and the price or prices at which and the period or periods within which and the terms and conditions upon which the Debt Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation (including, without limitation, the form or method of payment thereof if other than in cash), and any provisions for the remarketing of such Debt Securities;

(9) if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which the Debt Securities of the series shall be issuable;

(10) if other than the Principal Amount thereof, the portion of the Principal Amount of the Debt Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof pursuant to Section 7.1 or provable in bankruptcy pursuant to Section 7.2, or, if applicable, which is convertible or exchangeable in accordance with the provisions of such Debt Securities or the resolution of the Board of Directors or the supplemental indenture pursuant to which such Debt Securities are issued;

(11) any Events of Default with respect to the Debt Securities of a particular series, in lieu of or in addition to those set forth herein and the remedies therefor;

(12) the obligations, if any, of the Company to permit the conversion or exchange of the Debt Securities of such series into Common Shares or other Capital Stock or property, or combination thereof, and the terms and conditions upon which such conversion shall be effected (including, without limitation, the initial conversion or exchange price or rate, the conversion or exchange period, the provisions for conversion or exchange price or rate adjustments and any other provision relative to such obligation) and any limitations on the ownership or transferability of the securities or property into which Holders of such Debt Securities may convert or exchange such Debt Securities;

(13) any trustees, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Debt Securities of such series;

(14) the currency or currency units, including composite currencies, in which the Debt Securities of the series shall be denominated if other than the currency of the United States of America, and, if so, whether the Debt Securities of the series may be satisfied and discharged other than as provided in Article VI;

(15) if other than the currency or currency units in which the Debt Securities of that series are denominated, the coin or currency in which payment of the Principal of, premium, if any, make-whole amount, if any, or interest on the Debt Securities of such series shall be payable (and the manner in which the equivalent of the Principal Amount thereof in the currency of the United States of America is to be determined for any purpose, including for the determination of the Principal Amount outstanding);

(16) if the Principal of, premium, if any, make-whole amount, if any, or interest on the Debt Securities of the series is to be payable, at the election of the Company or a Holder of Debt Securities thereof, in a coin or currency other than that in which the Debt Securities are denominated or stated, the period or periods within which, and the terms and conditions upon which, such election may be made and the time and manner of, and identity of the exchange rate agent with responsibility for, determining the exchange rate between the currency or currencies in which the Debt Securities are denominated or stated to be payable and the currency or currencies in which the Debt Securities will be payable;

(17) if the amount of payments of Principal of, premium, if any, make-whole amount, if any, and interest on the Debt Securities of the series may be determined with reference to an index, the manner in which such amounts shall be determined;

(18) whether and under what circumstances the Company will pay additional amounts on the Debt Securities of the series held by a person who is not a United States of America Person in respect of any tax, assessment or governmental charge withheld or deducted and, if so, whether the Company will have the option to redeem such Debt Securities rather than pay such additional amounts;

(19) if receipt of certain certificates or other documents or satisfaction of other conditions will be necessary for any purpose, including, without limitation, as a condition to the issuance of the Debt Securities of such series in definitive form (whether upon original issue or upon exchange of a temporary Debt Security of such series), the form and terms of such certificates, documents or conditions;

(20) any other affirmative or negative covenants with respect to the Debt Securities of such series;

(21) whether the Debt Securities of such series shall be issued in whole or in part in the form of one or more Global Securities and in such case, (i) the Depositary for such Global Securities or Debt Securities, which Depositary must be a clearing agency registered under the Exchange Act, (ii) the circumstances under which any such Global Security may be exchanged for Debt Securities registered in the name of, and under which any transfer of such Global Securities may be registered in the name of, any Person other than such Depositary or its nominee, if other than as set forth in Section 2.13 and (iii) any other provisions regarding such Global Securities which provisions may be in addition to or in lieu of, in whole or in part, the provisions of Section 2.13;

(22) whether the Debt Securities are defeasible; and

(23) any other terms of a particular series and any other provisions expressing or referring to the terms and conditions upon which the Debt Securities of the series are to be issued under the Indenture, which terms and provisions are not in conflict with the provisions of this Indenture; provided, however, that the addition to or subtraction from or variation of Articles IV, V, VI, VII, and X (and Section 1.1, insofar as it relates to the definition of certain terms as used in such Articles) with regard to the Debt Securities of a particular series shall not be deemed to constitute a conflict with the provisions of those Articles.

All Debt Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to such resolution of the Board of Directors or in any such indenture supplemental hereto. Not all Debt Securities of any one series need be issued at the same time, and, unless otherwise so provided, a series may be reopened for issuances of additional Debt Securities of such series.

If any of the terms of the Debt Securities of a series are established by action taken pursuant to a resolution of the Board of Directors, a Certified Resolution shall be delivered to the Trustee with an Officer's Certificate setting forth the terms of the Debt Securities of such series. With respect to Debt Securities of a series that are not to be issued at one time, such resolution of the Board of Directors or action may provide general terms or parameters for Debt Securities of the series and provide either that the specific terms of particular Debt Securities of the series shall be specified in a Company Order or that such terms shall be determined by the Company or its agents in accordance with a Company Order as contemplated by the proviso clause of Section 2.5.

SECTION 2.3 Denominations. The Debt Securities of each series shall be registered Debt Securities without coupons, in such denominations as shall be specified as contemplated by Section 2.2. In the absence of any such provisions with respect to the Debt Securities of any series, the Debt Securities of such series shall be issuable in denominations of \$1,000 or of any integral multiple of \$1,000.

SECTION 2.4 Execution and Authentication. The Debt Securities shall be executed on behalf of the Company by at least one Officer of the Company, whose signature may be manual or by facsimile. In case any Officer of the Company who shall have signed any of the Debt Securities shall cease to be such Officer before the Debt Securities so signed shall actually have been authenticated and delivered by the Trustee or the Authenticating Agent or disposed of by the Company, such Debt Securities nevertheless may be authenticated, issued and delivered or disposed of with the same force and effect as though the person who signed such Debt Securities had not ceased to be such Officer of the Company; and any such Debt Security may be signed on behalf of the Company by such person, as at the actual date of the execution of such Debt Security, shall be the proper Officer of the Company, although at the date of such Debt Security or the date of execution of this Indenture any such person was not such Officer.

No Debt Security of any series shall be entitled to the benefits hereof or shall be or become valid or obligatory for any purpose unless there shall appear on the Debt Security a certificate of authentication, substantially in the form hereinbefore recited, manually executed by the Trustee for such series or an Authenticating Agent; and such certificate on any series of Debt Securities issued by the Company shall be conclusive evidence that it has been duly authenticated and delivered hereunder.

If the form or forms or terms of the Debt Securities of any series have been established in or pursuant to one or more resolutions of the Board of Directors or indentures supplemental hereto as permitted by Sections 2.1 and 2.2, in authenticating such Debt Securities, and accepting the additional responsibilities under this Indenture in relation to such Debt Securities, the Trustee and the Authenticating Agent shall be entitled to receive, and (subject to Section 11.2) shall be fully protected in conclusively relying upon, a Certified Resolution or Resolutions delivered to the Trustee and the Authenticating Agent to have been duly adopted by the Board of Directors of the Company, and to be in full force and effect on the date of such certification, and an Opinion of Counsel stating:

(1) if the form or forms of such Debt Securities have been established by or pursuant to a resolution of the Board of Directors or indenture supplemental hereto, that such form or forms have been established in conformity with the provisions of this Indenture;

(2) if the terms of such Debt Securities have been established by or pursuant to a resolution of the Board of Directors or indenture supplemental hereto, that such terms have been established in conformity with the provisions of this Indenture;

(3) that this Indenture and such Debt Securities, when authenticated and delivered by the Trustee or an Authenticating Agent and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent conveyance, reorganization and other laws of general applicability relating to or affecting the enforcement of creditors' rights and to general equity principles (or such other similar matters as in the opinion of such counsel shall not materially adversely affect such enforceability); and

(4) that the issuance and authentication of such Debt Securities to be issued complies with all covenants and conditions precedent under this Indenture, and will not violate, result in a breach or constitute a default or, with the giving of notice or the passage of time or both, would not constitute a default, under the articles of incorporation or code of regulations of the Company or result in such a default or violation.

If all the Debt Securities of a series are not to be originally issued at one time, the resolution of the Board of Directors or supplemental indenture, the Certified Resolution or supplemental indenture, the Officer's Certificate, the Company Order and any other documents otherwise required pursuant to Sections 2.1, 2.2, 3.7 and this Section shall be delivered at or prior to the time of authentication of each Debt Security of such series.

The Trustee or the Authenticating Agent shall not be required to authenticate such Debt Securities if the issue of such Debt Securities pursuant to this Indenture will adversely affect the Trustee's or the Authenticating Agent's own rights, duties or immunities under the Debt Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee or the Authenticating Agent.

With respect to Debt Securities of a series which are not all issued at one time, the Trustee and the Authenticating Agent may conclusively rely, as to the authorization by the Company of any such Debt Securities, the form and terms thereof and the legality, validity, binding effect and enforceability thereof, upon the Opinion of Counsel, Officer's Certificate and other documents delivered pursuant to Sections 2.1, 2.2, 3.7 and this Section, as applicable, at or prior to the time of the first authentication of Debt Securities of such series unless and until such opinion, certificate or other documents have been superseded or revoked in a writing delivered to the Trustee. In connection with the authentication and delivery of Debt Securities of a series which are not all issued at one time, the Trustee and the Authenticating Agent shall be entitled to assume that the Company's instructions to authenticate and deliver such Debt Securities do not violate any rules,

regulations or orders of any governmental agency or commission having jurisdiction over the Company.

SECTION 2.5 *Issue of Debt Securities.* The Trustee and the Authenticating Agent, forthwith upon the execution and delivery of this Indenture and from time to time thereafter, upon the execution and delivery to it of Debt Securities of any series by the Company as herein provided, and without any further action on the part of the Company, shall authenticate such Debt Securities up to a maximum amount, if any, designated for such series pursuant to Section 2.2 and deliver them to or upon the receipt of a Company Order; provided, however, that if not all the Debt Securities of a series are to be issued at one time and if the resolution of the Board of Directors or indenture supplemental hereto establishing such series as contemplated by Sections 2.1 and 2.2 shall so permit, such Company Order may set forth procedures acceptable to the Trustee for the issuance of such Debt Securities and for determining the form or forms or terms of particular Debt Securities of such series including, but not limited to, interest rate, if any, maturity date, date of issuance and date from which interest, if any, shall accrue.

SECTION 2.6 *Transfer of Debt Securities.* The transfer of any series of Debt Securities may be registered by the registered owner thereof, in person or by his attorney duly authorized in writing, at the office or agency of the Company to be maintained by it as provided in Section 4.2, by delivering such Debt Security for cancellation, accompanied by delivery of a duly executed instrument of transfer, in form approved by the Company and satisfactory to the Trustee or its designee, and thereupon the Company shall execute in the name of the transferee or transferees, and the Trustee or the Authenticating Agent shall authenticate and deliver, a new Debt Security or Debt Securities of the same series and of like form for the same aggregate Principal Amount.

SECTION 2.7 *Persons Deemed Owners.* Prior to due presentation of any series of Debt Securities for registration of transfer, the person in whose name a Debt Security of any series shall be registered on books kept for such purpose in accordance with Section 4.2 shall be deemed the absolute owner thereof for all purposes of this Indenture, whether or not such Debt Security is overdue, and neither the Company, the Trustee nor any Paying Agent or conversion agent nor any series of Debt Securities registrar shall be affected by notice to the contrary. Subject to the provisions of Section 2.12, payment of or on account of the Principal, premium, if any, make-whole amount, if any, and interest shall be made only to or upon the order in writing of such registered owner thereof, but such registration may be changed as above provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Debt Security to the extent of the sum or sums so paid.

SECTION 2.8 *Temporary Form.* Until Debt Securities of any series in definitive form are ready for delivery, the Company may execute and, upon receipt of a Company Order, the Trustee or the Authenticating Agent shall authenticate and deliver, in lieu thereof and subject to the same conditions, one or more printed Debt Securities in temporary form, substantially of the tenor of Debt Securities of the same series, without a recital of specific redemption prices and with such other appropriate omissions, variations and insertions, all as may be determined by the Board of Directors. Until exchanged for Debt Securities of the same series in definitive form such Debt Securities in temporary form shall be entitled to the benefits of this Indenture. The Company shall,

without unreasonable delay after the issue of Debt Securities in temporary form, prepare, execute and deliver definitive Debt Securities of the same series to the Trustee, and upon the presentation and surrender of Debt Securities in temporary form, the Trustee or the Authenticating Agent shall authenticate and deliver, in exchange therefor, Debt Securities of the same series in definitive form for the same aggregate Principal Amount as the Debt Securities in temporary form surrendered. Such exchange shall be made by the Company at its own expense and without any charge therefor.

SECTION 2.9 *Mutilated, Destroyed, Lost or Stolen Debt Securities.* Upon receipt by the Company, the Trustee and the Authenticating Agent of evidence satisfactory to them that any Debt Security of any series has been mutilated, destroyed, lost or stolen, and upon receipt of an indemnity bond from the Holder (and in case of a destroyed, lost or stolen Debt Security, proof of ownership) that is sufficient in the judgment of the Trustee and the Company to protect the Company, Trustee, Authenticating Agent or any other agent from any loss that any of them may suffer if a Debt Security is replaced, the Company shall, in the case of a mutilated Debt Security, and may in the case of a lost, stolen or destroyed Debt Security, execute, and thereupon the Trustee or the Authenticating Agent shall authenticate and deliver, a new Debt Security of the same series of like tenor bearing a serial number not contemporaneously outstanding (bearing such notation, if any, as may be required by the rules of any securities exchange upon which the Debt Securities of the same series are listed or are to be listed), in exchange and substitution for, and upon surrender and cancellation of, the mutilated Debt Security, or in lieu of and in substitution for the Debt Security so destroyed, lost or stolen; or, if any mutilated, destroyed, lost or stolen Debt Security of any series shall have matured or be about to mature, instead of issuing a new Debt Security, the Company, upon written notice to the Trustee or the Authenticating Agent, may pay the same without surrender of the destroyed, lost or stolen Debt Security. The Company may require payment of the expenses which may be incurred by the Company or any agent thereof and the charges and expenses of the Trustee and the Authenticating Agent in the premises. Any series of Debt Securities issued under the provisions of this Section 2.9 in lieu of any series of Debt Securities alleged to have been destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the Debt Security alleged to have been destroyed, lost or stolen shall be found at any time, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Debt Securities of the same series issued under this Indenture.

All Debt Securities shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Debt Securities, and shall preclude, to the extent lawful, any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

SECTION 2.10 *Exchanges of Debt Securities.* Debt Securities of any series may, upon surrender thereof as hereinafter provided in this Section 2.10, be exchanged for one or more Debt Securities of the same series of the same aggregate Principal Amount, in authorized denominations. The Debt Securities to be exchanged shall be surrendered at the office or agency of the Company to be maintained by it as provided in Section 4.2, accompanied by duly executed instruments of transfer in a form acceptable to the Company, the Trustee and the registrar, and the Company shall execute and the Trustee or the Authenticating Agent shall authenticate and deliver, in exchange

therefor, the Debt Security or Debt Securities of the same series, bearing numbers not contemporaneously outstanding, which the Holder of Debt Securities making the exchange shall be entitled to receive. Every exchange of Debt Securities of any series shall be effected in such manner as may be prescribed by the Company with the approval of the Trustee and registrar, and as may be necessary to comply with the regulations of any securities exchange upon which Debt Securities of such series are listed or are to be listed or to conform to usage in respect thereof.

Upon every exchange or registration of transfer of Debt Securities, no service charge shall be made but the Company may require the payment of any taxes or other governmental charges required to be paid with respect to such exchange or registration, as a condition precedent to the exercise of the privilege of such exchange or registration.

All Debt Securities executed, authenticated and delivered in exchange or upon registration of transfer shall be the valid obligations of the Company, evidencing the same debt as the Debt Securities surrendered, and shall be entitled to the benefits of this Indenture to the same extent as the Debt Securities in exchange for which they were authenticated and delivered.

The Company shall not be required to make exchanges or registrations of transfer under any provision of this Article II of: (a) the Debt Securities of any series for the period of 15 days next preceding the date of any designation of Debt Securities of such series to be redeemed, as provided in Article V, (b) any series of Debt Securities or portion thereof called or to be called for redemption or (c) any series of Debt Securities between a record date for such series and the next succeeding interest payment date for such series.

SECTION 2.11 Cancellation of Surrendered Debt Securities. All Debt Securities of any series surrendered for the purpose of payment, exchange, conversion or cancellation shall, if surrendered to the Company or any Paying Agent or conversion agent, be delivered to the Trustee or its designee and cancelled by it, or, if surrendered to the Trustee or its designee, shall be cancelled by it, and no Debt Securities shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture or as otherwise provided in the resolution of the Board of Directors or indenture supplemental hereto establishing such series as contemplated by Section 2.2. All Debt Securities of any series surrendered for the purpose of redemption or credit against any sinking fund shall similarly be delivered to the Trustee or its designee for cancellation, and no Debt Securities shall be issued in lieu thereof except Debt Securities of the same series in the case of redemption of a Debt Security in part only. If the Company shall acquire any of the Debt Securities, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Debt Securities unless and until the same are delivered to the Trustee or its designee for cancellation. Unless otherwise directed in writing by the Company, the Trustee or its designee shall dispose of cancelled Debt Securities in accordance with its customary procedures (subject to any record retention requirement of the Exchange Act). Certification of the cancellation of all canceled Debt Securities shall be delivered to the Company upon request.

SECTION 2.12 Payment of Interest; Defaulted Interest. Interest (except defaulted interest) on the Debt Securities of any series which is payable on any interest payment date shall be paid to the persons who are Holders of Debt Securities of such series at the close of business on the record date specified for that purpose as contemplated by Section 2.2. At the option of the Company,

payment of interest on any series of Debt Securities may be made by check mailed to the Holder's registered address.

If the Company defaults in a payment of interest on the Debt Securities of any series, it shall pay the defaulted interest to the persons who are Holders of Debt Securities of such series at the close of business on a subsequent special record date. The Company shall fix the special record date (which shall be not less than ten days prior to the date of payment of such defaulted interest) and payment date. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail to each Holder of Debt Securities of such series a notice that states the special record date, the payment date and the amount of defaulted interest to be paid. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Debt Security of such series and the date of the proposed payment, and the Company shall deposit with the Trustee or any Paying Agent for such series an amount of money in immediately available funds by 10:00 a.m., New York City time, on the payment date equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to any Paying Agent for such series for such deposit prior to the date of the proposed payment. The Company may pay defaulted interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Debt Security may be listed, and upon notice as may be required by such exchange if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such payment shall be deemed practicable by the Trustee.

SECTION 2.13 *Global Securities; Depositary.* For the purpose of this Section, the term “Agent Member” means a member of, or participant in, a Depositary; the term “Depositary” means, with respect to Debt Securities issuable or issued in whole or in part in the form of one or more Global Securities, the entity designated as Depositary by the Company pursuant to Section 2.2 and any and all successors thereto appointed as depositary hereunder, and, if at any time there is more than one such person, “Depositary” as used with respect to the Debt Securities means the respective Depositary with respect to a particular series of Debt Securities; and the term “Global Security” means a global certificate evidencing all or part of the series of Debt Securities as shall be specified herein, issued to the Depositary for the series or such portion of the series, and registered in the name of such Depositary or its nominee. The Global Security may provide that it shall represent the aggregate amount of Outstanding Debt Securities from time to time endorsed to a schedule of increases or decreases thereon which may from time to time be reduced to reflect exchanges. Any endorsement on such schedule to reflect the amount, or any increase or decrease in the amount, of Outstanding Debt Securities shall be made by the Trustee.

Notwithstanding Section 2.10, except as otherwise specified as contemplated by Section 2.2, hereof, any Global Security shall be exchangeable only as provided in this paragraph. A Global Security shall be exchangeable pursuant to this Section 2.13 if (i) the Depositary notifies the Company that it is unwilling or unable to continue as Depositary for such Global Security or if at any time the Depositary ceases to be a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary, (ii) the Company in its sole discretion determines that all Global Securities of any series then outstanding under this Indenture shall be exchangeable for definitive

Debt Securities of such series in registered form or (iii) an Event of Default with respect to the Debt Securities of the series represented by such Global Security has occurred and is continuing. Any Global Security of such series exchangeable pursuant to the preceding sentence shall be exchangeable for definitive Debt Securities of such series in registered form, bearing interest (if any) at the same rate or pursuant to the same formula, having the same date of issuance, redemption, conversion (if any) and other provisions, and of differing denominations aggregating a like amount. Such definitive Debt Securities of such series shall be registered in the names of the owners of the beneficial interests in such Global Securities of such series as such names are from time to time provided by the relevant participants in the Depository holding such Global Securities (as such participants are identified from time to time by such Depository).

No Global Security may be transferred except as a whole by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor of the Depository or a nominee of such successor. Except as provided above, owners solely of beneficial interests in a Global Security shall not be entitled to receive physical delivery of Debt Securities of such series in definitive form and will not be considered the Holders of Debt Securities thereof for any purpose under this Indenture.

Any Global Security that is exchangeable pursuant to the preceding paragraph shall be exchangeable for Debt Securities of such series in authorized denominations and registered in such names as the Depository that is the Holder of Debt Securities of such Global Securities of such series shall direct.

The Agent Members shall have no rights under this Indenture with respect to any Global Security held on their behalf by a Depository, and such Depository may be treated by the Company, the Trustee, and any agent of the Company or the Trustee as the owner of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee, or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by a Depository or impair, as between a Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a Holder of a Debt Security of any series, including without limitation the granting of proxies or other authorization of participants to give or take any request, demand, authorization, direction, notice, consent, waiver or other action which a Holder of Debt Securities is entitled to give or take under this Indenture. Neither the Trustee nor any of its agents shall have any responsibility for actions taken or not taken by the Depository.

The Trustee shall not be required to authenticate Global Securities until it has received documentation as required by Section 2.4.

