

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

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

Date of report (Date of earliest event reported): March 2, 2007

Skyworks Solutions, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware

(State or Other Jurisdiction
of Incorporation)

1-5560

(Commission
File Number)

04-2302115

(IRS Employer
Identification No.)

20 Sylvan Road, Woburn, Massachusetts

(Address of Principal Executive Offices)

01801

(Zip Code)

Registrant's telephone number, including area code: (781) 376-3000

Not Applicable

(Former Name or Former Address, if Changed Since Last Report)

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

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry Into Material Definitive Agreement

On March 2, 2007, Skyworks Solutions, Inc. (the “Registrant”) entered into an Indenture and a Registration Rights Agreement as described in Item 2.03 hereof. The descriptions of the Indenture and the Registration Rights Agreement in Item 2.03 hereof are incorporated by reference into this Item 1.01.

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

As previously reported, on February 27, 2007, the Registrant entered into a definitive agreement to sell \$100 million aggregate principal amount of 1¹/₄% convertible subordinated notes due 2010 (the “2010 Notes”) and \$100 million aggregate principal amount of 1¹/₂% convertible subordinated notes due 2012 (the “2012 Notes” and together with the 2010 Notes, the “Notes”) in a private placement to qualified institutional buyers pursuant to Rule 144A of the Securities Act of 1933, as amended (the “Act”). The sale of the Notes was consummated on March 2, 2007.

The terms of the Notes are governed by an indenture between the Registrant and U.S. Bank National Association, as trustee, dated March 2, 2007 (the “Indenture”).

The 2010 Notes will bear interest at a rate of 1¹/₄% per annum, and the 2012 Notes will bear interest at a rate of 1¹/₂% per annum. Interest on the Notes is payable semi-annually in arrears on March 1 and September 1 of each year, beginning on September 1, 2007. The 2010 Notes will mature on March 1, 2010 and the 2012 Notes will mature on March 1, 2012. The Registrant may not redeem the Notes.

The Notes are the Registrant’s unsecured subordinated obligations and will be (i) subordinated in right of payment to all of the Registrant’s existing and future senior indebtedness, except that the Notes will rank equal in right of payment with the Registrant’s 4.75% convertible subordinated notes due November 2007, and (ii) structurally subordinated in right of payment to all indebtedness and liabilities of the Registrant’s subsidiaries, including trade debt and amounts borrowed by the Registrant’s wholly-owned subsidiary, Skyworks USA, Inc., under its credit facility with Wachovia Bank, N.A., under which \$50.0 million was outstanding as of December 29, 2006.

Prior to maturity, a holder of Notes may surrender some or all of its Notes for conversion. Notes will be convertible into cash, shares of the Registrant’s common stock, \$0.25 par value per share (“Common Stock”), or a combination of cash and shares of Common Stock, at the Registrant’s option. Holders may only convert Notes in a principal amount of \$1,000 or an integral multiple of \$1,000. The initial conversion rate for the 2010 Notes and for the 2012 Notes is 105.0696 per \$1,000 principal amount of Notes (which is equivalent to a conversion price of approximately \$9.52 per share), in each case subject to adjustments.

A holder of Notes may require the Registrant to repurchase some or all of its Notes for cash upon the occurrence of a fundamental change, as defined in the Indenture, at a price equal to 100% of the principal amount of the Notes being repurchased, plus accrued and unpaid interest, if any, to, but not including, the date of repurchase.

If a holder of Notes elects to convert its Notes upon the occurrence of a fundamental change, under certain circumstances, the holder will be entitled to receive, in addition to a number of shares of Common Stock equal to the applicable conversion rate, an additional number of shares of Common Stock based on the price of the Common Stock on the effective date of the fundamental change. No additional shares of Common Stock will be issued if the price of the Common Stock at the time of the fundamental change is less than \$7.20 or more than \$40.00 (subject to adjustment).

The following constitute events of default under the Indenture that could, subject to certain conditions, cause the unpaid principal on the Notes to become due and payable:

- (1) a default in the payment when due of any principal of any of the Notes at maturity, exercise of a repurchase right or otherwise (whether or not prohibited by the subordination provisions of the Indenture);
 - (2) a default in the payment of any interest or additional interest when due under the Notes, which default continues for 30 days (whether or not prohibited by the subordination provisions of the indenture);
 - (3) a default in the Registrant's obligation to satisfy its conversion obligation upon exercise of a holder's conversion right, which default continues for 15 days after performance is due;
 - (4) a default in the Registrant's obligation to provide notice of the occurrence of a fundamental change when required by the Indenture;
 - (5) the Registrant's failure to comply with any of its agreements in the Notes or the Indenture upon receipt of notice of such default from the Trustee or from holders of not less than 25% in aggregate principal amount of the Notes then outstanding, and the Registrant's failure to cure (or obtain a waiver of) such default within 60 days after receipt of such notice;
 - (6) the failure by the Registrant or any significant subsidiary to make any payment of principal in excess of \$20.0 million in respect of indebtedness for borrowed money, when and as the same shall become due and payable, whether at maturity or upon acceleration, and such indebtedness is not paid, or such acceleration is not rescinded, by the end of the 30th day after receipt of notice of such default from the Trustee or the holders of not less than 25% in aggregate principal amount of the Notes then outstanding; or
 - (7) certain events of bankruptcy, insolvency or reorganization of the Registrant or any significant subsidiary.
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In connection with the offering of the Notes, the Registrant entered into a registration rights agreement, dated as of March 2, 2007, with Credit Suisse Securities (USA) LLC (the “Registration Rights Agreement”). Pursuant to the Registration Rights Agreement, the Registrant agreed to file a shelf registration statement on Form S-3 with respect to the Notes and the shares of Common Stock issuable upon conversion of the Notes not later than 120 days after the original issuance of the Notes and to use its commercially reasonable efforts to have this shelf registration statement declared effective not later than 180 days after the first date of original issuance of the Notes. Additional interest will accrue on the Notes if the shelf registration statement has not been filed with the Securities and Exchange Commission (the “SEC”), if the shelf registration statement has not become effective, or if the shelf registration statement shall cease to be effective or fail to be usable within specified periods, or the use of the prospectus has been suspended for longer than the permitted period, subject to certain exceptions and limitations set forth in the Registration Rights Agreement.

The foregoing descriptions are qualified in their entirety by reference to the Indenture and Registration Rights Agreement, which are attached to this Current Report on Form 8-K as Exhibits 4.1 and 99.1, respectively.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits

- 4.1 Indenture dated as of March 2, 2007 between the Registrant and U.S. Bank National Association, as Trustee.
 - 99.1 Registration Rights Agreement dated March 2, 2007 between the Registrant and Credit Suisse Securities (USA) LLC.
-

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.

Date: March 2, 2007

SKYWORKS SOLUTIONS, INC.

By: /s/ Mark V.B. Tremallo

Name: Mark V.B. Tremallo

Title: Vice President, General Counsel and Secretary

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
4.1	Indenture dated as of March 2, 2007 between the Registrant and U.S. Bank National Association, as Trustee.
99.1	Registration Rights Agreement dated March 2, 2007 between the Registrant and Credit Suisse Securities (USA) LLC.

SKYWORKS SOLUTIONS, INC.,

U.S. BANK NATIONAL ASSOCIATION,

AS TRUSTEE

1¹/₄% CONVERTIBLE SUBORDINATED NOTES DUE 2010

and

1¹/₂% CONVERTIBLE SUBORDINATED NOTES DUE 2012

INDENTURE

DATED AS OF MARCH 2, 2007

CROSS-REFERENCE TABLE*

<u>TIA Indenture Section</u>	<u>Section</u>
Section 310(a)(1)	9.9
(a)(2)	9.9
(a)(3)	N.A.**
(a)(4)	N.A.
(a)(5)	9.9
(b)	9.8; 9.10
(c)	N.A.
Section 311(a)	9.13
(b)	9.13
(c)	N.A.
Section 312(a)	2.5
(b)	14.3
(c)	14.3
Section 313(a)	9.15
(b)(1)	N.A.
(b)(2)	9.15
(c)	9.15; 14.2
(d)	9.15
Section 314(a)	6.2; 6.3
(b)	N.A.
(c)(1)	14.4(a)
(c)(2)	14.4(a)
(c)(3)	N.A.
(d)	N.A.
(e)	14.4(b)
(f)	N.A.
Section 315(a)	9.1(a); 9.1(b)(i)
(b)	9.14; 14.2
(c)	9.1(a)
(d)	9.1(b)
(e)	8.11
Section 316(a) (last sentence)	2.9
(a)(1)(A)	8.5
(a)(1)(B)	8.4
(a)(2)	N.A.
(b)	8.7
(c)	14.5
Section 317(a)(1)	8.8
(a)(2)	8.9
(b)	2.4
Section 318(a)	14.1

* Cross-Reference Table shall not, for any purpose, be deemed a part of this Indenture.

** N.A. means Not Applicable.

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Exhibit A-1	Form of 2010 Note
Exhibit A-2	Form of 2012 Note
Exhibit B	Form of Certificate to be Delivered Upon Exchange or Registration of Transfer of Restricted Securities

THIS INDENTURE, dated as of March 2, 2007, is between SKYWORKS SOLUTIONS, INC., a Delaware corporation (the “Company”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as trustee (in such capacity and not in its individual capacity, the “Trustee”).

In consideration of the premises and the purchase of the Securities by the Holders thereof, the parties hereto agree as follows for the benefit of the others and for the equal and ratable benefit of the Holders of the Securities.

ARTICLE I

Definitions and Incorporation By Reference

SECTION 1.1. Definitions.

“2010 Securities” means the Company’s 1.25% Convertible Subordinated Notes due 2010, as amended or supplemented from time to time pursuant to the terms of this Indenture, that are issued under this Indenture.

“2010 Securities Final Maturity Date” means March 1, 2010.

“2012 Securities” means the Company’s 1.50% Convertible Subordinated Notes due 2012, as amended or supplemented from time to time pursuant to the terms of this Indenture, that are issued under this Indenture.

“2012 Securities Final Maturity Date” means March 1, 2012.

“Additional Interest” has the meaning set forth in Section 5(a) of the Registration Rights Agreement. Unless the context otherwise requires, all references herein or in the Securities to “interest” accrued or payable as of any date shall include, without duplication, any Additional Interest accrued or payable as of such date as provided in the Registration Rights Agreement.

“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” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean 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.

“Agent” means any Registrar, Paying Agent or Conversion Agent.

“Applicable Procedures” means, with respect to any transfer or exchange of beneficial ownership interests in a Global Security, the rules and procedures of the Depository, in each case to the extent applicable to such transfer or exchange.

“Applicable Stock Price” means, with respect to a Conversion Date, the arithmetic average of the Volume-Weighted Average Prices of the Common Stock (or any security into which the Common Stock has been converted in connection with a Fundamental Change) for each of the 20 consecutive Trading Days in the Cash Settlement Averaging Period with respect to such Conversion Date; *provided, however*, that if, in connection with a Fundamental Change, all

or a portion of the Common Stock is converted into cash or some other consideration (other than publicly traded securities), the Applicable Stock Price will be determined based on the face amount of the cash received or the fair market value of such other consideration received, in each case per share of Common Stock and on a weighted average basis.

“Attributable Debt” in respect of a Sale/Leaseback Transaction means, as at the time of determination, the total obligations of the lessee for rental payments during the remaining term of the lease included in such Sale/Leaseback Transaction (including any period for which such lease has been extended).

“Board of Directors” means either the board of directors of the Company or any duly authorized committee of such board of directors.

“Business Day” means each day that is not a Legal Holiday.

“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.

“Cash” means such coin or currency of the United States as at any time of payment is legal tender for the payment of public and private debts.

“Cash Settlement Averaging Period” means, in respect of a Conversion Date, the 20 consecutive Trading Day period:

(a) beginning on the Final Notice Date, with respect to Conversion Notices received after the Final Notice Date and on or prior to the Trading Day preceding the Final Maturity Date of the applicable Securities; and

(b) beginning on the third Trading Day following the Company’s receipt of a Conversion Notice, in all other cases.

“Certificated Security” means a Security that is in substantially the form attached hereto as Exhibit A-1 or Exhibit A-2, as applicable, and that does not include the information or the schedule called for by footnotes 1 and 5 thereof.

“Closing Sale Price” of the Common Stock on any Trading Day means the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if there is more than one bid or ask price, the average of the average bid and the average ask prices) on such Trading Day as reported in composite transactions on the Nasdaq or, if the Common Stock is not listed on the Nasdaq, on the principal United States securities exchange on which the Common Stock is then traded or, if the Common Stock is not listed on a United States national securities exchange, as available in any over-the-counter market or, if not available on any over-the-counter market, the Closing Sale Price shall be such price as the Board of Directors of the Company shall determine in good faith.

“Common Stock” means any stock of any class of the Company which has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company and which is not subject to redemption by the Company. Subject to the provisions of Section 4.11, however, shares issuable on conversion of Securities shall include only shares of the class designated as Common Stock of the Company, par value \$0.25 per share, at the date of this Indenture or shares of any class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of

dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company and which are not subject to redemption by the Company; *provided, however*, that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

“Company” means the party named as such in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean such successor Company.

“Conversion Price” means, at any time and with respect to any Security, an amount equal to \$1,000 divided by the Conversion Rate in effect at such time with respect to such Security.

“Conversion Value” means, with respect to each \$1,000 principal amount of any Security, the average of the products for each Trading Day of the applicable Cash Settlement Averaging Period of (a) the applicable Conversion Rate for such day multiplied by (b) the Volume-Weighted Average Price of the Common Stock on such Trading Day.

“Corporate Trust Office” means the office of the Trustee at which at any time the trust created by this Indenture shall be principally administered, which office at the date of the execution of this Indenture is located at One Federal Street, 3rd Floor, Boston, Massachusetts, 02110, Attention: Corporate Trust Services, or such other office as the Trustee may designate by written notice to the Company.

“Daily Share Amount” means, with respect to each Trading Day of the applicable Cash Settlement Averaging Period and each \$1,000 principal amount of Securities surrendered for conversion, a number of shares (but in no event less than zero) of Common Stock equal to the quotient obtained by dividing (a) an amount equal to (i) the product of the Volume-Weighted Average Price of the Common Stock with respect to such Trading Day and the applicable Conversion Rate in effect on such Trading Day, less (ii) \$1,000, divided by (b) the product of the Volume-Weighted Average Price of the Common Stock with respect to such Trading Day and 20.

“Default” means, when used with respect to any Securities, any event which is or, after notice or passage of time or both, would be an Event of Default with respect to such Securities.

“Designated Senior Indebtedness” with respect to a Person, means any Senior Indebtedness of such Person which, at the date of determination, has an aggregate principal amount outstanding of, or under which, at the date of determination, the holders thereof are committed to lend up to, at least \$ 10,000,000 and is specifically designated by such Person in the instrument evidencing or governing such Senior Indebtedness as “Designated Senior Indebtedness” for purposes of this Indenture.

“Exchange Act” means the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

“Existing Securities” means the Company’s 4.75% Convertible Subordinated Notes due November 15, 2007 issued pursuant to the terms of an Indenture dated as of November 12, 2002, between the Company and State Street Bank and Trust Company, as trustee, as amended or supplemented from time to time.

“Final Cash Election Notice” means a notice from the Company setting forth the Company’s election, with respect to any Conversion Notices delivered pursuant to Section 4.2 after the Final Notice Date, to satisfy in Cash 100% or a fixed dollar amount of the Conversion Obligation or Remaining Conversion Obligation, as applicable, arising as a result of any such Conversion Notice; *provided*, that the fixed dollar amount set forth in a Final Cash Election Notice with respect to Conversion Obligations may be different from the fixed dollar amount set forth in a Final Cash Election Notice with respect to Remaining Conversion Obligations.

“Final Maturity Date” means the 2010 Securities Final Maturity Date or the 2012 Securities Final Maturity Date, as applicable.

“Final Notice Date” means, with respect to any Security, the 23rd Trading Day prior to the Final Maturity Date with respect to such Security.

“GAAP” means generally accepted accounting principles in the United States as set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession in the United States, which are in effect from time to time and consistently applied.

“Global Security” means a permanent Global Security that is in substantially the form attached hereto as Exhibit A-1 or Exhibit A-2, as applicable, and that includes the information and schedule called for by footnotes 1 and 5 thereof and which is deposited with the Depositary or its custodian and registered in the name of the Depositary or its nominee.

“Guarantee” means, as applied to any obligation, (1) a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner, of any part or all of such obligation and (2) an agreement, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages in the event of non-performance) of all or any part of such obligation, including the payment of amounts drawn down by letters of credit. A guarantee shall include any agreement to maintain or preserve any other Person’s financial condition or to cause any other Person to achieve certain levels of operating results.

“Hedging Obligations” of any Person means the obligations of such Person pursuant to (a) any interest rate swap agreement, interest rate cap agreement or other financial agreement or arrangement with respect to exposure to interest rates or (b) any foreign exchange contract, currency swap agreement or other similar agreement with respect to currency values.

“Holder” or “Securityholder” means the person in whose name a Security is registered in the Register.

“Incur” means issue, assume, Guarantee, incur or otherwise become liable for; *provided, however*, that any Indebtedness of a Person existing at the time such Person becomes a Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary. The term “Incurrence” when used as a noun shall have a correlative meaning.

“Indebtedness” means, with respect to any Person on any date of determination (without duplication):

(1) the principal in respect of (A) indebtedness of such Person for money borrowed and (B) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable, including, in each case, any premium on such indebtedness to the extent such premium has become due and payable;

(2) all Capital Lease Obligations of such Person and all Attributable Debt in respect of Sale/Leaseback Transactions entered into by such Person;

(3) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding any accounts payable or other liability to trade creditors arising in the ordinary course of business);

(4) all obligations of such Person for the reimbursement of any obligor on any letter of credit, bankers' acceptance or similar credit transaction (other than obligations with respect to letters of credit securing obligations (other than obligations described in clauses (1) through (3) above) entered into in the ordinary course of business of such Person to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such drawing is reimbursed no later than the tenth Business Day following payment on the letter of credit);

(5) all obligations of the type referred to in clauses (1) through (4) of other Persons of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor or otherwise, including by means of any Guarantee;

(6) all obligations of the type referred to in clauses (1) through (4) of other Persons secured by any Lien on any property or asset of such Person (whether or not such obligation is assumed by such Person), the amount of such obligation being deemed to be the lesser of the fair market value of such property or assets and the amount of the obligation so secured; and

(7) to the extent not otherwise included in this definition, Hedging Obligations of such Person.

"Indenture" means this Indenture as amended or supplemented from time to time pursuant to the terms of this Indenture, including the provisions of the TIA that are explicitly incorporated in this Indenture by reference to the TIA.

"Initial Purchaser" means Credit Suisse Securities (USA), LLC.

"Initial Securities" means (a) the 2010 Securities issued on the date hereof in the aggregate principal amount of \$100,000,000, and (b) the 2012 Securities issued on the date hereof in the aggregate principal amount of \$100,000,000, and, in each case, any Securities issued in replacement thereof.

"Interest Payment Date" has the meaning set forth in the Securities.

"Interest Payment Record Date" has the meaning set forth in the Securities.

"Issue Date" means March 2, 2007.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).

“Nasdaq” means the Nasdaq Global Select Market, Nasdaq Global Market, Nasdaq Capital Market and their respective successors.

“NYSE” means the New York Stock Exchange and its successors.

“Obligations” means with respect to any Indebtedness, all obligations for principal, premium, interest, penalties, fees, indemnifications, reimbursements, and other amounts payable pursuant to the documentation governing such Indebtedness.

“Offering Circular” means the Confidential Offering Circular dated February 27, 2007, relating to the Securities.

“Officer” means, with respect to any Person, 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.

“Officers’ Certificate” means a certificate signed by at least two Officers of the Company; *provided, however*, that for purposes of Section 4.11 and Section 6.3, “Officers’ Certificate” means a certificate signed by the principal executive officer, principal financial officer or principal accounting officer of the Company and at least one other Officer of the Company.

“Opinion of Counsel” means a written opinion from legal counsel containing, as applicable, the information specified in Section 14.4. The counsel may be an employee of or counsel to the Company who is reasonably satisfactory to the Trustee.

“Person” or “person” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, statutory trust, unincorporated organization, government or any agency or political subdivision thereof.

“Purchase Agreement” means that certain Purchase Agreement, dated February 27, 2007, among the Company and the Initial Purchaser.

“QIB” means a qualified institutional buyer as defined in Rule 144A.

“Registration Rights Agreement” means the Registration Rights Agreement, dated as of the date hereof, among the Company and the Initial Purchaser.

“Representative” means, with respect to a Person, any trustee, agent or representative (if any) for an issue of Senior Indebtedness of such Person.

“Restricted Certificated Security” means a Certificated Security that is a Restricted Security.

“Restricted Global Security” means a Global Security that is a Restricted Security.

“Restricted Security” means a Security required to bear the Restricted Legend called for by footnotes 2 and 3 to the form of Security set forth in Exhibit A-1 or Exhibit A-2 of this Indenture.

“Rule 144” means Rule 144 under the Securities Act or any successor to such rule, as it may be amended from time to time.

“Rule 144A” means Rule 144A under the Securities Act or any successor to such rule, as it may be amended from time to time.

“Sale/Leaseback Transaction” means an arrangement relating to property owned by the Company or a Subsidiary on the Issue Date or thereafter acquired by the Company or a Subsidiary whereby the Company or a Subsidiary transfers such property to a Person and the Company or a Subsidiary leases it from such Person.

“SEC” means the United States Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this Indenture the SEC is not existing and performing the duties now assigned to it under the TIA, then the body performing such duties at such time.

“Security” or “Securities” means the 2010 Securities and the 2012 Securities.

“Securities Act” means the United States Securities Act of 1933 and the rules and regulations promulgated thereunder, as in effect from time to time.

“Securities Custodian” means the Trustee, as custodian with respect to the Global Securities, or any successor thereto.

“Senior Indebtedness” means, with respect to any Person:

(1) Indebtedness of such Person, whether outstanding on the Issue Date or thereafter Incurred; and

(2) all other Obligations of such Person (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to such Person whether or not post-filing interest is allowed in such proceeding) in respect of Indebtedness described in clause (1) above,

unless, in the case of clauses (1) and (2), in the instrument creating or evidencing the same or pursuant to which the same is outstanding it is provided that such Indebtedness or other Obligations are not superior in right of payment to the Securities or the Subsidiary Guarantee of such Person, as the case may be; provided, however, that Senior Indebtedness of such Person shall not include:

(A) any obligation of such Person to any Subsidiary of such Person;

(B) any liability for Federal, state, local or other taxes owed or owing by such Person;

(C) any accounts payable or other liability to trade creditors arising in the ordinary course of business; or

(D) with respect to the Company, the Existing Notes.

“Series” means, with respect to the Securities, either the 2010 Securities or the 2012 Securities.

“Significant Subsidiary” means any of the Subsidiaries of the Company which has: (i) consolidated assets or in which the Company and its other Subsidiaries have investments equal to or greater than 10% of the Company’s total consolidated assets; or (ii) consolidated gross revenue equal to or greater than 10% of the Company’s consolidated gross revenue.

“Subsidiary” means, in respect of any Person, any corporation, association, partnership or other business entity of which more than 50% of the outstanding voting stock (as defined in Section 3.1) or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof, or persons performing similar functions, is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

“Subsidiary Guarantor” means at any time each Subsidiary that has become a Subsidiary Guarantor pursuant to Section 7.3 of this Indenture, in each case so long as it remains a Subsidiary Guarantor.

“TIA” means the United States Trust Indenture Act of 1939, as amended, and the rules and regulations thereunder as in effect on the date of this Indenture; *provided, however*, that in the event the Trust Indenture Act of 1939 is amended after such date, then “TIA” means, to the extent required by such amendment, the Trust Indenture Act of 1939 as so amended.

“Trading Day” means a day during which trading in securities generally occurs on the Nasdaq or, if the Common Stock is not listed on the Nasdaq, on the principal other national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not listed on a national or regional securities exchange, on the principal other market in which such Common Stock is then traded or quoted.

“Trust Officer” means, with respect to the Trustee, any officer within the Corporate Trust Administration department (or any successor department) of the Trustee located at the Corporate Trust Office of the Trustee, who shall have direct responsibility for the administration of this Indenture, and also means, with respect to any particular corporate trust matter, any other officer of the Trustee to whom such corporate trust matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“Trustee” means U.S. Bank National Association in its capacity as trustee hereunder, until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor Trustee.

“Unrestricted Certificated Security” means a Certificated Security that is not a Restricted Security.

“Unrestricted Global Security” means a Global Security that is not a Restricted Security.

“Vice President” when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title “vice president.”

The “Volume-Weighted Average Price,” on any Trading Day, means the volume-weighted average price for the Common Stock, during the period beginning at 9:30:01 a.m., New York City time (or such other time as is the official open of trading) and ending at 4:00:00 p.m., New York City time (or such other time as is the official close of trading), as reported by Bloomberg Financial Services through its “Volume at Price” (SWKS <EQUITY> <GO>) functions (or any successor function, or if there is no such function or such successor function, then the market value per share of the Common Stock, as calculated by a nationally recognized investment bank retained by the Company for such purpose). The volume-weighted average price shall be rounded to the nearest whole cent.

SECTION 1.2. Other Definitions.

Term	Section
“Additional Securities”	2.2(d)
“Agent Members”	2.1(d)
“Aggregate Amount”	4.6(e)
“Bankruptcy Law”	8.1
“Blockage Notice”	11.3
“Company Order”	2.2(d)
“Conversion Agent”	2.3
“Conversion Date”	4.2(a)
“Conversion Notice”	4.2(a)
“Conversion Obligation”	4.13(a)
“Conversion Rate”	4.1(a)
“Current Market Price”	4.6(f)
“Custodian”	8.1
“Debt Security”	7.3
“Depository”	2.1(b)
“Effective Date”	4.1(b)
“Event of Default”	8.1
““ex” date”	4.6(f)
“Existing Shareholders”	3.1(a)
“Expiration Date”	4.6(e)
“Expiration Time”	4.6(e)
“Financial Institution”	4.15(a)
“Fundamental Change”	3.1(a)
“Fundamental Change Company Notice”	3.1(b)
“Fundamental Change Purchase Date”	3.1(a)
“Fundamental Change Purchase Notice”	3.1(c)
“Fundamental Change Purchase Price”	3.1(a)
“Legal Holiday”	14.7
“Net Share Settlement Election”	4.1(c)
“Nonpayment Default”	11.3
“Notice of Default”	8.1
“Paying Agent”	2.3
“Payment Blockage Period”	11.3
“Payment Default”	11.3
“Purchased Shares”	4.6(e)
“Register”	2.3
“Registrar”	2.3

Term	Section
“Remaining Conversion Obligation”	4.1(c)
“Restricted Legend”	2.12(f)
“Rule 144A Information”	6.2(b)
“Settlement Notice Period”	4.13(a)
“Share Settlement Election”	4.1(c)
“Specified Cash Amount”	4.13(a)
“Specified Remaining Cash Amount”	4.13(b)
“Stock Price”	4.1(b)
“Subsidiary Guarantee”	7.3
“Traded Common Stock”	3.1(a)
“Underlying Shares”	4.6(b)

SECTION 1.3. Trust Indenture Act Provisions. Whenever this Indenture refers to a provision of the TIA, that provision is incorporated by reference in and made a part of this Indenture. The Indenture shall also include those provisions of the TIA required to be included herein by the provisions of the TIA. The following TIA terms used in this Indenture have the following meanings:

“Commission” means the SEC;

“indenture securities” means the Securities;

“indenture security Holder” means a Securityholder;

“indenture to be qualified” means this Indenture;

“indenture trustee” or “institutional trustee” means the Trustee; and

“obligor” on the indenture securities means the Company and any successor obligor on the Securities.

All other terms used in this Indenture that are defined in the TIA, defined by TIA reference to another statute or defined by any SEC rule and not otherwise defined herein have the meanings assigned to them therein.

SECTION 1.4. Rules of Construction. Unless the context otherwise requires:

(a) a term has the meaning assigned to it herein;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) words in the singular include the plural, and words in the plural include the singular;

(d) provisions apply to successive events and transactions;

(e) the term “merger” includes a statutory share exchange and the term “merged” has a correlative meaning;

(f) the masculine gender includes the feminine and the neuter;

- (g) references to agreements and other instruments include subsequent amendments thereto;
- (h) references to “interest” include Additional Interest;
- (i) “herein,” “hereof,” “hereunder,” “hereinafter” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (j) unless context otherwise requires, any reference to an “Article” or a “Section” refers to an Article or Section, as the case may be, of this Indenture;
- (k) “or” is not exclusive; and
- (l) “including” means including without limitation.

ARTICLE II

The Securities

SECTION 2.1. Form and Dating. (a) The 2010 Securities and the corresponding Trustee’s certificate of authentication shall be substantially in the respective forms set forth in Exhibit A-1, which Exhibit is incorporated in and made part of this Indenture. The 2012 Securities and the corresponding Trustee’s certificate of authentication shall be substantially in the respective forms set forth in Exhibit A-2, which Exhibit is incorporated in and made part of this Indenture. The Securities may have notations, legends or endorsements required by law, exchange rule, Applicable Procedures or usage. The Company shall provide any such notations, legends or endorsements to the Trustee in writing. Each Security shall be dated the date of its authentication.

The terms and provisions contained in the Securities shall constitute, and are hereby expressly made, a part of this Indenture and the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby; *provided, however*, to the extent permitted by applicable law, if any provision of any Security conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) Restricted Global Securities. All of the Securities shall be issued initially in the form of one or more Restricted Global Securities, which shall be deposited on behalf of the purchasers of the Securities represented thereby with the Securities Custodian, as custodian for the depositary, The Depository Trust Company (such depositary, or any successor thereto, being hereinafter referred to as the “Depository”), and registered in the name of its nominee, Cede & Co., or as otherwise instructed by the Depository, duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of the Restricted Global Securities may from time to time be increased or decreased by adjustments made on the records of the Securities Custodian and the Depository as hereinafter provided, subject in each case to compliance with the Applicable Procedures and the provisions of this Indenture.

(c) Global Securities In General. Each Global Security shall represent such of the out-standing Securities as shall be specified therein and each shall provide that it shall represent the

aggregate amount of outstanding Securities from time to time endorsed thereon and that the aggregate amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, purchases or conversions of such Securities, in each case in accordance with this Indenture. Any adjustment of the aggregate principal amount of a Global Security to reflect the amount of any increase or decrease in the amount of outstanding Securities represented thereby shall be made by the Trustee in accordance with instructions given by the Holder thereof as required by Section 2.12 hereof, or otherwise in accordance with this Indenture, and shall be made on the records of the Trustee and the Depositary.

The Company shall issue and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly), authenticate and deliver in accordance with Section 2.2, initially Global Securities that (i) shall be registered in the name of Cede & Co. or as otherwise instructed by the Depositary, (ii) shall be delivered by the Trustee to the Depositary or to the Securities Custodian pursuant to the Depositary's instructions and (iii) shall bear legends required for Global Securities as set forth in Exhibit A-1 or Exhibit A-2 hereto, as applicable.

(d) Book Entry Provisions. Members of, or participants in, the Depositary ("Agent Members") shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depositary or under the Global Security, and the Depositary (including, for this purpose, its nominee) may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and Holder of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall (A) 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 the Depositary, or such nominee, as the case may be, or (B) impair, as between the Depositary and its Agent Members, the Applicable Procedures or the operation of customary practices governing the exercise of the rights of a Holder of any Security.

None of the Company, the Trustee, the Registrar, any Paying Agent or any agent of any of them shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in the Securities, for maintaining, supervising or reviewing any records relating to such beneficial owner interests, or for any acts or omissions of a Depositary or for any transactions between a Depositary and any beneficial owner or between or among beneficial owners. No owner of a beneficial interest in the Securities shall have any rights under this Indenture, and the Depositary or its nominee, if any, shall be deemed and treated by the Company, the Trustee, the Registrar, any Paying Agent or any agent of any of them as the absolute owner and holder of such Securities for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee, the Registrar, any Paying Agent or any agent of any of them from giving effect to any written certification, proxy or other authorization furnished by a Depositary, or any of its members or any other Person on whose behalf such member may act in accordance with the operation of customary practices of such Persons governing the exercise of the rights of a beneficial owner of any Securities.

(e) Certificated Securities. Certificated Securities shall be issued only under the circumstances provided in Section 2.12(a)(i).

SECTION 2.2. Execution and Authentication. (a) A duly authorized Officer of the Company shall sign the Securities for the Company by manual or facsimile signature.

(b) If an Officer of the Company whose signature is on a Security no longer holds that office at the time the Trustee authenticates the Security, the Security shall be valid nevertheless.

(c) A Security shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Security. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

(d) The Trustee shall initially authenticate and make available for delivery (i) 2010 Securities for original issue in the aggregate principal amount of up to \$100,000,000 upon receipt of a written order or orders of the Company signed by an Officer of the Company (a "Company Order") and (ii) 2012 Securities for original issue in the aggregate principal amount of up to \$100,000,000 upon receipt of a Company Order. The Trustee shall authenticate additional Securities (the "Additional Securities") thereafter in unlimited aggregate principal amount (so long as permitted by the terms of this Indenture) for original issue upon a Company Order of the Company in aggregate principal amount as specified in such order. Each such Company Order shall specify the amount of Securities to be authenticated and the date on which the Securities are to be authenticated. Such Additional Securities shall have identical terms to the applicable Initial Securities except for issuance dates and prices and with respect to interest accruing prior to their date of issuance, and will constitute the same series as the applicable Initial Securities for all purposes hereunder, including waivers, amendments and offers to purchase. At the option of the Company, Additional Securities may have the same CUSIP number as the applicable Initial Securities; *provided* that if any Additional Securities are issued at a price that causes such Additional Securities to have "original issue discount" within the meaning of Section 1273 of the United States Internal Revenue Code of 1986, as amended, such Additional Securities shall not have the same CUSIP number as the applicable Initial Securities.

(e) The Trustee shall act as the initial authenticating agent. Thereafter, the Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. An authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent shall have the same rights as an Agent to deal with the Company or an Affiliate of the Company.

The Securities shall be issuable only in registered form without coupons and only in denominations of \$1,000 principal amount and any integral multiple thereof.

SECTION 2.3. Registrar, Paying Agent and Conversion Agent. The Company shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange ("Registrar"), an office or agency in the United States where Securities may be presented for purchase or payment ("Paying Agent"), an office or agency where Securities may be presented for conversion ("Conversion Agent") and an office or agency where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Registrar shall keep a register of the Securities ("Register") and of their transfer and exchange.

The Company may have one or more co-registrars, one or more additional paying agents, and one or more additional conversion agents. The term "Registrar" includes any co-registrar, including any named pursuant to Section 6.6. The term "Paying Agent" includes any additional paying agent, including any named pursuant to Section 6.6. The term "Conversion Agent" includes any additional conversion agent, including any named pursuant to Section 6.6.

The Company shall enter into an appropriate agency agreement with any Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such Agent. The Company shall notify the Trustee of the name and address of any Agent not a party to this Indenture. If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent or agent for service of notices and demands in any place required by this Indenture, or fails to give the foregoing notice, the Trustee shall act as such. The Company or any Affiliate of the Company may act as Paying Agent.

The Company hereby initially appoints the Trustee as Registrar, Paying Agent and Conversion Agent in connection with the Securities.

SECTION 2.4. Paying Agent to Hold Money and Securities in Trust. Prior to 10:00 a.m., New York City time, on each due date of payments in respect of, or delivery of Cash, shares of Common Stock or a combination of Cash and shares of Common Stock, as applicable and as provided herein, upon conversion of, such Security, the Company shall deposit with the Paying Agent Cash (in immediately available funds if deposited on the due date) or with the Conversion Agent Cash or such number of shares of Common Stock or other consideration sufficient to make such payments or deliveries when so becoming due. The Company shall require each Paying Agent or Conversion Agent, as applicable (other than the Trustee), to agree in writing that such Agent shall hold in trust for the benefit of Securityholders or the Trustee all Cash, Common Stock or other consideration, as applicable, held by such Agent for the making of payments or deliveries in respect of the Securities and shall notify the Trustee in writing of any default by the Company in making any such payment or delivery. If the Company or an Affiliate of the Company acts as Paying Agent or Conversion Agent, as applicable, it shall segregate the Cash, Common Stock and other consideration, as applicable, held by it as Paying Agent or Conversion Agent, as applicable, and hold it as a separate trust fund.

The Company at any time may require a Paying Agent or Conversion Agent, as applicable, to pay all Cash, Common Stock or other consideration, as applicable, held by it to the Trustee, and the Trustee may at any time during the continuance of any Default, upon written request to the Paying Agent or the Conversion Agent, as applicable, require such Paying Agent or Conversion Agent, as applicable, to pay forthwith to the Trustee all Cash, Common Stock or other consideration, as applicable, so held in trust by such Paying Agent or Conversion Agent. Upon doing so, the Paying Agent or the Conversion Agent, as applicable, shall have no further liability for such Cash, Common Stock or other consideration, as applicable.

SECTION 2.5. Securityholder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of the Securityholders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee on or before each Interest Payment Date, and at such other times as the Trustee may request in writing, a list of the names and addresses of the Securityholders in such form and as of such date as the Trustee may reasonably request.

SECTION 2.6. Transfer and Exchange. (a) Subject to compliance with any applicable additional requirements contained in Section 2.12, when a Security is presented to a Registrar with a request to register a transfer thereof or to exchange such Security for an equal principal amount of Securities of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested; *provided, however*, that every Security presented or surrendered for registration of transfer or exchange shall, if such Security is a Certificated Security, be duly endorsed or accompanied by an assignment form, in the form included in Exhibit A-1 or Exhibit A-2 attached hereto, as applicable, and, if applicable, a transfer certificate, in the form included in

Exhibit B attached hereto, and in form reasonably satisfactory to the Registrar duly executed by the Holder thereof or its attorney duly authorized in writing. To permit registration of transfers and exchanges, upon surrender of any Security for registration of transfer or exchange at an office or agency maintained pursuant to Section 2.3, the Company shall execute and the Trustee shall, upon receipt of a Company Order (which may be a standing order), authenticate Securities of a like aggregate principal amount at the Registrar's request. Any exchange or transfer shall be without charge, except that the Company or the Registrar may require payment of a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in relation thereto, other than exchanges pursuant to Section 2.10, Section 10.5, Article III or Article IV, in each case, not involving any transfer.

Neither the Company, any Registrar nor the Trustee shall be required to exchange or register a transfer of any Securities or portions thereof in respect of which a Fundamental Change Purchase Notice has been delivered and not validly withdrawn by the Holder thereof (except, in the case of the purchase of a Security in part, the portion thereof not to be purchased).

All Securities issued upon any transfer or exchange of Securities shall be valid obligations of the Company, evidencing the same debt and entitled to the same benefits under this Indenture as the Securities surrendered upon such transfer or exchange.

(b) Any Registrar appointed pursuant to Section 2.3 or Section 6.6 hereof shall provide to the Trustee such information as the Trustee may reasonably request in connection with the delivery by such Registrar of Securities upon transfer or exchange of Securities.

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Security (including any transfers between or among Agent Members or other beneficial owners of interests in any Global Security) other than to require delivery of such opinions of counsel, certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture (including if so requested by the Company exercising a right to require the delivery of such items), and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Any Holder of a Global Security shall, by acceptance of such Global Security, agree that transfers of beneficial interests in such Global Security may be effected only through a book-entry system maintained by the Depository (or its agent), and that ownership of a beneficial interest in a Global Security shall be required to be reflected in a book-entry system.

SECTION 2.7. Replacement Securities. If (a) any mutilated security is surrendered to the Company, a Registrar or the Trustee, or (b) the Company, the Registrar and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and, in either case, there is delivered to the Company, the Registrar and the Trustee such security or indemnity as shall be reasonably required by them to save each of them harmless, then, in the absence of notice to the Company, such Registrar or the Trustee that such Security has been acquired by a bona fide or protected purchaser, the Company shall issue, and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly, and which may be a standing order), authenticate and deliver, in exchange for any such mutilated Security or in lieu of any such destroyed, lost or stolen Security, a new Security of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, or is about to be purchased by the Company pursuant to Article III, the Company in its discretion may, instead of issuing a new Security, pay or purchase such Security, as the case may be, in accordance herewith.

Upon the issuance of any new Securities under this Section 2.7, the Company may require the payment of a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in relation thereto and any other reasonable expenses (including the reasonable fees and expenses of the Trustee or the Registrar) in connection therewith.

Every new Security issued pursuant to this Section 2.7 in lieu of any mutilated, destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Securities duly issued and outstanding hereunder.

The provisions of this Section 2.7 are (to the extent lawful) exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 2.8. Outstanding Securities. Securities outstanding at any time are all Securities authenticated by the Trustee, except for those canceled by it, those paid or repurchased pursuant to Section 2.7 or Article III, those converted pursuant to Article IV, those delivered to it for cancellation and those described in this Section 2.8 as not outstanding.

If a Security is replaced pursuant to Section 2.7 (other than a mutilated Security surrendered for replacement), it ceases to be outstanding unless the Trustee receives, subsequent to the new Security's authentication, proof satisfactory to the Company that the replaced Security is held by a bona fide or protected purchaser. A mutilated Security ceases to be outstanding upon surrender and replacement thereof pursuant to Section 2.7.

If the Paying Agent holds, in accordance with the terms of this Indenture, prior to 10:00 a.m., New York City time, on the Final Maturity Date or on a Fundamental Change Purchase Date, as the case may be, Cash sufficient to pay all Initial Securities and all Additional Securities then payable and the Paying Agent is not prohibited from paying such money to the Holders on such date pursuant to the terms of this Indenture, then on and after such Final Maturity Date or Fundamental Change Purchase Date, as the case may be, such Securities shall cease to be outstanding and interest on such Securities shall cease to accrue.

If a Security is converted in accordance with Article IV, then on the Conversion Date, such Security shall cease to be outstanding and interest on such Security shall cease to accrue, unless there shall be a default in the delivery of the consideration payable hereunder upon such conversion.

Subject to the restrictions contained in Section 2.9, a Security does not cease to be outstanding solely because the Company or an Affiliate of the Company holds the Security.

SECTION 2.9. Treasury Securities. In determining whether the Holders of the required principal amount of Securities have given or concurred in any notice, request, demand, authorization, direction, waiver or consent, Securities owned by the Company or any other obligor on the Securities or by any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be outstanding for such purposes, except that, for purposes of determining

whether the Trustee shall be protected in relying on any such notice, request, demand, authorization, direction, waiver or consent, only Securities which a Trust Officer actually knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to the Securities and that the pledgee is not, and is not acting on the behalf of, the Company or any other obligor on the Securities or any Affiliate of the Company or of such other obligor.

SECTION 2.10. Temporary Securities. Until definitive Securities are ready for delivery, the Company may prepare and execute, and, upon receipt of a Company Order, the Trustee shall authenticate and deliver, temporary Securities. Temporary Securities shall be substantially in the form of definitive Securities but may have variations that the Company reasonably considers appropriate for temporary Securities. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at the office or agency of the Company designated for such purpose pursuant to Section 2.3, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities, the Company shall execute and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly and which may be a standing order), authenticate and deliver in exchange therefor a like principal amount of definitive Securities of authorized denominations. Until so exchanged the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

SECTION 2.11. Cancellation. The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent shall forward to the Trustee or its agent any Securities surrendered to them for transfer, exchange, payment or conversion. The Trustee and no one else shall cancel, in accordance with its standard procedures, all Securities surrendered for transfer, exchange, payment, conversion or cancellation and shall deliver the canceled Securities to the Company. The Company may not issue new Securities to replace Securities that it has paid or delivered to the Trustee for cancellation or that any Holder has converted pursuant to Article IV.

All Securities that are purchased pursuant to Article III or otherwise acquired by the Company shall be delivered to the Trustee for cancellation. If the Company shall acquire any of the Securities, such acquisition shall not operate as a repurchase or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee for cancellation.

SECTION 2.12. Legend; Additional Transfer and Exchange Requirements.

(a) Transfer and Exchange of Global Securities. (i) Certificated Securities shall be issued in exchange for interests in the Global Securities only (x) if the Depository notifies the Company that it is unwilling or unable to continue as Depository for the Global Securities or if it at any time ceases to be a "clearing agency" registered under the Exchange Act, if so required by applicable law or regulation, and a successor Depository is not appointed by the Company within 90 days of such notice or (y) if an Event of Default has occurred and is continuing, each of clauses (x) and (y) in accordance with the Applicable Procedures. In any such case, the Company shall execute, and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly), authenticate and deliver Certificated Securities in an aggregate principal amount equal to the principal amount of such Global Securities in exchange therefor. Only Restricted Certificated Securities shall be issued in exchange for beneficial interests in Restricted Global Securities, and only Unrestricted Certificated Securities shall be issued in exchange for beneficial interests in Unrestricted Global Securities. Certificated Securities issued in exchange for

beneficial interests in Global Securities shall be registered in such names and shall be in such authorized denominations as the Depositary, pursuant to instructions from its Agent Members or otherwise in accordance with the Applicable Procedures, shall instruct the Trustee. The Trustee shall deliver or cause to be delivered such Certificated Securities to the Persons in whose name such Securities are so registered. Such exchange shall be effected in accordance with the Applicable Procedures. In the event that the Certificated Securities are not issued to each such beneficial owner promptly after the Registrar has received a request from the Depositary to issue such Certificated Securities, the Company expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Section 8.6 or 8.7 hereof, the right of any beneficial holder of Securities to pursue such remedy with respect to the portion of the Global Security that represents such Beneficial Owner's Securities as if such Certificated Securities had been issued.

(ii) Notwithstanding any other provisions of this Indenture other than the provisions set forth in Section 2.12(a)(i), a Global Security may not be transferred except as a whole by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary.

(b) Transfer and Exchange of Certificated Securities. In the event that Certificated Securities are issued in exchange for beneficial interests in Global Securities in accordance with Section 2.12(a)(i), and, on or after such event, Certificated Securities are presented by a Holder to the Registrar with a request:

(x) to register the transfer of the Certificated Securities to a person who shall take delivery thereof in the form of Certificated Securities only; or

(y) to exchange such Certificated Securities for an equal principal amount of Certificated Securities of other authorized denominations,

such Registrar shall register the transfer or make the exchange as requested; provided, however, that the Certificated Securities presented or surrendered for register of transfer or exchange:

(i) shall be duly endorsed or accompanied by a written instrument of transfer in accordance with the proviso to the first sentence of Section 2.6(a); and

(ii) in the case of a Restricted Certificated Security, such request shall be accompanied by the following additional information and documents, as applicable:

(1) if such Restricted Certificated Security is being delivered to the Registrar by a Holder for registration in the name of such Holder, without transfer, or such Restricted Certificated Security is being transferred to the Company or a Subsidiary of the Company, a certification to that effect from such Holder (in substantially the form set forth in Exhibit B);

(2) if such Restricted Certificated Security is being transferred to a person the Holder reasonably believes is a QIB in accordance with Rule 144A, or pursuant to an effective registration statement under the Securities Act or in compliance with Rule 904 of Regulation S under the Securities Act, a certification to that effect from such Holder (in substantially the form set forth in Exhibit B);

(3) if such Restricted Certificated Security is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 or pursuant to and in compliance with another exemption from the registration requirements under the Securities Act, a certification to that effect from the Holder (in substantially the form set forth in Exhibit B) and, if the Company or the Registrar so requests, an Opinion of Counsel, certificates and other information reasonably acceptable to the Company to the effect that such transfer does not require registration under the Securities Act.

(c) Transfer of a Beneficial Interest in a Restricted Global Security for a Beneficial Interest in an Unrestricted Global Security. After the Securities are no longer Restricted Securities, any person having a beneficial interest in a Restricted Global Security may upon request, subject to the Applicable Procedures, transfer such beneficial interest to a Person who is required or permitted to take delivery thereof in the form of a beneficial interest in an Unrestricted Global Security. Upon receipt by the Trustee of written instructions, or such other form of instructions as is customary for the Depositary, from the Depositary or its nominee on behalf of any Person having a beneficial interest in a Restricted Global Security and the following additional information and documents in such form as is customary for the Depositary from the Depositary or its nominee on behalf of the Person having such beneficial interest in the Restricted Global Security (all of which may be submitted by facsimile or electronically):

(i) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certification to that effect from the Holder (in substantially the form set forth in Exhibit B); or

(ii) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certification to that effect from the Holder (in substantially the form set forth in Exhibit B) and, if the Company or the Trustee so requests, an Opinion of Counsel, certificates and other information reasonably acceptable to the Company to the effect that such transfer does not require registration under the Securities Act;

the Registrar shall reduce or cause to be reduced the aggregate principal amount of the Restricted Global Security by the appropriate principal amount and shall increase or cause to be increased the aggregate principal amount of the Unrestricted Global Security by a like principal amount. Such transfer shall otherwise be effected in accordance with the Applicable Procedures. If no Unrestricted Global Security is then outstanding, the Company shall execute and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly and which may be a standing order), authenticate and deliver an Unrestricted Global Security.

(d) Transfer of a Beneficial Interest in an Unrestricted Global Security for a Beneficial Interest in a Restricted Global Security. Any person having a beneficial interest in an Unrestricted Global Security may upon request, subject to the Applicable Procedures, transfer such beneficial interest to a person who is required or permitted to take delivery thereof in the form of a beneficial interest in a Restricted Global Security. Upon receipt by the Trustee of written instructions, or such other form of instructions as is customary for the Depositary, from the Depositary or its nominee on behalf of any person having a beneficial interest in an Unrestricted Global Security and the following additional information and documents in such form as is customary for the Depositary, from the Depositary or its nominee on behalf of the

person having such beneficial interest in the Unrestricted Global Security (all of which may be submitted by facsimile or electronically):

(i) a certification from the Holder (in substantially the form set forth in Exhibit B) to the effect that such beneficial interest is being transferred to a person that the transferor reasonably believes is a QIB in accordance with Rule 144A;

(ii) a certification from the Holder (in substantially the form set forth in Exhibit B) to the effect that such beneficial interest is being transferred in compliance with Rule 904 of Regulation S under the Securities Act;

(iii) if such beneficial interest in such Unrestricted Global Security is being transferred in compliance with any other exemption from registration under the Securities Act, certification to that effect from such Holder (in substantially the form set forth in Exhibit B) and if the Company or the Trustee so requests, an Opinion of Counsel, certificates and other information reasonably acceptable to the Company to the effect that such transfer does not require registration under the Securities Act; or

(iv) a certification (in substantially the form set forth in Exhibit B) to the effect that such beneficial interest is being transferred to the Company or a Subsidiary of the Company,

the Registrar shall reduce or cause to be reduced the aggregate principal amount of the Unrestricted Global Security by the appropriate principal amount and shall increase or cause to be increased the aggregate principal amount of the Restricted Global Security by a like principal amount. Such transfer shall otherwise be effected in accordance with the Applicable Procedures. If no Restricted Global Security is then outstanding, the Company shall execute and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly and which may be a standing order), authenticate and deliver a Restricted Global Security.