The Company and the Trustee may treat the Depository (or its nominee) as the sole and exclusive owner of the Debt Securities registered in its name(or its nominee) for the purposes of payment of the Principal of or interest on the Debt Securities, giving any notice permitted or required to be given to Holders under the Indenture, registering the transfer of Debt Securities, obtaining any consent or other action to be taken by Holders and for all other purposes whatsoever; and neither the Company nor the Trustee shall be affected by any notice to the contrary. Neither the Company nor the Trustee shall have any responsibility or obligation to any participant in the Depository, any

Person claiming a beneficial ownership interest in the Debt Securities under or through the Depository or any such participant, or any other Person which is not shown on the register as being a registered Holder, with respect to either the Debt Securities, the accuracy of any records maintained by the Depository or any such participant; the payment by the Depository or any such participant of any amount in respect of the Principal of or interest on the Debt Securities, any notice which is permitted or required to be given to Holders under the Indenture, any consent given or other action taken by the Depository as Holder or any selection by the Depository of any participant or other Person to receive payment of Principal, interest or redemption payment of the Debt Securities.

SECTION 2.14 CUSIP Numbers. The Company in issuing the Debt Securities may use “CUSIP” numbers (if then generally in use), and, if so, the Trustee shall use “CUSIP” numbers in notices of redemption as a convenience to Holders; provided, however, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Debt Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Debt Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the “CUSIP” numbers.

ARTICLE III MISCELLANEOUS PROVISIONS

SECTION 3.1 Limitation of Rights. Nothing in this Indenture or the Debt Securities, express or implied, is intended or shall be construed to confer upon, or to give to, any Person, other than the parties hereto, their successors and assigns, and the Holders of the Debt Securities, any right, remedy or claim under or by reason of this Indenture or any provision hereof; and the provisions of this Indenture are for the exclusive benefit of the parties hereto, their successors and assigns, and the Holders of the Debt Securities.

SECTION 3.2 Outstanding Debt Securities. For all purposes of this Indenture, in determining whether the Holders of a required percentage or the required proportion of Principal Amount of Debt Securities of one or more series has concurred in any request, waiver, vote, direction or consent, Debt Securities owned or held by or for the account or for the benefit of the Company or any other obligor under this Indenture or any Affiliate of the Company or an Affiliate of such other obligor shall be disregarded and deemed not Outstanding, except that, for the purposes of determining whether the Trustee shall be protected in conclusively relying on any such request, waiver, direction or consent, only Debt Securities which a Responsible Officer of the Trustee actually knows to be so owned or held shall be so disregarded. Debt Securities so owned which have been pledged in good faith to secure an obligation may be regarded as Outstanding for all such purposes, if the Trustee receives an Officer's Certificate stating that said Debt Securities have been so pledged, that the pledgee is entitled to vote with respect to such Debt Securities and that the pledgee is not the Company or any other obligor on the Debt Securities, an Affiliate of the Company or an Affiliate of such other obligor. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel or any Opinion of Counsel shall be conclusive, and, subject to the provisions of Section 11.1 of this Indenture, shall afford full protection to the Trustee.

SECTION 3.3 Severability; Trust Indenture Act Controls. In case any one or more of the provisions contained in this Indenture or in the Debt Securities of any series shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, but this Indenture shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

If any provision of this Indenture limits, qualifies or conflicts with any other provision of this Indenture which is required to be included in an indenture qualified under the Trust Indenture Act, such provision which is so required to be included shall control. If any provisions of this Indenture modifies or excludes any provisions of the Trust Indenture Act that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or excluded, as the case may be.

SECTION 3.4 Company Release. Whenever by the terms of this Indenture the Company shall be required to do or not to do anything so long as any of the Debt Securities shall be Outstanding of any series, the Company shall, notwithstanding any such provision, not be required to comply with such provision with respect to such series if it shall be entitled to have this Indenture satisfied and discharged pursuant to the provisions hereof, even though in either case the Holders of any of the Debt Securities of such series shall have failed to present and surrender such Debt Securities for payment pursuant to the terms of this Indenture.

SECTION 3.5 Date of Execution. Although this Indenture, for convenience and for the purpose of reference, is dated as of the date first above written, the actual date of execution by the Company and by the Trustee is as indicated by their respective acknowledgements hereto annexed.

SECTION 3.6 Execution of Documents. Unless otherwise expressly provided, any order, notice, request, demand, certificate or statement of the Company required or permitted to be made or given under any provision hereof shall be sufficiently executed if signed by at least one Officer of the Company.

SECTION 3.7 Officer's Certificate and Opinion of Counsel. Upon any application, demand or request by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officer's Certificate stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied, and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent and covenants have been satisfied.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the Person making such certificate or opinion has read such covenant or condition; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (c) a statement that, in the opinion of such Person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and (d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Any certificate, statement or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such Officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters, information with respect to which is in the possession of the Company, upon the certificate, statement or opinion of or representations by an officer or officers of the Company, unless such counsel knows that the certificate, statement or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate, statement or opinion of an Officer of the Company or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Company, unless such Officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

SECTION 3.8 Notices and Demands. All notices to or demands upon the Trustee shall be in writing and may be served or presented at the Corporate Trust Office of the Trustee. Any notice to or demand upon the Company shall be deemed to have been sufficiently given or served by the Trustee or the Holders of Debt Securities, for all purposes, by being mailed by first class mail (registered or certified, return receipt requested), by facsimile transmission or delivered by overnight air courier guaranteeing next day delivery, addressed to the Company, at INTL FCStone Inc., 1251 NW Briarcliff Parkway, Suite 800, Kansas City, MO 64116, attention of William J. Dunaway, Facsimile No.: (816) 410-7450, or at such other address or to such other counsel, as may be filed in writing by the Company with the Trustee.

Except as otherwise expressly provided herein, where this Indenture provides for notice to Holders of Debt Securities of any event, such notice shall be sufficiently given to Holders of Debt Securities if in writing and mailed, first-class postage prepaid, to each Holder of a Debt Security affected by such event, at the address of such Holder as it appears in the Debt Security register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice.

In case by reason of the suspension of regular mail and facsimile service or by reason of any other cause it shall be impracticable to give such notice to Holders of Debt Securities by mail or facsimile, then any manner of giving such notice as shall be acceptable to the Trustee shall constitute a sufficient notification for every purpose hereunder. In any case where notice to Holders of Debt Securities is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder of a Debt Security shall affect the sufficiency of such notice with respect to other Holders of Debt Securities.

Notwithstanding any other provision of this Indenture or any Debt Security, where this Indenture or any Debt Security provides for notice of any event (including any notice of redemption or repurchase) to a Holder of a Global Security (whether by mail or otherwise), such notice shall be sufficiently given if given to the Depository (or its designee) pursuant to the standing instructions from the Depository or its designee, including by electronic mail in accordance with applicable Depository procedures.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, PDF, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Issuer elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Issuer agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 3.9 *Successors and Assigns.* All the covenants, promises and agreements in this Indenture contained by or on behalf of the Company or by or on behalf of the Trustee shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

SECTION 3.10 *Headings.* The descriptive headings of the several Articles of this Indenture are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

SECTION 3.11 *Governing Law; Jury Trial Waiver.* THIS INDENTURE AND EACH DEBT SECURITY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAW OF THE STATE OF NEW YORK, BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. EACH OF THE COMPANY, THE TRUSTEE, AND BY THEIR ACCEPTANCE THEREOF, THE HOLDERS OF THE DEBT SECURITIES, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE DEBT SECURITIES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

SECTION 3.12 *Counterparts.* This Indenture may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies

of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

SECTION 3.13 *Force Majeure*. In no event shall the Trustee be responsible or liable, nor shall the Company be responsible or liable to the Trustee, for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee or the Company, as the case may be, shall use reasonable efforts which are consistent with accepted practices to resume performance as soon as practicable under the circumstances.

SECTION 3.14 *USA Patriot Act*. The Company acknowledges that in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

ARTICLE IV COVENANTS OF THE COMPANY

The Company covenants and agrees as follows:

SECTION 4.1 *Payment of Principal and Interest*. The Company will for the benefit of each series of Debt Securities duly and punctually pay or cause to be paid the Principal of, premium, if any, make-whole amount, if any, and interest on the Debt Securities of such series on or before 10:00 a.m., New York City time on the due date by depositing money in immediately available funds and designated for and sufficient to pay all Principal, premium, if any, and interest then due, at the place and in the manner specified in this Indenture and in the Debt Securities of such series. At the option of the Company, interest on the Debt Securities shall be payable without presentation of such Debt Securities by a check to the registered Holder (or if a Global Security, payable by wire to the Depository). Any payment of Principal and any premium or make-whole amount or interest required to be made on an interest payment date, redemption date or at maturity which is not a Business Day need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on such interest payment date, redemption date or at maturity, as the case may be, and no interest shall accrue for the period from and after such interest payment date, redemption date or maturity.

SECTION 4.2 *Maintenance of Office or Agency.* So long as any of the Debt Securities of any series remain unpaid, the Company will at all times keep an office or agency (which may be an office of the Trustee or an Affiliate of the Trustee, registrar or co-registrar) where Debt Securities of such series may be presented for registration of transfer and exchange as in this Indenture provided, where notices and demands with respect to the Debt Securities and this Indenture may be served and where the Debt Securities may be presented for payment or, for Debt Securities of each series that is convertible, for conversion. The Company shall give the Trustee written notice of the location thereof and any change in the location thereof. In case the Company shall fail to maintain such office or agency, presentations may be made and notices and demands may be served at the corporate trust office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Debt Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company shall keep, at said office or agency, a register or registers in which, subject to such reasonable regulations as it may prescribe, the Company shall register or cause to be registered Debt Securities of each series and shall register or cause to be registered the transfer or exchange of Debt Securities of each series as in Article II provided. Such register or registers shall be in written form in the English language or any other form capable of being converted into written form within a reasonable time. At all reasonable times, such register or registers shall be open for inspection by the Trustee.

SECTION 4.3 *Corporate Existence.* Subject to Article X hereof, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and the rights (charter and statutory) and franchises of the Company; provided, however, that the Company shall not be required to preserve any such right or franchise if the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business and its subsidiaries as a whole and that the loss thereof is not adverse in any material respect to the Holders of Debt Securities.

SECTION 4.4 *Restrictions on Mergers, Sales and Consolidations.* So long as any of the Debt Securities remain unpaid, the Company will not (i) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation) or (ii) sell, convey or lease all or substantially all of its property to any other corporation, partnership or limited liability company except (a) to the extent expressly permitted pursuant to the terms of any supplemental indenture governing any series of the Debt Securities and (b) as otherwise permitted in Article X hereof.

SECTION 4.5 *Further Assurances.* From time to time whenever requested by the Trustee, the Company will execute and deliver such further instruments and assurances and do such further acts as may be reasonably necessary or proper to carry out more effectually the purposes of this Indenture or to secure the rights and remedies hereunder of the Holders of the Debt Securities of any series.

SECTION 4.6 Reports.

(a) So long as any Debt Securities are outstanding, the Company will file with the Trustee and the Commission, and transmit to Holders, such information, documents, and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant to such Act.

(b) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to conclusively rely exclusively on Officer's Certificates).

(c) So long as any Debt Securities are outstanding, the Company will furnish or cause to be furnished to the Trustee, at least seven Business Days before each interest payment date (but in no event less frequently than every six months) with respect to Debt Securities of any series, and at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request, a list in such form as the Trustee may reasonably require containing all information in the possession or control of the Company or of any Paying Agent, other than the Trustee, as to the names and addresses of the Holders of Debt Securities of such series obtained since the date as of which the next previous list, if any, was furnished; provided, however, that so long as the Trustee is Debt Security registrar for such series, no such list need be furnished. Any such list may be dated as of a date not more than 15 days prior to the time such information is furnished or caused to be furnished, and need not include information received after such date (excluding from any such list names and addresses received by the Trustee in its capacity as Debt Security registrar).

SECTION 4.7 Compliance Certificate. Within 120 days after the end of each fiscal year subsequent to the date of this Indenture, the Company will file with the Trustee an Officer's Certificate (that need not comply with Section 3.7) as to his or her knowledge of the Company's compliance with all conditions and covenants under this Indenture and if a default or an Event of Default has occurred, specify such default or Event of Default and the nature and status thereof, of which such signer may have knowledge. For purposes of this paragraph, such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture.

SECTION 4.8 Duties of Paying Agent. The Company will cause each Paying Agent for the Debt Securities of any series other than the Trustee to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee:

(a) that it will hold all sums held by it as such agent for the payment of the Principal of, premium, if any, make-whole amount, if any, or interest on the Debt Securities of such series (whether such sums have been paid to it by the Company or by any other

obligor on the Debt Securities of such series) in trust for the benefit of the Holders of the Debt Securities of such series;

(b) that it will give the Trustee written notice of any failure by the Company (or by any other obligor on the Debt Securities of such series) to make any payment of the Principal of, premium, if any, make-whole amount, if any, or interest on the Debt Securities of such series when the same shall be due and payable; and

(c) that it will, at any time during the continuance of any Event of Default with respect to such series, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

If the Company acts as its own Paying Agent for the Debt Securities of any series, it will, on or before each due date of the Principal of, premium, if any, make-whole amount, if any, or interest on the Debt Securities of such series, set aside and segregate and hold in trust for the benefit of the Holders of the Debt Securities of such series a sum sufficient to pay such Principal, premium, if any, make-whole amount, if any, or interest and will notify the Trustee, in writing, of such action or any failure to take such action.

Whenever the Company shall have one or more Paying Agents for any series of Debt Securities, it will, on or before each due date of the Principal of, premium, if any, make-whole amount, if any, or interest on any Debt Securities of such series, deposit with the Paying Agent or Agents for the Debt Securities of such series a sum, by 10:00 a.m., New York City time, in immediately available funds on the payment date, sufficient to pay the Principal, premium, if any, make-whole amount, if any, or interest so becoming due with respect to the Debt Securities of such series, and (unless such paying agent is the Trustee) the Company will promptly notify the Trustee in writing of any failure so to act.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture with respect to the Debt Securities of one or more series or for any other purpose, pay, or by Company Order direct any Paying Agent for such series to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such payment.

Anything in this Section 4.8 to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section 4.8 shall be subject to the provisions of Section 6.3.

SECTION 4.9 Calculation of Original Issue Discount. The Company shall file with the Trustee within 20 days following the end of each calendar year (i) a written notice specifying the amount of original issue discount (including daily rates and accrual periods) accrued on Outstanding Debt Securities as of the end of such year and (ii) such other specific information relating to such Original Issue Discount as may then be relevant under the Code.

ARTICLE V
REDEMPTION OF DEBT SECURITIES; SINKING FUND

SECTION 5.1 *Applicability of Article.* Debt Securities of any series which are redeemable before their stated maturity at the election of the Company or through the operation of any sinking fund for the retirement of Debt Securities of such series shall be redeemable in accordance with their terms established pursuant to Section 2.2 and (except as otherwise established pursuant to Section 2.2 for Debt Securities of such series) in accordance with this Article.

SECTION 5.2 *Notices of Redemption to Trustee - Deposit of Cash (or Other Form of Payment) - Selection of Debt Securities to be Redeemed.* Not less than 45 days (or such lesser number of days as the Trustee shall approve) nor more than 60 days (or such greater number of days as the Trustee shall approve) prior to the date fixed by the Company for the redemption at the option of the Company of any Debt Securities of any series which are subject to redemption or portions thereof, the Company shall give written notice, by delivering a Company Order to the Trustee, stating the aggregate Principal Amount of Debt Securities of such series which the Company elects to redeem, the redemption price at which such Debt Securities are to be redeemed and the date and place fixed for redemption. If the redemption price is not known at the time such notice is to be given, the actual redemption price, calculated as described in the terms of the Debt Securities to be redeemed, will be set forth in an Officer's Certificate of the Company delivered to the Trustee no later than two Business Days prior to the Redemption Date. A notice of redemption may not be conditional. On or before 10:00 a.m., New York City time, of the date fixed for redemption, the Company shall deposit with the Trustee or the Paying Agent money in immediately available funds on such redemption date (or other form of payment if permitted by the terms of such Debt Securities) in an amount sufficient to redeem on the date fixed for redemption all the Debt Securities of such series or portions thereof to be redeemed, other than any Debt Securities of such series called for redemption on such date which have been converted prior to the date of such deposit, at the appropriate redemption price, together with any accrued interest to the date fixed for redemption. If less than all the Debt Securities then Outstanding of such series are to be redeemed, and the Debt Securities are Global Securities, the particular Securities to be redeemed shall be selected by the Depository in accordance with its standard procedures. If the particular Debt Securities to be redeemed are not Global Securities, the Trustee shall select by lot, the numbers of the Debt Securities to be redeemed as a whole or in part: (1) if the Debt Securities are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Debt Securities are listed; or (2) if otherwise required by law or to comply with the rules of the Depository. The Trustee shall thereafter promptly notify the Company in writing of the numbers of the Debt Securities to be redeemed; provided, however, that Debt Securities of such series registered in the name of the Company shall be excluded from any such selection for redemption until all Debt Securities of such series not so registered shall have been previously selected for redemption. For the purpose of such selection in case of redemption of less than all of the Debt Securities of any series, the Trustee and the Company shall have the option to treat as Outstanding Debt Securities any Debt Securities of such series which are surrendered for conversion after the fifteenth day immediately preceding the mailing of the notice of such redemption, and need not treat as Outstanding Debt Securities any Debt Securities authenticated and delivered during such period in exchange for the unconverted portion of any Debt Securities converted in part during

such period. In case any series of Debt Securities shall be redeemed in part only, the notice of redemption shall specify the Principal Amount thereof to be redeemed and shall state that, upon surrender thereof for redemption, a new Debt Security or new Debt Securities of the same series of an aggregate Principal Amount equal to the unredeemed portion of such Debt Security will be issued in lieu thereof (or if a Global Security, adjusted on the Schedule of Exchanges attached thereto; and in such case the Company shall execute and the Trustee or the Authenticating Agent shall authenticate and deliver such new Debt Security or Debt Securities of such series to or upon the written order of the Holder of Debt Securities, at the expense of the Company. Provisions of this Indenture that apply to Debt Securities called for redemption also apply to portions of Debt Securities called for redemption.

Upon or after the receipt of such notice, the Trustee, in the name and at the request of the Company and as its agent, shall not less than 30 days nor more than 60 days prior to the date fixed by the Company for the redemption, to each registered Holder of a Debt Security to be redeemed in whole or in part at his last address appearing on the registration books of the Debt Securities registrar, a notice of redemption prepared by the Company. Such notice of redemption shall identify the Debt Securities to be so redeemed in whole or in part and whether such Debt Securities are to be redeemed in whole or in part and shall state: (i) the date fixed for redemption; (ii) the redemption price at which Debt Securities are to be redeemed and method of payment, if other than in cash; (iii) if applicable, the current conversion price or rate; (iv) if applicable, that the right of the Holder of Debt Securities to convert Debt Securities called for redemption shall terminate at the close of business on the date fixed for redemption (or such other day as may be specified as contemplated by Section 2.2 for Debt Securities of any series); (v) if applicable, that Holders of Debt Securities who want to convert Debt Securities called for redemption must satisfy the requirements for conversion contained in such Debt Securities; (vi) the name and address of the Paying Agent; (vii) that Debt Securities called for redemption must be surrendered to the Paying Agent to collect the redemption price; (viii) that, unless the Company defaults in making such redemption payment, interest, if any, accrued to the date fixed for redemption will be paid as specified in said notice and that on and after said date interest thereon shall cease to accrue; (ix) the provision of the Debt Security or this Indenture under which the redemption is being made; (x) that the Company so elects to redeem such Debt Securities or portions thereof at the place or places specified in such notice; and (xi) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Debt Security. Such notice shall be mailed not later than the thirtieth, and not earlier than the sixtieth, day before the date fixed for redemption. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice; and failure duly to give such notice by mail, or any defect in such notice, to the Holder of any series of Debt Securities designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Debt Security.

The Company shall pay to the Trustee the cost of giving notices of redemption and any other necessary expenses incurred by the Trustee in connection therewith.

SECTION 5.3 *Effect of Notice of Redemption.* The notice of election to redeem having been mailed as hereinbefore provided, the Debt Securities or portions thereof called for redemption

shall become due and payable on the redemption date at the applicable redemption price, together with interest accrued to the date fixed for redemption, at the place or places specified in such notice, and if cash (or other form of payment if permitted by the terms of such Debt Securities) in the amount necessary to redeem such Debt Securities or portions thereof has been deposited with the Trustee, interest on such Debt Securities or portions thereof shall cease to accrue from and after the date fixed for redemption (unless the Company shall default in the payment of the redemption price, plus accrued interest, if any) and the right to convert such Debt Securities or portions thereof, if the terms of such Debt Securities provide for conversion pursuant to Section 2.2, shall terminate at the close of business on the date fixed for redemption or such other day as may be specified as contemplated by Section 2.2 for Debt Securities of such series. The respective registered Holders of Debt Securities or portions thereof so called for redemption shall be entitled to receive payment of the applicable redemption price, together with interest accrued to the date fixed for redemption on or after the date fixed for redemption (unless the Company shall default in the payment of the redemption price, plus accrued interest, if any), upon presentation and surrender at the place or places of payment specified in such notice. Notwithstanding the foregoing, if the record date for payment of interest is on or prior to the redemption date, such interest shall be payable to the persons who are Holders of such Debt Securities on such record date according to the terms of such Debt Securities and Section 2.12.

If any series of Debt Securities called for redemption pursuant to Section 5.1 is converted or exchanged pursuant to the conversion or exchange provisions of such Debt Security or the resolution of the Board of Directors or the supplemental indenture pursuant to which such Debt Security is issued, if any, any monies deposited with the Trustee for the purpose of paying or redeeming any such Debt Security shall be promptly paid to the Company.