(e) Transfers of Certificated Securities for Beneficial Interest in Global Securities. In the event that Certificated Securities are issued in exchange for beneficial interests in Global Securities and, thereafter, the events or conditions specified in Section 2.12(a)(i) which required such exchange shall cease to exist, the Company shall mail notice to the Trustee and to the Holders (i) stating that Holders may exchange Certificated Securities for interests in Global Securities by complying with the procedures set forth in this Indenture and (ii) briefly describing such procedures and the events or circumstances requiring that such notice be given. Thereafter, if Certificated Securities are presented by a Holder to a Registrar with a request:

(x) to register the transfer of such Certificated Securities to a Person who will take delivery thereof in the form of a beneficial interest in a Global Security, which request shall specify whether such Global Security will be a Restricted Global Security or an Unrestricted Global Security; or

(y) to exchange such Certificated Securities for an equal principal amount of beneficial interests in a Global Security, which beneficial interests will be owned by the Holder transferring such Certificated Securities (provided that in the case of such an exchange, Restricted Certificated Securities may be exchanged only for Restricted Global Securities and Unrestricted Certificated Securities may be exchanged only for Unrestricted Global Securities),

the Registrar shall register the transfer or make the exchange as requested by canceling such Certificated Security and causing the aggregate principal amount of the applicable Global Security to be increased accordingly and, if no such Global Security is then outstanding, the Company shall issue and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly and which may be a standing order) authenticate and deliver a new Global Security; *provided, however*, that the Certificated Securities presented or surrendered for registration of transfer or exchange:

(i) shall be duly endorsed or accompanied by a written instrument of transfer in accordance with the proviso to Section 2.6(a);

(ii) in the case of a Restricted Certificated Security to be transferred for a beneficial interest in an Unrestricted Global Security, shall be accompanied by the following additional information and documents, as applicable:

(1) if such Restricted Certificated Security is being transferred pursuant to an effective registration statement under the Securities Act, a certification to that effect from such Holder (in substantially the form set forth in Exhibit B); or

(2) if such Restricted Certificated Security is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certification to that effect from such Holder (in substantially the form set forth in Exhibit B) and an Opinion of Counsel, certificates and other information reasonably acceptable to the Company to the effect that such transfer does not require registration under of the Securities Act;

(iii) in the case of a Restricted Certificated Security to be transferred to another person for a beneficial interest in a Restricted Global Security, shall be accompanied by the following information and documents, as applicable:

(1) if such Restricted Certificated Security is being transferred to a person the Holder reasonably believes is a QIB in accordance with Rule 144A, a certification to that effect from such Holder (in substantially the form set forth in Exhibit B); or

(2) if such Restricted Certificated Security is being transferred in compliance with Rule 904 of Regulation S under the Securities Act, certification to that effect from such Holder (in substantially the form set forth in Exhibit B);

(iv) in the case of an Unrestricted Certificated Security to be transferred or exchanged for a beneficial interest in an Unrestricted Global Security, or in the case of a Restricted Certificated Security to be exchanged (and not transferred) for a beneficial interest in a Restricted Global Security, such request need not be accompanied by any additional information or documents; and

(v) in the case of an Unrestricted Certificated Security to be transferred or exchanged for a beneficial interest in a Restricted Global Security, such request shall be accompanied by the following additional information and documents, as applicable:

(1) if such Unrestricted Certificated Security is being transferred to a person the Holder reasonably believes is a QIB (which, in the case of an ex-

change, shall be such Holder) in accordance with Rule 144A, a certification to that effect from such Holder (in substantially the form set forth in Exhibit B);

(2) if such Unrestricted Certificated Security is being transferred in compliance with Rule 904 of Regulation S under the Securities Act, certification to that effect from such Holder (in substantially the form set forth in Exhibit B);

(3) if such Unrestricted Certificated Security is being transferred in compliance with any other exemption from registration under the Securities Act, certification to that effect from such Holder (in substantially the form set forth in Exhibit B) and an Opinion of Counsel, certificates and other information reasonably acceptable to the Company to the effect that such transfer does not require registration under the Securities Act; or

(4) if such Unrestricted Certificated Security is being transferred to the Company or a Subsidiary of the Company, a certification to that effect from such Holder (in substantially the form set forth in Exhibit B).

(f) Legends. (i) Except as permitted by the following paragraphs (ii), (iii) and (iv), each Global Security and Certificated Security (and all Securities issued in exchange therefor or upon registration of transfer or replacement thereof) shall bear a legend in substantially the form called for by footnote 2 to Exhibit A-1 or Exhibit A-2 attached hereto, as applicable (the "Restricted Legend"), for so long as it is required by this Indenture to bear such legend.

(ii) Upon any sale or transfer of a Restricted Security (x) after the expiration of the holding period applicable to sales of the Securities under Rule 144(k) of the Securities Act, (y) pursuant to Rule 144 or (z) pursuant to an effective registration statement under the Securities Act:

(1) in the case of any Restricted Certificated Security, each Registrar shall permit the Holder thereof to transfer such Restricted Certificated Security to a transferee who, unless such transferee is an Affiliate of the Company, shall take such Security in the form of an Unrestricted Certificated Security or (under the circumstances described in Section 2.12(e)) an Unrestricted Global Security, and in each case shall rescind any restriction on the transfer of such Security; *provided, however*, that the Holder of such Restricted Certificated Security shall, in connection with such exchange or transfer, comply with the other applicable provisions of this Section 2.12; and

(2) in the case of a Restricted Global Security, each Registrar shall permit the Holder thereof to transfer such beneficial interest in a Restricted Global Security to a transferee who, unless such transferee is an Affiliate of the Company, shall take such Security in the form of a beneficial interest in an Unrestricted Global Security and shall rescind any restriction on transfer of such Security; *provided, however*, that such Unrestricted Global Security shall continue to be subject to the provisions of Section 2.12(a)(ii); and *provided further, however*, that the owner of such beneficial interest shall, in connection with such transfer, comply with the other applicable provisions of this Section 2.12.

If the Applicable Procedures so require, prior to the removal of any restrictive legend at the end of the holding period applicable to sales of the Securities under Rule 144(k) of the Securities Act, such requesting Holder shall deliver an Opinion of Counsel in form reasonably acceptable to the

Company to the effect that the restrictions on transfer contained herein and the restrictive legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Upon the exchange, registration of transfer or replacement of Securities not bearing the Restricted Legend, the Company shall issue, and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly and which may be a standing order), authenticate and deliver, Securities that do not bear such Restricted Legend.

(iv) After the expiration of the holding period pursuant to Rule 144(k) of the Securities Act, the Company may with the consent of any Holder of a Restricted Global Security or a Restricted Certificated Security that is not an Affiliate of the Company, remove any restriction of transfer on such Security, and the Company shall issue, and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly and which may be a standing order), authenticate and deliver Securities that do not bear the Restricted Legend.

(v) Until the expiration of the holding period applicable to sales of the Securities under Rule 144(k) of the Securities Act or a transfer pursuant to Rule 144 or pursuant to an effective registration statement under the Securities Act, the shares of Common Stock issued upon conversion of the Securities shall bear a legend substantially to the same effect as the Restricted Legend; *provided* that all Securities held by Affiliates of the Company shall bear the Restricted Legend at all times.

(g) Transfers to the Company. Nothing contained in this Indenture or in the Securities shall prohibit the sale or other transfer of any Securities (including beneficial interests in Global Securities) to the Company, or any of its Subsidiaries or any of its Affiliates.

SECTION 2.13. CUSIP Numbers. The Company in issuing the Securities may use one or more “CUSIP,” “ISIN” or other similar numbers (if then generally in use), and, if so, the Trustee shall use “CUSIP,” “ISIN” or other similar numbers in notices of purchase 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 Securities or as contained in any notice of a purchase and that reliance may be placed only on the other identification numbers printed on the Securities, and any such purchase shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee of any change in the “CUSIP,” “ISIN” or other similar numbers.

SECTION 2.14. Persons Deemed Owners. Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of, Fundamental Change Purchase Price, and interest on the Security, for the purpose of receiving Common Stock or Cash and for all other purposes, including, for purposes of giving notices hereunder, whatsoever, whether or not such Security is overdue, and none of the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary. The registered Holder of a Global Security may grant proxies and otherwise authorize any person, including Agent Members and persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Securities.

SECTION 2.15. Defaulted Interest. If the Company defaults on a payment of interest on the Securities, it shall pay the defaulted interest, plus (to the extent permitted by law) any interest payable on the defaulted interest, in accordance with the terms hereof, to the Persons who are Holders on a subsequent special record date, which date shall be at least five Business Days prior

to the payment date. The Company shall fix such special record date and payment date in a reasonable manner. At least 10 days before such special record date, the Company shall mail to each Holder a notice that states the special record date, the payment date and the amount of defaulted interest, and interest payable on defaulted interest, if any, to be paid. The Company may make payment of any defaulted interest in any other lawful manner not inconsistent with the requirements (if applicable) of any securities exchange on which the Securities may be listed and, upon such notice as may be required by such exchange.

ARTICLE III

Fundamental Change Repurchase Right

SECTION 3.1. Purchase of Securities at Option of the Holder upon a Fundamental Change. (a) In the event a Fundamental Change shall occur at any time when any Securities remain outstanding, the Securities shall be purchased by the Company, at the option of any Holder thereof, in accordance with the provisions of paragraph 5 of the Securities on a date specified by the Company (the “Fundamental Change Purchase Date”) that is not less than 15 nor more than 45 Business Days after the date the Company mails the Fundamental Change Company Notice pursuant to Section 3.1(b), at a purchase price in Cash equal to 100% of the principal amount of the Securities tendered for purchase, plus accrued and unpaid interest (including Additional Interest, if any) to, but not including, the Fundamental Change Purchase Date (the “Fundamental Change Purchase Price”), subject to satisfaction by or on behalf of any Holder of the requirements set forth in Section 3.1(c).

A “Fundamental Change” shall be deemed to have occurred upon the occurrence of any of the following:

(1) any “person” or “group” becomes the “beneficial owner,” directly or indirectly, of shares of the Company’s voting stock representing 50% or more of the total voting power of all outstanding classes of the Company’s voting stock or has the power, directly or indirectly, to elect a majority of the members of the “board of directors” of the Company and (i) such “person” or “group” files a Schedule 13D or Schedule TO, or any successor schedule, form or report under the Exchange Act, disclosing the same or (ii) the Company otherwise becomes aware of any such person or group;

(2) the Company consolidates with, or merges with or into, another Person or the Company sells, assigns, conveys, transfers, leases or otherwise disposes of all or substantially all of the Company’s assets, or any Person consolidates with, or merges with or into, the Company, in any such event other than pursuant to a transaction in which the Persons (the “Existing Shareholders”) that “beneficially owned,” directly or indirectly, shares of the Company’s voting stock immediately prior to such transaction beneficially own, directly or indirectly, shares of voting stock representing a majority of the total voting power of all outstanding classes of voting stock of the surviving or transferee person in substantially the same proportion among such Existing Shareholders (disregarding for this purpose any shares of voting stock (A) received as consideration for the capital stock of any Person other than the Company or (B) held prior to such transaction and issued by a Person other than the Company) as such ownership immediately prior to such transaction;

or

(3) the Company's Common Stock ceases to be listed on the Nasdaq, the NYSE or another national securities exchange and is not then quoted on an established automated over-the-counter trading market in the United States.

Notwithstanding anything to the contrary set forth in this Section 3.1, a merger or consolidation shall be deemed not to constitute a Fundamental Change if at least 90% of the consideration (excluding Cash payments for fractional shares and Cash payments pursuant to dissenters' appraisal rights) in the merger or consolidation constituting the Fundamental Change consists of common stock traded on the Nasdaq, the NYSE or another national securities exchange (or which shall be so traded when issued or exchanged in connection with such merger or consolidation) ("Traded Common Stock") and as a result of such transaction or transactions the Securities become convertible solely into such Traded Common Stock.

For purposes of this Section 3.1:

- "person" and "group" shall have the meanings given to them for purposes of Sections 13(d) and 14(d) of the Exchange Act or any successor provisions, and the term "group" includes any group acting for the purpose of acquiring, holding or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act, or any successor provision;
- a "beneficial owner" shall be determined in accordance with Rule 13d-3 under the Exchange Act, as in effect on the date of this Indenture;
- "beneficially own" and "beneficially owned" have meanings correlative to that of beneficial owner;
- "board of directors" means the board of directors or other governing body charged with the ultimate management of any person;
- "capital stock" means: (i) in the case of a corporation, corporate stock; (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (iii) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; or (iv) 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; and
- "voting stock" means any class or classes of capital stock or other interests then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of the board of directors.

(b) Notice of Fundamental Change. Within 30 Business Days after the effective date of each Fundamental Change, the Company shall notify the Trustee in writing of the Fundamental Change Purchase Date and shall mail a written notice of the Fundamental Change (the "Fundamental Change Company Notice") to each Holder (and to beneficial owners as required by applicable law) in accordance with Section 14.2. The notice shall include the form of a Fundamental Change Purchase Notice to be completed by the Holder and shall state, as applicable:

- (1) the events causing such Fundamental Change and the date of such Fundamental Change;

- (2) that the Holder has a right to require the Company to purchase the Holder's Securities;
- (3) the date by which the Fundamental Change Purchase Notice must be delivered to the Paying Agent in order for a Holder to exercise the Fundamental Change purchase right;
- (4) the Fundamental Change Purchase Date;
- (5) the Fundamental Change Purchase Price;
- (6) the procedures that the Holder must follow to exercise its Fundamental Change purchase right under this Section 3.1;
- (7) the names and addresses of the Paying Agent and the Conversion Agent;
- (8) that the Securities must be surrendered to the Paying Agent to collect payment of the Fundamental Change Purchase Price;
- (9) that the Fundamental Change Purchase Price for any Security as to which a Fundamental Change Purchase Notice has been duly given and not withdrawn shall be paid promptly following the later of the Fundamental Change Purchase Date and the time of surrender of such Security;
- (10) the current Conversion Rate, including any increases to the Conversion Rate that resulted from the Fundamental Change;
- (11) that the Securities with respect to which a Fundamental Change Purchase Notice has been given may be converted pursuant to Article IV of this Indenture only if either (i) the Fundamental Change Purchase Notice has been withdrawn in accordance with the terms of this Indenture or (ii) there shall be a default in the payment of the Fundamental Change Purchase Price;
- (12) the procedures for withdrawing a Fundamental Change Purchase Notice;
- (13) that, unless the Company defaults in making payment of such Fundamental Change Purchase Price, interest on Securities surrendered for purchase by the Company shall cease to accrue on and after the Fundamental Change Purchase Date; and
- (14) the CUSIP number(s) of the Securities.

If any of the Securities are in the form of a Global Security, then the Company shall modify such notice to the extent necessary to accord with the Applicable Procedures for repurchases.

At the Company's written request, the Trustee shall give the Fundamental Change Company Notice on behalf of the Company and at the Company's expense; *provided, however*, that the Company makes such request at least three Business Days (unless a shorter period shall be consented to in writing by the Trustee) prior to the date by which such Fundamental Change Company Notice must be given to the Holders in accordance with this Section 3.1(b); *provided further, however*, that the text of such notice shall be prepared by the Company.

(c) Fundamental Change Purchase Notice. A Holder may exercise its right specified in Section 3.1(a) upon delivery of a written notice (which shall be in substantially the form included in Exhibit A-1 or Exhibit A-2 hereto, as applicable, and which may be delivered by letter, overnight courier, hand delivery, facsimile transmission or in any other written form and, in the case of Global Securities, may be delivered electronically or by other means in accordance with the Applicable Procedures) of the exercise of such rights (a “Fundamental Change Purchase Notice”) to and actually received by a Paying Agent at any time prior to 5:00 p.m., New York City time, on the Business Day immediately preceding the Fundamental Change Purchase Date. The Fundamental Change Purchase Notice must state:

- (1) if Certificated Securities are to be delivered, the certificate numbers of the Securities that the Holder shall deliver to be purchased;
- (2) the portion of the principal amount of the Securities that the Holder shall deliver to be purchased, which portion must be in principal amounts of \$1,000 or an integral multiple thereof; and
- (3) that such Securities shall be purchased by the Company on the Fundamental Change Purchase Date pursuant to the terms and conditions specified in paragraph 5 of the Securities and in this Indenture.

The delivery of such Security to any Paying Agent (together with all necessary endorsements) at the office of such Paying Agent shall be a condition to the receipt by the Holder of the Fundamental Change Purchase Price; *provided, however*, that such Fundamental Change Purchase Price shall be paid pursuant to this Section 3.1 only if the Security so delivered to the Paying Agent shall conform in all material respects to the description thereof in the related Fundamental Change Purchase Notice.

The Company shall purchase from the Holder thereof, pursuant to this Section 3.1, a portion of a Security if the principal amount of such portion is \$1,000 or an integral multiple of \$1,000. Provisions of this Article III that apply to the purchase of all of a Security also apply to the purchase of such a portion of such Security.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Purchase Notice contemplated by this Section 3.1(c) shall have the right to withdraw such Fundamental Change Purchase Notice at any time prior to 5:00 p.m., New York City time, on the Business Day immediately preceding the Fundamental Change Purchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 3.2(b).

A Paying Agent shall promptly notify the Company once each Business Day of the receipt by it of any Fundamental Change Purchase Notices or written notices of withdrawal thereof.

(d) Notwithstanding anything herein to the contrary, in the case of Global Securities, any Fundamental Change Purchase Notice may be delivered or withdrawn, and such Securities may be surrendered or delivered for purchase, in accordance with the Applicable Procedures.

SECTION 3.2. Effect of Fundamental Change Purchase Notice. (a) Upon receipt by any Paying Agent of a Fundamental Change Purchase Notice, the Holder of the Security in respect of which such Fundamental Change Purchase Notice was given shall (unless such Fundamental Change Purchase Notice is withdrawn as specified below) thereafter be entitled to receive the

Fundamental Change Purchase Price with respect to such Security. Such Fundamental Change Purchase Price shall be paid to such Holder promptly following the later of (i) the Fundamental Change Purchase Date (provided such Holder has satisfied the conditions in Section 3.1(c)) with respect to such Security and (ii) the time of delivery of such Security to a Paying Agent by the Holder thereof in the manner required by Section 3.1(c). A Security in respect of which a Fundamental Change Purchase Notice has been given by the Holder thereof may not be converted pursuant to Article IV hereof on or after the date of the delivery of such Fundamental Change Purchase Notice, unless either (i) such Fundamental Change Purchase Notice has first been validly withdrawn in accordance with Section 3.2(b); or (ii) there shall be a default in the payment of the Fundamental Change Purchase Price, *provided*, that the conversion right with respect to such Security shall terminate immediately when such default is cured and such Security is purchased in accordance herewith.

(b) A Fundamental Change Purchase Notice may be withdrawn by any Holder delivering such Fundamental Change Purchase Notice upon delivery of a written notice of withdrawal (which may be delivered by mail, overnight courier, hand delivery, facsimile transmission or in any other written form and, in the case of Global Securities, may be delivered electronically or by other means in accordance with the Applicable Procedures) to and actually received by Paying Agent at any time prior to 5:00 p.m., New York City time, on the Business Day immediately preceding the Fundamental Change Purchase Date, specifying:

(1) if Certificated Securities are to be withdrawn, the certificate numbers of the Securities in respect of which such notice of withdrawal is being submitted;

(2) the principal amount of the Securities in respect of which such notice of withdrawal is being submitted, which principal amount must be \$1,000 or an integral multiple thereof; and

(3) the principal amount, if any, of the Securities that remains subject to the original Fundamental Change Purchase Notice and that has been or shall be delivered for purchase by the Company.

SECTION 3.3. Deposit of Fundamental Change Purchase Price or Option Purchase Price. Prior to 10:00 a.m., New York City time, on a Fundamental Change Purchase Date, the Company shall deposit with the Paying Agent (or if the Company or an Affiliate of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.4) an amount in Cash (in immediately available funds if deposited on such Fundamental Change Purchase Date) sufficient to pay the aggregate Fundamental Change Purchase Price of all the Securities or portions thereof that are to be purchased on that Fundamental Change Purchase Date.

If a Paying Agent holds, in accordance with the terms hereof, at 10:00 a.m., New York City time, on a Fundamental Change Purchase Date, Cash sufficient to pay the aggregate Fundamental Change Purchase Price of all Securities for which a Fundamental Change Purchase Notice has been delivered and not validly withdrawn in accordance with this Indenture and the Paying Agent is not prohibited from paying such money to the Holders on such date pursuant to the terms of this Indenture, then, on and after such Fundamental Change Purchase Date, such Securities shall cease to be outstanding and interest on such Securities shall cease to accrue, whether or not such Securities are delivered to the Paying Agent, and the rights of the Holders in respect thereof shall terminate (other than the right to receive the Fundamental Change Purchase Price upon delivery of such Securities by their Holders to the Paying Agent).

SECTION 3.4. Securities Purchased in Part. Any Certificated Security that is to be purchased only in part shall be surrendered at the office of a Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form reasonably satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing), and promptly after a Fundamental Change Purchase Date, the Company shall issue and the Trustee shall, upon receipt of a Company Order (which the Company agrees to deliver promptly), authenticate and deliver to the Holder of such Security, without service charge, a new Security or Securities, of such authorized denomination or denominations as may be requested by such Holder, in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Security so surrendered that is not purchased.

SECTION 3.5. Repayment to the Company. To the extent that the aggregate amount of Cash deposited by the Company pursuant to Section 3.2 exceeds the aggregate Fundamental Change Purchase Price of the Securities or portions thereof that the Company is obligated to purchase on the Fundamental Change Purchase Date, then, within one day after the Fundamental Change Purchase Date, the Paying Agent shall return any such excess Cash to the Company.

SECTION 3.6. Compliance with Securities Laws upon Purchase of Securities. When complying with the provisions of Article III (provided that such offer or purchase constitutes an "issuer tender offer" for purposes of Rule 13e-4 (which term, as used herein, includes any successor provision thereto) under the Exchange Act at the time of such offer or purchase), and subject to any exemptions available under applicable law, the Company shall:

(a) comply with Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable; and

(b) otherwise comply with all federal and state securities laws so as to permit the rights and obligations in connection with any purchase pursuant to this Article III to be exercised in the time and in the manner specified herein.

ARTICLE IV

Conversion

SECTION 4.1. Conversion Privilege. (a) Subject to and upon compliance with the provisions of this Article IV and paragraph 6 of the Security, at the option of the Holder thereof, any Security, in whole or in part, may be converted into Cash, shares of Common Stock or a combination of Cash and shares of Common Stock, at the Company's option, at a Conversion Rate (the "Conversion Rate"), initially equivalent to 105.0696 shares of Common Stock per \$1,000 principal amount of Securities, subject to adjustment pursuant to Section 4.6, on or prior to the close of business on the Business Day immediately preceding the applicable Final Maturity Date. The Securities shall be convertible at any time prior to close of business on the Business Day immediately preceding the applicable Final Maturity Date.

(b) If a Holder elects to convert its Securities in connection with a Fundamental Change and during the period beginning on the date of the applicable Fundamental Change Company Notice and ending at the close of business on the second Trading Day preceding the applicable Fundamental Change Purchase Date, then the Conversion Rate of the Securities being converted by such Holder shall be increased in the manner set forth below; *provided* that if the Stock Price in such transaction is greater than \$40.00 or less than \$7.05 (subject in each case to adjustment in

the same manner as the Stock Prices as described at the end of this Section 4.1(b)), no increase in the Conversion Rate shall be made. For the avoidance of doubt, the increases provided for in this Section 4.1(b) shall only be made with respect to the Securities being converted in connection with such Fundamental Change and shall not be effective as to any Securities not so converted.

The increase in the Conversion Rate, expressed as a number of additional shares of the Common Stock to be received per \$1,000 principal amount of Securities, will be determined by the Company by reference to (i) with respect to the 2010 Securities, the table attached as Schedule A hereto and (ii) with respect to the 2012 Securities, the table attached as Schedule B hereto, in each case based on the date the Fundamental Change becomes effective (the “Effective Date”) and the price paid per share of Common Stock in the corporate transaction that gives rise to the Fundamental Change (the “Stock Price”); *provided that* if a Holder of the Common Stock receives only Cash in such corporate transaction, the Stock Price shall be the Cash amount paid per share. In all other cases, the Stock Price will be the average of the stock price per share of the Common Stock (or any security into which the Common Stock has been converted in connection with a Fundamental Change) on the five consecutive Trading Days beginning on the second Trading Day after the date on which the Company mailed the Fundamental Change Company Notice pursuant to Section 3.1(b), *provided, however*, that if, in connection with a Fundamental Change, all or a portion of the Common Stock is converted into cash or some other consideration (other than publicly traded securities), the Stock Price will be determined based on the face amount of the cash received or the fair market value of such other consideration received, in each case per share of Common Stock and on a weighted average basis; *provided further* that if the Stock Price is between two Stock Price amounts in the applicable table or the Effective Date is between two Effective Dates in the applicable table, the Company shall determine the increased Conversion Rate by a straight-line interpolation between the Conversion Rates set forth for the higher and lower Stock Price amounts and the two dates, based on a 365 day year, as applicable. The Stock Prices set forth in the first column of the table set forth on Schedule A or Schedule B will be adjusted on each occasion when the Conversion Rate of the applicable Securities is adjusted. The adjusted Stock Prices will equal the Stock Prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of additional shares of Common Stock will be adjusted in the same manner as the Conversion Rate as set forth in Section 4.6.

(c) At any time prior to the applicable Maturity Date, the Company may irrevocably elect, with respect to any Series of Securities, in its sole discretion, to satisfy the Conversion Obligation for the remaining term of the applicable Series of Securities either (i) in cash for the lesser of 100% of the principal amount of the Securities converted and the Conversion Value of the Securities converted, with any amount by which such Conversion Value exceeds the principal amount of such Securities (the “Remaining Conversion Obligation”) to be satisfied in cash, shares of Common Stock or a combination of Cash and shares of Common Stock, at the Company’s option, (the “Net Share Settlement Election”) or (ii) only in shares of Common Stock (the “Share Settlement Election”).

SECTION 4.2. Conversion Procedure. (a) The right of conversion attaching to any Security may be exercised at any time during which conversion is permitted in accordance with Section 4.1(a), (i) if such Security is represented by a Global Security, by book-entry transfer to the Conversion Agent through the facilities of the Depositary in accordance with the Applicable Procedures, or (ii) if such Security is represented by a Certificated Security, by delivery of such Security at the specified office of the Conversion Agent, accompanied, in either case, by: (1) a

duly signed and completed conversion notice, in the form as set forth on the reverse of Security attached hereto as Exhibit A-1 or Exhibit A-2, as applicable (a “Conversion Notice”); (2) if such Certificated Security has been lost, stolen, destroyed or mutilated, a notice to the Conversion Agent in accordance with Section 2.7 regarding the loss, theft, destruction or mutilation of the Security; (3) appropriate endorsements and transfer documents if required by the Conversion Agent; and (4) payment of any tax or duty, in accordance with Section 4.4, which may be payable in respect of any transfer involving the issue or delivery of the Common Stock in the name of a Person other than the Holder of the Security. The date on which the Holder satisfies all of those requirements is the “Conversion Date.” The Company shall deliver to the Holder through a Conversion Agent Cash and a certificate for the number of whole shares of Common Stock issuable upon the conversion, as applicable (and Cash in lieu of any fractional shares pursuant to Section 4.3), (i) if the Company elects to satisfy the entire Conversion Obligation in shares of Common Stock (other than Cash in lieu of any fractional shares pursuant to Section 4.3), as soon as practicable on or after the applicable Conversion Date and (ii) in all other cases, on the Trading Day following the final day of the applicable Cash Settlement Averaging Period.

(b) The person in whose name the Security is registered shall be deemed to be a stockholder of record on the Conversion Date; *provided, however*, that no surrender of a Security or satisfaction of the other conditions in Section 4.2(a) on any date when the stock transfer books of the Company shall be closed shall be effective to constitute the person or persons entitled to receive the shares of Common Stock upon such conversion as the record holder or holders of such shares of Common Stock on such date, but such surrender shall, provided that all such conditions have been satisfied, be effective to constitute the person or persons entitled to receive such shares of Common Stock as the record holder or holders thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open; *provided further, however*, that such conversion shall be at the Conversion Rate in effect on the date on which all such conditions have been satisfied and such Security was delivered as if the stock transfer books of the Company had not been closed. Upon conversion of a Security, such person shall no longer be a Holder of such Security. No separate payment or adjustment will be made for accrued and unpaid interest on a converted Security or for dividends or distributions on shares of Common Stock issued upon conversion of a Security except as provided in Section 4.14.

(c) Upon surrender of a Security that is converted in part, the Company shall execute, and the Trustee shall, upon receipt of a Company Order, authenticate and deliver to the Holder, a new Security equal in principal amount of the unconverted portion of the Security surrendered.

SECTION 4.3. Fractional Shares. The Company shall not issue fractional shares of Common Stock upon conversion of Securities and instead shall deliver Cash in an amount equal to the value of such fraction computed by the Company on the basis of the Closing Sale Price of the Common Stock on the Trading Day immediately before the Conversion Date.

SECTION 4.4. Taxes on Conversion. If a Holder converts a Security, the Company shall pay any documentary, stamp or similar issue or transfer taxes or duties relating to the issuance or delivery of shares of Common Stock upon exercise of such conversion rights. However, the Holder shall pay any tax or duty which may be payable relating to any transfer involving the issuance or delivery of shares of Common Stock in a name other than the Holder’s name. The Conversion Agent may refuse to deliver the certificate representing shares of Common Stock being issued in a name other than the Holder’s name until the Conversion Agent receives a sum sufficient to pay any tax or duties which will be due because the shares are to be issued in a name other than the Holder’s name. Nothing herein shall preclude any tax withholding required by law or regulation. The Company may, at its option, set off withholding taxes due with respect to

Securities against payments of Cash and Common Stock on the Securities. In the case of any such set off against Common Stock delivered upon conversion of the Securities, such Common Stock shall be valued based on the arithmetic average of the Volume Weighted Average Prices for each Trading Day in the relevant Cash Settlement Averaging Period.

SECTION 4.5. Company to Provide Stock. (a) The Company shall, prior to the issuance of any Securities hereunder, and from time to time as may be necessary, reserve at all times and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, a sufficient number of shares of Common Stock deliverable upon conversion of all of the Securities.

(b) All shares of Common Stock that may be issued upon conversion of the Securities shall be newly issued shares or shares held in the treasury of the Company, shall be duly authorized, validly issued, fully paid and nonassessable and shall be free of any preemptive rights and free of any lien or adverse claim.

(c) The Company shall comply with all applicable securities laws regulating the offer and delivery of any Common Stock upon conversion of Securities and shall list or cause to have quoted such shares of Common Stock on the Nasdaq, the NYSE or any other United States national or regional securities exchange or such other market on which the Common Stock is then listed or quoted; *provided, however*, that, if the rules of such automated quotation system or exchange permit the Company to defer the listing of such Common Stock until the first conversion of the Securities into Common Stock in accordance with the provisions of this Indenture, the Company covenants to list such Common Stock issuable upon conversion of the Securities in accordance with the requirements of such automated quotation system or exchange at such time.

(d) Notwithstanding anything herein to the contrary, nothing herein shall give to any Holder any rights as a creditor in respect solely of its right to conversion.

SECTION 4.6. Adjustment of Conversion Rate. The Conversion Rate shall be adjusted from time to time by the Company as follows:

(a) In case the Company shall (i) issue shares of its Common Stock as a dividend or distribution on its Common Stock or (ii) subdivide, combine or reclassify its outstanding Common Stock, the Conversion Rate in effect immediately prior thereto shall be adjusted so that the Holder of any Security thereafter surrendered for conversion shall be entitled to receive that number of shares of Common Stock which it would have been entitled to (without giving effect to any arrangement pursuant to such dividend, distribution, subdivision, combination or reclassification not to issue fractional shares of Common Stock) had such Security been converted immediately prior to the record date of such event or the happening of such event. An adjustment made pursuant to this subsection (a) shall become effective immediately upon the issuance in the case of a dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification.

(b) In case the Company shall issue rights or warrants to all holders of its Common Stock entitling them to subscribe for or purchase shares of Common Stock (or securities convertible into Common Stock) at a price per share (or a conversion price per share) less than the Current Market Price per share (as determined in accordance with subsection (f) of this Section 4.6) of Common Stock on the record date for such issuance (other than a distribution of rights pursuant to any then-existing shareholder rights plan), the Conversion Rate in effect immediately prior to the close of business on the record

date for the issuance shall be increased by multiplying the Conversion Rate in effect immediately prior to the close of business on such record date by a fraction of which (A) the numerator shall be the sum of (I) the number of shares of Common Stock outstanding (excluding shares held in the treasury of the Company) at the close of business on such record date and (II) the aggregate number of shares (the “Underlying Shares”) of Common Stock underlying all such issued rights or warrants (whether by exercise, conversion, exchange or otherwise) and (B) the denominator shall be the sum of (I) number of shares of Common Stock outstanding (excluding shares held in the treasury of the Company) at the close of business on such record date and (II) the number of shares of Common Stock which the aggregate exercise, conversion, exchange or other price at which the Underlying Shares may be subscribed for or purchased pursuant to such rights or warrants would purchase at such Current Market Price per share of Common Stock. Such increase shall become effective immediately prior to the opening of business on the Business Day following such record date. Such adjustment shall be made successively whenever any such rights or warrants are issued, and shall become effective immediately after such record date. To the extent that such shares of Common Stock (or securities convertible into Common Stock) are not delivered after the expiration of such rights or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock (or securities convertible into Common Stock) actually delivered. If such rights or warrants are not so issued, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if the record date for the determination of shareholders entitled to receive such rights or warrants had not been fixed. In determining whether any rights or warrants entitle the holders of Common Stock to subscribe for or purchase shares of Common Stock at a price less than the Current Market Price per share of Common Stock and in determining the aggregate offering price of the total number of shares of Common Stock so offered, there shall be taken into account any consideration received by the Company for such rights or warrants and any amounts payable on exercise or conversion thereof.

(c) In case the Company shall distribute to all holders of its Common Stock any shares of capital stock of the Company, evidences of indebtedness or other non-Cash assets, or rights or warrants (excluding (i) dividends, distributions and rights or warrants referred to in Section 4.6(a) or (b), (ii) distributions referred to in Section 4.6(e) and (iii) the distribution of rights pursuant to a shareholder rights plan for which provision has been made in accordance with the third paragraph of this Section 4.6(c)), the Conversion Rate shall be increased by multiplying the Conversion Rate in effect immediately prior to the close of business on the record date for the distribution by a fraction of which (A) the numerator shall be the Current Market Price per share (as defined in Section 4.6(f)) of the Common Stock on such record date and (B) the denominator shall be an amount equal to (I) such Current Market Price per share less (II) the fair market value on such record date (as determined by the Board of Directors, whose determination shall be conclusive evidence of such fair market value and which shall be evidenced by an Officers’ Certificate delivered to the Trustee) of the portion of the capital stock, evidences of indebtedness or other non-Cash assets so distributed or of such rights or warrants applicable to one share of Common Stock (determined on the basis of the number of shares of Common Stock outstanding at the close of business on the record date); *provided, however*, that, in the event the then fair market value (as so determined) of the portion of the capital stock, evidences of indebtedness or other non-Cash assets so distributed or of such rights or warrants applicable to one share of Common Stock is

equal to or greater than the Current Market Price per share of the Common Stock on such record date, then, in lieu of the foregoing adjustment, adequate provision shall be made so that each Holder shall have the right to receive upon conversion (in addition to any other consideration payable hereunder upon conversion) the amount of capital stock, evidences of indebtedness or other non-Cash assets so distributed or of such rights or warrants such Holder would have received had such Holder converted each Security on such record date. In no event shall the Conversion Rate be decreased pursuant to this Section 4.6(c). Such adjustment (if any) shall be made successively whenever any such distribution is made and shall become effective immediately after such record date.

In the event that such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if such dividend or distribution had not been declared. If the Board of Directors of the Company determines the fair market value of any distribution for purposes of this Section 4.6(c) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the applicable Current Market Price per share of Common Stock.

In lieu of adjusting the Conversion Rate, the Company shall make adequate provisions such that, upon any conversion of the Securities into Common Stock, to the extent that any new shareholder rights plan (i.e., poison pill) hereafter implemented by the Company is in effect upon such conversion, the Holders of Securities will receive, in addition to the Common Stock and other consideration payable hereunder upon conversion, the rights described in any new rights plan (whether or not the rights have separated from the Common Stock at the time of conversion), subject to the limitations set forth in any new rights plan. Any distribution of rights or warrants pursuant to any new rights plan complying with the requirements set forth in the immediately preceding sentence of this paragraph shall not constitute a distribution of rights or warrants pursuant to this Section 4.6(c).

(d) In case the Company shall dividend or distribute (other than in connection with a liquidation, dissolution or winding up of the Company) Cash to all holders of Common Stock (other than a distribution requiring an adjustment to the Conversion Rate pursuant to Section 4.6(e)), the Conversion Rate shall be increased by multiplying the Conversion Rate in effect immediately prior to the close of business on the record date for the determination of holders of Common Stock entitled to such dividend or distribution by a fraction (A) whose numerator shall be the average of the Volume-Weighted Average Prices per share of Common Stock (or, if such Volume-Weighted Average Prices are not available, the Closing Sale Prices) for the five consecutive Trading Days ending on the date immediately preceding the “ex” date (as defined in Section 4.6(f)) for such dividend or distribution (which average shall be appropriately adjusted by the Board of Directors, in its good faith determination (which determination shall be described in a resolution of the Board of Directors), to account for any adjustment, pursuant hereto, to the Conversion Rate that shall become effective, or any event requiring, pursuant hereto, an adjustment to the Conversion Rate where the “ex” date of such event occurs, at any time during such five consecutive Trading Days); and (B) whose denominator shall be an amount equal to (I) such average Volume-Weighted Average Price (or, if applicable, average Closing Sale Price) per share of Common Stock, in each case calculated in the same manner as set forth in the immediately preceding clause (A) less (II) the amount per share of Common Stock of such dividend or distribution; *provided, however*, that the Conversion Rate shall not be adjusted pursuant to this Section 4.6(d) to the extent, and only to the extent, such adjustment would cause

the Conversion Price to be less than par value of the Common Stock (which minimum amount shall be appropriately adjusted to reflect stock dividends on, and subdivisions, combinations or reclassifications of, Common Stock); provided further that, if the denominator of such fraction shall be equal to or less than zero, the Conversion Rate shall be instead adjusted so that the Conversion Price is equal to par value of the Common Stock (as adjusted in accordance with the immediately preceding proviso). An adjustment to the Conversion Rate pursuant to this Section 4.6(d) shall become effective immediately prior to the opening of business on the Business Day immediately following such record date. In no event shall the Conversion Rate be decreased pursuant to this Section 4.6(d).

(e) In case the Company or any Subsidiary of the Company shall distribute Cash or other consideration in respect of a tender offer or exchange offer made by the Company or any Subsidiary of the Company for all or any portion of the Common Stock where the sum of the aggregate amount of such Cash distributed and the aggregate fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and set forth in a resolution of the Board of Directors), as of the Expiration Date (as defined below), of such other consideration distributed (such sum, the “Aggregate Amount”) expressed as an amount per share of Common Stock validly tendered or exchanged, and not withdrawn, pursuant to such tender offer or exchange offer as of the Expiration Time (as defined below) (such tendered or exchanged shares of Common Stock, the “Purchased Shares”) exceeds the Current Market Price per share (as determined in accordance with Section 4.6(f)) of Common Stock on the last date (such last date, the “Expiration Date”) on which tenders or exchanges could have been made pursuant to such tender offer or exchange offer (as the same may be amended through the Expiration Date), then the Conversion Rate shall be increased by multiplying the Conversion Rate in effect immediately prior to the close of business on the Expiration Date by a fraction (A) whose numerator is equal to the sum of (I) the Aggregate Amount per share of Common Stock and (II) the product of (a) the Current Market Price per share of Common Stock (as determined in accordance with Section 4.6(f)) on the Expiration Date and (b) an amount equal to the number of shares of Common Stock outstanding as of the last time (the “Expiration Time”) at which tenders or exchanges could have been made pursuant to such tender offer or exchange offer (excluding Purchased Shares and shares held at such time in the treasury of the Company) and (B) whose denominator is equal to the product of (I) the number of shares of Common Stock outstanding as of the Expiration Time (including all Purchased Shares but excluding shares held at such time in the treasury of the Company) and (II) such Current Market Price per share of Common Stock on the Expiration Date. An increase, if any, to the Conversion Rate pursuant to this Section 4.6(e) shall become effective immediately prior to the opening of business on the “ex” date. In the event that the Company or a Subsidiary of the Company is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Company or such Subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if such tender offer or exchange offer had not been made. If the application of this Section 4.6(e) to any tender offer or exchange offer would result in a decrease in the Conversion Rate, no adjustment shall be made for such tender offer or exchange offer under this Section 4.6(e).

(f) For the purpose of making a computation pursuant to this Section 4.6, the current market price (the “Current Market Price”) on a date of determination shall mean

the average of the Closing Sale Prices per share of Common Stock for the five consecutive Trading Days ending on the date of determination; *provided, however*, that such Current Market Price shall be appropriately adjusted by the Board of Directors, in its good faith determination (which determination shall be described in a resolution of the Board of Directors), to account for any adjustment pursuant hereto (other than the adjustment requiring such computation) to the Conversion Rate that shall become effective, or any event (other than the event requiring such computation) requiring, pursuant hereto, an adjustment to the Conversion Rate where the “ex” date of such event occurs, at any time during such five consecutive Trading Days. For purposes hereof, the term “ex” date means (i) when used with respect to any dividend or distribution, the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Closing Sale Price was obtained without the right to receive such dividend or distribution; and (ii) when used with respect to any tender offer or exchange offer, the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Closing Sale Price was obtained after the Expiration Time.

(g) In any case in which this Section 4.6 shall require that an adjustment be made following a record date or Expiration Date, as the case may be, established for purposes of this Section 4.6, the Company may elect to defer (but only until five Business Days following the filing by the Company with the Trustee of the certificate described in Section 4.10) issuing to the Holder of any Security converted after such record date or Expiration Date the shares of Common Stock and other capital stock of the Company, evidences of indebtedness or other non-Cash assets or rights or warrants issuable upon such conversion over and above Cash payable, or the shares of Common Stock and other capital stock of the Company, evidences of indebtedness or other non-Cash assets or rights or warrants issuable, upon such conversion only on the basis of the Conversion Rate prior to adjustment; and, in lieu of the shares, evidences of indebtedness or other non-Cash assets or rights or warrants the issuance of which, or Cash the payment of which, is so deferred, the Company shall issue or cause its transfer agents to issue due bills or other appropriate evidence prepared by the Company of the right to receive such shares or Cash, as the case may be. If any distribution in respect of which an adjustment to the Conversion Rate is required to be made as of the record date or Expiration Date therefor is not thereafter made or paid by the Company for any reason, the Conversion Rate shall be readjusted to the Conversion Rate which would then be in effect if such record date had not been fixed or such effective date or Expiration Date had not occurred.

SECTION 4.7. No Adjustment. No adjustment in the Conversion Rate shall be required unless the adjustment would result in a change in the Conversion Rate of at least 1%; *provided, however*, that any adjustment which by reason of this Section 4.7 is not required to be made shall be carried forward and taken into account in subsequent adjustments. All calculations under this Article IV shall be made to the nearest one-thousandth of a cent or to the nearest one-thousandth of a share, as the case may be.

Except as otherwise specifically provided for in this Indenture, the Company shall not be required to adjust the Conversion Rate for the issuance of its Common Stock or any securities convertible or exchangeable for its Common Stock or the right to purchase its Common Stock or such convertible or exchangeable securities.

No adjustment need be made for (i) issuances of Common Stock pursuant to a Company plan for reinvestment of dividends or interest or the investment or additional optional amounts

thereunder in shares of Common Stock or for a change in the par value or a change to no par value of the Common Stock or (ii) upon the issuance of any shares of Common Stock or options or rights to purchase shares of Common Stock pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its subsidiaries.

To the extent that the Securities become convertible into the right to receive Cash, interest will not accrue on such Cash.

No adjustment to the Conversion Rate need be made pursuant to Section 4.6 for a transaction if Holders are to participate in the transaction without conversion on a basis and with notice that the Board of Directors of the Company determines in good faith to be fair and appropriate in light of the basis and notice on which holders of Common Stock participate in the transaction.

No adjustment to the Conversion Rate need be made upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the date the Securities were first issued.

No adjustment to the Conversion Rate need be made for accrued and unpaid interest, including additional interest, if any.

SECTION 4.8. Other Adjustments. Subject to applicable stock exchange rules and listing standards, the Company shall be entitled to increase the Conversion Rate by any amount for a period of at least 20 days if the Company's Board of Directors determines that such increase would be in the best interests in the Company, provided the Company has given to Holders at least 15 days' prior notice, in accordance with Section 14.2, of any such increase in the Conversion Rate. Subject to applicable stock exchange rules and listing standards, the Company shall be entitled to increase the Conversion Rate, in addition to the events requiring an increase in the Conversion Rate pursuant to Section 4.6, as it in its discretion shall determine to be advisable in order to avoid or diminish any tax to stockholders in connection with any stock dividends, subdivisions of shares, distributions of rights to purchase stock or securities or distributions of securities convertible into or exchangeable for stock, or any event treated as such for tax purposes, hereafter made by the Company to its stockholders.

SECTION 4.9. Nasdaq Listing Standards. Notwithstanding any other provision of this Article IV, in the event of any adjustment or increase to the Conversion Rate that would result in the Securities, in the aggregate, becoming convertible into a number of shares of Common Stock that exceeds the number permitted by applicable listing standards of the Nasdaq Stock Market, LLC, the Company shall, at its option, either (i) obtain the approval of its stockholders regarding the issuance of such Common Stock or (ii) elect to deliver cash in lieu of any shares of Common Stock otherwise deliverable in excess of the number permitted to be delivered under such rules or listing standards in accordance with the provisions of this Article IV.

SECTION 4.10. Notice of Adjustment. Whenever the Conversion Rate or conversion privilege is adjusted, the Company shall promptly mail to Securityholders a notice of the adjustment in accordance with Section 14.2, and file with the Trustee an Officers' Certificate briefly stating the Conversion Rate, the facts requiring the adjustment and the manner of computing it. Unless and until the Trustee shall receive an Officers' Certificate setting forth an adjustment of the Conversion Rate, the Trustee may assume without inquiry that the Conversion Rate has not been adjusted and that the last Conversion Rate of which it has knowledge remains in effect.

SECTION 4.11. Effect of Reclassification, Consolidation, Merger or Sale on Conversion Privilege. If (1) there shall occur (a) any reclassification of the Company's Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination or other transaction for which an adjustment is provided in Section 4.06); (b) a statutory share exchange, consolidation, merger or combination involving the Company other than a merger in which the Company is the continuing corporation and which does not result in any reclassification of, or change (other than in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination) in, outstanding shares of Common Stock; or (c) a sale or conveyance as an entirety or substantially as an entirety of the property and assets of the Company, directly or indirectly, to another Person; and (2) pursuant to such reclassification, statutory share exchange, consolidation, merger, combination, sale or conveyance, holders of outstanding shares of Common Stock would be entitled to receive stock (other than Common Stock), other securities, other property, assets or Cash for such shares of Common Stock, then the Company, or such successor or surviving, purchasing or transferee Person, as the case may be, shall, as a condition precedent to such reclassification, statutory share exchange, consolidation, merger, combination, sale or conveyance, execute and deliver to the Trustee a supplemental indenture providing that, at and after the effective time of such reclassification, statutory share exchange, consolidation, merger, combination, sale or conveyance, the Holder of each Security then outstanding shall have the right to convert such Security into the kind and amount of shares of stock and other securities and property (including Cash) receivable upon such reclassification, statutory share exchange, consolidation, merger, combination, sale or conveyance by a holder of the number of shares of Common Stock deliverable upon conversion of such Security immediately prior to such reclassification, statutory share exchange, consolidation, merger, combination, sale or conveyance, assuming that such Holder would not have exercised any rights of election that such Holder would have had as a holder of Common Stock to select a particular type of consideration; *provided, however*, that if the kind or amount of stock, other securities or other property (including Cash) receivable upon such transaction is not the same for each share of Common Stock in respect of which such rights of election shall not have been exercised, then the kind and amount shall be deemed to be the kind and amount receivable per share of Common Stock by a plurality of the nonselecting shares of Common Stock; *provided, further*, that if, pursuant to Section 3.1, the Company elects that the Securities become convertible solely into Traded Common Stock in a merger or consolidation in which at least 90% of the consideration is Traded Common Stock (excluding Cash payments for fractional shares and Cash payments pursuant to dissenter's appraisal rights), then each Holder of each Security then outstanding shall have the right to convert such Security into an amount of shares of Traded Common Stock with a value (based on the Closing Sale Price of the Traded Common Stock on the effective date of such merger or consolidation) that is equal to the fair market value of the consideration receivable by a holder of the number of shares of Common Stock deliverable upon conversion of such Security immediately prior to such merger or consolidation. Such supplemental indenture shall provide for adjustments of the Conversion Rate which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in this Article IV. If, in the case of any such reclassification, statutory share exchange, consolidation, merger, combination, sale or conveyance, the stock or other securities and property (including Cash) receivable thereupon by a holder of Common Stock include shares of stock or other securities and property of a Person other than the successor or surviving, purchasing or transferee Person, as the case may be, in such reclassification, statutory share exchange, consolidation, merger, combination, sale or conveyance, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders of the Securities as the Board of Directors of the Company shall reasonably consider necessary by reason of the foregoing. The provisions of this Section 4.11 shall similarly apply to successive reclassifications, statutory share

exchanges, consolidations, mergers, combinations, sales and conveyances. The foregoing, however, shall not in any way affect the right a Holder of a Security may otherwise have pursuant to Section 4.6(c) to receive rights and warrants in accordance therewith.

In the event the Company shall execute a supplemental indenture pursuant to this Section 4.11, the Company shall promptly file with the Trustee (x) an Officers' Certificate briefly stating the reasons therefor, the kind or amount of shares of stock or other securities or property (including Cash) receivable by Holders of the Securities upon the conversion of their Securities after any such reclassification, statutory share exchange, consolidation, merger, combination, sale or conveyance, any adjustment to be made with respect thereto and that all conditions precedent have been satisfied and (y) an Opinion of Counsel that the execution of the Supplemental Indenture is authorized or permitted under the terms of this Indenture and that all conditions precedent to the execution thereof have been satisfied, and shall promptly mail notice thereof to all Holders.

SECTION 4.12. Trustee's Disclaimer. The Trustee shall have no duty to determine when an adjustment under this Article IV should be made, how it should be made or what such adjustment should be, but may accept as conclusive evidence of that fact or the correctness of any such adjustment set forth in, and shall be protected in relying upon, an Officers' Certificate, including the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 4.10. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Securities, and the Trustee shall not be responsible for the Company's failure to comply with any provisions of this Article IV.

The Trustee shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 4.11, but may accept as conclusive evidence of the correctness thereof, and shall be fully protected in relying upon, the Officers' Certificate and Opinion of Counsel with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 4.11.

SECTION 4.13. Option to Satisfy Conversion Obligation with Cash, Common Stock or Combination of Cash and Common Stock. (a) If a Conversion Notice is delivered by a Holder pursuant to Section 4.2 on or prior to the Final Notice Date and prior to a Net Share Settlement Election or Share Settlement Election, then the following procedures will apply. The Company shall notify the presenting Holders through the Trustee (at the sole cost and expense of the Company) of the method the Company chooses to satisfy its obligation upon a conversion of the Securities (the "Conversion Obligation") no later than two Trading Days immediately following the Conversion Date (such period, the "Settlement Notice Period"). If, with respect to such Conversion Notice, the Company fails to give the notice described in the preceding sentence within the prescribed time periods, then the Company shall satisfy its Conversion Obligation only in shares of Common Stock (and Cash in lieu of fractional shares). If, with respect to such Conversion Notice, the Company elects to satisfy any portion of its Conversion Obligation in Cash (the "Specified Cash Amount"), the Company shall specify in such notice the amount to be satisfied in Cash as either 100% of the Conversion Obligation or a fixed dollar amount. The Company shall treat all Holders converting on the same Trading Day in the same manner. The Company shall not have any obligation to satisfy its Conversion Obligations arising on different Trading Days in the same manner.

Settlement amounts will be computed by the Company as follows:

(1) If the Company elects to satisfy the entire Conversion Obligation in Cash, a Cash amount equal to the product of: (A) the aggregate principal amount of the

Securities to be converted divided by \$1,000 multiplied by (B) the applicable Conversion Rate multiplied by (C) the Applicable Stock Price;

(2) If the Company elects to satisfy the entire Conversion Obligation in shares of Common Stock, a number of shares of Common Stock equal to the product of (A) the aggregate principal amount of the Securities to be converted divided by \$1,000 multiplied by (B) the Conversion Rate applicable to such Securities (with Cash paid for any fractional shares of Common Stock in accordance with Section 4.3); and

(3) If the Company elects to satisfy a fixed portion (other than 100%) of the Conversion Obligation in Cash, an amount, for each \$1,000 principal amount of Securities surrendered for conversion, equal to:

(A) Cash in the Specified Cash Amount; and

(B) a number of shares of Common Stock equal to the greater of (i) zero and (ii) the excess, if any, of the number of shares of Common Stock that would be issued if the Company elected to satisfy the entire Conversion Obligation in shares of Common Stock over the number of shares of Common Stock equal to the sum of the quotients, calculated for each of the 20 consecutive Trading Days of the applicable Cash Settlement Averaging Period, obtained by dividing (x) the Specified Cash Amount divided by 20 by (y) the Volume-Weighted Average Price with respect to such Trading Day; and

(C) Cash paid for any fractional shares of Common Stock in accordance with Section 4.3.