SECTION 5.4 *Credits Against Sinking Fund.* Against any one or more sinking fund payments, if any, to be made pursuant to the terms of the Debt Securities of any series providing for a sinking fund, the Company may elect, by delivery of an Officer's Certificate to the Trustee, at least 45 days prior to the sinking fund payment date (or such shorter period as may be acceptable to the Trustee or is otherwise specified as contemplated by Section 2.2 for Debt Securities of any series), to take credit for any Debt Securities of such series or portions thereof acquired or redeemed by the Company, pursuant to the terms of such Debt Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Debt Securities, which have not previously been used by the Company for the purposes permitted in this Section 5.4 and for any Debt Securities which have been converted pursuant to the terms of such Debt Securities. Such Debt Securities shall be received and credited for such purpose by the Trustee at the redemption price specified in such Debt Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly. Upon any such election the Company shall receive credit against such sinking fund payments required to be made in the order in which they are to be made. Any series of Debt Securities for which credit is elected to be taken which shall not theretofore have been delivered to the Trustee for cancellation shall at the time of such election be delivered to the Trustee for cancellation by the Trustee.

SECTION 5.5 *Redemption Through Sinking Fund.* Each sinking fund payment, if any, made under the terms of the Debt Securities of any series established pursuant to Section 2.2 shall

be applied to the redemption of Debt Securities of such series on the date for redemption specified in the Debt Securities of such series next succeeding such sinking fund payment date; provided, however, if at any time the amount of cash to be paid into the sinking fund for such series on the next succeeding sinking fund payment date, together with any unused balance of any preceding sinking fund payment or payments for such series, shall not exceed in the aggregate \$100,000, the Trustee, unless requested by the Company, shall not give notice of the redemption of Debt Securities of such series through the operation of the sinking fund on the succeeding date for redemption specified in the Debt Securities of such series. At least 45 days (or such lesser number of days as the Trustee shall approve) prior to the date on which a sinking fund payment with respect to the Debt Securities of any series is due, the Company shall give written notice to the Trustee of the Principal Amount of Debt Securities of such series registered in the name of the Company (which shall be excluded from such redemption) and if the Debt Securities are Global Securities, the particular Securities to be redeemed shall be selected by the Depository in accordance with its standard procedures. If the particular Debt Securities to be redeemed are not Global Securities, the Trustee shall select by lot the Principal Amount of Debt Securities of such series to be redeemed in accordance with the terms of the Debt Securities of such series after allowance for any credit elected under Section 5.4 and shall, in the name and at the expense of the Company and as its agent, give notice of such redemption, all in the manner provided for in Section 5.2, except that such notice shall state that the Debt Securities of such series are being redeemed for the sinking fund. The notice of redemption having been given as hereinbefore provided, the Debt Securities or portions thereof called for redemption shall become due and payable on the next succeeding date for redemption specified in the Debt Securities of such series at the sinking fund redemption price thereof, all in the manner and with the effect provided for in Section 5.3.

Any unused balance of sinking fund moneys with respect to Debt Securities of any series remaining in the hands of the Trustee on the 45th day preceding the sinking fund payment date for such series in any year shall be added to any sinking fund payment for such series to be made in cash in such year, and together with such payment, if any, shall be applied to the redemption of Debt Securities of such series in accordance with the provisions of this Section 5.5, provided that any sinking fund moneys so remaining in the hands of the Trustee after the date specified in the Debt Securities of such series and not utilized in the redemption of Debt Securities of such series as provided in this Section 5.5 shall be applied by the Trustee to the payment of Debt Securities at maturity.

SECTION 5.6 *Debt Securities No Longer Outstanding after Notice to Trustee and Deposit of Cash.* If the Company, having given notice to the Trustee as provided in Section 5.1 or 5.2, shall have deposited with the Trustee or the Paying Agent, for the benefit of the Holders of any Debt Securities of any series or portions thereof called for redemption in whole or in part cash or other form of payment if permitted by the terms of such Debt Securities (which amount shall be immediately due and payable to the Holders of such Debt Securities or portions thereof) in the amount necessary so to redeem all such Debt Securities or portions thereof on the date fixed for redemption and provision satisfactory to the Trustee shall have been made for the giving of notice of such redemption, such Debt Securities, or portions thereof, shall thereupon, for all purposes of this Indenture, be deemed to be no longer Outstanding, and the Holders thereof shall be entitled to no rights thereunder or hereunder, except the right to receive payment of the applicable redemption

price, together with interest accrued to the date fixed for redemption, on or after the date fixed for redemption of such Debt Securities or portions thereof and the right to convert such Debt Securities or portions thereof, if the terms of such Debt Securities provide for convertibility pursuant to Section 2.2, at or prior to the close of business on the date fixed for redemption.

SECTION 5.7 *Conversion Arrangement on Call for Redemption.* In connection with any redemption of Debt Securities, the Company may arrange for the purchase and conversion of any Debt Securities called for redemption by an agreement with one or more investment bankers or other purchasers to purchase such Debt Securities by paying to the Trustee or the Paying Agent in trust for the Holders of Debt Securities, on or before 10:00 a.m., New York City time, on the redemption date, an amount no less than the redemption price, together with interest, if any, accrued to the redemption date of such Debt Securities, in immediately available funds. Notwithstanding anything to the contrary contained in this Article V, the obligation of the Company to pay the redemption price of such Debt Securities, including all accrued interest, if any, shall be deemed to be satisfied and discharged to the extent such amount is so paid by such purchasers. If such an agreement is entered into, any Debt Securities not duly surrendered for conversion by the Holders thereof may, at the option of the Company, be deemed, to the fullest extent permitted by law, acquired by such purchasers from such Holders and surrendered by such purchasers for conversion, all as of immediately prior to the close of business on the last day on which Debt Securities of such series called for redemption may be converted in accordance with this Indenture and the terms of such Debt Securities, subject to payment of the above amount aforesaid. The Trustee or the Paying Agent shall hold and pay to the Holders of Debt Securities whose Debt Securities are selected for redemption any such amount paid to it in the same manner as it would moneys deposited with it by the Company for the redemption of Debt Securities. Without the Trustee's and the Paying Agent's prior written consent, no arrangement between the Company and such purchasers for the purchase and conversion of any Debt Securities shall increase or otherwise affect any of the powers, duties, responsibilities or obligations of the Trustee as set forth in this Indenture, and the Company agrees to indemnify the Trustee from, and hold it harmless against, any loss, liability or expense arising out of or in connection with any such arrangement for the purchase and conversion of any Debt Securities between the Company and such purchasers, including the costs and expenses incurred by the Trustee and the Paying Agent in the defense of any claim or liability arising out of or in connection with the exercise or performance of any of its powers, duties, responsibilities or obligations under this Indenture.

ARTICLE VI SATISFACTION AND DISCHARGE OF INDENTURE

SECTION 6.1 *Satisfaction and Discharge.* If (a) all Debt Securities of any series theretofore authenticated (other than any such Debt Securities which shall have been destroyed, lost or stolen and in lieu of or in substitution for which other such Debt Securities shall have been authenticated and delivered or Debt Securities for whose payment money (or other form of payment if permitted by the terms of such Debt Securities) has theretofore been held in trust and thereafter repaid to the Company, as provided in Section 6.3) have been delivered to the Trustee for cancellation and not theretofore cancelled, or (b) the Company shall irrevocably deposit (subject to Section 6.3)

with the Trustee or Paying Agent as trust funds the entire amount in cash or U.S. Government Obligations, or combination thereof, which is sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof to the Trustee to pay at maturity or upon redemption all of the Debt Securities of such series (other than any Debt Securities which shall have been destroyed, lost or stolen and in lieu of or in substitution for which other Debt Securities shall have been authenticated and delivered or Debt Securities for whose payment money (or other form of payment if permitted by the terms of such Debt Securities) has theretofore been held in trust and thereafter repaid to the Company, as provided in Section 6.3) not theretofore paid, surrendered or delivered to the Trustee for cancellation, including the Principal, premium, if any, make-whole amount, if any, and interest due or to become due to such date of maturity or redemption date, as the case may be, and if in either case the Company shall also pay or cause to be paid all other sums payable hereunder by the Company and the Company shall deliver to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that in the opinion of the signers all conditions precedent to the satisfaction and discharge of this Indenture with respect to the Debt Securities of such series have been complied with (and, in the event that such deposit shall be made more than one year prior to the maturity of the Debt Securities of such series, such Opinion of Counsel shall also state that such deposit will not result in an obligation of the Company, the Trustee or the trust fund created by such deposit to register as an investment company under the Investment Company Act of 1940, as amended) and an Officer's Certificate (upon which the Trustee may conclusively rely) stating that the cash, if any, and U.S. Government Obligations, if any, or combination thereof, deposited as set forth above are sufficient to pay at maturity or upon redemption all of the Debt Securities of such series as set forth above, then, except with respect to the remaining rights of conversion of any Debt Securities the terms of which provide for conversion or to rights of exchange or registration of transfer or of the Company's right of optional redemption of any Debt Securities of such series, this Indenture shall cease to be of further effect with respect to the Debt Securities of such series, and the Trustee, on demand of and at the cost and expense of the Company, shall execute proper instruments acknowledging satisfaction of and discharging this Indenture with respect to the Debt Securities of such series. Notwithstanding the satisfaction and discharge of this Indenture with respect to the Debt Securities of such series, the obligations of the Company to the Trustee under Section 11.2 shall survive, and if moneys or U.S. Government Obligations, or combination thereof, shall have been irrevocably deposited with the Trustee or Paying Agent pursuant to clause (b) of this Section, the obligations of the Trustee under Section 6.2 and the first paragraph of Section 6.3 shall survive.

In order to have money available on a payment date to pay the Principal of, premium, if any, make-whole amount, if any, or interest, if any, on the Debt Securities, the U.S. Government Obligations shall be payable as to Principal or interest on or before such payment date in such amounts as will provide the necessary money. Such U.S. Government Obligations shall not be callable at the issuer's option.

SECTION 6.2 *Application of Trust Money.* Subject to the provisions hereinafter contained in this Article VI, any moneys or U.S. Government Obligations (or other form of payments if permitted by the terms of such Debt Security) which at any time shall be deposited by the Company, or on its behalf with the Trustee or Paying Agent, for the purpose of paying or redeeming any of the Debt Securities of any series shall be held in trust and applied by the Trustee to the payment to

the Holders of the particular Debt Securities for the payment or redemption of which such moneys (or other form of payments if permitted by the terms of such Debt Security) have been deposited, of all sums due and to become due thereon for Principal, premium, if any, make-whole amount, if any, and interest, upon presentation and surrender of such Debt Securities at the office or agency of the Company maintained as provided in this Indenture. Neither the Company nor the Trustee (except as provided in Section 11.2) nor any Paying Agent shall be required to pay interest on any moneys so deposited.

SECTION 6.3 *Repayment of Moneys.* Any moneys or U.S. Government Obligations deposited with the Trustee or any Paying Agent remaining unclaimed by the Holders of Debt Securities for two years after the date upon which the Principal of or interest on such Debt Securities shall have become due and payable, shall (unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law) be repaid to the Company by the Trustee or Paying Agent and such Holders shall (unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law) thereafter be entitled to look to the Company only for payment thereof; provided, however, that, before being required to make any such payment to the Company, the Trustee or Paying Agent shall, at the expense and written direction of the Company, cause to be published once, in an Authorized Newspaper, a notice that such moneys remain unclaimed and that, after the date set forth in said notice, the balance of such moneys then unclaimed will be returned to the Company.

Upon satisfaction and discharge of this Indenture, all moneys then held by any Paying Agent other than the Trustee hereunder shall, upon demand of the Company, be repaid to it and thereupon such Paying Agent shall be released from all further liability with respect to such moneys.

The Trustee or any Paying Agent shall deliver or pay to the Company from time to time upon a request in writing by the Company any moneys or U.S. Government Obligations (or the principal or interest on such U.S. Government Obligations) held by it as provided in Section 6.1 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof to the Trustee, are then in excess of the amount thereof which then would have been required to be deposited for the purpose for which such money or U.S. Government Obligations were deposited or received.

ARTICLE VII REMEDIES UPON DEFAULT

SECTION 7.1 *Events of Default.* The following events are hereby defined for all purposes of this Indenture (except where the term is otherwise defined for specific purposes) as Events of Default with respect to Debt Securities of a particular series, unless it is either inapplicable to a particular series or is specifically deleted or modified as contemplated by Section 2.2 for the Debt Securities of such series, in addition to any other events as may be defined as Events of Default pursuant to Section 2.2 for the Debt Securities of such series:

- (a) Failure of the Company to pay or provide for payment of the Principal of, premium, if any, or make-whole amount, if any, on any of the Debt Securities of such series,

when and as the same shall become due and payable, whether at maturity thereof, by call for redemption, through any mandatory sinking fund, by redemption at the option of the Holder of any series of Debt Securities pursuant to the terms of such Debt Security, by declaration of acceleration or otherwise; or

(b) Failure of the Company to pay or provide for payment of any installment of interest on any of the Debt Securities of such series, when and as the same shall become due and payable, which failure shall have continued for a period of 30 days; or

(c) Failure of the Company to perform or observe any other of the covenants or agreements on the part of the Company in this Indenture or in the Debt Securities of such series (other than a covenant or agreement which has expressly been included in this Indenture solely for the benefit of Debt Securities of any series other than that series or is expressly made inapplicable to the Debt Securities of such series pursuant to Section 2.2), which failure shall have continued for a period of 60 days after written notice to the Company by the Trustee hereunder or to the Company and to the Trustee from the Holders of not less than 25% of the aggregate Principal Amount of Debt Securities then Outstanding of such series under this Indenture specifying such Event of Default or failure and requesting that it be remedied and stating that such notice is a notice of an event which, if continued for 60 days after such written notice, will become an Event of Default;

(d) The Company or any Significant Subsidiary:

- (1) commences a voluntary case under any Bankruptcy Law,
- (2) consents to the entry of an order for relief against it in an involuntary case,
- (3) consents to the appointment of a custodian of it or for all or substantially all of its property,
- (4) makes a general assignment for the benefit of its creditors, or
- (5) admits in writing to its inability to pay its debts generally as they become due;

(e) A court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

- (i) is for relief in an involuntary case against the Company or any Significant Subsidiary;
- (ii) appoints a custodian of the Company or any Significant Subsidiary or for all or substantially all of the property of any of the foregoing; or
- (iii) orders the liquidation of the Company or any Significant Subsidiaries;

(iv) and such order or decree remains unstayed and in effect for 90 consecutive days;

(f) The failure to pay at final maturity (giving effect to any applicable grace periods and any extensions thereof) the stated Principal Amount of any indebtedness of the Company or any subsidiary of the Company, or the acceleration of the final stated maturity of any such Indebtedness (which acceleration is not rescinded, annulled or otherwise cured within 30 days of receipt by the Company or such subsidiary of notice of any such acceleration) if the aggregate Principal Amount of such indebtedness, together with the Principal Amount of any other such indebtedness in default for failure to pay Principal at final stated maturity or which has been accelerated (in each case with respect to which the 30-day period described above has elapsed), aggregates \$20.0 million or more at any time;

(g) One or more judgments in an aggregate amount in excess of \$20.0 million (net of any amounts covered by insurance as to which the insurer has acknowledged coverage) shall have been rendered against the Company or any of its subsidiaries and such judgments remain undischarged, unpaid or unstayed for a period of 60 days after such judgment or judgments become final and non-appealable; or

(h) Any other Event of Default provided in the supplemental indenture or resolution of the Board of Directors under which such series of Debt Securities is issued or in the form of Debt Security for such series.

If one or more Events of Default (other than an Event of Default specified in clauses (d) or (e) of the immediately preceding paragraph) shall occur and be continuing with respect to Debt Securities then Outstanding of any series, then, and in each and every such case, either the Trustee, by notice in writing to the Company, or the Holders of not less than 25% in aggregate Principal Amount of the Debt Securities then Outstanding of such series, by notice in writing to the Company and to the Trustee, may declare the Principal Amount (or, if the Debt Securities of such series are Original Issue Discount Securities, such portion of the Principal Amount as may be specified in the terms of the Debt Securities of such series) of all Debt Securities of such series and/or such other amount or amounts as the Debt Securities or supplemental indenture with respect to such series may provide, if not already due and payable, to be immediately due and payable; and upon any such declaration all Debt Securities of such series shall become and be immediately due and payable, anything in this Indenture or in any of the Debt Securities of such series contained to the contrary notwithstanding; and if an Event of Default specified in clause (d) or (e) of the immediately preceding paragraph shall occur and be continuing with respect to Debt Securities then Outstanding of any series, then all unpaid Principal of (or, if the Debt Securities of such series are Original Issue Discount Securities, such portion of the Principal Amount as may be specified in the terms of the Debt Securities of such series) of all Debt Securities of such series and/or such other amount or amounts as the Debt Securities or supplemental indenture with respect to such series may provide, if not already due and payable, shall ipso facto become and be immediately due and payable (without any declaration or other act on the part of the Trustee or any Holder of such Debt Securities). The provisions of the immediately preceding sentence, however, are subject to the condition that if, at

any time after the Principal of (and/or such other specified amount on) the Debt Securities of such series shall so become due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all the Debt Securities of such series and the Principal of (and/or such other specified amount), premium, if any, and make-whole amount, if any, on any and all Debt Securities of such series which shall have become due otherwise than by acceleration, with interest on such Principal (and/or such other specified amount), premium, if any, and make-whole amount, if any, and (to the extent that payment of such interest is enforceable under applicable law) on any overdue installment of interest, at the rate specified in the Debt Securities of such series (or, if no such rate is specified, at the rate borne by the Debt Securities of such series), to the date of such payment or deposit, and the compensation and expenses of the Trustee, and any and all defaults under this Indenture with respect to the Debt Securities of such series, other than the nonpayment of Principal of (and/or such other specified amount), premium, if any, or make-whole amount, if any, and accrued interest on Debt Securities of such series which shall have become due by acceleration, shall have been remedied, then and in every such case the Trustee shall, upon written request or consent of the Holders of a majority in aggregate Principal Amount of the Debt Securities then Outstanding of such series delivered to the Company and to the Trustee, waive such default and its consequences and rescind or annul such declaration and its consequences, but no such waiver, rescission or annulment shall extend to or affect any subsequent default, or impair any right consequent thereon.

For all purposes under this Indenture, if the portion of the Principal Amount as may be specified in the terms of any Original Issue Discount Securities shall have been accelerated and declared due and payable pursuant to the provisions hereof, then, from and after such declaration, unless such declaration has been rescinded and annulled, payment of such portion of the Principal Amount thereof, together with interest, if any, thereon and all other amounts owing thereunder, shall constitute payment in full of such Original Issue Discount Securities.

SECTION 7.2 Acceleration. If one or more Events of Default (other than an Event of Default specified in clauses (d) or (e) of the immediately preceding paragraph) shall occur and be continuing with respect to Debt Securities then Outstanding of any series, and either the Trustee, by notice in writing to the Company, or the Holders of not less than 25% in aggregate Principal Amount of the Debt Securities then Outstanding of such series, by notice in writing to the Company and to the Trustee, have declared the Principal Amount (or, if the Debt Securities of such series are Original Issue Discount Securities, such portion of the Principal Amount as may be specified in the terms of the Debt Securities of such series) of all Debt Securities of such series and/or such other amount or amounts as the Debt Securities or supplemental indenture with respect to such series may provide, if not already due and payable, to be immediately due and payable as provided in Section 7.1; then, upon demand of the Trustee, the Company shall pay to the Trustee, for the benefit of the Holders of the Debt Securities then Outstanding of such series, the whole amount which then shall have become due on all such Debt Securities of such series for Principal, premium, if any, make-whole amount, if any, and interest, with interest on the overdue Principal, premium, if any, and make-whole amount, if any, and (to the extent that payment of such interest is enforceable under applicable law) upon overdue installments of interest, at the rate specified in the Debt Securities of such series (or, if no such rate is specified, at the rate borne by the Debt Securities of such series),

and in addition thereto, such additional amount as shall be sufficient to cover the costs and expenses of collection, including the compensation, expenses, liabilities, disbursements and advances of the Trustee, any predecessor Trustee, their agents and counsel. In case the Company shall pay the same in accordance with the provisions of this Section 7.2 and, prior to such payment neither the Trustee nor the Holders of the Debt Securities then Outstanding of such series shall have taken any steps to begin enforcing their rights under this Indenture and so long as no additional Event of Default with respect to the Debt Securities of such series shall have occurred, from and after such payment, the Event of Default giving rise to the demand by the Trustee pursuant to this Section 7.2 shall be deemed to be no longer continuing and shall be deemed to have thereupon been remedied, cured or waived without further action upon the part of either the Trustee or any of the Holders of Debt Securities. In case the Company shall fail to pay the same forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute any judicial proceedings at law or in equity for the collection of the sums so due and unpaid and may prosecute such proceedings to judgment or final decree, and may enforce the same against the Company or any other obligor upon the Debt Securities of such series and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Debt Securities of such series, wherever situated. The right of the Trustee to recover such judgment shall not be affected by the exercise of any other right, power or remedy for the enforcement of the provisions of this Indenture.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Debt Securities or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the Principal of any Debt Securities shall then be due and payable as therein expressed or by declaration of acceleration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue Principal or interest) shall be entitled and empowered to file and prove a claim for the whole amount of Principal, premium, if any, make-whole amount, if any, and interest owing and unpaid in respect of the Debt Securities of any series for which it serves as Trustee and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, any predecessor Trustee, their agents and counsel) and of the Holders of Debt Securities of such series allowed in such judicial proceeding, and to receive payment of or on account of such claims and to distribute the same after the deduction of its charges and expenses; and any receiver, assignee, trustee, liquidator, sequestrator (or other similar official) in any judicial proceeding is hereby irrevocably authorized and instructed by each of the Holders of Debt Securities of such series to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to the Holders of Debt Securities of such series, to pay to the Trustee any amount due it or any predecessor Trustee, for compensation and expenses, including counsel fees incurred up to the date of such distribution. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 11.2 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of

reorganization or arrangement or otherwise. Nothing contained in this Indenture shall be deemed to give to the Trustee any right to accept or consent to any plan of reorganization, arrangement, adjustment or composition affecting the Holders of Debt Securities or the rights of any Holder of Debt Securities, or to authorize the Trustee to vote in respect of the claim of any Holder of Debt Securities in any such proceeding.