(b) If a Conversion Notice is delivered by a Holder pursuant to Section 4.2 on or prior to the Final Notice Date and after a Net Share Settlement Election, then the following procedures will apply. The Company shall notify the Holders through the Trustee (at the sole cost and expense of the Company) of the method the Company chooses to satisfy the Remaining Conversion Obligation no later than the end of the Settlement Notice Period. If, with respect to such Conversion Notice, the Company fails to give the notice described in the preceding sentence within the Settlement Notice Period, then the Company shall satisfy the Remaining Conversion Obligation only in shares of Common Stock (and Cash in lieu of fractional shares). If, with respect to such Conversion Notice, the Company elects to satisfy any portion of the Remaining Conversion Obligation in Cash (the "Specified Remaining Cash Amount"), the Company shall specify in such notice the amount to be satisfied in Cash as either 100% of the Remaining Conversion Obligation or a fixed dollar amount. The Company shall treat all Holders converting on the same Trading Day in the same manner. The Company shall not have any obligation to satisfy its Remaining Conversion Obligations arising on different Trading Days in the same manner.

After a Net Share Settlement Election, the Company shall deliver to Holders, for each \$1,000 principal amount of Securities converted after such election, (a) Cash in an amount equal to the lesser of (i) \$1,000 and (ii) the Conversion Value with respect to such Securities and (b) if there is any Remaining Conversion Obligation with respect to such Securities:

(1) If the Company elects to satisfy the entire Remaining Conversion Obligation in Cash, a Cash amount equal to the product of: (A) the sum of the Daily Share Amounts with respect to the applicable Cash Settlement Averaging Period multiplied by (B) the Applicable Stock Price;

(2) If the Company elects to satisfy the entire Remaining Conversion Obligation in shares of Common Stock, a number of shares of Common Stock equal to the sum of the Daily Share Amounts with respect to the applicable Cash Settlement Averaging Period (with Cash paid for any fractional shares of Common Stock in accordance with Section 4.3); and

(3) If the Company elects to satisfy a fixed portion (other than 100%) of the Remaining Conversion Obligation in Cash, an amount equal to:

(A) Cash in the Specified Remaining Cash Amount; and

(B) a number of shares of Common Stock equal to the greater of (i) zero and (ii) the excess, if any, of the number of shares of Common Stock that would be issued if the Company elected to satisfy the entire Remaining Conversion Obligation in shares of Common Stock over the number of shares of Common Stock equal to the sum of the quotients, calculated for each of the 20 consecutive Trading Days of the applicable Cash Settlement Averaging Period, of (x) the Specified Remaining Cash Amount divided by 20 by (y) the Volume-Weighted Average Price with respect to such Trading Day; and

(C) Cash paid for any fractional shares of Common Stock in accordance with Section 4.3.

(c) If a Conversion Notice is delivered by a Holder pursuant to Section 4.2 on or prior to the Final Notice Date and after a Share Settlement Election, the provisions set forth in Section 4.13(a) that are applicable to the Company's election to satisfy all of a Conversion Obligation in shares of Common Stock will apply to such Conversion Notice.

(d) The provisions set forth in Sections 4.13(a), (b) and (c), as applicable, shall apply to a Conversion Notice delivered by a Holder pursuant to Section 4.2 after the Final Notice Date; *provided, however*, that (i) if the Company shall have notified the Holders through the Trustee (at the sole cost and expense of the Company) of a Final Cash Election Notice on or prior to the Final Notice Date, then such Final Cash Election Notice shall apply to each Conversion Notice delivered after the Final Notice Date and (ii) otherwise, the Company shall be deemed to have elected to satisfy the entire amount of the Conversion Obligation or Remaining Conversion Obligation, as applicable, in shares of Common Stock (with Cash paid for any fractional shares of Common Stock in accordance with Section 4.3).

SECTION 4.14. Effect of Conversion; Conversion After Record Date. Except as provided in this Section 4.14, a converting Holder of Securities shall not be entitled to receive any separate Cash payments with respect to accrued and unpaid interest on any such Securities being converted. By delivery to the Holder of the Cash, shares of Common Stock, combination of Cash and shares of Common Stock or other consideration issuable or Cash payable upon conversion in accordance with this Article IV, the Company shall have satisfied its obligations with respect to the Securities and any accrued and unpaid interest on such Securities will not be paid. If any Securities are converted after the close of business on an Interest Payment Record Date but prior to the corresponding Interest Payment Date, the Holder of such Securities as of the close of business on such Interest Payment Record Date shall receive, on such Interest Payment Date, the interest payable on such Security on such Interest Payment Date notwithstanding the conversion thereof; *provided, however*, each Security surrendered for conversion after the close of business on an Interest Payment Record Date but prior to the corresponding Interest Payment Date shall be accompanied by payment from the converting Holder thereof, for the account of the Company, in

Cash, an amount equal to the interest payable on such Security on such Interest Payment Date; *provided further* that no such payment need be made (a) if any overdue interest exists at the time of conversion with respect to such Security, but only to the extent of the amount of such overdue interest or (b) the Holder surrenders any Securities for conversion after the close of business on the Interest Payment Record Date relating to the final Interest Payment Date.

Except as otherwise provided in this Indenture, no payment or adjustments in respect of payments of interest on Securities surrendered for conversion or any dividends or distributions on the Common Stock issued upon conversion shall be made upon the conversion of any Securities.

SECTION 4.15. Exchange in Lieu of Conversion. (a) In lieu of its obligations pursuant to Section 4.2, the Company may, at its option, direct the Conversion Agent to surrender, on or prior to the date of determination of the Applicable Stock Price, Securities tendered for conversion to a financial institution (the "Financial Institution") designated by the Company for exchange in lieu of conversion. On the date of this Indenture, the Company has designated Credit Suisse Securities (USA) LLC as a Financial Institution. On or after the applicable direction from the Company to the Conversion Agent, if the Financial Institution accepts any such Securities surrendered for conversion, it shall deliver to the Conversion Agent, in exchange for each \$1,000 principal amount of such Securities, the amount of Cash and shares of Common Stock that the Company would otherwise be obligated to deliver under Section 4.13.

(b) If the Financial Institution accepts any such Securities, it shall deliver such Cash, shares of Common Stock or combination of Cash and shares of Common Stock, as the case may be, to the Conversion Agent and the Conversion Agent shall deliver such Cash, shares of Common Stock or combination of Cash and shares of Common Stock, as the case may be, to the Holder who has tendered such Securities for conversion. If the Financial Institution agrees to accept any Securities for exchange but does not timely deliver the related consideration, the Company shall, as promptly as practical thereafter, but not later than the third Business Day following determination of the Applicable Stock Price, convert such Securities into such Cash, shares of Common Stock or a combination of Cash and shares of Common Stock, as the case may be, as provided in Section 4.13 above.

ARTICLE V

[RESERVED]

ARTICLE VI

Covenants

SECTION 6.1. Payment of Securities. The Company shall promptly make all payments in respect of the Securities on the dates and in the manner provided in the Securities and this Indenture. The principal amount and Fundamental Change Purchase Price and accrued and unpaid interest shall be considered paid on the date it is due if the Paying Agent holds by 10:00 a.m., New York City time, on such date, in accordance with this Indenture, Cash designated and sufficient for the payment of all such amounts then due. The Company shall, to the fullest extent permitted by law, pay interest on overdue principal and overdue installments of interest at the rate borne by the Securities per annum. Except as otherwise specified, all references in this Indenture or the Securities to interest shall be deemed to include Additional Interest, if any, payable pursuant to the Registration Rights Agreement.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue amounts from time to time on demand at the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 6.2. Reports and Certain Information. (a) The Company shall file with the Trustee, within 15 days after it files them with the SEC, copies of its annual report and the information, documents and other reports which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. The Company shall comply with the provisions of TIA Section 314(a), whether or not the Company is required to file reports with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. Notwithstanding anything to the contrary herein, the Trustee shall have no duty to review such documents for purposes of determining compliance with any provisions of this Indenture or any applicable law.

(b) At any time when the Securities are Restricted Securities, and the Company is not subject to, or is not in compliance with, Section 13 or 15(d) of the Exchange Act, upon the request of a Holder or the holder of shares of Common Stock issued upon conversion of Securities, the Company shall promptly furnish or cause to be furnished Rule 144A Information (as defined below) to such Holder or such holder of shares of Common Stock issued upon conversion of Securities, or to a prospective purchaser of any such security designated by any such Holder or holder, as the case may be, to the extent required to permit compliance by such Holder or holder with Rule 144A under the Securities Act in connection with the resale of any such security. “Rule 144A Information” shall mean such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act or any successor provision.

(c) The Company shall notify the Trustee of any changes to its fiscal year.

SECTION 6.3. Compliance Certificates. The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company ending after the date hereof, an Officers’ Certificate signed by the principal executive officer, principal financial officer or principal accounting officer of the Company and at least one other Officer of the Company, as to his or her knowledge of the Company’s compliance with all terms, conditions and covenants under this Indenture (without regard to any period of grace or requirement of notice provided hereunder) and, if the Company shall be in default, specifying all such defaults and the nature and status thereof of which he or she may have knowledge.

SECTION 6.4. Maintenance of Corporate Existence. Subject to Article VII, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence or, following any consolidation, merger, conveyance, transfer or lease in accordance with Section 7.1, its legal existence as a Person permitted to be the resulting, surviving or transferee Person in accordance with Section 7.1.

SECTION 6.5. Stay, Extension and Usury Laws. The Company covenants, to the extent it may lawfully do so, that it shall not at any time insist upon, plead or in any manner whatsoever claim or take the benefit or advantage of any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal amount or Fundamental Change Purchase Price in respect of Securities, or any interest on the Securities as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture, and the Company, to the extent it may lawfully do so, hereby expressly waives all benefit or advantage of any such law and covenants

that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee or any Agent, but shall suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 6.6. Maintenance of Office or Agency of the Trustee, Registrar, Paying Agent and Conversion Agent. The Company shall maintain an office or agency of the Trustee, Registrar, Paying Agent and Conversion Agent in the United States where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer, exchange, purchase or conversion and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Company hereby designates the Corporate Trust Office as one such office or agency for all of the aforesaid purposes. The Company shall give prompt written notice to the Trustee of the location, and of any change in the location, of any such office or agency (other than a change in the location of the Corporate Trust Office of the Trustee). If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 14.2.

ARTICLE VII

Consolidation, Merger, Conveyance, Transfer or Lease

SECTION 7.1. Company May Consolidate, etc., Only on Certain Terms. The Company shall not, without the consent of the Holders, consolidate with or merge into any other Person or convey, transfer or lease all or substantially all of the properties and assets of the Company and its Subsidiaries, taken as a whole, to any successor Person, unless:

(1) either:

(A) the resulting, surviving or transferee Person is the Company; or

(B) the resulting, surviving or transferee Person is organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, all of the obligations of the Company under the Securities and this Indenture;

(2) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel (upon which the Trustee may conclusively rely), each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article VII and that all conditions precedent herein provided for relating to such transaction have been complied with.

Notwithstanding the foregoing, the Company may transfer all or substantially all of its assets to a wholly owned Subsidiary without such Subsidiary assuming the obligations of the Company under the Securities and this Indenture, provided that the Company shall not

permit such Subsidiary to issue Debt Securities or guarantee the Debt Securities of the Company unless (i) such Subsidiary shall become a Subsidiary Guarantor pursuant to Section 7.3, (ii) such Subsidiary is organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia, (iii) no Default or Event of Default shall have occurred and be continuing and (iv) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel (upon which the Trustee may conclusively rely), each stating that the Company has complied with this Article VII and that all conditions precedent herein provided for relating to such issuance and guarantee have been complied with.

SECTION 7.2. Successor Substituted. Upon any consolidation of the Company with, or merger of the Company into, any other Person or any conveyance, transfer or lease of all or substantially all of the properties and assets of the Company in accordance with Section 7.1, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Securities.

SECTION 7.3. Subsidiary Guarantors. If any Subsidiary of the Company to which the Company or a Subsidiary Guarantor has transferred all or substantially all of its assets after the date hereof shall (i) guarantee any obligation of the Company evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses by the Company (each such obligation a "Debt Security") or (ii) issue Debt Securities, the Company shall (A) cause such Subsidiary concurrently to become a Subsidiary Guarantor by executing and delivering to the Trustee a supplemental indenture pursuant to which such Subsidiary shall unconditionally guarantee (a "Subsidiary Guarantee") all of the Company's obligations under the Securities and this Indenture on a subordinated unsecured basis, on terms substantially consistent with guarantees of substantially similar debt obligations, and, in the case of a Subsidiary referred to above in (i), to the same extent as such Subsidiary guaranteed such other Debt Securities, in each case subordinated to the Senior Indebtedness of the applicable Subsidiary Guarantee on terms substantially similar to those set forth in Article XI and (B) cause an Opinion of Counsel to be delivered to the Trustee to the effect that such supplemental indenture has been duly authorized and executed by each such Person and constitutes the valid, binding and enforceable obligation of each such Person (subject to customary exceptions concerning creditors' rights and equitable principles) and that such Subsidiary Guarantee is upon such terms and in such form as is required by this Article VII.

Such supplemental indenture shall be executed by manual signature on behalf of each respective Subsidiary Guarantor by any one of such Subsidiary Guarantor's Chairman of the Board of Directors, Vice Chairman of the Board of Directors, Chief Executive Officer, President or Chief Financial Officer or Vice Presidents, attested by its Secretary or Assistant Secretary.

Such supplemental indenture bearing the manual signatures of individuals who were at any time the proper officers of a Subsidiary Guarantor shall bind such Subsidiary Guarantor, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the execution and delivery of the supplemental indenture or did not hold such offices at the date of such supplemental indenture.

SECTION 7.4. Subsidiary Guarantors May Consolidate, etc., on Certain Terms. Nothing contained in this Indenture or in any of the Securities shall prevent any consolidation or merger of

any Subsidiary Guarantor with or into the Company or any other Subsidiary Guarantor or shall prevent any sale or conveyance of the property of any Subsidiary Guarantor as an entirety or substantially as an entirety to the Company or any other Subsidiary Guarantor.

SECTION 7.5. Release of Subsidiary Guarantors. If (a) (i) any Subsidiary Guarantor sells or otherwise disposes of all or substantially all of its assets (by way of merger, consolidation or otherwise) to the Company or a Subsidiary of the Company and, if the acquiring Person is a Subsidiary of the Company, such subsidiary shall provide a Subsidiary Guarantee on the terms set forth in Section 7.3, (ii) in the case of a Subsidiary referred to in Section 7.3(i), such Subsidiary is no longer a guarantor of any Debt Securities of the Company, or (iii) in the case of a Subsidiary referred to in Section 7.3(ii), such Subsidiary is no longer an issuer of any Debt Securities and (b) in any such case, the Company shall deliver to the Trustee an Officers' Certificate certifying to that effect as of the date of such Officers' Certificate, then automatically, without the requirement of any further action by the Company, such Subsidiary or the Trustee, such Subsidiary shall cease to be a Subsidiary Guarantor hereunder. The Trustee shall, at the Company's expense, execute and deliver such instruments as the Company may reasonably request to evidence such termination.

SECTION 7.6. Limitation on Liability. Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the obligations guaranteed hereunder by any Subsidiary Guarantor shall not exceed the maximum amount that can be hereby guaranteed without rendering this Indenture, as it relates to such Subsidiary Guarantor, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally.

SECTION 7.7. Successors and Assigns. This Article VII shall be binding upon each Subsidiary Guarantor and its successors and assigns and shall enure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Securities shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions of this Indenture.

SECTION 7.8. No Waiver. Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article VII shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article VII at law, in equity, by statute or otherwise.

SECTION 7.9. Modification. No modification, amendment or waiver of any provision of this Article VII, nor the consent to any departure by any Subsidiary Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Subsidiary Guarantor in any case shall entitle such Subsidiary Guarantor to any other or further notice or demand in the same, similar or other circumstances.

SECTION 7.10. Contribution. Each Subsidiary Guarantor that makes a payment under its Subsidiary Guarantee shall be entitled upon such payment under this Indenture to a contribution from each other Subsidiary Guarantor in an amount equal to such other Subsidiary Guarantor's pro rata portion of such payment based on the respective net assets of all the Subsidiary Guarantors at the time of such payment determined in accordance with GAAP.

ARTICLE VIII

Default and Remedies

SECTION 8.1. Events of Default. An “Event of Default” with respect to either Series of Securities shall occur if:

(1) the Company defaults in the payment of any principal of any of the Securities of such Series when the same becomes due and payable (whether at maturity, on a Fundamental Change Purchase Date or otherwise and whether or not prohibited by the subordination provisions of this Indenture);

(2) the Company defaults in the payment of any accrued and unpaid interest (including Additional Interest, if any) with respect to such Series of Securities when due and payable, and such default continues for a period of 30 days (whether or not prohibited by the subordination provisions of this Indenture);

(3) the Company fails to satisfy its Conversion Obligation or Remaining Conversion Obligations upon exercise of a Holder’s conversion rights with respect to any Securities of such Series pursuant hereto, which default continues for 15 days after performance is due;

(4) the Company fails to provide the Fundamental Change Company Notice when required by this Indenture and such failure continues for a period of five days after a Notice of Default specifying such failure is given;

(5) the Company fails to comply with any of its other agreements contained in the applicable Securities or in this Indenture (other than those referred to in clauses 1 through 4 above or clause 9 below) and such failure continues for 60 days after receipt by the Company of a Notice of Default;

(6) the Company or any Significant Subsidiary fails to make any payment of principal in excess of \$20,000,000 in respect of indebtedness for borrowed money, when and as the same shall become due and payable, whether at maturity or upon acceleration, and such indebtedness is not paid, or such acceleration is not rescinded, by the end of the 30th day after receipt by the Company or such Significant Subsidiary of a Notice of Default;

(7) the Company, or any Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case or proceeding;

(B) consents to the entry of an order for relief against it in an involuntary case or proceeding or the commencement of any case against it;

(C) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(D) makes a general assignment for the benefit of its creditors; or

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

(A) is for relief against the Company or a Significant Subsidiary in an involuntary case or proceeding;

(B) appoints a Custodian of the Company or a Significant Subsidiary for any substantial part of the property of the Company or such Significant Subsidiary; or

(C) orders the winding up or liquidation of the Company or a Significant Subsidiary;

and in each case of this subclause (8) the order or decree remains unstayed and in effect for 60 consecutive days.

The term “Bankruptcy Law” means Title 11 of the United States Code (or any successor thereto) or any similar federal or state law for the relief of debtors. The term “Custodian” means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

(9) The Company fails to perform or comply with Sections 7.3 through 7.10 hereof, or any Subsidiary Guarantee ceases to be in full force and effect (other than in accordance with the terms of this Indenture).

A default under clause (5) or (6) above is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in aggregate principal amount of the applicable Series of Securities then outstanding notify the Company and the Trustee, in writing of the Default, and the Company does not cure the Default (and such Default is not waived) within the time period specified in clauses (5) or (6) above, as applicable, after actual receipt of such notice. The notice given pursuant to this Section 8.1 must specify the Default, demand that it be remedied and state that the notice is a “Notice of Default.” When any Default under this Section 8.1 is cured in accordance herewith, it shall cease to be a Default.

The Trustee shall not be charged with knowledge of any Event of Default unless written notice thereof shall have been given to a Trust Officer at the Corporate Trust Office of the Trustee by the Company (including pursuant to Section 6.3), a Paying Agent, any Holder or any agent of any Holder, which notice references the Securities and this Indenture.

SECTION 8.2. Acceleration. If an Event of Default (other than an Event of Default with respect to the Company specified in clause (7) or (8) of Section 8.1) occurs and is continuing, the Trustee may, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the applicable Series of Securities then outstanding may, by written notice to the Company and the Trustee, declare all unpaid principal of plus interest (including Additional Interest, if any) accrued and unpaid through the date of such declaration on all the Securities then outstanding to be due and payable upon any such declaration, and the same shall thereupon become and be immediately due and payable.

If an Event of Default with respect to the Company specified in clause (7) or (8) of Section 8.1 occurs, all unpaid principal of plus accrued and unpaid interest (including Additional Interest, if any) on all the Securities then outstanding 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.

The Holders of a majority in aggregate principal amount of the applicable Series of Securities then outstanding or the Holders originally causing the acceleration by notice to the Trustee may rescind an acceleration of the applicable Series of Securities and its consequences before a judgment or decree for the payment of money has been obtained by the Trustee if (a) the rescission would not conflict with any existing order or decree, (b) all existing Events of Default with respect to such Series, other than the nonpayment of the principal of plus accrued and unpaid interest on the applicable Series of Securities that has become due solely by such declaration of acceleration, have been cured or waived and (c) all payments due to the Trustee and any predecessor Trustee under Section 9.6 have been made. No such rescission shall affect any subsequent Default or impair any right consequent thereto.

SECTION 8.3. Other Remedies. If an Event of Default occurs and is continuing, the Trustee may, but shall not be obligated to, pursue any available remedy by proceeding at law or in equity to collect the payment of the principal of or accrued and unpaid interest on the Securities or to enforce the performance of any provision of the Securities or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Securityholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

SECTION 8.4. Waiver of Defaults and Events of Default. Subject to Sections 8.7 and 10.2, the Holders of a majority in aggregate principal amount of the applicable Series of Securities then outstanding by notice to the Trustee may waive an existing Default or Event of Default and its consequence, except an uncured Default or Event of Default in the payment of the principal of, or any interest (including Additional Interest, if any) on any Security, or the payment of any applicable Fundamental Change Purchase Price, or an uncured failure by the Company to convert any Securities in accordance with Article IV or any uncured Default or Event of Default in respect of any provision of this Indenture or the Securities that, under Section 10.2, cannot be modified or amended without the consent of the Holders of each outstanding Security of the applicable Series. When a Default or Event of Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or impair any consequent right. This Section 8.4 shall be in lieu of Section 316(a)(1)(B) of the TIA and such Section 316(a)(1)(B) is hereby expressly excluded from this Indenture, as permitted by the TIA.

SECTION 8.5. Control by Majority. The Holders of a majority in aggregate principal amount of the applicable Series of Securities then outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it under this Indenture. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of another Holder or the Trustee, or that may involve the Trustee in personal liability or expense unless the Trustee is offered security or indemnity reasonably satisfactory to it; *provided* that the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; *provided further* that this provision shall not affect the rights of the Trustee set forth in Section 9.1(b)(v). This Section 8.5 shall be in lieu of Section 316(a)(1)(A) of the TIA and such Section 316(a)(1)(A) is hereby expressly excluded from this Indenture, as permitted by the TIA.

SECTION 8.6. Limitations on Suits. Subject to Section 8.7, a Holder of a Security may not pursue any remedy with respect to this Indenture or the Securities unless:

- (1) the Holder gives to the Trustee written notice of a continuing Event of Default;
- (2) the Holders of at least 25% in aggregate principal amount of the applicable Series of Securities then outstanding make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee security or indemnity reasonably satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the notice, request and the offer of security or indemnity; and
- (5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the applicable Series of Securities then outstanding.

A Securityholder may not use this Indenture to prejudice the rights of another Securityholder or to obtain a preference or priority over such other Securityholder.

SECTION 8.7. Rights of Holders to Receive Payment and to Convert. Notwithstanding any other provision of this Indenture, the right of any Holder of a Security to receive payment of the principal amount, Fundamental Change Purchase Price or interest (including Additional Interest, if any) on any Security, on or after the respective due dates expressed in the Security and this Indenture, to convert such Security in accordance with Article IV and to bring suit for the enforcement of any such payment on or after such respective dates or the right to convert, is absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

SECTION 8.8. Collection Suit by Trustee. If an Event of Default in the payment of principal or interest specified in clause (1) or (2) of Section 8.1 occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company or another obligor on the Securities for the whole amount owing with respect to the Securities and the amounts provided for in Section 9.6.

SECTION 8.9. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and 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, its agents and counsel) and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor on the Securities), its creditors or its property and shall be entitled and empowered to collect and receive any money or other property payable or deliverable on any such claims and to distribute the same, and any Custodian in any such judicial proceeding is hereby authorized by each Holder 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, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 9.6, and to the extent that such payment of the reasonable compensation, expenses, disbursements and advances in any such proceedings 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 property which the Holders may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or, on behalf of any Holder, to authorize, accept or adopt any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 8.10. Priorities. Any money or property collected by the Trustee pursuant to this Article VIII, and after an Event of Default, any money or other property distributable in respect of the Company's obligations under this Indenture shall be paid out in the following order:

First, to the Trustee (including any predecessor Trustee) for amounts due under Section 9.6;

Second, to holders of Senior Indebtedness of the Company, or, if such money or property has been collected from a Subsidiary Guarantor, to holders of Senior Indebtedness of such Subsidiary Guarantor, in each case to the extent required by Article XI or subordination terms substantially similar thereto, as applicable;

Third, to Securityholders for amounts due and unpaid on the Securities for the principal amount, Fundamental Change Purchase Price or interest (including Additional Interest, if any), as the case may be, ratably, without preference or priority of any kind, according to such amounts due and payable on the Securities; and

Fourth, the balance, if any, to the Company.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 8.10. At least 15 days before such record date, the Trustee shall mail to each Holder and the Company a notice that states the record date, the payment date and the amount to be paid.

SECTION 8.11. Undertaking for Costs. 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 or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 8.11 does not apply to a suit made by the Trustee, a suit by a Holder pursuant to Section 8.7, or a suit by Holders of more than 25% in aggregate principal amount of the applicable Series of Securities then outstanding. This Section 8.11 shall be in lieu of Section 315(e) of the TIA and such Section 315(e) is hereby expressly excluded from this Indenture, as permitted by the TIA.

SECTION 8.12. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article VIII or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

ARTICLE IX

Trustee

SECTION 9.1. Certain Duties and Responsibilities of Trustee. (a) In case an Event of Default with respect to either Series of Securities has occurred (that has not been cured or waived) and has become known to the Trustee, the Trustee shall exercise with respect to such Series of Securities 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.

(b) Prior to the time when the occurrence of an Event of Default becomes known to the Trustee and after the curing or waiving of all such Events of Default with respect to the Securities that may have occurred:

(1) the duties and obligations of the Trustee shall with respect to the Securities be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable with respect to the Securities except for the performance of such duties and obligations 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 the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any 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 that 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 on their face to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein);

(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:

(i) This subsection shall not be construed to limit the effect of Section 9.1(b).

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

(iii) 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 not less than a majority in principal amount of the Securities at the time Outstanding (determined as provided in Section 2.8) 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; and

(iv) None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if

there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Indenture or adequate indemnity against such risk of expense and liability is not reasonably assured to it.