After an Event of Default any money or other property distributable in respect of the Company's obligations under this Indenture shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such moneys or property on account of Principal, premium, if any, make-whole amount, if any, or interest, upon presentation of the several Debt Securities of the series in respect of which such moneys were received, and stamping thereon the payment, if only partially paid, and upon surrender thereof if fully paid:

First: To the payment of costs and expenses of collections, and compensation to the Trustee, its agents, attorneys and counsel, and all advances made and expenses and liabilities incurred by the Trustee, except as a result of its negligence or bad faith and all other amounts owing or reasonably anticipated to be owing to the Trustee or any predecessor Trustee pursuant to Section 11.2 hereof;

Second: In case the Principal of the Outstanding Debt Securities in respect of which such moneys were received shall not have become due and be unpaid, to the payment of interest on such Debt Securities, in the order of the maturity of the installments of such interest, with interest (so far as may be lawful) upon the overdue installments of interest at the rate specified in such Debt Securities (or, if no such rate is specified, at the rate borne by the Debt Securities of such series), such payments to be made ratably to the persons entitled thereto;

Third: In case the Principal of the Outstanding Debt Securities in respect of which such moneys were received and/or such other amount or amounts as the Debt Securities or supplemental indenture with respect to such series shall provide, shall have become due, by declaration or otherwise, to the payment of the whole amount then owing and unpaid upon such Debt Securities for Principal (and/or such other specified amount), premium, if any, make-whole amount, if any, and interest, with interest on the overdue Principal (and/or such other specified amount), premium, if any, make-whole amount, if any, and (so far as may be lawful) upon overdue installments of interest, at the rate specified in such Debt Securities (or, if no such rate is specified, at the rate borne by the Debt Securities of such series), and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon such Debt Securities, then to the payment of such Principal (and/or such other specified amount), premium, if any, make-whole amount, if any, and interest, with interest on the overdue Principal (and/or such other specified amount), premium, if any, make-whole amount, if any, and (so far as may be lawful) upon overdue installments of interest, at the rate specified in such Debt Securities (or, if no such rate is specified, at the rate borne by the Debt Securities of such series), without preference or priority of Principal (and/or such other specified amount), premium, if any, and make-whole amount, if any, over interest, or of interest over Principal (and/or specified amount), premium, if any, make-whole amount, if any, or of any installment of interest over any other installment of interest, or of any such Debt Security over any other such Debt Security, ratably to the aggregate of such Principal (and/or such other specified amount), premium, if any, make-whole amount, if any, and accrued and unpaid interest; and

Fourth : To the

payment of the remainder, if any, to the Company, its successors or assigns, or to whomever may be so lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

SECTION 7.3 *Trustee May Enforce Rights of Action without Possession of Debt Securities.* All rights of action under this Indenture or any of the Debt Securities Outstanding of any series hereunder enforceable by the Trustee may be enforced by the Trustee without the possession of any of the Debt Securities or the production thereof at the trial or other proceedings relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought for the ratable benefit of the Holders of the Debt Securities with respect to which the rights are being exercised, subject to the provisions of this Indenture.

SECTION 7.4 *Delays or Omissions Not To Impair Any Rights or Powers Accruing upon Default.* No delay or omission of the Trustee or of the Holders of Debt Securities to exercise any rights or powers accruing upon any default which shall not have been remedied shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein; and every power and remedy given by this Article VII to the Trustee and the Holders of the Debt Securities of any series may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Holders of the Debt Securities of such series.

Provided the Debt Securities of any series shall not then be due and payable by reason of a declaration pursuant to Section 7.1 hereof, the Holders of at least a majority in aggregate Principal Amount of the Debt Securities of such series then Outstanding may on behalf of the Holders of all of the Debt Securities of such series waive by written notice any past default hereunder and its consequences, except a default in the payment of interest on or Principal, premium, if any, and make-whole amount, if any, of any of the Debt Securities of such series. In the case of any such waiver, the Company, the Trustee and the Holders of the Debt Securities of such series shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 7.5 *Holders of at Least a Majority May Direct Exercise of Remedies.* The Holders of at least a majority in aggregate Principal Amount of the Debt Securities then Outstanding of any series shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting any proceedings for any remedy available to the Trustee, or of exercising any power or trust conferred upon the Trustee under this Indenture, with respect to the Debt Securities of such series; provided, however, that subject to the provisions of Section 11.1 of this Indenture, the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, determines that the action or proceedings so directed may not lawfully be taken or if the Trustee in good faith shall, by Responsible Officers, determine that the action or proceedings so directed would involve the Trustee in personal liability, or would be unduly prejudicial to the Holders of the Debt Securities of such series not joining in such direction, it being understood that the Trustee (subject to Section 11.1) shall have no duty to ascertain whether or not such actions or forebearances are unduly prejudicial to such Holders, and the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

SECTION 7.6 *Limitation on Suits by Holders of Debt Securities.* No Holder of any Debt Security of any series shall have the right to institute any suit, action or proceeding, in equity or at

law for the execution of any trust or power hereof, or for the enforcement of any other remedy under or upon this Indenture or the Debt Securities of such series, unless (1) Holder gives the Trustee written notice that an Event of Default is continuing, (2) the Holders of a majority in aggregate Principal Amount of the Debt Securities then Outstanding of such series shall have made written request upon the Trustee and shall have afforded to it a reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name, as Trustee hereunder, (3) shall have offered to the Trustee indemnity satisfactory to the Trustee against the costs, expenses and liabilities to be incurred therein or thereby, (4) the Trustee shall have not complied with such request for 60 days after its receipt of such request and (5) no direction inconsistent with such request shall have been given to the Trustee pursuant to this Section 7.6; it being understood and intended that no one or more Holders of Debt Securities of any series shall have any right under this Indenture or under the Debt Securities, by his or their action, to enforce any right hereunder except in the manner herein provided, and that all proceedings hereunder, at law or in equity, shall be instituted, had and maintained in the manner herein provided and for the ratable benefit of all Holders of the Debt Securities of such series. The Trustee shall give to all Holders any notice it receives from Holders under this Section. Notwithstanding any provision of this Indenture to the contrary, the right, which is absolute and unconditional, of any Holder of Debt Securities to receive the payment of the Principal of, premium, if any, make-whole amount, if any, and interest on his Debt Securities at and after the respective due dates (including maturity by call for redemption, through any sinking fund, declaration unless annulled pursuant to Section 7.1 hereof, or otherwise), of such Principal, premium, if any, make-whole amount, if any, or interest, or the right, which is also absolute and unconditional, of any Holder of Debt Securities to require exchange or conversion of his Debt Securities pursuant to the terms thereof if the terms of such Debt Securities provide for exchangeability or convertibility, or the right to institute suit for the enforcement of any such payment at or after such due dates or of such right to exchange or convert, shall not be impaired or affected without the consent of such Holder, and the obligation of the Company, which is also absolute and unconditional, to pay the Principal of, premium, if any, make-whole amount, if any, and interest on each of the Debt Securities to the respective Holders thereof at the times and places in the Debt Securities expressed shall not be impaired or affected.

Notwithstanding anything to the contrary contained in this Section 7.6, the parties to this Indenture and the Holders of Debt Securities agree as follows:

Any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; provided, however, that the provisions of this paragraph shall not apply to any suit instituted, directly or through an agent or agents, by the Trustee, to any suit instituted by any Holder of Debt Securities of any series, or group of Holders of Debt Securities of any series, holding in the aggregate more than 10% in aggregate Principal Amount of the Debt Securities then Outstanding of such series or to any suit instituted by any Holder of Debt Securities of any series for the enforcement of the payment of the Principal of, premium, if any, make-whole amount, if any, or interest on, any Debt Security of such series at or after the respective

due dates of such Principal, premium, if any, make-whole amount, if any, or interest expressed in his Debt Security of such series.

SECTION 7.7 *No Company Debt Securities To Be Deemed Outstanding.* No Debt Securities owned or held by, for the account of or for the benefit of the Company to be deemed Outstanding for purpose of payment or distribution. No Debt Securities owned or held by, for the account of or for the benefit of the Company or any Affiliate of the Company (other than Debt Securities pledged in good faith which would be deemed Outstanding under the provisions of Section 3.2) shall be deemed Outstanding for the purpose of any payment or distribution provided for in this Article VII.

SECTION 7.8 *Discontinuance or Abandonment of Proceedings.* If the Trustee shall have proceeded to enforce any right under this Indenture with respect to the Debt Securities of any series, and such proceedings shall have been discontinued or abandoned because of waiver, or for any other reason, or shall have been determined adversely to the Trustee, then, and in any such case, the Company, the Trustee and the Holders of Debt Securities of such series shall each be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

SECTION 7.9 *Statement by Officers as to Default.* The Company shall deliver to the Trustee promptly upon any Officer becoming aware of the occurrence of any Event of Default or an event which, with notice or the lapse of time or both, would constitute an Event of Default, an Officer's Certificate setting forth the details of such Event of Default or default and the action which the Company proposes to take with respect thereto.

ARTICLE VIII EVIDENCE OF ACTION BY HOLDERS OF DEBT SECURITIES

SECTION 8.1 *Evidence of Action by Holders of Debt Securities.* Any demand, request, consent, proxy or other instrument which this Indenture may require or permit to be signed and executed by the Holders of Debt Securities of any series may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Holders of Debt Securities in person or by an attorney duly authorized in writing. Proof of the execution of any such demand, request, consent, proxy or other instrument, or of a writing appointing any such attorney, shall be sufficient for any purpose of this Indenture if made in the following manner: the fact and date of the execution by any person of such demand, request, consent, proxy or other instrument or writing may be proved by the certificate of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in any state or country, that the person signing such request or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, or by a trustee or other fiduciary, such certificate or affidavit shall also constitute sufficient proof of his authority. The Trustee may nevertheless in its discretion accept such other proof or require further proof of any matter referred to in this Section 8.1 as it shall deem reasonable. The ownership of Debt Securities shall be proved by the registry books or by a certificate of the registrar thereof.

The Trustee shall not be bound to recognize any person as a Holder of Debt Securities of any series unless and until his title to the Debt Securities of such series held by him is proved in the manner in this Article VIII provided.

Any demand, request, discretion, waiver, consent, vote or other action of the Holder of any series of Debt Securities shall be conclusive and shall bind all future Holders of the same Debt Security and of any series of Debt Securities issued in exchange or substitution therefor irrespective of whether or not any notation in regard thereto is made upon such Debt Security. Any such Holder, however, may revoke the consent as to his Debt Security or portion thereof. Such revocation shall be effective only if the Trustee receives the written notice of revocation before the date the amendment, supplement, waiver or other action becomes effective. An amendment, supplement, waiver or other action shall become effective on receipt by the Trustee of written consents from the Holders of Debt Securities of the requisite percentage in aggregate Principal Amount of the Outstanding Debt Securities of the relevant series. After an amendment, supplement, waiver or other action becomes effective, it shall bind every Holder of Debt Securities of each series of Debt Securities so affected.

The Company or the Trustee, as applicable, may set a date for the purpose of determining the Holders of Debt Securities entitled to consent, vote or take any other action referred to in this Section 8.1, which date shall be not less than 10 days nor more than 60 days prior to the taking of the consent, vote or other action.

ARTICLE IX IMMUNITY OF SHAREHOLDERS, OFFICERS AND DIRECTORS

SECTION 9.1 *Immunity of Shareholders, Officers, Directors and Employees.* No past, present or future director, Officer, employee, incorporator, agent, Affiliate or shareholder of the Company, as such, shall have any liability for any obligations of the Company under the Debt Securities or this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Debt Securities by accepting a Debt Security waives and releases all such liabilities. The waiver and release are part of the consideration for issuance of the Debt Securities. The waiver may not be effective to waive liabilities under the federal securities laws.

ARTICLE X MERGER, CONSOLIDATION, SALE OR LEASE

SECTION 10.1 *Consolidation, Merger, Sale, Transfer or Lease.* Nothing in this Indenture or in the Debt Securities shall prevent any consolidation or merger of the Company with or into any other corporation, partnership or limited liability company, or any consolidation or merger of any other corporation, partnership or limited liability company with or into the Company, or any sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the property and assets of the Company to any other corporation, partnership or limited liability company lawfully entitled to acquire the same; provided, however, and the Company hereby covenants and

agrees, that any consolidation or merger of the Company with or into any other corporation, partnership or limited liability company or the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the property and assets of the Company and its subsidiaries on a consolidated basis shall be upon the condition that (a) the due and punctual payment of the Principal of, premium, if any, make-whole amount, if any, and interest on all the Debt Securities according to their tenor, and the due and punctual performance and observance of all the terms, covenants and conditions of this Indenture to be kept or performed by the Company shall, by a supplemental indenture hereto complying with the provisions of Section 12.1, executed and delivered to the Trustee, be expressly assumed by the corporation, partnership or limited liability company (other than the Company) formed by or resulting from any such consolidation or merger, or which shall have received the delivery, transfer, assignment, conveyance or lease of all or substantially all of the property and assets of the Company and its subsidiaries on a consolidated basis, just as fully and effectually as if such successor corporation, partnership or limited liability company had been an original party hereto; and (b) the Company or such successor corporation, partnership or limited liability company, as the case may be, shall not, immediately after such consolidation, merger, sale, transfer, assignment, conveyance, lease or other disposition, be in default in the performance of any such covenant or condition. Thereafter, unless otherwise specified pursuant to Section 2.2 for the Debt Securities of any series, all obligations of the predecessor corporation, partnership or limited liability company under the Debt Securities of such series shall terminate. In the event of any such sale, assignment, conveyance, transfer, lease or other disposition, the predecessor entity may be dissolved, wound up and liquidated at any time thereafter.

Every such successor corporation, partnership or limited liability company, upon executing a supplemental indenture hereto as provided in this Section 10.1 in form satisfactory to the Trustee, shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Company; and any order, certificate or resolution of the Board or officers of the Company provided for in this Indenture may be made by like officials of such successor corporation, partnership or limited liability company. Such successor corporation, partnership or limited liability company may thereupon cause to be signed, either in its own name or in the name of the Company, with such suitable reference, if any, to such consolidation, merger, sale, transfer, assignment, conveyance, lease or other disposition as may be required by the Trustee, any or all of the Debt Securities which shall not theretofore have been signed by the Company and authenticated by the Trustee or any Authenticating Agent; and upon the written order of such successor corporation, partnership or limited liability company in lieu of the Company, signed by not less than two Officers of such successor corporation, partnership or limited liability company, and subject to all the terms, conditions and restrictions herein prescribed with respect to the authentication and delivery of the Debt Securities, the Trustee or any Authenticating Agent shall authenticate and deliver any and all Debt Securities which shall have been previously signed by the proper Officers of the Company and delivered to the Trustee or any Authenticating Agent for authentication and any of such Debt Securities which such successor corporation, partnership or limited liability company shall thereafter, in accordance with the provisions of this Indenture, cause to be signed and delivered to the Trustee or any Authenticating Agent for such purpose. All Debt Securities of any series so authenticated and delivered shall in all respects have the same rank as the Debt Securities of such series theretofore or thereafter authenticated and delivered in accordance with the terms of this Indenture.

Notwithstanding the foregoing, this Section 10.1 shall not apply in the event, and to the extent, that any such consolidation, merger, sale, assignment, conveyance, transfer, lease or other disposition described above is expressly permitted pursuant to the terms of any Board Resolution or supplemental indenture governing any series of Debt Securities, provided that the Company complies with all conditions set forth in such supplemental indenture for any such consolidation, merger, sale, assignment, conveyance, transfer, lease or other disposition.

SECTION 10.2 *Trustee May Rely upon Opinion of Counsel.* The Trustee shall receive, subject to the provisions of Section 11.1 of this Indenture, and be fully protected in relying in good faith upon an Officer's Certificate and Opinion of Counsel as conclusive evidence that any supplemental indenture executed under the foregoing Section 10.1 complies with the foregoing conditions and provisions of this Article X.

ARTICLE XI CONCERNING THE TRUSTEE

SECTION 11.1 *Certain Duties and Responsibilities.*

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein).

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in Principal Amount of the Outstanding Securities of any series, determined as provided in Sections 7.5 and 7.6, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of such series; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

(e) All moneys received by the Trustee in trust under or pursuant to any provision of this Indenture shall constitute trust funds for the purposes for which they were paid or were held, but need not be segregated in any manner from any other moneys and may be deposited by the Trustee, under such conditions as may be prescribed by law, in its general banking department, and the Trustee shall not be liable for any interest thereon, except as otherwise agreed in writing with the Company.

(f) Subject to the limitations set forth above in Section 11.1:

(i) the Trustee may conclusively rely and shall be protected in acting or refraining from action upon any resolution, certificate, opinion, notice, consent, request, order, appraisal, report, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(ii) before the Trustee acts or refrains from acting, the Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

- (iii) whenever in the administration of the trusts of this Indenture, prior to an Event of Default hereunder and after the curing or waiving of all Events of Default which may have occurred, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee, and such certificate shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof;
- (iv) the Trustee shall be under no obligation to exercise any of the trusts or powers hereof at the request, order or direction of any of the Holders of Debt Securities, pursuant to the provisions of this Indenture, unless such Holders of Debt Securities shall have offered to the Trustee indemnity satisfactory to the Trustee against all the costs, expenses and liabilities which might be incurred therein;
- (v) the Trustee shall not be liable for any action taken or omitted to be taken by it in good faith and believed by it to be authorized or within the discretion or power conferred upon it by this Indenture;
- (vi) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.
- (vii) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder;
- (viii) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys, and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder; and
- (ix) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

- (x) in no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action;
- (xi) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the corporate trust office of the Trustee, and such notice references the Debt Securities and this Indenture;
- (xii) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be compensated, reimbursed and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other person employed to act hereunder; and
- (xiii) the Trustee may request that the Company deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

SECTION 11.2 Compensation and Indemnities. The Company agrees:

(1) to pay to the Trustee from time to time such compensation as the Company and the Trustee shall from time to time agree in writing for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and

(3) to indemnify each of the Trustee or any predecessor Trustee and their agents for, and to hold them harmless against, any and all loss, damage, claims, liability or expense arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending itself against any claim (whether asserted by the Company, or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, or in connection with

enforcing the provisions of this Section, except to the extent that such loss, damage, claim, liability or expense is due to its own negligence or bad faith.

If any property other than cash shall at any time be subject to a lien in favor of the Holders of Debt Securities, the Trustee, if and to the extent authorized by a receivership or bankruptcy court of competent jurisdiction or by the supplemental instrument subjecting such property to such lien, shall be entitled to make advances for the purpose of preserving such property or of discharging tax liens or other prior liens or encumbrances thereon. The obligations of the Company under this Section 11.2 to compensate the Trustee and to indemnify, pay or reimburse the Trustee or any predecessor Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the resignation or removal of the Trustee, the termination of this Indenture, and the satisfaction and discharge or any other termination pursuant to any Bankruptcy Law hereof. Such additional indebtedness shall be secured by a lien prior to that of the Debt Securities of all series with respect to which the Trustee acts as Trustee upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Debt Securities.

The parties hereto, and the Holders of Debt Securities by their acceptance of their Debt Securities, hereby agree, that when the Trustee incurs expenses and renders services after an Event of Default specified in Section 7.1(d) or 7.1(e) occurs, such expenses and the compensation for such services are intended by the Holders of the Debt Securities and Company to constitute expenses of administration under any Bankruptcy Law.

“Trustee” for the purposes of this Section 11.2 shall include any predecessor Trustee and the Trustee in each of its capacities hereunder and each agent, custodian and other person employed to act hereunder; provided, however, that the negligence, willful misconduct or bad faith of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

SECTION 11.3 *Notice of Default.* The Trustee shall give to the Holders of Debt Securities of any series notice of the happening of all defaults with respect to the Debt Securities of such series known to it, within 90 days after the occurrence thereof unless such defaults shall have been cured or waived before the giving of such notice; provided, however, that, except in the case of a default resulting from the failure to make any payment of Principal of, premium, if any, make-whole amount, if any, or interest on the Debt Securities of any series, or in the payment of any mandatory sinking fund installment with respect to the Debt Securities of such series, the Trustee may withhold the giving of such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interest of the Holders of Debt Securities of such series. For the purpose of this Section 11.3, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default. Such notice shall be given to the Holders of Debt Securities of such series in the manner and to the extent provided in subsection (c) of Section 11.10.

SECTION 11.4 *Conflicting Interests.* If the Trustee has or acquires a conflicting interest within the within the meaning of the Trust Indenture Act, the Trustee will either eliminate such

interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Indenture. To the extent permitted by the Trust Indenture Act, the Trustee shall not be deemed to have a conflicting interest with respect to any other indenture of the Company or Securities of any series by virtue of being a trustee under this Indenture with respect to any particular series of Securities.

SECTION 11.5 *Eligibility of Trustee.* There shall at all times be a corporate Trustee under this Indenture which shall be a bank or trust company organized and doing business under the laws of the United States or of any State or the District of Columbia that is not an affiliate of the Company and having a combined capital and surplus of not less than \$100,000,000 which is authorized under the laws of its jurisdiction of incorporation to exercise corporate trust powers and is subject to supervision or examination by Federal, State or District of Columbia authority. If the Trustee publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, the combined capital of the Trustee shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published

SECTION 11.6 *Resignation or Removal of Trustee.*

(a) Subject to the limitations contained in subsection (d) of this Section 11.6, the Trustee may resign and be discharged from the trust hereby created with respect to the Debt Securities of one or more series by giving notice thereof to the Company. Upon receiving such notice of resignation, the Company shall promptly appoint a successor Trustee or Trustees (it being understood that any such successor Trustee may be appointed with respect to the Debt Securities of one or more or all of such series with respect to which the resigning Trustee has resigned and that at any time there shall be only one Trustee with respect to the Debt Securities of any particular series) by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor Trustee. If no successor Trustee shall have been so appointed and have accepted appointment within 60 days after the mailing of such notice of resignation, the resigning Trustee, the Company or the Holders of at least 10% in aggregate Principal Amount of any series of Debt Securities then outstanding may, petition any court of competent jurisdiction for the appointment of a successor Trustee, or any Holder of Debt Securities of such series who has been a bona fide Holder of a Debt Security or Debt Securities of such series for at least six months may on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Trustee.