(d) Whether or not expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability or affording protection to the Trustee (in any capacity, including Paying Agent, Registrar or Conversion Agent) shall be subject to the provisions of this Section 9.1.

SECTION 9.2. Certain Rights of Trustee. Except as otherwise provided in Section 9.1:

(a) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, security or other paper or document (whether in original or facsimile form) believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties. The Trustee need not investigate any fact or matter stated in any such document;

(b) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by a resolution of the Company's Board of Directors or an instrument signed in the name of the Company, by one or more Officers thereof (unless other evidence in respect thereof is specifically prescribed herein);

(c) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel of its own selection and the advice of such counsel and Opinions of Counsel with respect to legal matters relating to this Indenture and the Securities shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders, pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities that may be incurred therein or thereby;

(e) 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 rights or powers conferred upon it by this Indenture;

(f) 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, consent, order, approval, bond, security, or other papers or documents, but the Trustee, in its discretion, may make even 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.

(g) 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;

(h) The Trustee shall not be deemed to have knowledge or be charged with knowledge of any Default or Event of Default except (i) if the Trustee is acting as Paying Agent, any Default or Event of Default occurring pursuant to 8.1(1) or 8.1(2) and (ii) any Default or Event of Default of which the Trustee shall have received written notification which references the Securities and this Indenture or of which a Trust Officer shall have obtained actual knowledge. Delivery of reports, information and documents to the Trustee under Section 6.2 is for informational purposes only and the Trustee's receipt of the foregoing 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 rely exclusively on Officers' Certificates, except as otherwise provided herein);

(i) The rights, privileges, protections, immunities and benefits given to the Trustee pursuant hereto, including its right to be 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 by the Trustee to act hereunder;

(j) The permissive right of the Trustee to take or refrain from taking any actions enumerated in this Indenture shall not be construed as a duty;

(k) The Trustee may request that the Company deliver an Officers' 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 Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

(l) Anything in this Indenture notwithstanding, in no event shall the Trustee be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to loss of profit), even if the Trustee has been advised as to the likelihood of such loss or damage and regardless of the form of action; and

(m) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communication services; accidents; labor disputes; acts of civil or military authority and governmental action.

SECTION 9.3. Trustee Not Responsible for Recitals or Issuance or Securities. (a) The recitals contained herein and in the Securities shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same.

(b) The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities.

(c) The Trustee or any Authorized Agent shall not be accountable for the use or application by the Company of any of the Securities or of the proceeds of such Securities, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Indenture or established pursuant to Section 2.1, or for the use or application of any moneys received by any Paying Agent other than the Trustee.

SECTION 9.4. May Hold Securities. The Trustee or any Paying Agent or Security Registrar, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Section 9.16, may otherwise deal with the Company or Subsidiary Guarantor with the same rights it would have if it were not Trustee, Paying Agent or Security Registrar.

SECTION 9.5. Moneys Held in Trust. Subject to the provisions of Section 8.5, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree in writing with the Company to pay thereon.

SECTION 9.6. Compensation and Reimbursement. (a) The Company covenants and agrees to pay to the Trustee, and the Trustee shall be entitled to, such compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), as the Company and the Trustee may from time to time agree in writing for all services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties hereunder of the Trustee, and, except as otherwise expressly provided herein, the Company shall pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from the Trustee's negligence, bad faith or willful misconduct. The Company and the Subsidiary Guarantors, jointly and severally, covenant and agree to indemnify the Trustee (and its officers, agents, directors, stockholders and employees) for, and to hold it harmless against, any loss, liability or expense (including reasonable attorney's fees and expenses) incurred without negligence or bad faith or willful misconduct on the part of the Trustee and arising out of or in connection with the acceptance or administration of this trust, including the reasonable costs and expenses of defending itself against any claim of liability in the premises. The Trustee shall notify the Company promptly of any claim asserted against the Trustee for which it may seek indemnity. The Company need not pay for any settlement effected without its prior written consent, which shall not be unreasonably withheld. The Company need not reimburse the Trustee for any expense or indemnify it against any loss or liability incurred by it resulting from its negligence, willful misconduct or bad faith.

(b) The obligations of the Company and the Subsidiary Guarantors under this Section 9.6 to compensate and indemnify the Trustee and to pay or reimburse the Trustee for reasonable expenses, disbursements and advances shall constitute additional indebtedness hereunder. Such additional indebtedness shall be secured by a lien upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders.

(c) When the Trustee incurs expenses or renders services after an Event of Default specified in Section 8.1(Z) or (8) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

(d) For the purposes of this Section 9.6, the “Trustee” shall include any predecessor Trustee; *provided, however*, that the negligence, bad faith or willful misconduct of any Trustee or other indemnified party hereunder shall not affect the rights of any other Trustee hereunder.

(e) The provisions of this Section 9.6 shall survive the discharge of this Indenture and resignation or removal of the Trustee.

SECTION 9.7. Reliance on Officers’ Certificate. Except as otherwise provided in Section 9.1, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to take any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers’ Certificate or Opinion of Counsel delivered to the Trustee and such certificate, in the absence of bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Indenture upon the faith thereof.

SECTION 9.8. Disqualification: Conflicting Interests. If the Trustee has or shall acquire any “conflicting interest” within the meaning of Section 310(b) of the TIA, the Trustee and the Company shall in all respects comply with the provisions of Section 310(b) of the TIA.

SECTION 9.9. Corporate Trustee Required; Eligibility. There shall at all times be a Trustee with respect to the Securities issued hereunder which shall at all times be a corporation organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, or a corporation or other Person permitted to act as trustee by the SEC, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus, or being a member of a bank holding company with a combined capital and surplus, of at least 50 million U.S. dollars (\$50,000,000), and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 9.9, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Company may not, nor may any Person directly or indirectly controlling, controlled by, or under common control with the Company, serve as Trustee. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 9.9, the Trustee shall resign immediately in the manner and with the effect specified in Section 9.10.

SECTION 9.10. Resignation and Removal; Appointment of Successor. (a) The Trustee or any successor hereafter appointed may at any time resign as Trustee with respect to the Securities by giving written notice thereof to the Company and by transmitting notice of resignation by mail, first class postage prepaid, to the Securityholders, as their names and addresses appear upon the Register. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee with respect to the Securities by or pursuant to a resolution of the Board of Directors. If no successor trustee shall have been so appointed and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee with respect to the Securities, or any Securityholder who has been a bona fide holder of a Security or Securities 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, in either case

at the sole cost and expense of the Company. 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 one of the following shall occur:

(i) the Trustee shall fail to comply with the provisions of Section 9.8 after written request therefor by the Company or by any Securityholder who has been a bona fide holder of a Security or Securities for at least six months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 9.9 and shall fail to resign after written request therefor by the Company or by any such Securityholder; or

(iii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or commence a voluntary bankruptcy proceeding, or a receiver of the Trustee or of its property shall be appointed or consented to, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Company may remove the Trustee with respect to all Securities and appoint a successor trustee by or pursuant to a resolution of the Company's Board of Directors, or, subject to Section 8.11, any Securityholder who has been a bona fide holder of a Security or Securities for at least six months may, on behalf of that Holder and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee 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 successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Securities at the time outstanding may at any time remove the Trustee by so notifying the Trustee and the Company and may appoint a successor Trustee with the consent of the Company. If no successor trustee shall have been so appointed and have accepted appointment within 30 days after such notification of removal by the Holders, the Trustee to be removed may petition any court of competent jurisdiction for the appointment of a successor trustee with respect to the Securities, or any Securityholder who has been a bona fide holder of a Security or Securities 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, in either case at the sole cost and expense of the Company. Such court may, as it may deem proper prescribe or appoint a successor trustee.

(d) Notwithstanding anything herein to the contrary, any resignation or removal of the Trustee and appointment of a successor trustee with respect to the Securities pursuant to any of the provisions of this Section 9.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 9.11.

(e) So long as no event which is, or after notice or lapse of time, or both, would become, an Event of Default shall have occurred and be continuing, and except with respect to a Trustee appointed by the Holders of a majority in principal amount of the Securities at that time outstanding pursuant to Section 9.10(c), if the Company shall have delivered to the Trustee (i) a resolution of the Company's Board of Directors appointing a successor Trustee, effective as of a date specified therein, and (ii) an instrument of acceptance of such appointment, effective as of such date, by such successor Trustee in accordance with Section 9.11, the Trustee shall be deemed to have resigned as contemplated in Section 9.10(a), the successor Trustee shall be deemed to have been appointed by the Company pursuant to Section 9.10(a) and such

appointment shall be deemed to have been accepted as contemplated in Section 9.11, all as of such date, and all other provisions of this Section 9.10 and Section 9.11 shall be applicable to such resignation, appointment and acceptance except to the extent inconsistent with this Section 9.10(e).

(f) At any time there shall be only one Trustee with respect to the Securities.

SECTION 9.11. Acceptance of Appointment By Successor. (a) In case of the appointment hereunder of a successor trustee with respect to the Securities, every such successor trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor trustee, such retiring Trustee shall, upon payment of its charges and all other amounts payable to it hereunder, execute and deliver an instrument transferring to such successor trustee all the rights, powers, and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor trustee all property and money held by such retiring Trustee hereunder, subject to the lien provided for in Section 9.6(b).

(b) 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 Section 9.11(a).

(c) No successor trustee shall accept its appointment unless at the time of such acceptance such successor trustee shall be qualified and eligible under this Article IX.

(d) Upon acceptance of appointment by a successor trustee as provided in this Section 9.11, the Company shall transmit notice of the succession of such trustee hereunder by mail, first class postage prepaid, to the Securityholders, as their names and addresses appear upon the Register. If the Company fails to transmit such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be transmitted at the expense of the Company.

SECTION 9.12. Merger, Conversion, Consolidation or Succession to Business. Any corporation or other business entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or other business entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other business entity succeeding to the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided that such corporation or other business entity shall be qualified under the provisions of Section 9.8 and eligible under the provisions of Section 9.9, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

SECTION 9.13. Preferential Collection of Claims Against the Company. The Trustee shall comply with Section 311(a) of the TIA, excluding any creditor relationship described in Section 311(b) of the TIA. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the TIA to the extent included therein.

SECTION 9.14. Notice of Defaults. If a Default or Event of Default occurs and is continuing hereunder and if it is actually known to a Trust Officer of the Trustee, the Trustee shall mail to each Holder notice of the Default or Event of Default within 90 days after such Default or Event of Default. Except in the case of a default in payment of principal of or interest (including Additional Interest, if any) on any Security, the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is not opposed to the interest of the Holders of such Securities.

SECTION 9.15. Reports by Trustee. (a) Within sixty (60) days after May 15 of each year commencing with the year 2007, the Trustee shall transmit to Securityholders such reports dated as of May 15 of the year in which such report is made concerning the Trustee and its actions under this Indenture as may be required pursuant to the TIA, including Section 313(a) thereof, at the times and in the manner provided pursuant thereto. In the event that, on any such reporting date, no events have occurred under the applicable sections of the TIA within the 12 months preceding such reporting date, the Trustee shall be under no duty or obligation to provide such reports. The Trustee shall also comply with TIA Section 313(b)(2). The Trustee shall transmit by mail all reports as required by TIA Section 313(c).

(b) A copy of each such report shall, at the time of such transmission to Securityholders, be delivered to the Company and filed by the Trustee with each stock exchange upon which the Securities are listed and with the SEC in accordance with TIA Section 313(d). The Company shall notify the Trustee when the Securities are listed on any stock exchange and of any delisting thereof.

SECTION 9.16. Preferential Collection of Claims. If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Securities), the Trustee shall be subject to the provisions of the TIA regarding the collection of claims against the Company (or any such other obligor).

ARTICLE X

Amendments, Supplements and Waivers

SECTION 10.1. Without Consent of Holders. The Company and the Trustee may amend or supplement this Indenture or the Securities without notice to, or consent of, any Securityholder:

(a) (i) to cure any ambiguity, defect or inconsistency, to correct or supplement any provision herein or in any Subsidiary Guarantee which may be inconsistent with any other provision herein or in any Subsidiary Guarantee, or (ii) to make any other provisions with respect to matters or questions arising under this Indenture or any Subsidiary Guarantee which shall not be inconsistent with the provisions of this Indenture, *provided* that such action pursuant to this Clause (a)(ii) shall not adversely affect the interests of the Holders in any material respect;

(b) to provide for uncertificated Securities in addition to or in place of Certificated Securities;

(c) to provide for the assumption of the Company's obligations to Holders of Securities in the case of a share exchange, merger or consolidation or sale of all or substantially all of the Company's assets;

(d) to make any change that would provide any additional rights or benefits to the Holders of Securities or that does not adversely affect in any material respect the legal rights under this Indenture of any Securityholder;

(e) to add a guarantor;

(f) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;

(g) to secure the Securities;

(h) to comply with the rules of any applicable securities depository, including the Depository;

(i) to increase the Conversion Rate;

(j) to execute a supplemental indenture in accordance with Section 4.11;

(k) to conform the text of this Indenture or the Securities to any provision of the "Description of the Notes" contained in the Offering Circular to the extent that the text of the "Description of the Notes" or the Securities was intended by the Company and the Initial Purchaser to be a recitation of the text of this Indenture or the Securities as represented by the Company to the trustee in an Officers' Certificate;

(l) to provide for a successor Trustee in accordance with the terms of this Indenture or to otherwise comply with any requirement of this Indenture;

(m) to provide for the issuance of Additional Securities, to the extent that the Company and the Trustee deem such amendment or supplement necessary or advisable in connection with such issuance; *provided* that no such amendment or supplement shall impair the rights or interests of any Holder of Securities outstanding prior to such issuance; or

(n) to modify the restrictions and procedures for resale and other transfers of Securities or Common Stock pursuant to law, regulation or practice relating to the resale or transfer of restricted securities generally.

SECTION 10.2. With Consent of Holders. The Company and the Trustee may amend or supplement the Securities, this Indenture or any Subsidiary Guarantee with the consent of the Holders of at least a majority in aggregate principal amount of the Securities then outstanding. Subject to Section 8.4 and Section 8.7, the Holders of at least a majority in aggregate principal amount of the Securities then outstanding may waive compliance in any instance by the Company with any provision of the Securities or this Indenture without notice to any Securityholder. However, notwithstanding the foregoing, (i) if any amendment, supplement or waiver would by its terms disproportionately and adversely affect either Series of Securities, such amendment, supplement or waiver shall also require the consent of Holders of at least a majority in aggregate principal amount of such Series of Securities and (ii) if any amendment, supplement or waiver would only affect one Series of Securities, such amendment, supplement or waiver shall only require the consent of Holders of at least a majority in aggregate principal amount of such Series of Securities. In addition, notwithstanding the foregoing but subject to Section 10.4, without the consent of the Holders affected, an amendment, supplement or waiver may not:

(a) change the stated maturity of the principal of or the payment date of any installment of interest (including Additional Interest, if any) on or with respect to the Securities;

(b) reduce the principal amount of, the Fundamental Change Purchase Price of, or the Conversion Rate or rate of interest or Additional Interest on, any Security;

(c) reduce the amount of principal payable upon acceleration of the maturity of any Security;

(d) change the currency in which payment of principal of, the Fundamental Change Purchase Price of, or interest with respect to, the Securities is payable;

(e) impair the right to institute suit for the enforcement of any payment on, or with respect to, any Security;

(f) modify the provisions with respect to the purchase rights of Holders as provided in Article III in a manner adverse to Holders;

(g) adversely affect the right of Holders to convert Securities other than as provided in this Indenture;

(h) reduce the percentage in principal amount of the outstanding Securities, the consent of whose Holders is required to take specific actions including, but not limited to, the waiver of past defaults or the modification or amendment of this Indenture;

(i) make any change in Article XI that would adversely affect the Holders; or

(j) alter the manner of calculation or rate of accrual of interest or Additional Interest or Fundamental Change Purchase Price or the Conversion Rate (except as permitted under Section 10.1(i)) on any Security or extend the time for payment of any such amount.

Without limiting, and subject to, the other provisions of this Section 10.2, the Holders of a majority in aggregate principal amount of the Securities then outstanding may, on behalf of all the Holders of the Securities, (i) in addition to what is permitted pursuant to Article VII, consent to the assignment or transfer by the Company of any of its rights and obligations (and release of the Company from such obligations) under this Indenture, or the Securities, (ii) make any change to the Company's obligation to issue shares of Common Stock, Cash or a combination of shares of Common Stock and Cash or to repurchase all or a portion of the Securities in the event of a Fundamental Change (including changing, modifying or amending any definitions with respect thereto) and (iii) waive compliance by the Company with any of the provisions or restrictions of this Indenture (other than such matters as are set forth in clauses (a) through (j) of this Section 10.2).

It shall not be necessary for the consent of the Holders under this Section 10.2 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under Section 10.1 or this Section 10.2 becomes effective, the Company shall mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such

notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

SECTION 10.3. Compliance with Trust Indenture Act. Every amendment to or supplement of this Indenture or the Securities shall comply with the TIA as in effect at the date of such amendment or supplement.

SECTION 10.4. Revocation and Effect of Consents. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to its Security or portion of a Security if the Trustee receives the notice of revocation before the date the amendment, supplement or waiver becomes effective.

After an amendment, supplement or waiver becomes effective, it shall bind every applicable Securityholder, unless it makes a change described in any of clauses (a) through (j) of Section 10.2. In the case of an amendment, supplement or waiver that makes a change described in any of clauses (a) through (j) of Section 10.2, the amendment, supplement or waiver shall bind each Holder of a Security who has consented to it and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security.

SECTION 10.5. Notation on or Exchange of Securities. If an amendment, supplement or waiver changes the terms of a Security, the Trustee may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security about the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms.

SECTION 10.6. Trustee to Sign Amendments, Etc. The Trustee shall sign any amendment or supplemental indenture authorized pursuant to this Article X if the amendment or supplemental indenture does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does adversely affect the rights, duties, liabilities or immunities of the Trustee, the Trustee may, in its sole discretion, but need not sign it. In signing or refusing to sign such amendment or supplemental indenture, the Trustee shall be provided with and, subject to Section 9.1, shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that such amendment or supplemental indenture is authorized or permitted by this Indenture and that all conditions precedent to the effectiveness of such amendment or supplement have been satisfied or duly waived.

SECTION 10.7. Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article X, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

ARTICLE XI

Subordination

SECTION 11.1. Agreement To Subordinate. The Company agrees, and each Securityholder by accepting a Security agrees, that the Indebtedness evidenced by the Securities is subordinated in right of payment, to the extent and in the manner provided in this Article XI, to the prior payment of all Senior Indebtedness of the Company and that the subordination is for the benefit of and enforceable by the holders of such Senior Indebtedness. All provisions of this Article XI shall be subject to Section 11.12.

SECTION 11.2. Liquidation, Dissolution, Bankruptcy. Upon any payment or distribution of the assets of the Company to creditors upon a total or partial liquidation or a total or partial dissolution of the Company or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property:

(a) holders of Senior Indebtedness of the Company shall be entitled to receive payment in full in cash of such Senior Indebtedness before Securityholders shall be entitled to receive any payment of principal of or interest on the Securities; and

(b) until such Senior Indebtedness is paid in full in cash, any payment or distribution to which Securityholders would be entitled but for this Article XI shall be made to holders of such Senior Indebtedness as their interests may appear, except that Securityholders may receive shares of stock and any debt securities that are subordinated to such Senior Indebtedness to at least the same extent as the Securities.

SECTION 11.3. Default on Senior Indebtedness of the Company. The Company shall not pay the principal of or interest on the Securities or make any deposit pursuant to Section 13.1 and may not purchase or otherwise retire any Securities (collectively, “pay the Securities”) if either of the following (a “Payment Default”) occurs (a) any Designated Senior Indebtedness of the Company is not paid in full in cash when due; or (b) any other default on Designated Senior Indebtedness of the Company occurs and the maturity of such Designated Senior Indebtedness is accelerated in accordance with its terms unless, in either case, the Payment Default has been cured or waived and any such acceleration has been rescinded or such Designated Senior Indebtedness has been paid in full in cash; provided, however, that the Company shall be entitled to pay the Securities without regard to the foregoing if the Company and the Trustee receive written notice approving such payment from the Representatives of all Designated Senior Indebtedness with respect to which a Payment Default has occurred and is continuing. During the continuance of any default (other than a Payment Default) with respect to any Designated Senior Indebtedness of the Company pursuant to which the maturity thereof may be accelerated immediately without further notice (except such notice as may be required to effect such acceleration) or the expiration of any applicable grace periods (a “Nonpayment Default”), the Company shall not pay the Securities for a period (a “Payment Blockage Period”) commencing upon the receipt by the Trustee of (with a copy to the Company) written notice (a “Blockage Notice”) of such default from the Representative of such Designated Senior Indebtedness specifying an election to effect a Payment Blockage Period and ending 179 days thereafter. The Payment Blockage Period shall end earlier if such Payment Blockage Period is terminated (1) by written notice to the Trustee and the Company from the Person or Persons who gave such Blockage Notice; (2) because the default giving rise to such Blockage Notice is cured, waived or otherwise no longer continuing; or (3) because such Designated Senior Indebtedness has been discharged or repaid in full in cash. Notwithstanding the provisions described in the immediately preceding two sentences (but subject

to the provisions contained in the first sentence of this Section 11.3), unless there is a Payment Default or the holders of such Designated Senior Indebtedness or the Representative of such Designated Senior Indebtedness shall have accelerated the maturity of such Designated Senior Indebtedness, the Company shall be entitled to resume payments on the Securities after termination of such Payment Blockage Period. The Securities shall not be subject to more than one Payment Blockage Period in any consecutive 360-day period, irrespective of the number of Nonpayment Defaults with respect to Designated Senior Indebtedness of the Company during such period. For purposes of this Section 11.3, no default or event of default which existed or was continuing on the date of the commencement of any Payment Blockage Period with respect to the Designated Senior Indebtedness of the Company initiating such Payment Blockage Period shall be, or be made, the basis of the commencement of a subsequent Payment Blockage Period by the Representative of such Designated Senior Indebtedness unless such default or event of default shall have been cured or waived for a period of not less than 90 consecutive days.

SECTION 11.4. Acceleration of Payment of Securities. If payment of the Securities is accelerated because of an Event of Default, the Company or the Trustee (if requested in writing by the Company and if provided with a list of the names and addresses of the Holders of Senior Indebtedness of the Company by the Company at its expense) shall promptly notify the holders of the Senior Indebtedness of the Company (or their Representatives) of the acceleration and all Obligations with respect to such Senior Indebtedness shall be paid in full before the Holders of the Securities are entitled to receive any payment or other distribution.

SECTION 11.5. When Distribution Must Be Paid Over. If a distribution is made to Securityholders that because of this Article XI should not have been made to them, the Securityholders who receive the distribution shall hold it in trust for holders of Senior Indebtedness of the Company and pay it over to them as their interests may appear.

SECTION 11.6. Subrogation. After all Senior Indebtedness of the Company is paid in full and until the Securities are paid in full, Securityholders shall be subrogated to the rights of holders of such Senior Indebtedness to receive distributions applicable to such Senior Indebtedness. A distribution made under this Article XI to holders of such Senior Indebtedness which otherwise would have been made to Securityholders is not, as between the Company and Securityholders, a payment by the Company on such Senior Indebtedness.

SECTION 11.7. Relative Rights. This Article XI defines the relative rights of Securityholders and holders of Senior Indebtedness of the Company. Nothing in this Indenture shall:

(a) impair, as between the Company and Securityholders, the obligation of the Company, which is absolute and unconditional, to pay principal of and interest on the Securities in accordance with their terms; or

(b) prevent the Trustee or any Securityholder from exercising its available remedies upon a Default, subject to the rights of holders of Senior Indebtedness of the Company to receive distributions otherwise payable to Securityholders.

SECTION 11.8. Subordination May Not Be Impaired by Company. No right of any holder of Senior Indebtedness of the Company to enforce the subordination of the Indebtedness evidenced by the Securities shall be impaired by any act or failure to act by the Company or by its failure to comply with this Indenture. Without in any way limiting the generality of this Section 11.8, the holders of Senior Indebtedness may, at any time and from time to time, without the consent of or notice to the Trustee or the Holders, without incurring responsibility to the

Trustee or the Holders and without impairing or releasing the subordination designated in this Article XI or the obligations hereunder of the Holders to the holders of Senior Indebtedness, do any one or more of the following: (1) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, Senior Indebtedness, or any instrument evidencing the same or any agreement under which Senior Indebtedness is outstanding or secured; (2) sell, exchange, release, foreclose against or otherwise deal with any property pledged, mortgaged or otherwise securing Senior Indebtedness; (3) release any Person liable in any manner for the collection of Senior Indebtedness; and (4) exercise or refrain from exercising any rights against the Company, and Subsidiary thereof or any other Person.

SECTION 11.9. Rights of Trustee and Paying Agent. Notwithstanding Section 11.3, the Trustee or Paying Agent shall continue to make payments on the Securities and shall not be charged with knowledge of the existence of facts that under this Article XI would prohibit the making of any such payments unless, not less than two Business Days prior to the date of such payment, a Trust Officer of the Trustee receives notice satisfactory to it that such payments are prohibited by this Article XI. The Company, the Registrar or co-registrar, the Paying Agent, a Representative or a holder of Senior Indebtedness of the Company shall be entitled to give the notice; provided, however, that, if an issue of Senior Indebtedness of the Company has a Representative, only the Representative shall be entitled to give the notice.

The Trustee in its individual or any other capacity shall be entitled to hold Senior Indebtedness of the Company with the same rights it would have if it were not Trustee. The Registrar and co-registrar and the Paying Agent shall be entitled to do the same with like rights. The Trustee shall be entitled to all the rights set forth in this Article XI with respect to any Senior Indebtedness of the Company which may at any time be held by it, to the same extent as any other holder of such Senior Indebtedness; and nothing in Article IX shall deprive the Trustee of any of its rights as such holder. Nothing in this Article XI shall apply to claims of, or payments to, the Trustee under or pursuant to Article IX.

SECTION 11.10. Distribution or Notice to Representative. Whenever any Person is to make a distribution or give a notice to holders of Senior Indebtedness of the Company, such Person shall be entitled to make such distribution or give such notice to their Representative (if any).

SECTION 11.11. Article XI Not To Prevent Events of Default or Limit Right To Accelerate. The failure to make a payment pursuant to the Securities by reason of any provision in this Article XI shall not be construed as preventing the occurrence of a Default. Nothing in this Article XI shall have any effect on the right of the Securityholders or the Trustee to accelerate the maturity of the Securities.