(b) In case at any time any of the following shall occur:

(1) the Trustee shall fail to comply with the provisions of Section 11.4 with respect to the Debt Securities of any series after written request therefor by the Company or by any Holder of Debt Securities of such series who has been a bona fide Holder of a Debt Security or Debt Securities of such series for at least six months; or

(2) the Trustee shall cease to be eligible in accordance with the provisions of Section 11.5 with respect to the Debt Securities of any series and shall fail to resign after written request therefor by the Company or by any such Holder of Debt Securities; or

(3) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs

then, in any such case, the Company may remove the Trustee with respect to all Debt Securities of such series and appoint a duly qualified successor Trustee by written instrument, in duplicate, executed by order of the Board of Directors of the Company, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor Trustee so appointed, or, subject to the provisions of Section 7.7, any Holder of Debt Securities who has been a bona fide Holder of a Debt Security or Debt Securities of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Debt Securities of such series and the appointment of a successor Trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a duly qualified successor Trustee with respect to the Debt Securities of such series.

(c) The Holders of at least a majority in aggregate Principal Amount of the Debt Securities then Outstanding of any series may at any time remove the Trustee and appoint a duly qualified successor Trustee with respect to such series by delivery to the Trustee so removed, to the successor Trustee and to the Company of the evidence provided for in Section 8.1 of the action in that regard taken by Holders of Debt Securities.

(d) Any resignation or removal of the Trustee and any appointment of a duly qualified successor Trustee pursuant to any of the provisions of this Section shall become effective only upon acceptance of appointment by the successor Trustee as provided in Section 11.7.

SECTION 11.7 *Acceptance by Successor Trustee.*

(a) In case of the appointment hereunder of a successor Trustee with respect to all Debt Securities, every duly qualified successor Trustee so appointed under any of the methods herein provided shall execute, acknowledge and deliver to its predecessor Trustee and to the Company an instrument in writing accepting such appointment hereunder and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with the rights, powers, trusts, duties and obligations of its predecessor in the trust hereunder with like effect as if originally named as Trustee herein. The predecessor Trustee shall, nevertheless, at the written request of the successor Trustee, pay over to the successor Trustee all moneys at the time held by it herein; and the Company and the predecessor Trustee upon payment or provision therefor of any amounts then due the predecessor Trustee pursuant to the provisions of Section 11.2, shall execute and deliver such instruments and do such other things as may reasonably be required for more fully and

certainly vesting and confirming in the successor Trustee all such rights, powers, trusts, duties and obligations.

(b) In case of the appointment hereunder of a successor Trustee with respect to the Debt Securities of one or more (but not all) series, the Company, the predecessor Trustee and each successor Trustee with respect to the Debt Securities of such series shall execute and deliver a written instrument or an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (i) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the predecessor Trustee with respect to the Debt Securities of such series to which the appointment of such successor Trustee relates, (ii) if the predecessor Trustee is not retiring with respect to all Debt Securities of such series, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor Trustee with respect to the Debt Securities of such series as to which the predecessor Trustee is not retiring shall continue to be vested in the predecessor Trustee, and (iii) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-Trustees of the same trust and that each such Trustee shall be Trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon the execution and delivery of such supplemental indenture the resignation or removal of the predecessor Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the predecessor Trustee with respect to the Debt Securities of such series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such predecessor Trustee upon payment of its charges shall duly assign, transfer and deliver to such successor Trustee all property and money held by such predecessor Trustee hereunder with respect to the Debt Securities of such series to which the appointment of such successor Trustee relates. Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in this subsection (b) of this Section.

(c) The Company or the successor Trustee will give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series to all Holders of Securities of such series. Each notice will include the name of the successor Trustee with respect to the Debt Securities of such series and the address of its corporate trust office.

SECTION 11.8 Successor to Trustee by Merger or Consolidation, etc. Any corporation or national banking association into which the Trustee may be merged, or with which it may be consolidated, or to which the Trustee transfers all or substantially all of its corporate trust business or assets, or any corporation or national banking association resulting from any merger or consolidation or conversion to which the Trustee shall be a party, shall be the successor Trustee

under this Indenture without the execution or filing of any instruments or any further act on the part of any of the parties hereto.

SECTION 11.9 *Preferential Collection of Claims.* If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Debt Securities), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor). A Trustee who has resigned or been removed shall be subject to the Trust Indenture Act Section 311(a) to the extent indicated therein.

SECTION 11.10 *Reports by Trustee.*

(a) The Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust indenture Act at the times and in the manner provided pursuant thereto. If required by Section 313(a) of the Trust Indenture Act, the Trustee shall, within 60 days after each May 15 following the date of the initial issuance of Debt Securities under this Indenture, and for so long as any Debt Securities remain outstanding, deliver to Holders a brief report, dated as of such reporting date, which complies with the provisions of such Section 313(a) (but if no event described in Trust Indenture Act Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also will comply with Trust Indenture Act Section 313(b)(2). The Trustee will also transmit by mail all reports as required by Trust Indenture Act Section 313(c).

(b) A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each securities exchange, if any, upon which the Debt Securities are listed, with the Commission and with the Company. The Company will promptly notify the Trustee in writing when the Debt Securities are listed on any securities exchange and of any delisting thereof.

SECTION 11.11 *Preservation of Information.* The Trustee shall preserve, in as current a form as is reasonably practicable, all information furnished it pursuant to Section 4.6(c) hereof or received by it as Debt Security registrar hereunder. The Trustee may destroy such information upon receipt of new information updating information previously furnished.

SECTION 11.12 *Trustee May Hold Debt Securities and Otherwise Deal with Company.* Subject to the Trust Indenture Act, the Trustee, the Debt Security registrar, any Paying Agent or any other agent of the Company in its individual or any other capacity may buy, own, hold and sell any of the Debt Securities or any other evidences of indebtedness or other securities, whether heretofore or hereafter created or issued, of the Company or any subsidiary or Affiliate of the Company with the same rights it would have if it were not Trustee, Debt Security registrar, Paying Agent or such other agent; and the Trustee may engage or be interested in any financial or other transaction with the Company or any subsidiary or Affiliate of the Company, including, without limitation, secured and unsecured loans to the Company or any subsidiary or Affiliate of the Company; and may maintain any and all other general banking and business relations with the Company and any subsidiary or Affiliate of the Company with like effect and in the same manner and to the same extent as if the

Trustee were not a party to this Indenture; and no implied covenant shall be read into this Indenture against the Trustee in respect of any such matters.

SECTION 11.13 *Trustee May Comply with any Rule, Regulation or Order of the Commission.* The Trustee may comply in good faith with any rule, regulation or order of the Commission made pursuant to the terms and provisions of the Trust Indenture Act and shall be fully protected in so doing notwithstanding that such rule, regulation or order may thereafter be amended or rescinded or determined by judicial or other authority to be invalid for any reason, but nothing herein contained shall require the Trustee to take any action or omit to take any action in accordance with such rule, regulation or order, except as is in this Indenture otherwise required.

SECTION 11.14 *Appointment of Authenticating Agent.* The Trustee may appoint an Authenticating Agent or Agents with respect to one or more series of Debt Securities which shall be authorized to act on behalf of the Trustee to authenticate Debt Securities of such series issued upon exchange, registration of transfer or partial redemption or partial conversion thereof, and if the Trustee is required to appoint one or more Authenticating Agents with respect to any series of Debt Securities, to authenticate Debt Securities of such series and to take such other actions as are specified in Sections 2.4, 2.8, 2.11 and 5.2, and Debt Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Indenture to the authentication and delivery of Debt Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent (except in respect of original issue and Section 2.9). Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$1,000,000 and subject to supervision or examination by Federal or State authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 11.14, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 11.14, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section 11.14.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of such Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section 11.14, without the execution or filing of any paper or any further act on the part of the Trustee or such Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice or resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 11.14, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall provide notice to the Holders of the Debt Securities of the series as to which the Authenticating Agent will serve as provided in Section 3.8. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section 11.14.

The Company agrees to pay each Authenticating Agent from time to time reasonable compensation for its services under this Section.

If all of the Debt Securities of a series may not be originally issued at one time, and if the Trustee does not have an office capable of authenticating Debt Securities upon original issuance located where the Company wishes to have Debt Securities of such series authenticated upon original issuance, the Trustee, if so requested by the Company in writing (which writing need not comply with Section 3.7 and need not be accompanied by an Opinion of Counsel), shall appoint in accordance with this Section 11.14 an Authenticating Agent having an office in a place designated by the Company with respect to such series of Debt Securities.

SECTION 11.15 *Trustee Not Responsible for Recitals, Disposition of Debt Securities or Application of Proceeds Thereof.* The recitals contained herein and in the Debt Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Issuer, and the Trustee or any Authenticating Agent assumes no responsibility for the correctness of the same. The Trustee makes no representation as to the validity or sufficiency of this Indenture or of the Debt Securities and shall have no responsibility for any statement in any document in connection with the sale of the Debt Securities. The Trustee or any Authenticating Agent shall not be accountable for the use or application by the Company of any Debt Securities authenticated and delivered hereunder or of the proceeds of such Debt Securities, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Indenture, or for the use or application of any moneys received by any Paying Agent other than the Trustee.

SECTION 11.16 *Calculations in Respect of Debt Securities.* The Company will be responsible for making calculations called for under the Debt Securities. These calculations include, but are not limited to, determination of make-whole amounts, if any, premiums, if any, Original Issue Discount, if any, and conversion rates and adjustments, if any. The Company will make the calculations in good faith and, absent manifest error, its calculations will be final and binding on the Holders of the Debt Securities. The Company will provide a schedule of its calculations to the Trustee when applicable, and the Trustee is entitled to rely conclusively on the accuracy of the Company's calculations without independent verification.

ARTICLE XII
SUPPLEMENTAL INDENTURES

SECTION 12.1 *Supplemental Indentures for Special Purposes.* Without the consent of any of the Holders of Debt Securities, the Company, when authorized by resolution of its Board of Directors, and, upon receipt of an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture, is duly authorized by all necessary corporate action, constitutes the valid and binding obligation of the Company and is in compliance with applicable law, the Trustee from time to time and at any time, subject to the conditions and restrictions in this Indenture contained, may enter into an indenture or supplemental indentures in form satisfactory to the Trustee, which thereafter shall form a part hereof, for any one or more of the following purposes:

(a) to add to the covenants and agreements of the Company in this Indenture contained, other covenants and agreements thereafter to be observed for the benefit of the Holders of all or any series of Debt Securities (and if such covenants and agreements are to be for the benefit of less than all series of Debt Securities, stating that such covenants and agreements are expressly being included solely for the benefit of such series) or to surrender any right or power herein reserved to or conferred upon the Company; or

(b) to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained in this Indenture or in any supplemental indenture; or

(c) to make such provisions in regard to matters or questions arising under this Indenture which may be necessary or desirable, or otherwise change this Indenture in any manner which shall not adversely affect the interests of the Holders of Debt Securities of any series; or

(d) to evidence the succession of another Person to the Company, or successive successions, and the assumption by the successor Person of the covenants, agreements and obligations of the Company pursuant to Article X and to provide for the adjustment of conversion or exchange rights with respect to any Debt Securities, provided that such adjustment is made in accordance with the provisions of such Debt Securities or the resolution of the Board of Directors or the supplemental indenture pursuant to which such Debt Securities were issued; or

(e) to establish the form or terms of the Debt Securities of any series as permitted by Sections 2.1 and 2.2; or

(f) to change or eliminate any of the provisions of this Indenture, provided that, except as otherwise contemplated by Section 2.2(11), any such change or elimination shall become effective only when there is no Debt Security outstanding of any series created prior thereto which is entitled to the benefit of such provision; or

(g) to add or change any of the provisions of this Indenture to such extent as shall be necessary to provide for uncertificated Debt Securities in addition to certificated Debt Securities (so long as any “registration-required obligation” within the meaning of Section 163(f)(2) of the Code is in registered form for purposes of the Code); or

(h) to amend or supplement any provision contained herein, which was required to be contained herein in order for this Indenture to be qualified under the Trust Indenture Act, if the Trust Indenture Act or regulations thereunder change what is so required to be included in qualified indentures, in any manner not inconsistent with what then may be required for such qualification; or

(i) to add any additional Events of Default (and if such Events of Default are to be applicable to less than all series of Debt Securities, stating that such Events of Default are expressly being included solely to be applicable to such series); or

(j) to convey, transfer, assign, mortgage or pledge to the Trustee as security for the Debt Securities of one or more series any property or assets; or

(k) to add to or change any of the provisions of this Indenture as contemplated in Section 11.7(b);

and the Company hereby covenants that it will fully perform all the requirements of any such supplemental indenture which may be in effect from time to time. Nothing in this Article XII contained shall affect or limit the right or obligation of the Company to execute and deliver to the Trustee any instrument of further assurance or other instrument which elsewhere in this Indenture it is provided shall be delivered to the Trustee.

The Trustee shall join with the Company in the execution of any such supplemental indenture, make any further appropriate agreements and stipulations which may be therein contained and accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section 12.1 may be executed by the Company and the Trustee without the consent of the Holders of any of the Debt Securities at the time Outstanding, notwithstanding any of the provisions of Section 12.2.

SECTION 12.2 Amendments with Consent of Holders. With the consent (evidenced as provided in Section 8.1) of the Holders of at least a majority in aggregate Principal Amount of the Debt Securities at the time Outstanding of each series affected by such supplement, the Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or supplemental indentures for the purpose of adding any provision to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of such series of the Debt Securities; provided, however, that no such supplemental indenture shall (i) extend the time or times of payment of the Principal of, premium, if any, make-whole amount, if any, or the

interest on, any series of Debt Securities, or reduce the Principal Amount of, premium, if any, make-whole amount, if any, or the rate of interest on, any series of Debt Securities (and/or such other amount or amounts as any Debt Securities or supplemental indentures with respect thereto may provide to be due and payable upon declaration of acceleration of the maturity thereof pursuant to Section 7.1) or change the currency of payment of Principal of, premium, if any, make-whole amount, if any, or interest on, any series of Debt Securities or reduce any amount payable on redemption thereof or alter or impair the right to convert the same at the rate and upon the terms provided in the Indenture or alter or impair the right to require redemption at the option of the Holder, without the consent of the Holder of each Debt Security so affected, or (ii) reduce the percentage of Debt Securities of any series, the vote or consent of the Holders of which is required for such modifications and alterations, without the consent of the Holders of all Debt Securities then Outstanding of such series under the Indenture. Notwithstanding the foregoing, no consent of the Holders of any series of Debt Securities shall be necessary to permit the execution of a supplemental indenture to provide for the adjustment of conversion or exchange rights with respect to any Debt Securities, provided that such adjustment is made in accordance with the provisions of such Debt Securities or the resolution of the Board of Directors or the supplemental indenture pursuant to which such Debt Securities were issued.

Upon the request of the Company, accompanied by a Certified Resolution authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Holders of Debt Securities as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may, in its discretion, but shall not be obligated, to enter into such supplemental indenture.

It shall not be necessary for the consent of the Holders of Debt Securities under this Section 12.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

A supplemental indenture which changes or eliminates any provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Debt Securities, or which modifies the rights of the Holders of Debt Securities of such series with respect to such provision, shall be deemed not to affect the rights under this Indenture of the Holders of Debt Securities of any other series.

SECTION 12.3 *Effect of Supplemental Indentures.* Upon the execution of any supplemental indenture pursuant to the provisions of this Article XII, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the Holders of Debt Securities shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article XII or the modifications thereby of the trusts created by this Indenture, the Trustee will receive, and (subject to Section 11.1) will be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but will not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties, or immunities under this Indenture or otherwise.

SECTION 12.4 *Supplemental Indentures to Conform to Trust Indenture Act.* Any supplemental indenture executed and delivered pursuant to the provisions of this Article XII shall conform in all respects to the requirements of the Trust Indenture Act as then in effect.

SECTION 12.5 *Notation on or Exchange of Debt Securities.* If an amendment, supplement or waiver changes the terms of a Debt Security of any series, the Trustee may require the Holder of the Debt Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Debt Security about the amendment, supplement or waiver and return it to the Holder. The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Debt Security thereafter authenticated. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Debt Security of any series may issue and the Trustee shall authenticate a new Debt Security of such series that reflects the changed terms.

Failure to make the appropriate notation or issue a new Debt Security will not affect the validity and effect of such amendment, supplement or waiver.

SECTION 12.6 *Revocation and Effect of Consents.* Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Debt Security is a continuing consent by the Holder and every subsequent Holder of a Debt Security or portion of a Debt Security that evidences the same debt as the consenting Holder's Debt Security, even if notation of the consent is not made on any Debt Security. However, any such Holder of a Debt Security or subsequent Holder of a Debt Security may revoke the consent as to its Debt Security if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, all as of the day and year first above written.

INTL FCSTONE INC.

By: /s/ William J. Dunaway

Name: William J. Dunaway

Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Francine Kincaid

Name: Francine Kincaid

Title: Vice - President

SUPPLEMENT NO. 1

Dated as of July 22, 2013

to

INDENTURE

Dated as of July 22, 2013

between

INTL FCSTONE INC.

and

THE BANK OF NEW YORK MELLON,

as Trustee.

8.5% Senior Notes due 2020

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SUPPLEMENT NO. 1, dated as of July 22, 2013, to the Indenture, dated as of July 22, 2013, between INTL FCSTONE INC., a Delaware corporation (hereinafter called the "Company"), and THE BANK OF NEW YORK MELLON, as trustee (the "Trustee").

RECITALS OF THE COMPANY

WHEREAS, the Company and the Trustee have entered into an Indenture, dated as of July 22, 2013 (the "Base Indenture");

WHEREAS the Base Indenture provides that Debt Securities are issuable thereunder in one or more series; and in the case of each particular series, the title and designation of the series, the aggregate Principal Amount, the interest rate, the dates on which principal and interest are due, the currency, redemption provisions (if any) of the Debt Securities of such series, as well as such additional provisions as are required or permitted by the Base Indenture, are to be established in or pursuant to a Board Resolution or in an indenture supplemental thereto;

WHEREAS, the Company has duly authorized the execution and delivery of this Supplement No. 1 to establish the provisions and provide for the issuance of its 8.5% Senior Notes due 2020 (the "Notes") as a series of Debt Securities under the Base Indenture in an initial aggregate Principal Amount of up to \$46,000,000;

WHEREAS, the text of the Notes and the Trustee's Certificate of Authentication to be borne thereby are to be substantially in the form set forth as Appendix A hereto, which constitutes for all purposes a part of this Supplement No. 1; and

WHEREAS, all things necessary (i) to make the Base Indenture, as amended and supplemented by this Supplement No. 1 (as so amended and supplemented, the "Indenture"), a valid, binding and legal agreement of the Company and the Notes, when issued, executed and delivered by the Company and authenticated by the Trustee pursuant to the Indenture, the valid, legal and binding obligations of the Company and (ii) for the creation, execution and issuance of the Notes, subject to the terms of the Indenture, have in all respects been duly authorized.

IN WITNESS WHEREOF, the Company and the Trustee agree that the Indenture shall be supplemented and amended as follows:

ARTICLE 1

Definitions

Section 1.01. Definitions. Except as otherwise set forth herein, terms defined in the Base Indenture have the same meaning in this Supplement No. 1. The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Supplement No. 1 shall have the respective meanings specified in this Section 1.01. All other terms used in this Supplement No. 1 which are defined in the Trust Indenture Act or which are by reference therein defined in the Securities Act shall have (except as herein otherwise expressly provided or unless the context otherwise requires) the meanings assigned to such terms in said Trust

Indenture Act and in the Securities Act as in force at the date of the execution of this Supplement No. 1. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP. All references to such terms herein shall be both to the singular or the plural, as the context so requires. Unless the context otherwise requires, any reference to an “Article” or a “Section” refers to an Article or Section, as the case may be, of this Supplement No. 1. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Supplement No. 1 as a whole and not to any particular Article, Section or other subdivision. The words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation.”

“Additional Notes” has the meaning ascribed to such term in Section 2.01 hereof.

“Attributable Indebtedness” means, with respect to any Person on any date, (a) in respect of any Capital Lease, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a Capital Lease and (c) in respect of any Securitization Transaction, the outstanding principal amount of such financing, after taking into account reserve accounts and making appropriate adjustments, determined by the Chief Financial Officer of the Company in his or her reasonable judgment.

“Beneficial Owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns” and “Beneficially Owned” will have a corresponding meaning.

“Board of Directors” means:

- (1) with respect to a corporation, the board of directors of the corporation or, except in the context of the definitions of “Change of Control” and “Continuing Directors,” a duly authorized committee thereof;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership; and
- (3) with respect to any other Person, the board or committee of such Person serving a similar function.

“Board Resolution” means a copy of a resolution certified by a Vice President, the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“Capital Lease” means, as applied to any Person, any lease of any property by that Person as lessee which, in accordance with GAAP, is required to be accounted for as a capital lease on the balance sheet of that Person.

“Capital Lease Obligation” means an obligation that is required to be classified and accounted for as a capital lease for financial reporting purposes in accordance with GAAP; and the amount of Indebtedness represented thereby at any time shall be the amount of the liability in respect thereof that would at that time be required to be capitalized on a balance sheet in accordance with GAAP.

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person;

but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Change of Control” means the occurrence of any of the following:

- (1) the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties and assets (including Capital Stock of the Subsidiaries of the Company) of the Company and its Subsidiaries, taken as a whole, to any “person” (as that term is used in Section 13(d) of the Exchange Act), other than to any Permitted Holder;
- (2) the adoption of a plan relating to the liquidation or dissolution of the Company;
- (3) any “person” or “group” (as such terms are used in Sections 13(d) of the Exchange Act), other than the Permitted Holders, becomes the Beneficial Owner, directly or indirectly, of 50% or more of the voting power of the Voting Stock of the Company and (ii) the Permitted Holders are not the Beneficial Owners of a larger percentage of the voting power of such Voting Stock than such person or group;
- (4) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors; or
- (5) the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into the Company, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Company is converted into or exchanged for cash, securities or other property, other than any such transaction

where (A) the Voting Stock of the Company outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock of the surviving or transferee Person constituting a majority of the voting power of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance) and (B) immediately after such transaction, no “person” or “group” (as such terms are used in Section 13(d) of the Exchange Act), other than the Permitted Holders, becomes, directly or indirectly, the Beneficial Owner of 50% or more of the voting power of the Voting Stock of the surviving or transferee Person.