SECTION 11.12. Trust Moneys Not Subordinated. Notwithstanding anything contained herein to the contrary, payments from Cash or the proceeds of Common Stock or other consideration held in trust under Article XIII by the Trustee for the payment of principal of and interest on the Securities shall not be subordinated to the prior payment of any Senior Indebtedness of the Company or subject to the restrictions set forth in this Article XI, and none of the Securityholders shall be obligated to pay over any such amount to the Company or any holder of Senior Indebtedness of the Company or any other creditor of the Company.

SECTION 11.13. Trustee Entitled To Rely. Upon any payment or distribution pursuant to this Article XI, the Trustee and the Securityholders shall be entitled to rely (a) upon any order or decree of a court of competent jurisdiction in which any proceedings of the nature referred to in Section 11.2 are pending, (b) upon a certificate of the liquidating trustee or agent or other Person

making such payment or distribution to the Trustee or to the Securityholders or (c) upon the Representatives of Senior Indebtedness of the Company for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of such Senior Indebtedness and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article XI. In the event that the Trustee determines, in good faith, that evidence is required with respect to the right of any Person as a holder of Senior Indebtedness of the Company to participate in any payment or distribution pursuant to this Article XI, the Trustee shall be entitled to request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of such Senior Indebtedness held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and other facts pertinent to the rights of such Person under this Article XI, and, if such evidence is not furnished, the Trustee shall be entitled to defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment. The provisions of Sections 9.1 and 9.2 shall be applicable to all actions or omissions of actions by the Trustee pursuant to this Article XI.

SECTION 11.14. Trustee To Effectuate Subordination. Each Securityholder by accepting a Security authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to acknowledge or effectuate the subordination between the Securityholders and the holders of Senior Indebtedness of the Company as provided in this Article XI and appoints the Trustee as attorney-in-fact for any and all such purposes.

SECTION 11.15. Trustee Not Fiduciary for Holders of Senior Indebtedness of the Company. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness of the Company and shall not be liable to any such holders if it shall mistakenly pay over or distribute to Securityholders or the Company or any other Person, money or assets to which any holders of Senior Indebtedness of the Company shall be entitled by virtue of this Article XI or otherwise.

SECTION 11.16. Reliance by Holders of Senior Indebtedness of the Company on Subordination Provisions. Each Securityholder by accepting a Security acknowledges and agrees that the foregoing subordination provisions are, and are intended to be, an inducement and a consideration to each holder of any Senior Indebtedness of the Company, whether such Senior Indebtedness was created or acquired before or after the issuance of the Securities, to acquire and continue to hold, or to continue to hold, such Senior Indebtedness and such holder of such Senior Indebtedness shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Senior Indebtedness.

ARTICLE XII

[RESERVED]

ARTICLE XIII

Satisfaction and Discharge

SECTION 13.1. Satisfaction and Discharge of the Indenture. This Indenture shall cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, on demand of and at the expense of the

Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when

(a) either

(i) all Securities theretofore authenticated and delivered (other than Securities that have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.7) have been delivered to the Trustee for cancellation; or

(ii) all such Securities not theretofore delivered to the Trustee for cancellation have become due and payable whether at the Final Maturity Date or upon acceleration, or with respect to any Fundamental Change Purchase Date, and the Company deposits with the Paying Agent or Conversion Agent, as the case may be, Cash, Common Stock or other consideration, or a combination thereof, as applicable hereunder, sufficient to pay on such date all amounts due and owing on all outstanding Securities (other than Securities replaced pursuant to Section 2.7) on such date (and such deposit is permitted under Article XI);

(b) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(c) 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 and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 9.6 and, if money shall have been deposited with the Trustee pursuant to Section 13.1(a)(ii), the obligations of the Trustee under Section 13.2 shall survive such satisfaction and discharge.

Notwithstanding anything herein to the contrary, Article IV, Article XI and Article XIII and Section 2.4, Section 2.6, Section 2.7, Section 2.8, Section 6.1, Section 6.5, Section 6.6 and Section 9.6 shall survive any discharge of this Indenture until such time as there are no Securities outstanding.

SECTION 13.2. Repayment to the Company. The Trustee, the Paying Agent and the Conversion Agent shall return to the Company upon written request any Cash or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, Holders entitled to the Cash or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person and the Trustee, the Paying Agent and the Conversion Agent shall have no further liability to the Securityholders with respect to such Cash or securities for that period commencing after the return thereof.

ARTICLE XIV

Miscellaneous

SECTION 14.1. Trust Indenture Act Controls. If any provision of this Indenture limits, qualifies or conflicts with another provision which is required to be included in this Indenture by

the TIA, including the duties imposed by TIA Section 318(c), the required provision of the TIA shall control.

SECTION 14.2. Notices. Any demand, authorization notice, request, consent or communication shall be given in writing and delivered in person, sent by overnight courier or mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission (confirmed by delivery in person or mail by first-class mail, postage prepaid, or by guaranteed overnight courier) to the following facsimile numbers:

If to the Company, to:

Skyworks Solutions, Inc.
20 Sylvan Road
Woburn, MA 01801
Attention: General Counsel
Facsimile No.: 781-376-3310

if to the Trustee, to:

U.S. Bank National Association
One Federal Street, 3rd Floor
Boston, MA 02110
Attention: Corporate Trust Services/James P. Freeman
Facsimile No.: 617-603-6667

Such notices or communications to the Trustee shall be effective when received.

The Company or the Trustee by notice to the other in the manner prescribed above may designate additional or different addresses or facsimile numbers for subsequent notices or communications.

Any notice or communication mailed to a Securityholder shall be mailed by first-class mail, postage prepaid, or delivered by hand or by an overnight delivery service to it at its address shown on the Register and shall be sufficiently given if so mailed or delivered within the time prescribed. Any notice or communication shall also be mailed to any Person described in TIA Section 313(c), to the extent required by the TIA.

Failure to mail a notice or communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. Except as set forth about as to the Trustee, if a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 14.3. Communications by Holders with Other Holders. Securityholders may communicate pursuant to TIA Section 312(b) with other Securityholders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar, the Paying Agent, the Conversion Agent and any other Person shall have the protection of TIA Section 312(c).

SECTION 14.4. Certificate and Opinion as to Conditions Precedent. (a) Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee at the request of the Trustee:

(1) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent (including any covenants, compliance with which constitutes a condition precedent), if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent (including any covenants, compliance with which constitutes a condition precedent) have been complied with.

(b) Each Officers' Certificate and Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture (other than an Officers' Certificate provided pursuant to Section 6.3) shall include:

(1) a statement that the person making such certificate or opinion has read such covenant or condition;

(2) 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;

(3) a statement that, in the opinion of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with;

provided that with respect to matters of fact an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 14.5. Record Date for Vote or Consent of Securityholders. The Company may set a record date for purposes of determining the identity of Holders entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture, which record date shall not be more than 30 days prior to the date of the commencement of solicitation of such action. Notwithstanding the provisions of Section 10.4, if a record date is fixed, those persons who were Holders of Securities at the close of business on such record date (or their duly designated proxies), and only those persons, shall be entitled to take such action by vote or consent or to revoke any vote or consent previously given, whether or not such persons continue to be Holders after such record date.

SECTION 14.6. Rules by Trustee, Paying Agent, Registrar and Conversion Agent. The Trustee may make reasonable rules (not inconsistent with the terms of this Indenture) for action by or at a meeting of Holders. Any Registrar, Paying Agent or Conversion Agent may make reasonable rules for its functions.

SECTION 14.7. Legal Holidays. A "Legal Holiday" is a Saturday, Sunday or a day on which state or federally chartered banking institutions in New York, New York, the city in which the Corporate Trust Office is located, are not required to be open. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If an Interest Payment Record Date or other record date is a Legal Holiday, the record date shall not be affected.

SECTION 14.8. Governing Law; Jury Trial Waiver. This Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INDENTURE.

SECTION 14.9. No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret another indenture, loan or debt agreement of the Company or a Subsidiary of the Company. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 14.10. No Recourse Against Others. No recourse under or upon any obligation, covenant or agreement of the Company contained in this Indenture, or in any Security, or because of any Indebtedness evidenced thereby or hereby, shall be had against any incorporator, as such, or against any past, present or future employee, stockholder, officer or director, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the Holders and as part of the consideration for the issuance of the Securities.

SECTION 14.11. Successors. All agreements of the Company in this Indenture and the Securities shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 14.12. Multiple Counterparts. The parties may sign multiple counterparts of this Indenture. Each signed counterpart shall be deemed an original, but all of them together shall represent the same agreement.

SECTION 14.13. Separability. In case any provisions in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 14.14. Calculations in Respect of the Securities. The Company or its agents shall make all calculations under this Indenture and the Securities in good faith. In the absence of manifest error, such calculations shall be final and binding on all Holders. The Company or its agents shall provide a copy of such calculations to the Trustee as required hereunder, the Trustee shall be entitled to rely on the accuracy of any such calculation without independent verification.

SECTION 14.15. Table of Contents, Headings, Etc. The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture 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 14.16. No Security Interest. Nothing in this Indenture or in the Securities, express or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, now in effect or hereafter enacted and made effective, in any jurisdiction.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands as of the date and year first above written.

SKYWORKS SOLUTIONS, INC.,

By: /s/ Mark V.B. Tremallo

Name: Mark V.B. Tremallo

Title: Vice President, General Counsel and Secretary

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ James P. Freeman

Name: James P. Freeman

Title: Vice President

[FORM OF FACE OF SECURITY]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.]¹

[THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND THIS SECURITY AND THE COMMON STOCK ISSUABLE UPON CONVERSION HEREOF MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS SECURITY IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.]²

[THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) THIS SECURITY AND THE COMMON STOCK ISSUABLE UPON CONVERSION HEREOF MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) IN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (II) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE) OR (III) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I)

¹ This legend to be included only if the Security is a Global Security.

² This legend to be included only if the Security is a Restricted Security.

THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE. IN ANY CASE, THE HOLDER HEREOF WILL NOT, DIRECTLY OR INDIRECTLY, ENGAGE IN ANY HEDGING TRANSACTIONS WITH REGARD TO THIS SECURITY EXCEPT AS PERMITTED UNDER THE SECURITIES ACT.]³

³ This legend to be included only if the Security is a Restricted Security.

SKYWORKS SOLUTIONS, INC.

1.25% Convertible Subordinated Notes due 2010

No. CUSIP: 83088M AE2

No. ISIN: US83088MAE21

Skyworks Solutions, Inc., a Delaware corporation (the “Company,” which term shall include any successor Person under the Indenture referred to on the attached “Terms of the Notes”), promises to pay to, or registered assigns, the principal amount of [•] (\$[•]) on March 1, 2010, and to pay interest thereon, in arrears, from and including the most recent Interest Payment Date to which interest has been paid or duly provided for (or if no interest has been paid, from, and including March 2, 2007), to, but excluding, March 1 and September 1 of each year (each, an “Interest Payment Date”), beginning on September 1, 2007, at a rate of 1.25% per annum until the principal hereof is paid or made available for payment at March 1, 2010, or upon acceleration, or until such date on which this security is converted or purchased as provided herein. Except as otherwise provided in the Indenture and herein, the interest so payable and punctually paid or duly provided for on any Interest Payment Date shall, as provided in the Indenture (as hereinafter defined), be paid to the Person in whose name this Security is registered at the close of business on the regular record date for such interest, which shall be the February 15 or August 15 (whether or not a Business Day), as the case may be, immediately preceding the relevant Interest Payment Date (each, an “Interest Payment Record Date”).

Reference is hereby made to the further provisions of this Security set forth on the attached “Terms of the Notes”, which further provisions shall for all purposes have the same effect as if set forth at this place.

[Signature page follows]

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

Dated: _____

SKYWORKS SOLUTIONS, INC.,

By: _____
Name:
Title:

Trustee’s Certificate of Authentication: This is one of the Securities referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
not in its individual capacity, but solely
as Trustee,

By: _____
Authorized Signatory

[FORM OF THE TERMS OF THE 2010 NOTES]

SKYWORKS SOLUTIONS, INC.

1.25% CONVERTIBLE SUBORDINATED NOTES DUE 2010

This Security is one of a duly authorized issue of 1.25% Convertible Subordinated Notes due 2010 (the “Securities”) of the Company issued under an Indenture, dated as of March 2, 2007 (the “Indenture”), between the Company and U.S. Bank National Association, as trustee (the “Trustee”). The terms of the Security include those stated in the Indenture, those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (the “TIA”), and those set forth in this Security. This Security is subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of all such terms. To the extent permitted by applicable law, if any provision of this Security conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture unless otherwise indicated.

1. Interest.

Interest on the Securities shall be computed on the basis of a 360-day year of twelve 30-day months as set forth on the face of the Security.

If the Holder elects to require the Company to purchase this Security pursuant to paragraph 5 of this Security, on a date that is after an Interest Payment Record Date but on or before the corresponding Interest Payment Date, interest and Additional Interest, if any, accrued and unpaid hereon to, but not including, the applicable Fundamental Change Purchase Date shall be paid to the same Holder to whom the Company pays the principal of this Security. Interest and Additional Interest, if any, accrued and unpaid hereon at the Final Maturity Date also shall be paid to the same Holder to whom the Company pays the principal of this Security.

Interest and Additional Interest, if any, on Securities converted after the close of business on an Interest Payment Record Date but prior to the corresponding Interest Payment Date shall be paid, on such Interest Payment Date⁴, to the Holder of the Securities as of the close of business on the Interest Payment Record Date but, upon conversion, the converting Holder must pay the Company an amount equal to the interest that shall be payable on such Interest Payment Date. No such payment need be made with respect to Securities converted after an Interest Payment Record Date and prior to the corresponding Interest Payment Date (1) if any overdue interest exists at the time of conversion with respect to the Securities being converted, but only to the extent of the amount of such overdue interest, or (2) if the Holder converts after the close of business on the last Interest Payment Record date prior to March 1, 2010 (the “Final Maturity Date”).

Except as otherwise stated herein, any reference herein to interest accrued or payable as of any date shall include Additional Interest, if any, accrued or payable on such date as provided in the Indenture or the Registration Rights Agreement.

⁴ With respect to Additional Securities, Interest will accrue from and including the most recent date to which interest has been paid if no interest has been paid, from and including the date such Additional Securities are issued.

2. Method of Payment.

Payment of the principal of, and interest on, the Securities shall be made at the office of the Paying Agent in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. The Holder must surrender this Security to a Paying Agent to collect payment of principal. Payment of interest on Certificated Securities shall be made by check mailed to the address of the Person entitled thereto as such address appears in the Register; *provided, however*, that Holders with Securities in an aggregate principal amount in excess of \$2.0 million shall be paid, at their written election, by wire transfer of immediately available funds. Notwithstanding the foregoing, so long as the Securities are registered in the name of a Depository or its nominee, all payments with respect to the Securities shall be made by wire transfer of immediately available funds to the account of the Depository or its nominee.

3. Paying Agent, Registrar, Conversion Agent.

Initially, the Trustee shall act as Paying Agent, Registrar and Conversion Agent. The Company or any Affiliate of the Company may act as Paying Agent, Registrar or Conversion Agent, subject to the terms of the Indenture.

4. Indenture.

The Securities are general subordinated unsecured obligations of the Company initially limited to \$100,000,000 aggregate principal amount. The Company may, without consent of the Securityholders, issue additional Securities under the Indenture with the same terms as the notes offered hereby in an unlimited aggregate principal amount. The Indenture does not limit other debt of the Company, senior or subordinated or secured or unsecured.

5. Purchase by the Company Upon a Fundamental Change.

Subject to the terms and conditions of the Indenture, the Company shall become obligated to purchase for Cash, at the option of any Holder, all or any portion of the Securities held by such Holder upon a Fundamental Change in multiples of \$1,000 at the Fundamental Change Purchase Price. To exercise such right, a Holder shall deliver to the Paying Agent a Fundamental Change Purchase Notice containing the information set forth in the Indenture, at any time prior to 5:00 p.m., New York City time, on the Business Day immediately preceding the Fundamental Change Purchase Date, and shall deliver the Securities to the Paying Agent as set forth in the Indenture.

Holders have the right to withdraw any Fundamental Change Purchase Notice by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

If Cash sufficient to pay the Fundamental Change Purchase Price of all Securities or portions thereof to be purchased with respect to a Fundamental Change Purchase Date is deposited with the Paying Agent by 10:00 a.m., New York City time, on the Fundamental Change Purchase Date and the Paying Agent is not prohibited from paying such money to the Holders on such date pursuant to the terms of the Indenture, then on and after such Fundamental Change Purchase Date such Securities shall cease to be outstanding and interest on such Securities shall cease to accrue, whether or not such Securities are delivered by their Holders to the Paying Agent, and the Holders thereof shall have no rights as such other than the right to receive the Fundamental Change Purchase Price upon delivery of such Securities to the Paying Agent.

6. Conversion.

Subject to the terms of the Indenture, prior to the Final Maturity Date, Holders may surrender Securities, in whole or in part, for conversion at the Conversion Price then in effect. Subject to the terms and conditions of the Indenture, a Holder of a Security may convert the Security (or any portion thereof equal to \$1,000 principal amount or any integral multiple of \$1,000 principal amount in excess thereof) into Cash, shares of Common Stock or a combination of Cash and shares of Common Stock, at the Company's option in accordance with Section 4.13 of the Indenture; *provided, however*, that, if a Fundamental Change Purchase Notice with respect to a Security is delivered in accordance with the Indenture, such Security shall not be convertible unless such Fundamental Change Purchase Notice is duly withdrawn in accordance with the Indenture or unless there shall be a default in the payment of the Fundamental Change Purchase Price, in which case the conversion right with respect to such Security shall terminate immediately when such default is cured and such Security is purchased in accordance with the Indenture.

The initial Conversion Rate is 105.0696 shares of Common Stock per \$1,000 principal amount of Securities, which represents an initial Conversion Price of approximately \$9.52 per share of Common Stock. The Conversion Rate is subject to adjustment under certain circumstances as provided in the Indenture, including, with respect to Securities surrendered for conversion, upon a Fundamental Change. No fractional shares will be issued upon conversion.

To convert a Security, a Holder must (i) if the Security is represented by a Global Security, comply with the Applicable Procedures, or (ii) if the Security is represented by a Certificated Security, (a) deliver to the Conversion Agent a duly signed and completed Conversion Notice set forth below, (b) deliver the Security to the Conversion Agent, (c) deliver to the Conversion Agent appropriate endorsements and transfer documents if required by the Conversion Agent and (d) pay any tax or duty, if required pursuant to the Indenture. A Holder may convert a portion of a Security equal to \$1,000 or any integral multiple thereof.

7. Denominations; Transfer; Exchange.

The Securities are in registered form, without coupons, in denominations of \$1,000 and integral multiples of \$1,000. A Holder may register the transfer of or exchange Securities in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay certain taxes, assessments or other governmental charges that may be imposed in relation thereto by law or permitted by the Indenture.

8. Persons Deemed Owners.

The registered Holder of a Security may be treated as the owner of such Security for all purposes.

9. Unclaimed Money or Securities.

The Trustee and the Paying Agent shall return to the Company upon written request any Cash or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, Holders entitled to the Cash or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person.

10. Amendment, Supplement and Waiver.

Subject to certain exceptions, the Securities or the Indenture may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Securities and the 2012 Securities then outstanding; *provided, however*, that (i) if any amendment, supplement or waiver would by its terms disproportionately and adversely affect the Securities, such amendment, supplement or waiver will also require the consent of Holders of at least a majority in aggregate principal amount of the Securities then outstanding and (ii) if any amendment, supplement or waiver would only affect the Securities or the 2012 Securities, as the case may be, such amendment, supplement or waiver will only require the consent of Holders of at least a majority in aggregate principal amount of the Securities or the 2012 Securities, as applicable, then outstanding. Subject to certain exceptions, an existing Default or Event of Default with respect to the Securities and its consequences or compliance with any provision of the Securities or the Indenture may be waived with the consent of the Holders of at least a majority in aggregate principal amount of the Securities then outstanding. Subject to the terms of the Indenture, without the consent of or notice to any Holder, the Company and the Trustee may amend or supplement the Indenture or the Securities to, among other things, cure any ambiguity, defect or inconsistency or make any change that does not adversely affect in any material respect the legal rights under the Indenture of any Holder.

11. Defaults and Remedies.

If any Event of Default other than as a result of certain events of bankruptcy, insolvency or reorganization of the Company occurs and is continuing, the principal of all the Securities then outstanding plus accrued and unpaid interest may be declared due and payable in the manner and with the effect provided in the Indenture. If an Event of Default occurs as a result of certain events of bankruptcy, insolvency or reorganization of the Company, the principal amount of the Securities plus accrued and unpaid interest shall become due and payable immediately without any declaration or other act on the part of the Trustee or any Holder, all to the extent provided in the Indenture.

12. Trustee Dealings with the Company.

Subject to certain limitations imposed by the TIA, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not the Trustee.

13. No Recourse Against Others.

No recourse under or upon any obligation, covenant or agreement of the Company contained in the Indenture, or in this Security, or because of any indebtedness evidenced thereby or hereby, shall be had against any incorporator, as such, or against any past, present or future employee, stockholder, officer or director, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the Holders and as part of the consideration for the issuance of the Securities.

14. Authentication.

This Security shall not be valid until the Trustee or an authenticating agent manually signs the certificate of authentication on the other side of this Security.

15. Abbreviations.

Customary abbreviations may be used in the name of the Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and UGMA (= Uniform Gifts to Minors Act).

16. Indenture to Control; Governing Law.

To the extent permitted by applicable law, if any provision of this Security conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. This Security shall be governed by, and construed in accordance with, the laws of the State of New York.

17. Copies of Indenture.

The Company shall furnish to any Holder, upon written request and without charge, a copy of the Indenture. Requests may be made to: Skyworks Solutions, Inc., 20 Sylvan Road, Woburn, MA 01801, Fax no.: 781-376-3310, Attention: General Counsel.

18. Registration Rights.

The Holders of the Securities are entitled to the benefits of a Registration Rights Agreement, dated as of March 2, 2007, between the Company and the Initial Purchaser, including, in certain circumstances, the receipt of Additional Interest upon a registration default (as defined in such agreement).⁵

19. Subordination.

The Securities are subordinated to Senior Indebtedness, as defined in the Indenture. To the extent provided in the Indenture, Senior Indebtedness must be paid before the Securities may be paid. The Company agrees, and each Securityholder by accepting a Security agrees, to the subordination provisions contained in the Indenture and authorizes the Trustee to give it effect and appoints the Trustee as attorney-in-fact for such purpose.

⁵ This Section to be included only if the Security is a Restricted Security.

SCHEDULE OF EXCHANGES OF SECURITIES⁶

The following exchanges, purchases or conversions of a part of this Global Security have been made:

DATE OF DECREASE OR INCREASE	AUTHORIZED SIGNATORY OF SECURITIES	DECREASE IN PRINCIPAL AMOUNT OF THIS GLOBAL SECURITY	INCREASE IN PRINCIPAL AMOUNT OF THIS GLOBAL SECURITY	PRINCIPAL AMOUNT OF THIS GLOBAL SECURITY FOLLOWING SUCH DECREASE OR INCREASE
------------------------------------	--	--	--	--

⁶ This schedule to be included only if the Security is a Global Security.

ASSIGNMENT FORM⁷

To assign this Security, fill in the form below:

I or we assign and transfer this Security to

(Insert assignee’s soc. sec. or tax ID no.)

(Print or type assignee’s name, address and zip code)

and irrevocably appoint the agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Dated: _____

Your Signature: _____
(Sign exactly as your name appears on the other side of
this Security)

Signature Guaranteed
Participant in a Recognized Signature
Guarantee Medallion Program

By: _____
Authorized Signatory

⁷ This Form and the following Forms to be included only if the Security is a Certificated Security.

FORM OF CONVERSION NOTICE

To convert this Security into Cash, shares of Common Stock or a combination of Cash and shares of Common Stock, as applicable and as provided in the Indenture, check the box o

To convert only part of this Security, state the principal amount to be converted (which must be \$1,000 or a multiple of \$1,000): _____

If you want the stock certificate made out in another person's name, fill in the form below:

(Insert assignee's soc. sec. or tax ID no.)

(Print or type assignee's name, address and zip code)

The undersigned (the "Applicant") hereby makes application for the issuance of record to the name of the Applicant of shares of Common Stock.

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the other side of this Security)

Signature Guaranteed
Participant in a Recognized Signature
Guarantee Medallion Program

By: _____
Authorized Signatory

A-1-12

FORM OF FUNDAMENTAL CHANGE PURCHASE NOTICE

U.S. Bank National Association, as Trustee

[]

[]

Attn: Corporate Trust Administration

Re: Skyworks Solutions, Inc. (the "Company")
1.25% Convertible Subordinated Notes due 2010

This is a Fundamental Change Purchase Notice as defined in Section 3.1(c) of the Indenture, dated as of March 2, 2007 (the "Indenture"), between the Company and U.S. Bank National Association, as Trustee. Terms used but not defined herein shall have the meanings ascribed to them in the Indenture.

Certificate No(s). of Securities:

I intend to deliver the following aggregate principal amount of Securities for purchase by the Company pursuant to Article III of the Indenture (in multiples of \$1,000):

\$

I hereby agree that the Securities shall be purchased on the Fundamental Change Purchase Date pursuant to the terms and conditions specified in paragraph 5 of the Securities and in the Indenture.

Signed: _____

[FORM OF FACE OF SECURITY]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.]⁸

[THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND THIS SECURITY AND THE COMMON STOCK ISSUABLE UPON CONVERSION HEREOF MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS SECURITY IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.]⁹

[THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) THIS SECURITY AND THE COMMON STOCK ISSUABLE UPON CONVERSION HEREOF MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) IN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (II) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE) OR (III) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I)

⁸ This legend to be included only if the Security is a Global Security.

⁹ This legend to be included only if the Security is a Restricted Security.

THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE. IN ANY CASE, THE HOLDER HEREOF WILL NOT, DIRECTLY OR INDIRECTLY, ENGAGE IN ANY HEDGING TRANSACTIONS WITH REGARD TO THIS SECURITY EXCEPT AS PERMITTED UNDER THE SECURITIES ACT.]¹⁰

¹⁰ This legend to be included only if the Security is a Restricted Security.

SKYWORKS SOLUTIONS, INC.