“Change of Control Offer” has the meaning ascribed to such term in Section 4.04 herein.

“Change of Control Payment” has the meaning ascribed to such term in Section 4.04 herein.

“Change of Control Settlement Date” has the meaning ascribed to such term in Section 4.04 herein.

“Company” means the party named as the “Company” in the first paragraph of this Supplement No. 1 until a successor replaces it pursuant to the applicable provisions of this Supplement No. 1 and, thereafter, shall mean such successor. The forgoing sentence shall likewise apply to any subsequent such successor or successors.

“Company Debt Security” or “Company Debt Securities” means any Indebtedness represented by bonds, notes, debentures or other forms or types of Indebtedness that are deemed to be “securities” under the Securities Act of 1933, as amended, and the rules, regulations and interpretations of the Commission promulgated as of the Issue Date thereunder, whether convertible or non-convertible, secured or unsecured, senior or subordinated, registered or unregistered, in certificated, global or book-entry form, outstanding on the Issue Date or anytime thereafter. Without limiting the foregoing and for the avoidance of doubt, Indebtedness represented by term loans, revolving credit loans and letters of credit under credit agreements or other facilities with banks or other institutional lenders shall not be deemed Company Debt Securities.

“Consolidated EBITDA” means, for any period, for the Company and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus the following to the extent deducted in calculating such Consolidated Net Income:

- (1) Consolidated Interest Charges for such period,
- (2) the provision for federal, state, local and foreign income taxes payable for such period, and
- (3) the amount of depreciation and amortization expense for such period.

“Consolidated Interest Charges” means, for any period, for the Company and its Subsidiaries on a consolidated basis, an amount equal to the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, plus (b) the portion of rent expense with respect to such period under Capital Leases that is treated as interest in accordance with GAAP plus (c) the implied interest component of Synthetic Leases with respect to such period.

“Consolidated Interest Coverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the most recently completed four fiscal quarters to (b) Consolidated Interest Charges for such period. For purposes of calculating the Consolidated Interest Coverage Ratio:

(1) in the event that the Company or any Subsidiary Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Preferred Stock subsequent to the commencement of the period for which the Consolidated Interest Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Consolidated Interest Coverage Ratio is made (the “Calculation Date”), then the Consolidated Interest Coverage Ratio will be calculated giving pro forma effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Preferred Stock, and the use of the proceeds therefrom as if the same had occurred at the beginning of such period;

(2) acquisitions and dispositions of business entities or property and assets constituting a division or line of business of any Person that have been made by the Company or any Subsidiary (or by any Person that has subsequently become a Subsidiary of the Company or has subsequently merged or consolidated with or into the Company or any Subsidiary), including through mergers or consolidations, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect as if they had occurred on the first day of the four-quarter reference period, after giving effect to any Pro Forma Cost Savings;

(3) the Consolidated EBITDA attributable to discontinued operations, as determined in accordance with GAAP, will be excluded;

(4) the Consolidated Interest Charges attributable to discontinued operations, as determined in accordance with GAAP, will be excluded, but only to the extent that the obligations giving rise to such Consolidated Interest Charges will not be obligations of the Company or any Subsidiary following the Calculation Date;

(5) whenever pro forma effect is to be given to an acquisition or disposition, the amount of Consolidated EBITDA relating thereto and the amount of Consolidated Interest Charges associated with any Indebtedness Incurred in connection therewith, unless otherwise specified, the pro forma calculations will be made in compliance with Article 11 of Regulation S-X under the Securities Act, as determined in good faith by a responsible financial or accounting officer of the Company;

(6) Consolidated Interest Charges attributable to interest on any Indebtedness (whether existing or being Incurred) computed on a pro forma basis and bearing a floating interest rate will be computed as if the base interest rate in effect for such floating or fluctuating rate of interest on the Calculation Date were in effect for the whole period (taking into account any interest rate option, swap, cap or similar agreement applicable to such Indebtedness if such agreement has a remaining term in excess of 12 months or, if shorter, at least equal to the remaining term of such Indebtedness) had been the applicable rate for the entire period; and

(7) Consolidated Interest Charges attributable to interest on any Indebtedness Incurred under a revolving credit facility computed on a pro forma basis will be calculated based on the average daily balance of such Indebtedness for the four fiscal quarters subject to the pro forma calculation to the extent that such Indebtedness was Incurred solely for working capital purposes.

“Consolidated Net Income” means, for any period, for the Company and its Subsidiaries on a consolidated basis, the net income for that period as determined in accordance with GAAP; *provided, however*, that: (i) to the extent that any portion of the commodity inventory of the Company and its Subsidiaries is valued pursuant to GAAP at the end of any period at other than market value, then the Consolidated Net Income at the end of such period will be increased by the amount of any unrealized gains, after a notional tax charge, or decreased by the amount of any unrealized losses, after a notional tax benefit, which the Company or any of its Subsidiaries would have recognized if such commodity inventory had been valued at market value; (ii) to the extent that any changes in the estimated values of forward commitments to purchase and sell commodities are not reflected in Consolidated Net Income under GAAP at the end of any period, then the Consolidated Net Income at the end of such period will be adjusted to reflect such changes, and (iii) there shall not be included in (or shall not be deducted in determining, as the case may be) such Consolidated Net Income, without duplication:

(1) any net after-tax extraordinary gain or loss;

(2) any net gain or loss realized upon the sale or other disposition of any property of such Person or any of its consolidated Subsidiaries (including pursuant to any sale and leaseback transaction) that is not sold or otherwise disposed of in the ordinary course of business;

(3) the cumulative effect of a change in accounting principles;

(4) any non-cash compensation expense realized for grants of stock appreciation or similar rights, stock options, Capital Stock or other rights to officers, directors and employees of such Person or a Subsidiary of such Person;

(5) to the extent non-cash, any unusual, non-operating or non-recurring gain or loss;

(6) any cash or non-cash expenses directly attributable to the closing of line of business;

(7) any non-cash impairment charge or asset write-off, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP;

(8) expenses or charges (whether cash or non-cash) relating to the refinancing or repayment of Indebtedness or issuance of equity interests, including the write-off of deferred refinancing costs and any premiums relating to such refinancing or repayment of such Person, to the extent such charges would otherwise have been deducted in computing such Consolidated Net Income; and

(9) gains or losses due to fluctuations in currency values and the related tax effect.

“Continuing Directors” means, as of any date of determination, any member of the Board of Directors of the Company who:

(1) was a member of such Board of Directors on the Issue Date; or

(2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.

“Credit Facilities” means, one or more debt facilities (including, without limitation, the Existing Credit Agreements), commercial paper facilities or indentures, in each case with banks or other institutional lenders or a trustee, providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), letters of credit or issuances of debt securities, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

“Depository” has the meaning ascribed to such term in Section 2.01.

“Disqualified Stock” means any Capital Stock that, by its terms, by the terms of any security into which it is convertible, or for which it is exchangeable, or by contract or otherwise, is, or upon the happening of any event or passage of time would be, required to be redeemed on or prior to the date that is 91st day after the Stated Maturity of the Notes, or is redeemable at the option of the holder thereof, or is convertible into or exchangeable for debt securities in any such case on or prior to such date; *provided* that any Capital Stock that would not constitute Disqualified Stock but for provisions thereof giving holders the right to require the issuer thereof to repurchase or redeem such Capital Stock upon the occurrence of a change of control occurring prior to the 91st day after the Stated Maturity of the Notes shall not constitute Disqualified Stock if the change of control provisions applicable to such Disqualified Stock are no more favorable to the holders of such Disqualified Stock than the provisions of the Indenture with respect to a Change of Control and such Disqualified Stock specifically provides that the issuer thereof will not repurchase or redeem any such Capital Stock pursuant to such provisions prior to the Company’s completing a Change of Control Offer. The term “Disqualified Stock” will also include any options, warrants or other rights that are convertible into Disqualified Stock or that are redeemable at the option of the holder, or required to be redeemed, prior to the 91st day after the Stated Maturity of the Notes.

“Dollars” means the coin or currency of the United States of America which as of the time of payment is legal tender for the payment of public and private debts.

“Event of Default” has the meaning specified in Section 5.01.

“Existing Credit Agreements” means collectively:

(1) that certain Amended and Restated Credit Agreement, dated September 22, 2010, by and between INTL Commodities, Inc., as borrower, the lenders party thereto, BNP Paribas Securities Corp., ABN AMRO Bank N.V. and Coöperatieve Centrale Raiffeisen-

Boerenleenbank B.A., “Rabobank Nederland,” New York Branch, as Joint Lead Arrangers and Joint Bookrunners, and BNP Paribas, as Administrative Agent;

(2) that certain Credit Agreement, dated October 1, 2010, by and between the Company and INTL Global Currencies Limited, as borrowers, the guarantors party thereto, the lenders party thereto, Banc of America Securities LLC, as Sole Lead Arranger and Book Manager, and Bank of America, N.A., as Administrative Agent;

(3) that certain Amended and Restated Credit Agreement, dated June 21, 2010, by and between FCStone, LLC, as borrower, the guarantors party thereto, the lenders party thereto, BMO Capital Markets, as Sole-Lead Arranger and Book Runner, and Bank of Montreal, as Administrative Agent; and

(4) that certain Credit Agreement, dated August 10, 2012, by and between FCStone Merchant Services, LLC, as borrower, the guarantors party thereto, the lenders party thereto, BMO Capital Markets, as Sole Lead Arranger and Sole Book Runner, and Bank of Montreal, as Administrative Agent;

in each case, including any related notes, Guarantees, collateral documents, instruments and agreements executed in connection therewith, and in each case as amended, restated, modified, renewed, refunded, replaced or refinanced from time to time, regardless of whether such amendment, restatement, modification, renewal, refunding, replacement or refinancing is with the same financial institutions or otherwise.

“Existing Indebtedness” means the aggregate amount of Indebtedness of the Company and its Subsidiaries (other than Indebtedness under the Existing Credit Agreements or under the Notes) in existence on the Issue Date.

“Fair Market Value” means, with respect to any property, the price that could be negotiated in an arm’s-length free market transaction, for cash, between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction. Fair Market Value shall be determined, except as otherwise provided, (a) if such property has a Fair Market Value equal to or less than \$10 million, by any Officer of the Company, or (b) if such property has a Fair Market Value in excess of \$10 million, by a majority of the Board of Directors of the Company and evidenced by a Board Resolution.

“GAAP” means generally accepted accounting principles in the United States, which are in effect from time to time.

“Guarantee” means, as to any Person, a guarantee, direct or indirect, in any manner, including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness of another Person, but excluding endorsements for collection or deposit in the normal course of business.

“Hedging Obligations” means, with respect to any specified Person, the obligations of such Person under:

(1) any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar agreement or arrangement;

(2) any commodity forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement;

(3) any foreign exchange contract, currency swap agreement or other similar agreement or arrangement; or

(4) any other Swap Contract.

“Holder” means any Person in whose name a Note is registered in the Note register.

“Incur” means, with respect to any Indebtedness of any Person, to incur, create, issue, assume, Guarantee or otherwise become directly or indirectly liable for or with respect to, or become responsible for, the payment of, contingently or otherwise, such Indebtedness (and “Incurrence” and “Incur” will have meanings correlative to the foregoing); *provided* that (1) any Indebtedness of such Person existing at the time such Person becomes a Subsidiary of the Company will be deemed to be Incurred by such Person at the time it becomes a Subsidiary of the Company, (2) neither the accrual of interest nor the accretion of original issue discount nor the payment of interest in the form of additional Indebtedness with the same terms (to the extent provided for when the Indebtedness on which such interest is paid was originally issued) will be considered an Incurrence of Indebtedness, and (3) a change in GAAP or the application thereof that results in an obligation of such Person that exists at such time, and is not theretofore classified as Indebtedness, becoming Indebtedness shall not be deemed an Incurrence of such Indebtedness.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(1) all obligations for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(2) the maximum amount available to be drawn under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments;

(3) all Hedging Obligations;

(4) all obligations to pay the deferred purchase price of property or services (other than trade accounts incurred in the ordinary course of business and not past due more than 120 days after the date on which such trade account was created);

(5) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse, *provided* that the amount of such obligation being deemed to be the lesser of the Fair Market Value of such property or the amount of the obligation so secured;

(6) all Attributable Indebtedness;

(7) all Disqualified Stock issued by such Person, valued at the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price plus accrued dividends (excluding, in each case, any accrued dividends for any current period not yet payable) and all Preferred Stock issued by a Subsidiary of such Person, valued at the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price plus accrued dividends (excluding, in each case, any accrued dividends for any current period not yet payable);

(8) all Guarantees of such Person in respect of any of the foregoing;

(9) all Indebtedness of the types referred to in clauses (1) through (8) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or joint venturer, unless such Person is not liable for such Indebtedness under applicable law or such Indebtedness is expressly made non-recourse to such Person; and

(10) all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person), *provided* that the amount of such Indebtedness will be the lesser of (A) the Fair Market Value of such asset at such date of determination and (B) the amount of such Indebtedness.

For purposes hereof, the “maximum fixed repurchase price” of any Disqualified Stock or Preferred Stock which does not have a fixed repurchase price will be calculated in accordance with the terms of such Disqualified Stock or Preferred Stock, as applicable, as if such Disqualified Stock or Preferred Stock were repurchased on any date on which Indebtedness will be required to be determined pursuant to the Indenture at its Fair Market Value if such price is based upon, or measured by, the fair market value of such Disqualified Stock or Preferred Stock determined in good faith by the Board of Directors of the Company; *provided, however*, that if such Disqualified Stock or Preferred Stock is not then permitted in accordance with the terms of such Disqualified Stock or Preferred Stock to be redeemed, repaid or repurchased, the redemption, repayment or repurchase price shall be the book value of such Disqualified Stock or Preferred Stock as reflected in the most recent financial statements of such Person.

The amount of any Indebtedness outstanding as of any date will be the outstanding balance at such date of all unconditional obligations as described above (without giving effect to any call premiums in respect thereof) and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation.

The amount of any Indebtedness described in clauses (1) and (2) above will be (i) the accreted value thereof, in the case of any Indebtedness issued with original issue discount, and (ii) the principal amount thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

The amount of any Indebtedness described in clause (3) above will be, in respect of any one or more Hedging Obligations, equal to, after taking into account the effect of any legally enforceable netting agreement relating to such Hedging Obligation, (a) for any date on or after the date such Hedging

Obligations have been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedging Obligations, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Obligation.

For purposes of determining any particular amount of Indebtedness, (x) Guarantees, Liens or obligations with respect to letters of credit supporting Indebtedness otherwise included in the determination of such particular amount shall not be included, and (y) any Liens granted pursuant to the equal and ratable provisions referred to in Section 4.02 shall not be treated as Indebtedness.

“Indenture” has the meaning ascribed to such term in the recitals hereto.

“Interest Payment Date” means the Stated Maturity of an installment of interest on the Notes.

“Issue Date” means July 22, 2013, the first date that the Notes are issued under the Indenture.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

“Notes” means the series of Debt Securities titled the 8.5% Senior Notes due 2020 issued under the Indenture by the Company on or after the Issue Date, including any Additional Notes, in accordance with the terms of the Indenture.

“Outstanding” has the meaning ascribed to such term in the Base Indenture and, in addition thereto, shall exclude any such Notes the indebtedness in respect to which has been discharged in accordance with Section 6.1 of the Indenture.

“Permitted Debt” has the meaning ascribed to such term in Section 4.01.

“Permitted Holders” means (i) Sean M. O’Connor and Scott J. Branch or any of their respective spouses or lineal descendants; (ii) the heirs, executors, administrators, testamentary trustees, legatees or beneficiaries of any of the foregoing; (iii) any trust, the beneficiaries of which only include any of the foregoing or their respective spouses or lineal descendants, and (iv) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; *provided* that, in the case of such “group” and without giving effect to the existence of such group or any other group any one or more of the persons specified in (i), collectively, has beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Company held by such “group.”

“Permitted Refinancing Indebtedness” means any Indebtedness of the Company or any Subsidiary issued in exchange for, or the net cash proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of the Company or any Subsidiary (other than Indebtedness owed to the Company or to any Subsidiary of the Company); *provided* that:

(1) the amount of such Permitted Refinancing Indebtedness does not exceed the amount of the Indebtedness so extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued and unpaid interest thereon and the amount of any premium, tender and defeasance costs necessary to accomplish such refinancing and such reasonable expenses incurred in connection therewith);

(2) in the case of term Indebtedness, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and

(3) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Notes such Permitted Refinancing Indebtedness is subordinated in right of payment to the Notes on terms at least as favorable, taken as a whole, to the holders of Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

“Place of Payment” means the place or places where the principal of (premium, if any) and interest on the Notes are payable as specified in Section 2.01(e).

“Preferred Stock” means, with respect to any Person, any Capital Stock of such Person that has preferential rights to any other Capital Stock of such Person with respect to dividends or redemptions upon liquidation.

“Pro Forma Cost Savings” means, with respect to any period, the reduction in costs that occurred during the period that were (1) directly attributable to an acquisition and calculated on a basis that is consistent with Article 11 of Regulation S-X under the Securities Act as in effect on the date of the Indenture or (2) implemented by the business that was the subject of any such acquisition within one year of the date of the acquisition and that are supportable and quantifiable by the underlying accounting records of such business, as if, in the case of each of clauses (1) and (2), all such reductions in costs had been effected as of the beginning of such period, decreased by any incremental expenses (except to the extent capitalized on the Company’s consolidated balance sheet) incurred or to be incurred for the period in order to achieve such reduction in costs.

“Redemption Date”, when used with respect to any Note to be redeemed, means the date fixed for such redemption by or pursuant to the Indenture.

“Redemption Price”, when used with respect to any Note to be redeemed, means 100% of the Principal Amount thereof plus accrued and unpaid interest to, but not including, the Redemption Date.

“Regular Record Date” for the interest payable on the Notes on any Interest Payment Date means the date specified in such Note and in Section 2.01(d).

“Securitization Transaction” means, with respect to any Person, any financing transaction or series of financing transactions (including factoring arrangements) pursuant to which such Person or any Subsidiary of such Person may sell, convey or otherwise transfer, or grant a security interest in, accounts, payments, receivables, rights to future lease payments or residuals or similar rights to payment to a special purpose subsidiary or affiliate of such Person.

“Significant Subsidiary” means any Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of the Indenture.

“Stated Maturity” when used with respect to the Notes or any installment of Principal thereof or of interest thereon, means the date specified in such Notes as the fixed date on which the Principal of such Notes, or such installment of interest, is due and payable.

“Subsidiary” means, with respect to any Person:

(1) a corporation a majority of whose Voting Stock is at the time owned or controlled, directly or indirectly, by such Person, one or more Subsidiaries thereof or such Person and one or more Subsidiaries thereof; and

(2) any other Person (other than a corporation), including, without limitation, a partnership, limited liability company, business trust or joint venture, in which such Person, one or more Subsidiaries thereof or such Person and one or more Subsidiaries thereof, directly or indirectly, at the date of determination thereof, has at least majority ownership interest entitled to vote in the election of directors, managers or trustees thereof (or other Person performing similar functions).

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward and futures commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement published by the Foreign Exchange Committee or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“Synthetic Lease” means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing arrangement whereby the arrangement is considered borrowed money indebtedness for tax purposes but is classified as an operating lease or does not otherwise appear on a balance sheet under GAAP.

“Trustee” means the party named as the “Trustee” in the first paragraph of this Supplement No. 1 until a successor replaces it pursuant to the applicable provisions of the Indenture and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder.

“Underwriting Agreement” has the meaning ascribed to such term in Section 2.01 hereof.

“U.S. Dollar Equivalent” means with respect to any monetary amount in a currency other than U.S. dollars, at any time for determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the spot rate for the purchase of U.S. dollars with the applicable foreign currency as published in The Wall Street Journal in the “Exchange Rates” column under the heading “Currency Trading” on the date two business days prior to such determination.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is ordinarily entitled to vote in the election of the Board of Directors of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

- (1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by
- (2) the then outstanding principal amount of such Indebtedness.

ARTICLE 2

8.5% Senior Notes Due 2020

Section 2.01. Designation; Terms.

(a) There are hereby authorized to be issued, and shall be issued under the Indenture, Debt Securities in an initial aggregate Principal Amount of \$40,000,000 (plus an additional initial aggregate Principal Amount of up to \$6,000,000 if the underwriters of the Notes exercise the over-allotment option granted to them in that certain Underwriting Agreement dated as of July 15, 2013 between the Company and Sterne, Agee & Leach, Inc., as representative of the underwriters (the “Underwriting Agreement”)), which shall bear the title of “8.5% Senior Notes due 2020”. Such Notes shall constitute a series of Senior Debt Securities under the Indenture. The Stated Maturity of the Notes shall be July 30, 2020. The Notes shall be issued in minimum denominations of \$25.00 Principal Amount and integral multiples thereof. The Company hereby requests that the Trustee record the amount of the Notes in the Trustee’s records initially as 1.6 million units each in denominations of \$25.00 Principal Amount (plus up to an additional 240,000 units each in denominations of \$25.00 Principal Amount if the underwriters of the Notes exercise the over-allotment option granted to them in the Underwriting Agreement).

(b) The aggregate principal amount of the Notes that may be authenticated and delivered under the Indenture is unlimited. Without notice to, or the consent of, any Holders of the Notes, but subject to compliance with Section 4.01 hereof, additional Notes (“Additional Notes”) may be created and issued from time to time by the Company ranking pari passu with and having the same terms as the Notes issued on the Issue Date (except any Additional Notes may have a different date of issue, a different initial interest accrual date and a different first Interest Payment Date) and shall be considered the same class and series of Debt Securities as the Notes issued on the Issue Date for all purposes under the Indenture.

(c) The Notes are to be issued in the form of a Global Security. The beneficial owners of interests in such Global Security may not exchange such interests for Debt Securities of such series other than in the manner provided in Section 2.12 of the Base Indenture. The Depository for the Notes shall be The Depository Trust Company, New York, New York, or any successor thereto registered as a clearing agency pursuant to the provisions of Section 17A of the Exchange Act, or other applicable statute or regulation (the “Depository”). If individual certificates of the Notes are issued under the conditions specified in Section 2.12 of the Base Indenture, individual certificates will be issued in denominations of \$25 Principal Amount or any integral multiple thereof.

(d) The Notes shall bear interest at the rate of 8.5% per annum, and such interest shall accrue from the most recent Interest Payment Date to which interest has been paid or duly provided for, or if no interest has been paid or duly provided for, from July 22, 2013. The Interest Payment Dates for the Notes shall be January 30, April 30, July 30 and October 30 in each year commencing October 30, 2013, and the Regular Record Date for the interest payable on any Interest Payment Date shall be the January 15, April 15, July 15 and October 15, respectively, immediately preceding such Interest Payment Date (whether or not a Business Day). The amount of interest payable for any period shall be computed on the basis of twelve 30-day months and a 360-day year; *provided* that the amount of interest payable for any period shorter than a full quarterly interest period shall be computed on the basis of the number of days elapsed in a 90-day quarter of three 30-day months.

(e) The principal of, premium, if any, and interest on the Notes shall be payable at the Corporate Trust Office of the Trustee located in the City of New York, New York; *provided, however*, that interest may be payable at the option of the Company by check mailed to the address of the Person entitled thereto as such address shall appear on the Note register on the Regular Record Date for such interest payment.

(f) Subject to the provisions set forth in Section 5.2 of the Base Indenture, the Notes are subject to redemption in whole or in part, at any time on and after July 30, 2016 at the option and direction of the Company at a Redemption Price equal to 100% of the principal amount of the Notes to be redeemed plus accrued and unpaid interest to, but not including, the Redemption Date.

(g) The Notes shall not be subject to any sinking fund.

(h) The Notes shall be repurchased at the option of Holders in accordance with Section 4.04 upon a Change of Control at a price of 101% of the principal amount of the Notes, plus accrued and unpaid interest to the date of repurchase.

(i) The Notes and the Trustee's Certificate of Authentication to be borne thereby shall be substantially in the form set forth in Appendix A hereto, with such appropriate variations, omissions and insertions as are permitted or required by the Indenture. The terms of the Notes set forth in such form are incorporated herein by reference. No Note shall be entitled to any benefit under the Indenture or be valid or obligatory for any purpose, unless there appears on such Note a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

(j) Unless otherwise provided in the form of Note, all Notes shall be dated the date of their authentication.

(k) Interest which is payable, and is punctually paid or duly provided for, on any Interest Payment Date, on any Note, shall unless otherwise provided in such Note be paid to the Person in whose name the Note is registered at the close of business on the Regular Record Date for such interest.

ARTICLE 3

Redemption of Notes

Section 3.01. Optional Redemption. On or after July 30, 2016, the Company may at its option redeem and pay before Stated Maturity all or any part of the Notes at a Redemption Price equal to 100% of the principal amount redeemed plus accrued and unpaid interest to, but not including, the Redemption Date. Notes may be redeemed in part in minimum denominations of \$25.00 or any integral multiples of \$25.00 in excess thereof. Redemption of the Notes shall be made in accordance with the terms of Article V of the Base Indenture which are not inconsistent with the terms of this Article 4 and the form of Notes attached hereto.

ARTICLE 4

Additional Covenants of the Company

In addition to the covenants set forth in Article IV of the Base Indenture, the following covenants shall apply only to the Notes:

Section 4.01. Limitation on Indebtedness.

(a) The Company shall not, and shall not permit any Subsidiary to, Incur any Indebtedness; provided, however, that the Company or any Subsidiary may Incur Indebtedness if, after giving effect to the Incurrence of such Indebtedness and the receipt and application of the proceeds therefrom, the Consolidated Interest Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is Incurred would be at least 2.0 to 1.

(b) Notwithstanding the foregoing, the Company and its Subsidiaries may Incur any of the following items of Indebtedness (collectively, "Permitted Debt"):

(1) the Incurrence by the Company or any of its Subsidiaries of Indebtedness under Credit Facilities in an aggregate principal amount at any one time outstanding pursuant to this clause (1) not to exceed \$500.0 million;

(2) the Incurrence of Existing Indebtedness;

(3) the Incurrence of Indebtedness represented by the Notes issued on the Issue Date and any Additional Notes issued as a result of the exercise by the underwriters of their right to purchase up to \$6 million aggregate Principal Amount of Notes under the Underwriting Agreement within 30 days of the date of the prospectus supplement;

(4) the Incurrence by the Company or any of its Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, Incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in the business of the Company or such Subsidiary (including any reasonably related fees or expenses Incurred in connection with such acquisition, construction or improvement), in an aggregate amount, including all Permitted Refinancing Indebtedness Incurred to refund, refinance or replace any Indebtedness Incurred pursuant to this clause (4), not to exceed \$10.0 million at any time outstanding;

(5) the Incurrence by the Company or any of its Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net cash proceeds of which are used to refund, refinance or replace Indebtedness that was permitted by Section 4.01(a) or clauses (2), (3), (4), (5), (14) or (15) of this Section 4.01(b);

(6) the Incurrence by the Company or any of its Subsidiaries of Indebtedness owing to and held by the Company or any other Subsidiary; provided, however, that any event that results in any such Indebtedness being held by a Person other than the Company or a Subsidiary of the Company (except for any pledge of such Indebtedness until the pledgee commences actions to foreclose on such Indebtedness) will be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Company or such Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) Indebtedness of the Company or any of its Subsidiaries consisting of a Guarantee of, or a Lien securing, Indebtedness of the Company or a Subsidiary that was permitted to be Incurred by another provision of this Section 4.01;

(8) the Incurrence by the Company or any of its Subsidiaries of any Hedging Obligation that is Incurred in the ordinary course of business for the purpose of managing risks and returns associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by the Company or such Subsidiary, or changes in the value of securities issued by the Company or such Subsidiary, and not for speculative purposes;

(9) the Incurrence by the Company or any of its Subsidiaries of Indebtedness arising from agreements providing for indemnification, adjustment of purchase price, earn-outs or similar obligations, or Guarantees or letters of credit, surety bonds or performance bonds securing any obligations of the Company or any Subsidiary pursuant to such

agreements, in any case Incurred in connection with the acquisition or disposition of any business, or assets or Capital Stock of a Subsidiary (other than Guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, or assets or Capital Stock of a Subsidiary for the purpose of financing such acquisition), so long as, in the case of any disposition, the amount does not exceed the gross proceeds actually received by the Company or any Subsidiary, including the Fair Market Value of non-cash proceeds;

(10) the Incurrence by the Company or any of its Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided, however, that such Indebtedness is extinguished within seven Business Days of its Incurrence;

(11) the Incurrence by the Company or any of its Subsidiaries of Indebtedness constituting reimbursement obligations with respect to letters of credit issued for their account in the ordinary course of business with respect to trade payables relating to the purchase of property by such Persons and (b) other letters of credit, surety, performance, appeal or similar bonds, banker's acceptances, completion guarantees or similar instruments issued in the ordinary course of business of the Company or any Subsidiary, including letters of credit or similar instruments pursuant to self-insurance and workers' compensation obligations; provided that, upon the drawing of such letters of credit or the Incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or Incurrence; provided, further, that with respect to clauses (a) and (b) above, such Indebtedness is not in connection with the borrowing of money or the obtaining of advances;

(12) the Incurrence by the Company or any of its Subsidiaries of Indebtedness to the extent the net cash proceeds thereof are promptly deposited to defease or to satisfy and discharge the Notes pursuant to Article Eight herein;

(13) Indebtedness represented by repurchase transactions with respect to commodities entered into by any Subsidiary of the Company in the ordinary course of business with non-Affiliates so long as (a) the obligations of the counterparty are valid, enforceable and in full force and effect and (b) the aggregate amount of Indebtedness outstanding under all such repurchase transactions shall not exceed \$150.0 million;

(14) Indebtedness Incurred and outstanding on or prior to the date on which such Person was acquired by the Company or any Subsidiary or assumed by the Company or any Subsidiary at the time of acquisition of all or any portion of the assets (or any business or product line) of another Person (other than Indebtedness Incurred in contemplation of or in connection with or to provide all or any portion of the funds or credit support utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Subsidiary or was acquired by the Company); provided, however, that the aggregate principal amount of all the Indebtedness Incurred and then outstanding pursuant to this clause (14), including all Permitted Refinancing Indebtedness Incurred to refund, refinance or replace any Indebtedness Incurred pursuant to this clause (14) and then outstanding, does not exceed \$25.0 million; or

(15) the Incurrence by the Company or any of its Subsidiaries of additional Indebtedness in an aggregate amount at any one time outstanding, including all Permitted Refinancing Indebtedness Incurred to refund, refinance or replace any Indebtedness Incurred pursuant to this clause (15), not to exceed \$25.0 million.

(c) For purposes of determining compliance with this covenant, in the event that any proposed Indebtedness meets the criteria of more than one of the categories described in clauses (1) through (15) of Section 4.01(b), or is entitled to be Incurred pursuant to Section 4.01(a), the Company shall be permitted to classify, and may later reclassify, such item of Indebtedness or a part thereof in any manner that complies with this covenant. Notwithstanding the foregoing, Indebtedness under the Existing Credit Agreements outstanding on the Issue Date will be deemed to have been Incurred on such date in reliance on the exception provided by clause (1) of Section 4.01(b) above.

(d) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. Dollar Equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred (or first committed, in the case of revolving credit debt); provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced plus the related costs and fees of such refinancing.

(e) The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

(f) If obligations in respect of letters of credit are Incurred pursuant to the Credit Facility and are being treated as Incurred pursuant to clause (1) of Section 4.01(b) and the letters of credit relate to other Indebtedness, then such other Indebtedness shall be deemed not Incurred.

Section 4.02. Limitation on Liens on Assets Securing Company Debt Securities. The Company shall not create, incur, assume or otherwise cause or suffer to exist or become effective any Lien of any kind upon the property or assets of the Company or any Subsidiary, now owned or hereafter acquired, securing any Company Debt Securities unless all payments due under the Indenture and the Notes are secured by a Lien on such property or assets on an equal and ratable basis with the Company Debt Securities so secured (or, in the case of Company Debt Securities subordinated to the Notes, senior in priority thereto, with the same relative priority as the Notes will have with respect to such subordinated Company Debt Securities) until such time as such Company Debt Securities are no longer secured by a Lien.

Section 4.03. Limitation on Subsidiary Guarantees of Company Debt Securities. The Company shall not permit any Subsidiary, directly or indirectly, to Guarantee any Company Debt

Securities unless such Subsidiary executes and delivers to the Trustee a supplemental indenture providing for the Guarantee of the Notes by such Subsidiary, which Guarantee of the Notes will rank equally in right of payment with such Subsidiary's Guarantee of the Company Debt Securities (unless the Company Debt Securities are subordinated in right of payment to the Notes, in which case the Guarantee of the Company Debt Securities shall be subordinated to the Guarantee of the Notes to the same extent as the Company Debt Securities are subordinated to the Notes). Any Guarantee of the Notes will be automatically released when the Company Debt Securities are no longer outstanding or the Guarantee of the Company Debt Securities is released or terminated, in each case, other than as a result of a payment thereon by the Subsidiary.

Section 4.04. Repurchase of Notes at the Option of Holders upon a Change of Control.

(a) Upon the occurrence of a Change of Control, unless the Company has previously or concurrently exercised its right to redeem all of the Notes pursuant to Section 3.01 hereof, the Company shall be obligated to make an offer (a "Change of Control Offer"), and shall offer a payment (a "Change of Control Payment") in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest on the Notes repurchased, to the date of settlement (the "Change of Control Settlement Date"), subject to the right of Holders of record on the relevant record date to receive interest due on an Interest Payment Date that is on or prior to the Change of Control Settlement Date.

(b) Within 30 days following any Change of Control, unless the Company has previously or concurrently exercised its right to redeem all of the Notes pursuant to Section 3.01, the Company shall send, by first class mail, a notice to each holder, with a copy to the Trustee, which notice shall govern the terms of the Change of Control Offer. The notice to the Holders shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Change of Control Offer. Such notice shall state:

- (1) a description of the transaction or transactions that constitute the Change of Control;
- (2) that the Change of Control Offer is being made pursuant to this Section 4.04 and that all Notes properly tendered and not withdrawn prior to the expiration date specified in the notice shall be accepted for payment;
- (3) the purchase price (including the amount of accrued interest) and the Change of Control Settlement Date, which shall be a Business Day that is not earlier than 30 days nor later than 60 days from the date such notice is mailed, other than as may be required by law;
- (4) that any Note not tendered shall continue to accrue interest;
- (5) that, unless the Company defaults in making payment therefor, any Note accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date;
- (6) that Holders electing to have a Note purchased pursuant to a Change of Control Offer shall be required to surrender the Note, with the form entitled "Option of

Holder to Elect Purchase” on the reverse of the Note completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day prior to the Change of Control Settlement Date;

(7) that Holders shall be entitled to withdraw their election if the Paying Agent receives, not later than the third Business Day prior to the Change of Control Settlement Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the Principal Amount of the Notes the Holder delivered for purchase and a statement that such Holder is withdrawing its election to have such Note purchased;

(8) that Holders whose Notes are purchased only in part shall be issued new Notes in a Principal Amount equal to the unpurchased portion of the Notes surrendered; and

(9) that the Change of Control is subject to certain conditions if applicable, and the Change of Control Offer is revocable in the event such conditions are not met.

(c) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act, and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.04, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.04 by virtue of such conflict.

(d) Promptly following the expiration of the Change of Control Offer, the Company shall, to the extent lawful, accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer. Promptly after such acceptance, the Company shall on the Change of Control Settlement Date:

(1) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(2) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers' Certificate stating the aggregate Principal Amount of Notes or portions of Notes being purchased by the Company and an Opinion of Counsel.

(e) On the Change of Control Settlement Date, the Paying Agent will mail to each Holder of Notes properly tendered the Change of Control Payment for such Notes (or, if all the Notes are then in the form of a Global Security, make such payment through the facilities of the Depository), and the Trustee will authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided, however, that each new Note will be in a principal amount of \$25.00 or an integral multiple thereof. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Settlement Date.

(f) This Section 4.04 will be applicable whether or not any other provisions of the Indenture are applicable.

(g) Notwithstanding the foregoing, the Company shall not be required to make a Change of Control Offer upon a Change of Control if (1) a third party (including one of the Company's Subsidiaries) makes the Change of Control Offer in the manner, at the time and otherwise in compliance with this Section 4.04 applicable to a Change of Control Offer made by the Company and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer or (2) notice of redemption of all outstanding Notes has been given pursuant to Article 3 of this Supplement No. 1 and Article V of the Base Indenture, unless and until there is a default in payment of the applicable Redemption Price.

(h) Notwithstanding the foregoing, a Change of Control Offer by the Company or a third party may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made.

ARTICLE 5

Remedies Upon Event Of Default

Section 5.01. Events of Default. The terms "Event of Default" and "Events of Default" as defined in Section 7.1 of the Base Indenture are amended and restated with respect to the Notes only to mean, wherever used herein or in the Base Indenture, any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of any installment of interest upon the Notes as and when the same shall become due and payable, and continuance of such default for a period of 30 days;

(b) default in the payment of the principal of and premium, if any, on any Note as and when the same shall become due and payable either at maturity, upon redemption, by declaration of acceleration or otherwise;

(c) failure on the part of the Company to observe or perform any of the covenants, warranties or agreements in respect of the Notes in the Indenture (other than a covenant, warranty or agreement a default in whose performance or whose breach is specifically dealt with elsewhere in this Section 7.1) and such failure continues for a period of 60 days after the date on which written notice of such failure, specifying such failure and requiring the same to be remedied, shall have been given by registered mail to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate Principal Amount of the Notes Outstanding;

(d) a decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Company or any Significant Subsidiary of the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Company or any Significant Subsidiary of the Company under any Bankruptcy Law, and such decree or order shall have continued undischarged and unstayed for a period of 90 days; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver or liquidator or trustee or

assignee or other similar official in bankruptcy or insolvency of the Company or any Significant Subsidiary of the Company or of all or substantially all of its property, or for the winding up or liquidation of its affairs, shall have been entered, and such decree or order shall have continued undischarged and unstayed for a period of 90 days;

(e) the Company or any Significant Subsidiary of the Company shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking an arrangement or a reorganization under any Bankruptcy Law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or liquidator or trustee or assignee or other similar official in bankruptcy or insolvency of it or of all or substantially all of its property, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due;

(f) if any event of default as defined in any mortgage, indenture or instrument under which there may be issued, or by which there may be secured or evidenced, any Indebtedness of the Company or any Significant Subsidiary of the Company, whether such Indebtedness now exists or is hereafter created or incurred, happens and consists of default in the payment of more than \$25,000,000 in principal amount of such Indebtedness at the maturity thereof, after giving effect to any applicable grace period, or results in such Indebtedness in principal amount in excess of \$25,000,000 becoming or being declared due and payable prior to the date on which it would otherwise become due and payable, and such default is not cured or such acceleration is not rescinded or annulled within a period of 60 days after the date on which written notice of such failure, specifying such failure and requiring the same to be remedied, shall have been given by registered mail to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes Outstanding; or

(g) the failure by the Company or any Significant Subsidiary of the Company within 60 days to pay, bond or otherwise discharge any uninsured judgment or court order for the payment of money in excess of \$25,000,000, which is not stayed on appeal or is not otherwise being appropriately contested in good faith.

Section 5.02. Unconditional Right of Holders to Receive Principal, Premium and Interest. Notwithstanding any other provision in the Indenture, the Holder of any Note shall have the rights, which are absolute and unconditional, to receive payment of the Principal of, premium, if any, and (subject to Section 2.01(k)) interest on such Note on the respective Stated Maturities expressed in such Note (or in the case of redemption or repayment, on the date for redemption or repayment, as the case may be) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 5.03. Except as provided above in Section 5.01, all other provisions of Article VIII of the Base Indenture shall remain in full force and effect as applicable to the Notes.

ARTICLE 6

Action by Holders

Section 6.01. Action by Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by the Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “Act” of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of the Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in Section 8.1 of the Base Indenture.

(b) The ownership of Notes shall be proved by the register.

(c) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of Outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Notes shall be computed as of such record date; provided that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of the Indenture not later than six months after the record date.

ARTICLE 7

Consolidation, Merger, Sale And Conveyance

With respect to the Notes only, Article X of the Base Indenture is amended and restated as follows:

“Section 10.1. Company May Consolidate, etc., on Certain Terms. Nothing contained in the Indenture or in any of the Notes shall prevent any consolidation or merger of the Company with or into any other Person (whether or not affiliated with the Company), or successive consolidations or mergers in which the Company or its successor or successors shall be a party or parties, or shall

prevent any sale, conveyance or lease of all or substantially all of the property of the Company to any other Person (whether or not affiliated with the Company) authorized to acquire and operate the same; *provided, however*, and the Company hereby covenants and agrees, that any such consolidation, merger, sale, conveyance or lease shall be upon the condition that (a) immediately after such consolidation, merger, sale, conveyance or lease the Person (whether the Company or such other Person) formed by or surviving any such consolidation or merger, or to which such sale, conveyance or lease shall have been made, shall not be in default in the performance or observance of any of the terms, covenants and conditions of the Indenture to be kept or performed by the Company; (b) the Person (if other than the Company) formed by or surviving any such consolidation or merger or to which such sale, conveyance or lease shall have been made, shall be a Person organized under the laws of the United States of America or any state thereof; and (c) the due and punctual payment of the Principal of and premium, if any, and interest on all of the Notes and the due and punctual performance and observance of all of the covenants and conditions of the Indenture to be performed or observed by the Company, shall be expressly assumed, by supplemental indenture satisfactory in form to the Trustee, executed and delivered to the Trustee by the Person (if other than the Company) formed by such consolidation, or into which the Company shall have been merged, or by the Person which shall have acquired or leased such property.

Section 10.2. Successor Entity to be Substituted. In case of any such consolidation, merger, sale, conveyance or lease and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the Principal of and premium, if any, and interest on all of the Notes and the due and punctual performance and observance of all of the covenants and conditions of the Indenture to be performed or observed by the Company, such successor Person shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the party of the first part, and (except in the event of a conveyance by way of lease) the predecessor Person shall be relieved of any further obligation under the Indenture and the Notes.

In case of any such consolidation, merger, sale, conveyance or lease such changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

Section 10.3. Opinion of Counsel to Be Given to Trustee. The Trustee, subject to Section 11.1 of the Base Indenture, shall receive an Officer's Certificate and Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale, conveyance or lease and any such assumption complies with the provisions of this Article Ten and that all conditions precedent herein provided relating to such transactions have been complied with."

ARTICLE 8

Satisfaction, Discharge And Defeasance Of Indenture

With respect to the Notes only, Article VI of the Base Indenture is amended and restated as follows:

Section 6.1. Satisfaction, Discharge and Legal Defeasance of the Notes. The Company shall be deemed to have paid and discharged the entire indebtedness on all the Notes, the provisions

of the Indenture (except as to (x) the rights of Holders of Notes to receive, from the money and U.S. Government Obligations deposited with the Trustee pursuant to Section 6.2(a) or the interest and principal received by the Trustee in respect of such U.S. Government Obligations, payment of the principal of (and premium, if any) and any interest on such Notes on the Stated Maturities thereof or upon the Redemption Dates for Notes required to be redeemed pursuant to any call for redemption relating to the Notes, (y) the Company's rights and obligations with respect to such Notes under Sections 2.6, 2.10, 2.12, 4.1, 4.2, 4.3, 4.4, 4.8, Article VI, 11.2, 11.6 and 11.7 of the Indenture, and (z) the rights, powers, trusts, duties and immunities of the Trustee with respect to the Notes) as it relates to such Notes shall no longer be in effect, and the Trustee, at the expense of the Company, shall, upon Company Request, execute proper instruments acknowledging the same if:

(a) (1) all Notes therefore authenticated and delivered (other than (A) Notes which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.9 of the Base Indenture and (B) Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Sections 6.3 and 6.4) have been delivered to the Trustee for cancellation;

(2) the Company has paid or caused to be paid in the currency required all other sums payable under the Indenture in respect of the Notes, including all amounts owing to the Trustee under Section 11.2 of the Base Indenture; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel each stating that all conditions precedent herein provided for relating to the satisfaction of the entire indebtedness of all Notes and the discharge of the Indenture as it relates to such Notes have been complied with; or

(b) (1) all such Notes not theretofore delivered to the Trustee for cancellation (A) have become due and payable, or (B) will become due and payable at their Stated Maturity within one year, or (C) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense of the Company;

(2) the condition described in paragraph (a) of Section 6.2 has been satisfied; and

(3) the conditions described in paragraphs (a)(2) and (a)(3) of this Section 6.1 have been satisfied; or

(c) (1) the conditions referred to in Section 6.2 and paragraph (a)(2) of this Section 6.1 have been satisfied;
and

(2) the Company has delivered to the Trustee an opinion of a nationally-recognized independent tax counsel confirming that the Company shall have received from, or there shall have been published by, the United States Internal Revenue Service a ruling or since the date of the Indenture there has been a change in the applicable Federal income tax law, in either case, to the effect that, and based thereon such opinion of counsel will confirm that, Holders of the Notes will not recognize income, gain or loss for Federal income

tax purposes as a result of such deposit and the defeasance contemplated by this paragraph (c) of this Section 6.1 and will be subject to Federal income tax on the same amounts and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred.

Section 6.2. Covenant Defeasance of the Notes. The provisions of the Indenture (except as to (x) the rights of Holders of Notes of any series to receive, from the money and U.S Government Obligations deposited with the Trustee pursuant to paragraph (a) below or the interest and principal received by the Trustee in respect of such U.S Government Obligations, payment of the principal of (and premium, if any) and any interest on such Notes on the Stated Maturities thereof or upon the Redemption Dates for Notes required to be redeemed pursuant to any call for redemption relating to the Notes, (y) the Company's rights and obligations with respect to such Notes under Sections 2.6, 2.10, 2.12, 4.1, 4.2, 4.3, 4.4, 4.8, Article VI, 11.2, 11.6 and 11.7 of the Indenture and Article VII (other than subsection (c) of the definition of Events of Default, to the extent relating to the covenants defeased hereby) of the Indenture and (z) the rights, powers, trusts, duties and immunities of the Trustee with respect to the Notes) as it relates to the Notes shall no longer be in effect, and the Trustee, at the expense of the Company shall, upon Company Request, execute proper instruments acknowledging the same if:

(a) the Company has irrevocably (subject to Section 6.4) deposited or caused to be deposited with the Trustee as trust funds in trust and specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Notes (1) Dollars in an amount, or (2) U.S. Government Obligations which through the payment of interest and principal in respect thereof in accordance with their terms will provide on or before the due date of any payment in respect of the Notes funds in an amount, or (3) a combination thereof, sufficient, after payment of all Federal, state and local taxes in respect thereof payable by the Trustee, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, which opinion need only be provided if U.S. Government Obligations shall have been deposited, to pay and discharge the principal of (and premium, if any) and each installment of principal (and premium, if any) and interest on the Notes Outstanding of that series to the Stated Maturity of such principal or interest or to the Redemption Dates for Notes required to be redeemed pursuant to any mandatory sinking fund or analogous provisions relating to the Notes or pursuant to any call for redemption relating to the Notes on each day on which such payments are due and payable in accordance with the terms of the Indenture and such Notes;

(b) no Event of Default or event which with notice or lapse of time would become an Event of Default shall have occurred and be continuing on the date of the deposit referred to in paragraph (a) of this Section 6.2 or, insofar as an Event of Default described in paragraph (d) or (e) of the definition thereof are concerned, at any time during the period ending on the 91st day after the date of such deposit or, if longer, ending on the day following the expiration date of the longest preference period applicable to the Company in respect of the deposit (and this condition will not be deemed satisfied until the expiration of such period; *provided, however*, that should this condition fail to be satisfied on or before such ninety-first day, the Trustee shall promptly, upon satisfactory receipt of evidence of such failure, return such deposit to the Company);

(c) the interest of the Holders in such deposit shall have been duly perfected under the applicable provisions of the Uniform Commercial Code;

(d) such defeasance shall not (A) cause the Trustee to have a conflicting interest as defined in Section 11.4 of the Base Indenture or for purposes of the Trust Indenture Act with respect to any securities of the Company or (B) result in the trust arising from such deposit to constitute, unless it is qualified as, a regulated investment company under the Investment Company Act of 1940, as amended;

(e) such defeasance shall not result in a breach or violation of, or constitute a default under, the Indenture or any other agreement or instrument to which the Company is a party or by which it is bound;

(f) the Company has delivered to the Trustee an Opinion of Counsel of a nationally-recognized independent tax counsel confirming that the Holders of the Notes will not recognize income, gain or loss for Federal income tax purposes as a result of such deposit and the defeasance contemplated by this Section 6.2 and will be subject to Federal income tax on the same amounts and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred; and

(g) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the defeasance contemplated by this Section have been complied with.

Section 6.3. Application of Trust Funds; Indemnification.

(a) Subject to the provisions of Section 6.4, all money and U.S. Government Obligations deposited with the Trustee pursuant to Section 6.1 or 6.2 and all money received by the Trustee in respect of U.S. Government Obligations deposited with the Trustee, shall be held in trust and applied by it, in accordance with the provisions of the Notes and the Indenture, to the payment, either directly or through any paying agent (including the Company acting as its own paying agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money and U.S. Government Obligations have been deposited with or received by the Trustee as contemplated by Section 6.1 or 6.2.

(b) The Company shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against U.S. Government Obligations deposited pursuant to Section 6.1 or 6.2 or the interest and principal received in respect of such obligations, other than any such tax, fee or other charge payable by or on behalf of Holders. The Company shall be entitled to prompt notice of an assessment or the commencement of any proceeding for which indemnification may be sought hereunder and, at its election, to contest such assessment or to participate in, assume the defense of, or settle such proceeding.

(c) The Trustee shall deliver or pay to the Company from time to time upon Company Request any U.S. Government Obligations or money held by it as provided in Section 6.1 or 6.2 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, which opinion need only be provided if U.S. Government Obligations shall have been deposited, are then in excess of the amount

thereof which then would have been required to be deposited for the purpose for which such obligations or money were deposited or received.

Section 6.4. Return of Unclaimed Moneys. Any moneys deposited with or paid to the Trustee or any paying agent for payment of the principal of and premium, if any, or interest on the Notes and not applied but remaining unclaimed by the Holders of Notes for two years after the date upon which the principal of and premium, if any, or interest on such Notes, as the case may be, shall have become due and payable, shall be repaid to the Company by the Trustee or such paying agent on Company Request; and the Holder of any of the Notes entitled to receive such payment shall thereafter look only to the Company for any payment thereof and all liability of the Trustee or such paying agent with respect to such moneys shall thereupon cease.

Section 6.5. Reinstatement. If the Trustee is unable to apply any money or U.S. Government Obligations in accordance with Sections 6.1 or 6.2 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under the Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Sections 6.1 or 6.2 until such time as the Trustee is permitted to apply all such money or U.S. Government Obligations in accordance with Sections 6.1 or 6.2; *provided that*, if the Company has made any payment of principal of or interest on the Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee.

ARTICLE 9

Supplemental Indentures

Section 9.01. With respect to the Notes only, Section 12.1 of the Base Indenture is hereby amended as follows:

(1) Clause (a) of Section 12.1 of the Base Indenture is amended and restated to read as follows:

“(a) to add to the covenants applicable to the Company such further covenants, restrictions, conditions or provisions as the Company's Board of Directors shall consider to be for the protection of the Holders of Notes, and to make the occurrence, or the occurrence and continuance, of a default in any of such additional covenants, restrictions, conditions or provisions a default or Event of Default with respect to the Notes permitting the enforcement of all or any of the several remedies provided in the Indenture; provided, however, that in respect of any such additional covenant, restriction or condition, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such default or may limit the remedies available upon such default;”

(2) Clause (c) of Section 12.1 of the Base Indenture is amended and restated to read as follows:

“(c) to make other provisions in regard to matters or questions arising under the Indenture as shall not adversely affect the interests of the Holders and to make any change that would provide additional rights or benefits to the Holders of any or all series or that does not adversely affect the legal rights under the Indenture of any such Holder;”

Section 9.02. With respect to the Notes only, the first paragraph of Section 12.2 of the Base Indenture is here amended and restated to read as follows:

“**Section 12.2 Amendments with Consent of Holders.** With the consent (evidenced as provided in Section 8.01) of the Holders of at least a majority in aggregate Principal Amount of the Notes at the time Outstanding, the Company, when authorized by a resolution of its Board of Directors, may from time to time and at any time enter into an indenture or supplemental indentures with the Trustee for the purpose of adding any provision to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the right of the Holders of such Notes; provided, however, without the consent of the Holders of all Notes Outstanding, no such supplemental indenture shall:

(1) change the Stated Maturity of the Principal of, or any premium or installment of interest on, any Note;

(2) reduce the Principal Amount of, or the rate, or modify the calculation of such rate, of interest on, or any premium payable upon the redemption of, any Note;

(3) reduce the Principal Amount of an original issue discount security that would be due and payable upon a declaration of acceleration of the maturity thereof or the amount thereof provable in bankruptcy;

(4) change the redemption provisions of any Note or adversely affect the right of repayment at the option of any Holder of any Note;

(5) change the place of payment or the coin or currency in which the Principal of, any premium or interest on any Note is payable;

(6) impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity of any Note or, in the case of redemption, on or after the Redemption Date or, in the case of repayment at the option of any Holder, on or after the repayment date;

(7) modify any of the provisions of the Indenture relating to the offices for notices and payments, filling vacancies in the Trustee’s office, and Paying Agent provisions in a manner adverse to Holders of the Notes; or

(8) reduce the percentage of the Notes, the Holders of which are required to consent to:

- any supplemental indenture;
- rescind and annul a declaration that the Notes are due and payable as a result of the occurrence of an Event of Default; and
- waive any past Event of Default under the Indenture and its consequences.

ARTICLE 10

Miscellaneous Provisions

Section 10.01. Table of Contents, Headings, etc. The table of contents and the titles and headings of the articles and sections of this Supplement No. 1 have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

Section 10.02. Execution in Counterparts. This Supplement No. 1 may be executed in any number of counterparts, each of which shall be an original and such counterparts shall together constitute but one and the same instrument.

Section 10.03. Recitals. The Recitals of the Company preceding Article 1 of this Supplement No. 1 are statements of the Company, and the Trustee has no responsibility for the accuracy or completeness thereof. The Trustee makes no representations as to the validity or sufficiency of this Supplement No. 1. All rights, protections, privileges, indemnities and benefits granted or afforded to the Trustee under the Indenture shall be deemed incorporated herein by this reference and shall be deemed applicable to all actions taken, suffered or omitted by the Trustee under this Supplement No. 1.

Section 10.04. Supplement. The provisions of this Supplement No. 1 supplement and amend the provisions of the Indenture, which shall apply to this Supplement No. 1 and the Notes. Except as specifically supplemented and amended by this Supplement No. 1, the terms and provisions of the Indenture shall remain in full force and effect.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Supplement No. 1 to be executed as of the day and year first above written.

INTL FCSTONE INC.

By: /s/ William J. Dunaway

Name: William J. Dunaway

Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Francine Kincaid

Name: Francine Kincaid

Title: Vice President

Signature Page to Indenture Supplement No. 1

[FORM OF 8.5% SENIOR NOTE DUE 2020]

THIS NOTE IS A GLOBAL SECURITY REGISTERED IN THE NAME OF THE DEPOSITORY (REFERRED TO HEREIN) OR A NOMINEE THEREOF AND UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL NOTES REPRESENTED HEREBY, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF THE NOMINEE OF THE DEPOSITORY OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO THE NOMINEE OF THE DEPOSITORY OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY),

ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, THE NOMINEE OF THE DEPOSITORY, HAS AN INTEREST HEREIN.

INTL FCSTONE INC.

8.5% SENIOR NOTES DUE 2020

No. _____ \$ _____

CUSIP No. 46116V204

ISIN No.: US46116V2043

INTL FCStone Inc., a corporation duly organized and existing under the laws of the State of Delaware (herein called the “Company”, which term includes any successor Person under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to _____¹, or registered assigns, the Principal sum of _____ United States Dollars (U.S.\$_____) on July 30, 2020 and to pay interest thereon, from July 22, 2013, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to but excluding the next Interest Payment Date, quarterly in arrears on each January 30, April 30, July 30 and October 30 of each year, commencing October 30, 2013, at the per annum rate of 8.5%, until the Principal hereof is paid or made available for payment.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note is registered at the close of business on the Regular Record Date for such interest, which shall be the January 15, April 15, July 15 and October 15, as the case may be, immediately prior to such Interest Payment Date. Interest will be computed on the basis of a 360-day year composed of twelve 30-day months; *provided* that interest payable for any period shorter than a full quarterly interest period shall be computed on the basis of the number of days elapsed in a 90-day quarter of three 30-day months. If any Interest Payment Date, Redemption Date or the Stated Maturity of this Note is not a Business Day, then payment of interest or Principal shall be made on the next succeeding Business Day with the same force and effect as if made on the date such payment was due, and no interest shall accrue for the period after such date to the date of such payment on the next succeeding Business Day.

Payments of Principal and interest on this Global Security will be made at the Corporate Trust Office of the Trustee in the City of New York, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. With respect to Global Securities, the Company will make such payments by wire transfer of immediately available funds to the Depository, or its nominee, as registered owner of the Global Securities; *provided* that in case of payments of Principal, such Global Security is first surrendered to the Paying Agent. With respect to certificated Notes, the Company will make such payments, subject to such surrender in the case of payments of Principal, by wire transfer of immediately available funds to a United States Dollar account maintained in the United States designated by the Person entitled thereto by written instructions furnished to the Company and the Trustee at least ten (10) days prior to the applicable date for payment or if such Person does not so furnish such wire instructions, the Company will make such payments by mailing a check to such Person’s registered address.

¹ For Global Security: “Cede & Co., as nominee of The Depository Trust Company”

This Global Security is one of a duly authorized issue of Debt Securities of the Company (which Debt Securities are issuable in series and are herein called the “Debt Securities”) of the series hereinafter specified, all issued and to be issued under an Indenture dated as of July 22, 2013 (the “Base Indenture”), as supplemented by Supplement No. 1 thereto dated as of July 22, 2013 (“Supplement No. 1”), between the Company and The Bank of New York Mellon, as trustee (such Base Indenture, as amended and supplemented by Supplement No. 1, being herein called the “Indenture” and such trustee or its successor as trustee being herein called the “Trustee”), to which Indenture reference is hereby made for a description of the rights and remedies, and limitations of such rights and remedies, of the Holders of the Debt Securities, of the rights, powers, duties and immunities of the Trustee thereunder, and of the rights and obligations of the Company thereunder. This Debt Security is one of the series designated on the face hereof as the “8.5% Senior Notes due 2020” (herein called the “Notes”) of the Company, issued and to be issued under the Indenture and entitled to the benefits of the Indenture. The Notes constitute a series of Debt Securities under the Indenture.

Debt Securities of series in addition to the Notes, unlimited as to aggregate Principal Amount, may be issued as permitted by and in accordance with the provisions of the Indenture.

The Indenture may be modified by the Company and the Trustee without consent of any Holder with respect to certain matters as described in the Indenture. In addition, the Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Debt Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in Principal Amount of the Outstanding Debt Securities of each series to be affected (each such series voting as a single and separate class). The Indenture also contains provisions permitting the Holders of a majority in Principal Amount of the Outstanding Notes, on behalf of the Holders of all Notes, to waive certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Note shall bind such Holder and all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made upon this Note.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note is registrable in the Note register, upon surrender of this Note for registration of transfer at the office or agency of the Company in any place where the Principal of and interest on this Note are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Note registrar duly executed by the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Notes of this series, of authorized denominations and for the same Stated Maturity and aggregate Principal Amount, will be issued to the designated transferee or transferees.

The Notes are issuable only in registered form without coupons in denominations of \$25 and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, the Notes are exchangeable for a like aggregate Principal Amount of Debt Securities of this series of a different authorized denomination, as requested by the Holder surrendering the same.

If an Event of Default (as defined in the Indenture) shall have occurred and be continuing with respect to the Notes, the Principal of all the Notes may become or be declared due and payable upon the conditions and in the manner and with the effect provided in the Indenture.

On and after July 30, 2016, the Company may redeem all or, from time to time, part of the outstanding Notes at a Redemption Price equal to 100% of the Principal Amount of the Notes to be redeemed plus accrued and unpaid interest to, but not including, the Redemption Date.

Upon the occurrence of a Change of Control, the Company shall offer to repurchase the Notes at 101% of the Principal Amount of the Notes, plus accrued and unpaid interest to, but not including, the date of repurchase.

The Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Note is registered as the owner hereof for all purposes (subject to Section 2.12 of the Base Indenture), whether or not this Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No past, present or future director, Officer, employee, incorporator, agent, Affiliate or shareholder of the Company, as such, shall have any liability for any obligations of the Company under this Note or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder, by accepting a Note, waives and releases all such liabilities. The waiver and release are part of the consideration for the issuance of this Note. The waiver may not be effective to waive liabilities under the federal securities laws.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

All capitalized terms used in this Note without definition which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

[signatures follow]

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated: _____

INTL FCSTONE INC.

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the Notes described in the within-mentioned Indenture.

THE BANK OF NEW YORK MELLON, as Trustee

By: _____
Authorized Signatory

Dated: _____

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM — as tenants in common

UNIF GIFT MIN ACT - _____ Custodian _____

(Cust) (Minor)

TEN ENT — as tenants by the entireties

JT TEN — as joint tenants with rights of

under Uniform Gifts

survivorship and not as tenants in common

Minors Act _____

(State)

Additional abbreviations may also be used though not on the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s) and transfer(s) unto (please insert Social Security or other identifying number of assignee)

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING POSTAL ZIP CODE OF ASSIGNEE

the within Debt Security and all rights thereunder, hereby irrevocably constituting and appointing _____ agent to transfer said Debt Security on the books of the Company, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as written upon the face of the within instrument in every particular without alteration or enlargement, or any change whatever.

Signature Guarantee: _____

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Debt Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Debt Security Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note or a part thereof purchased by the Company pursuant to Section 4.04 of Supplement No. 1, state the amount you elect to have purchased (minimum denomination of \$25.00 and integral multiples thereof):

\$ _____

Date:

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: _____

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SHUTTS & BOWEN LLP
1500 Miami Center
201 South Biscayne Boulevard
Miami, Florida 33131

July 22, 2013

INTL FCStone Inc.
708 Third Avenue, Suite 1500
New York, NY 10017

Re: Registration Statement on Form S-3 (No. 333-186704)

Ladies and Gentlemen:

We have acted as counsel for INTL FCStone Inc., a Delaware corporation (the "Company"), in connection with a Registration Statement on Form S-3 (Registration No. 333-186704) (the "Registration Statement"), including the prospectus constituting a part thereof, dated July 11, 2013, and the prospectus supplement, dated July 15, 2013 (collectively, the "Prospectus"), filed by the Company with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), relating to the issuance and sale by the Company of \$40,000,000 aggregate principal amount of the Company's 8.5% Senior Notes due 2020 (the "Senior Notes") in the manner set forth in the Registration Statement and the Prospectus. The Senior Notes have been issued under the Indenture, dated as of July 22, 2013 (the "Indenture"), between the Company and The Bank of New York Mellon, as Trustee (the "Trustee"), as supplemented by Supplemental No.1 dated July 22, 2013 between the Company and the Trustee, establishing the terms and providing for the issuance of the Senior Notes (the "Supplemental Indenture").

As counsel to the Company in connection with the issuance and sale of the Senior Notes, we have examined: (i) the Registration Statement, including the Prospectus and the exhibits (including those incorporated by reference) constituting a part of the Registration Statement; (ii) the Indenture and the Supplemental Indenture; (iii) the Senior Notes; and (iv) such other proceedings, documents and records as we have deemed necessary to enable us to render the opinions set forth below.

In our examination of the above-referenced documents, we have assumed the genuineness of all signatures, the authenticity of all documents, certificates and instruments submitted to us as originals and the conformity with the originals of all documents submitted to us as copies.

Based upon and subject to the foregoing and the other matters set forth herein, assuming that (i) each of the Indenture and the Supplemental Indenture has been duly authorized, executed and delivered by, and represents the valid and binding obligations of, the Trustee and (ii) the Senior Notes have been duly authenticated by the Trustee, and having regard for such legal considerations as we deem relevant, we are of the opinion that the Senior Notes, when delivered by the Company in the manner and for the consideration contemplated by the Registration Statement and the Prospectus, will be legally issued and valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles (regardless of whether enforcement is considered in a proceeding in equity or at law).

We express no opinion as to any provision of any instrument, agreement or other document (i) regarding severability of the provisions thereof; (ii) providing that the assertion or employment of any right or remedy shall not prevent the concurrent assertion or employment of any other right or remedy, or that every right and remedy shall be cumulative and in addition to every other right and remedy, or that any delay or omission to exercise any right or remedy shall not impair any right or remedy or constitute a waiver thereof; or (iii) regarding consents to, or restrictions upon, governing law, jurisdiction or venue.

As to facts material to the opinions and assumptions expressed herein, we have relied upon oral or written statements and representations of officers and other representatives of the Company and others. The opinions expressed herein are limited to the laws of the State of Delaware and the laws of the New York, in each case as currently in effect, and we express no opinion as to the effect of the laws of any other jurisdiction.

We hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement and to the reference to Shutts & Bowen LLP under the caption "Legal Matters" in the Prospectus constituting a part of such Registration Statement. In giving such consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

Sincerely,

Shutts & Bowen LLP