1.50% Convertible Subordinated Notes due 2012

No. CUSIP: 83088M AG7

No. ISIN: US83088MAG78

Skyworks Solutions, Inc., a Delaware corporation (the “Company,” which term shall include any successor Person under the Indenture referred to on the attached “Terms of the Notes”), promises to pay to, or registered assigns, the principal amount of [•] (\$[•]) on March 1, 2012, and to pay interest thereon, in arrears, from and including the most recent Interest Payment Date to which interest has been paid or duly provided for (or if no interest has been paid, from, and including March 2, 2007), to, but excluding, March 1 and September 1 of each year (each, an “Interest Payment Date”), beginning on September 1, 2007, at a rate of 1.50% per annum until the principal hereof is paid or made available for payment at March 1, 2012, or upon acceleration, or until such date on which this security is converted or purchased as provided herein. Except as otherwise provided in the Indenture and herein, the interest so payable and punctually paid or duly provided for on any Interest Payment Date shall, as provided in the Indenture (as hereinafter defined), be paid to the Person in whose name this Security is registered at the close of business on the regular record date for such interest, which shall be the February 15 or August 15 (whether or not a Business Day), as the case may be, immediately preceding the relevant Interest Payment Date (each, an “Interest Payment Record Date”).

Reference is hereby made to the further provisions of this Security set forth on the attached “Terms of the Notes”, which further provisions shall for all purposes have the same effect as if set forth at this place.

[Signature page follows]

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

Dated: _____

SKYWORKS SOLUTIONS, INC.,

By: _____
Name:
Title:

Trustee’s Certificate of Authentication: This is one of the Securities referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION, not in its
individual capacity, but solely as Trustee,

By: _____
Authorized Signatory

[FORM OF THE TERMS OF THE 2012 NOTES]

SKYWORKS SOLUTIONS, INC.

1.50% CONVERTIBLE SUBORDINATED NOTES DUE 2012

This Security is one of a duly authorized issue of 1.50% Convertible Subordinated Notes due 2012 (the “Securities”) of the Company issued under an Indenture, dated as of March 2, 2007 (the “Indenture”), between the Company and U.S. Bank National Association, as trustee (the “Trustee”). The terms of the Security include those stated in the Indenture, those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (the “TIA”), and those set forth in this Security. This Security is subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of all such terms. To the extent permitted by applicable law, if any provision of this Security conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture unless otherwise indicated.

1. Interest.

Interest on the Securities shall be computed on the basis of a 360-day year of twelve 30-day months as set forth on the face of the Security.

If the Holder elects to require the Company to purchase this Security pursuant to paragraph 5 of this Security, on a date that is after an Interest Payment Record Date but on or before the corresponding Interest Payment Date, interest and Additional Interest, if any, accrued and unpaid hereon to, but not including, the applicable Fundamental Change Purchase Date shall be paid to the same Holder to whom the Company pays the principal of this Security. Interest and Additional Interest, if any, accrued and unpaid hereon at the Final Maturity Date also shall be paid to the same Holder to whom the Company pays the principal of this Security.

Interest and Additional Interest, if any, on Securities converted after the close of business on an Interest Payment Record Date but prior to the corresponding Interest Payment Date shall be paid, on such Interest Payment Date¹¹, to the Holder of the Securities as of the close of business on the Interest Payment Record Date but, upon conversion, the converting Holder must pay the Company an amount equal to the interest that shall be payable on such Interest Payment Date. No such payment need be made with respect to Securities converted after an Interest Payment Record Date and prior to the corresponding Interest Payment Date (1) if any overdue interest exists at the time of conversion with respect to the Securities being converted, but only to the extent of the amount of such overdue interest, or (2) if the Holder converts after the close of business on the last Interest Payment Record date prior to March 1, 2012 (the “Final Maturity Date”).

Except as otherwise stated herein, any reference herein to interest accrued or payable as of any date shall include Additional Interest, if any, accrued or payable on such date as provided in the Indenture or the Registration Rights Agreement.

¹¹ With respect to Additional Securities, Interest will accrue from and including the most recent date to which interest has been paid if no interest has been paid, from and including the date such Additional Securities are issued.

2. Method of Payment.

Payment of the principal of, and interest on, the Securities shall be made at the office of the Paying Agent in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. The Holder must surrender this Security to a Paying Agent to collect payment of principal. Payment of interest on Certificated Securities shall be made by check mailed to the address of the Person entitled thereto as such address appears in the Register; *provided, however*, that Holders with Securities in an aggregate principal amount in excess of \$2.0 million shall be paid, at their written election, by wire transfer of immediately available funds. Notwithstanding the foregoing, so long as the Securities are registered in the name of a Depository or its nominee, all payments with respect to the Securities shall be made by wire transfer of immediately available funds to the account of the Depository or its nominee.

3. Paying Agent, Registrar, Conversion Agent.

Initially, the Trustee shall act as Paying Agent, Registrar and Conversion Agent. The Company or any Affiliate of the Company may act as Paying Agent, Registrar or Conversion Agent, subject to the terms of the Indenture.

4. Indenture.

The Securities are general subordinated unsecured obligations of the Company initially limited to \$100,000,000 aggregate principal amount. The Company may, without consent of the Securityholders, issue additional Securities under the Indenture with the same terms as the notes offered hereby in an unlimited aggregate principal amount. The Indenture does not limit other debt of the Company, senior or subordinated or secured or unsecured.

5. Purchase by the Company Upon a Fundamental Change.

Subject to the terms and conditions of the Indenture, the Company shall become obligated to purchase for Cash, at the option of any Holder, all or any portion of the Securities held by such Holder upon a Fundamental Change in multiples of \$1,000 at the Fundamental Change Purchase Price. To exercise such right, a Holder shall deliver to the Paying Agent a Fundamental Change Purchase Notice containing the information set forth in the Indenture, at any time prior to 5:00 p.m., New York City time, on the Business Day immediately preceding the Fundamental Change Purchase Date, and shall deliver the Securities to the Paying Agent as set forth in the Indenture.

Holders have the right to withdraw any Fundamental Change Purchase Notice by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

If Cash sufficient to pay the Fundamental Change Purchase Price of all Securities or portions thereof to be purchased with respect to a Fundamental Change Purchase Date is deposited with the Paying Agent by 10:00 a.m., New York City time, on the Fundamental Change Purchase Date and the Paying Agent is not prohibited from paying such money to the Holders on such date pursuant to the terms of the Indenture, then on and after such Fundamental Change Purchase Date such Securities shall cease to be outstanding and interest on such Securities shall cease to accrue, whether or not such Securities are delivered by their Holders to the Paying Agent, and the Holders thereof shall have no rights as such other than the right to receive the Fundamental Change Purchase Price upon delivery of such Securities to the Paying Agent.

6. Conversion.

Subject to the terms of the Indenture, prior to the Final Maturity Date, Holders may surrender Securities, in whole or in part, for conversion at the Conversion Price then in effect. Subject to the terms and conditions of the Indenture, a Holder of a Security may convert the Security (or any portion thereof equal to \$1,000 principal amount or any integral multiple of \$1,000 principal amount in excess thereof) into Cash, shares of Common Stock or a combination of Cash and shares of Common Stock, at the Company's option in accordance with Section 4.13 of the Indenture; *provided, however*, that, if a Fundamental Change Purchase Notice with respect to a Security is delivered in accordance with the Indenture, such Security shall not be convertible unless such Fundamental Change Purchase Notice is duly withdrawn in accordance with the Indenture or unless there shall be a default in the payment of the Fundamental Change Purchase Price, in which case the conversion right with respect to such Security shall terminate immediately when such default is cured and such Security is purchased in accordance with the Indenture.

The initial Conversion Rate is 105.0696 shares of Common Stock per \$1,000 principal amount of Securities, which represents an initial Conversion Price of approximately \$9.52 per share of Common Stock. The Conversion Rate is subject to adjustment under certain circumstances as provided in the Indenture, including, with respect to Securities surrendered for conversion, upon a Fundamental Change. No fractional shares will be issued upon conversion.

To convert a Security, a Holder must (i) if the Security is represented by a Global Security, comply with the Applicable Procedures, or (ii) if the Security is represented by a Certificated Security, (a) deliver to the Conversion Agent a duly signed and completed Conversion Notice set forth below, (b) deliver the Security to the Conversion Agent, (c) deliver to the Conversion Agent appropriate endorsements and transfer documents if required by the Conversion Agent and (d) pay any tax or duty, if required pursuant to the Indenture. A Holder may convert a portion of a Security equal to \$1,000 or any integral multiple thereof.

7. Denominations; Transfer; Exchange.

The Securities are in registered form, without coupons, in denominations of \$1,000 and integral multiples of \$1,000. A Holder may register the transfer of or exchange Securities in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay certain taxes, assessments or other governmental charges that may be imposed in relation thereto by law or permitted by the Indenture.

8. Persons Deemed Owners.

The registered Holder of a Security may be treated as the owner of such Security for all purposes.

9. Unclaimed Money or Securities.

The Trustee and the Paying Agent shall return to the Company upon written request any Cash or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, Holders entitled to the Cash or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person.

10. Amendment, Supplement and Waiver.

Subject to certain exceptions, the Securities or the Indenture may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Securities and the 2010 Securities then outstanding; *provided, however*, that (i) if any amendment, supplement or waiver would by its terms disproportionately and adversely affect the Securities, such amendment, supplement or waiver will also require the consent of Holders of at least a majority in aggregate principal amount of the Securities then outstanding and (ii) if any amendment, supplement or waiver would only affect the Securities or the 2010 Securities, as the case may be, such amendment, supplement or waiver will only require the consent of Holders of at least a majority in aggregate principal amount of the Securities or the 2010 Securities, as applicable, then outstanding. Subject to certain exceptions, an existing Default or Event of Default with respect to the Securities and its consequences or compliance with any provision of the Securities or the Indenture may be waived with the consent of the Holders of at least a majority in aggregate principal amount of the Securities then outstanding. Subject to the terms of the Indenture, without the consent of or notice to any Holder, the Company and the Trustee may amend or supplement the Indenture or the Securities to, among other things, cure any ambiguity, defect or inconsistency or make any change that does not adversely affect in any material respect the legal rights under the Indenture of any Holder.

11. Defaults and Remedies.

If any Event of Default other than as a result of certain events of bankruptcy, insolvency or reorganization of the Company occurs and is continuing, the principal of all the Securities then outstanding plus accrued and unpaid interest may be declared due and payable in the manner and with the effect provided in the Indenture. If an Event of Default occurs as a result of certain events of bankruptcy, insolvency or reorganization of the Company, the principal amount of the Securities plus accrued and unpaid interest shall become due and payable immediately without any declaration or other act on the part of the Trustee or any Holder, all to the extent provided in the Indenture.

12. Trustee Dealings with the Company.

Subject to certain limitations imposed by the TIA, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not the Trustee.

13. No Recourse Against Others.

No recourse under or upon any obligation, covenant or agreement of the Company contained in the Indenture, or in this Security, or because of any indebtedness evidenced thereby or hereby, shall be had against any incorporator, as such, or against any past, present or future employee, stockholder, officer or director, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the Holders and as part of the consideration for the issuance of the Securities.

14. Authentication.

This Security shall not be valid until the Trustee or an authenticating agent manually signs the certificate of authentication on the other side of this Security.

15. Abbreviations.

Customary abbreviations may be used in the name of the Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and UGMA (= Uniform Gifts to Minors Act).

16. Indenture to Control; Governing Law.

To the extent permitted by applicable law, if any provision of this Security conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. This Security shall be governed by, and construed in accordance with, the laws of the State of New York.

17. Copies of Indenture.

The Company shall furnish to any Holder, upon written request and without charge, a copy of the Indenture. Requests may be made to: Skyworks Solutions, Inc., 20 Sylvan Road, Woburn, MA 01801, Fax no.: 781-376-3310, Attention: General Counsel.

18. Registration Rights.

The Holders of the Securities are entitled to the benefits of a Registration Rights Agreement, dated as of March 2, 2007, between the Company and the Initial Purchaser, including, in certain circumstances, the receipt of Additional Interest upon a registration default (as defined in such agreement).¹²

19. Subordination.

The Securities are subordinated to Senior Indebtedness, as defined in the Indenture. To the extent provided in the Indenture, Senior Indebtedness must be paid before the Securities may be paid. The Company agrees, and each Securityholder by accepting a Security agrees, to the subordination provisions contained in the Indenture and authorizes the Trustee to give it effect and appoints the Trustee as attorney-in-fact for such purpose.

¹² This Section to be included only if the Security is a Restricted Security.

SCHEDULE OF EXCHANGES OF SECURITIES¹³

The following exchanges, purchases or conversions of a part of this Global Security have been made:

DATE OF DECREASE OR INCREASE	AUTHORIZED SIGNATORY OF SECURITIES	DECREASE IN PRINCIPAL AMOUNT OF THIS GLOBAL SECURITY	INCREASE IN PRINCIPAL AMOUNT OF THIS GLOBAL SECURITY	PRINCIPAL AMOUNT OF THIS GLOBAL SECURITY FOLLOWING SUCH DECREASE OR INCREASE
------------------------------------	--	--	--	--

13 This schedule to be included only if the Security is a Global Security.

ASSIGNMENT FORM¹⁴

To assign this Security, fill in the form below:

I or we assign and transfer this Security to

(Insert assignee's soc. sec. or tax ID no.)

(Print or type assignee's name, address and zip code)

and irrevocably appoint the agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Dated: _____

Your Signature: _____

(Sign exactly as your name appears on the other side
of this Security)

Signature Guaranteed
Participant in a Recognized Signature

Guarantee Medallion Program

By: _____
Authorized Signatory

¹⁴ This Form and the following Forms to be included only if the Security is a Certificated Security.

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FORM OF CONVERSION NOTICE

To convert this Security into Cash, shares of Common Stock or a combination of Cash and shares of Common Stock, as applicable and as provided in the Indenture, check the box ☐

To convert only part of this Security, state the principal amount to be converted (which must be \$1,000 or a multiple of \$1,000): _____

If you want the stock certificate made out in another person's name, fill in the form below:

(Insert assignee's soc. sec. or tax ID no.)

(Print or type assignee's name, address and zip code)

The undersigned (the "Applicant") hereby makes application for the issuance of record to the name of the Applicant of shares of Common Stock.

Dated: _____

Your Signature: _____
(Sign exactly as your name appears on the other side of this Security)

Signature Guaranteed
Participant in a Recognized Signature

Guarantee Medallion Program

By: _____
Authorized Signatory

FORM OF FUNDAMENTAL CHANGE PURCHASE NOTICE

U.S. Bank National Association, as Trustee

[]

[]

Attn: Corporate Trust Administration

Re: Skyworks Solutions, Inc. (the "Company")

1.50% Convertible Subordinated Notes due 2012

This is a Fundamental Change Purchase Notice as defined in Section 3.1(c) of the Indenture, dated as of March 2, 2007 (the "Indenture"), between the Company and U.S. Bank National Association, as Trustee. Terms used but not defined herein shall have the meanings ascribed to them in the Indenture.

Certificate No(s). of Securities:

I intend to deliver the following aggregate principal amount of Securities for purchase by the Company pursuant to Article III of the Indenture (in multiples of \$1,000):

\$

I hereby agree that the Securities shall be purchased on the Fundamental Change Purchase Date pursuant to the terms and conditions specified in paragraph 5 of the Securities and in the Indenture.

Signed: _____

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CERTIFICATE TO BE DELIVERED UPON EXCHANGE OR
REGISTRATION OF TRANSFER OF RESTRICTED SECURITIES¹⁵

Re: [1.25% Convertible Subordinated Notes due 2010]
[1.50% Convertible Subordinated Notes due 2012]
(the “Securities”) of Skyworks Solutions, Inc.

This certificate relates to \$ _____ principal amount of Securities owned in (check applicable box):

☐ book-entry or ☐ definitive form by (the “Transferor”).

The Transferor has requested a Registrar or the Trustee to exchange or register the transfer of such Securities. In connection with such request and in respect of each such Security, the Transferor does hereby certify that the Transferor is familiar with transfer restrictions relating to the Securities as provided in Section 2.12 of the Indenture, dated as of March 2, 2007, between Skyworks Solutions, Inc. and U.S. Bank National Association, as trustee (the “Indenture”), and either the transfer of such Security is being made pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “Securities Act”) (check applicable box) or the transfer or exchange, as the case may be, of such Security does not require registration under the Securities Act because (check applicable box):

- ☐ Such Security is being transferred pursuant to an effective registration statement under the Securities Act.
- ☐ Such Security is being acquired for the Transferor’s own account, without transfer.
- ☐ Such Security is being transferred to the Company or a Subsidiary (as defined in the Indenture) of the Company.
- ☐ Such Security is being transferred to a person the Transferor reasonably believes is a “qualified institutional buyer” (as defined in Rule 144A or any successor provision thereto (“Rule 144A”) under the Securities Act) to whom notice has been given that the transfer is being made in reliance on such Rule 144A, in reliance on Rule 144A.
- ☐ Such Security is being transferred pursuant to and in compliance with an exemption from the registration requirements under the Securities Act in accordance with Rule 144 (or any successor thereto) (“Rule 144”) under the Securities Act.
- ☐ Such Security is being transferred to a non-U.S. Person in an offshore transaction in compliance with Rule 904 of Regulation S under the Securities Act (or any successor thereto).
- ☐ Such Security is being transferred pursuant to and in compliance with an exemption from the registration requirements of the Securities Act (other than an exemption referred to above).

¹⁵ This certificate to be included only if the Security is a Restricted Security.

The Transferor acknowledges and agrees that, if the transferee will hold any such Securities in the form of beneficial interests in a Global Security that is a “restricted security” within the meaning of Rule 144 under the Securities Act, then such transfer can be made only (x) pursuant to Rule 144A under the Securities Act to a transferee that the transferor reasonably believes is a “qualified institutional buyer,” as defined in Rule 144A, or (y) pursuant to Regulation S under the Securities Act.

Dated: _____

Signature(s) of Transferor _____
(If the registered owner is a corporation, partnership or fiduciary, the title person signing on behalf of such registered owner must be stated.)

Signature Guaranteed
Participant in a Recognized Signature

Guarantee Medallion Program

By: _____

Authorized Signatory

IN WITNESS WHEREOF,

[]

By: _____
Name:
Title:

SCHEDULE A

The following table sets forth the increase in the Conversion Rate, expressed as a number of additional shares of Common Stock to be received per \$1,000 principal amount of 2010 Securities:

Stock Price	Fundamental Change Effective Date			
	March 2, 2007	March 1, 2008	March 1, 2009	March 1, 2010
\$ 7.05	36.77	36.77	36.77	36.77
\$ 8.00	27.71	26.52	24.01	19.94
\$ 9.00	20.98	19.26	15.93	6.15
\$ 10.00	16.17	14.20	10.60	0.00
\$ 11.00	12.65	10.62	7.09	0.00
\$ 12.00	10.03	8.05	4.77	0.00
\$ 13.00	8.05	6.18	3.24	0.00
\$ 14.00	6.54	4.80	2.22	0.00
\$ 15.00	5.36	3.77	1.55	0.00
\$ 16.00	4.44	2.99	1.09	0.00
\$ 17.00	3.70	2.40	0.79	0.00
\$ 18.00	3.11	1.95	0.58	0.00
\$ 19.00	2.63	1.59	0.44	0.00
\$ 20.00	2.24	1.32	0.34	0.00
\$ 30.00	0.58	0.28	0.07	0.00
\$ 40.00	0.17	0.08	0.01	0.00

The Stock Prices set forth in the first column of the table above will be adjusted on each occasion when the Conversion Rate of the applicable Securities is adjusted under the Indenture. The adjusted Stock Prices will equal the Stock Prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of additional shares of Common Stock will be adjusted in the same manner as the Conversion Rate as set forth in Section 4.6 of the Indenture.

SCHUDULE B

The following table sets forth the increase in the Conversion Rate, expressed as a number of additional shares of Common Stock to be received per \$1,000 principal amount of 2012 Securities:

Stock Price	Fundamental Change Effective Date					
	March 2, 2007	March 1, 2008	March 1, 2009	March 1, 2010	March 1, 2011	March 1, 2012
\$ 7.05	36.77	36.77	36.77	36.77	36.77	36.77
\$ 8.00	28.94	28.81	28.16	26.79	24.14	19.89
\$ 9.00	22.97	22.48	21.42	19.54	16.07	6.19
\$10.00	18.58	17.87	16.60	14.48	10.75	0.00
\$11.00	15.26	14.43	13.06	10.89	7.23	0.00
\$12.00	12.70	11.82	10.43	8.31	4.90	0.00
\$13.00	10.69	9.79	8.43	6.43	3.36	0.00
\$14.00	9.08	8.20	6.90	5.04	2.33	0.00
\$15.00	7.79	6.94	5.71	4.00	1.65	0.00
\$16.00	6.73	5.92	4.77	3.21	1.18	0.00
\$17.00	5.86	5.08	4.01	2.61	0.87	0.00
\$18.00	5.14	4.40	3.41	2.14	0.65	0.00
\$19.00	4.52	3.83	2.92	1.78	0.51	0.00
\$20.00	4.00	3.36	2.52	1.49	0.40	0.00
\$30.00	1.44	1.12	0.75	0.40	0.11	0.00
\$40.00	0.61	0.46	0.29	0.15	0.04	0.00

The Stock Prices set forth in the first column of the table above will be adjusted on each occasion when the Conversion Rate of the applicable Securities is adjusted under the Indenture. The adjusted Stock Prices will equal the Stock Prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of additional shares of Common Stock will be adjusted in the same manner as the Conversion Rate as set forth in Section 4.6 of the Indenture.

SKYWORKS SOLUTIONS, INC.

\$100,000,000 1¹/₄% Convertible Subordinated Notes Due 2010\$100,000,000 1¹/₂% Convertible Subordinated Notes Due 2012REGISTRATION RIGHTS AGREEMENT

March 2, 2007

Credit Suisse Securities (USA) LLC
Eleven Madison Avenue
New York, New York 10010-3629

Dear Sirs:

Skyworks Solutions, Inc., a Delaware corporation (the “**Company**”), proposes to issue and sell to Credit Suisse Securities (USA) LLC (the “**Initial Purchaser**”), upon the terms set forth in a purchase agreement dated February 27, 2007 (the “**Purchase Agreement**”), \$100,000,000 aggregate principal amount 1¹/₄% Convertible Subordinated Notes Due 2010 (the “**2010 Securities**”) and \$100,000,000 aggregate principal amount 1¹/₂% Convertible Subordinated Notes Due 2012 (the “**2012 Securities**”) and together with the 2010 Securities, the “**Initial Securities**”). The Initial Securities will be convertible into shares of common stock, par value \$0.25 per share, of the Company (the “**Common Stock**”) at the conversion price set forth in the Offering Circular dated February 27, 2007. The Initial Securities will be issued pursuant to an Indenture, dated as of March 2, 2007, (the “**Indenture**”), among the Company and U.S. Bank Trust National Association, as trustee (the “**Trustee**”). As an inducement to the Initial Purchaser to enter into the Purchase Agreement, the Company agrees with the Initial Purchaser, for the benefit of (i) the Initial Purchaser and (ii) the holders of the Initial Securities and the Common Stock issuable upon conversion of the Initial Securities (collectively, the “**Securities**”) from time to time until such time as such Securities have been sold pursuant to a Shelf Registration Statement (as defined below) (each of the foregoing a “**Holder**” and collectively the “**Holders**”), as follows:

1. *Shelf Registration.* (a) The Company shall, at its cost, prepare and, as promptly as practicable (but in no event more than 120 days after the Closing Date (as defined in the Purchase Agreement) file with the Securities and Exchange Commission (the “**Commission**”) and thereafter use its commercially reasonable efforts to cause to be declared effective (unless it becomes effective automatically upon filing) no later than 180 days after the Closing Date, (the “**Shelf Registration Statement**”) on Form S-3, which if the Company is then eligible shall be an automatic shelf registration statement, relating to the offer and sale of the Transfer Restricted Securities (as defined in Section 5 hereof) by the Holders thereof from time to time in accordance with the methods of distribution set forth in the Shelf Registration Statement and Rule 415 under the Securities Act of 1933, as amended (the “**Securities Act**”) (hereinafter, the “**Shelf Registration**”); provided, however, that no Holder (other than the Initial Purchaser) shall be entitled to have the Securities held by it covered by such Shelf Registration Statement unless such Holder agrees in writing to be bound by all the provisions of this Agreement applicable to such Holder.

(b) The Company shall use its reasonable best efforts to keep the Shelf Registration Statement continuously effective in order to permit the prospectus included therein (the “**Prospectus**”) to be lawfully delivered by the Holders of the relevant Securities, for a period of two years (or for such longer period if extended pursuant to Section 2(h) below) from the date of its effectiveness or such shorter period that will terminate when all the Securities covered by the Shelf Registration Statement (i) have been sold pursuant thereto or (ii) are no longer restricted securities (as defined in Rule 144(k) under the Securities Act, or any successor rule thereof), assuming for this purpose that the Holders thereof are not affiliates of the Company (in any such case, such period being called the “**Shelf Registration Period**”). The Company shall be deemed not to have used its reasonable best efforts to keep the Shelf Registration Statement effective during the requisite period if it voluntarily takes any action that would result in Holders of Securities covered thereby not being able to offer and sell such Securities during that period, unless such action is (i) required by applicable law or (ii) taken by the Company in good faith upon the occurrence of any event contemplated by Section 2(b)(v) below, and the Company thereafter complies with the requirements of Section 2(h). All references in this Agreement to “Prospectus” shall, except when the context requires, include any prospectus (or amendment or supplement thereto) filed with the Commission pursuant to Section 2 of this Agreement, including any “free writing prospectus” issued pursuant to Section 2(d).

(c) Notwithstanding any other provisions of this Agreement to the contrary, the Company shall cause the Shelf Registration Statement and the Prospectus and any amendment or supplement thereto, as of the effective date of the Shelf Registration Statement, amendment or supplement, (i) to comply in all material respects with the applicable requirements of the Securities Act and the rules and regulations of the Commission and (ii) not to contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

2. *Registration Procedures.* In connection with the Shelf Registration contemplated by Section 1 hereof, the following provisions shall apply:

(a) The Company shall (i) furnish to the Initial Purchaser, prior to the filing thereof with the Commission, a copy of the Shelf Registration Statement and each amendment thereof and each supplement, if any, to the prospectus included therein and, in the event that the Initial Purchaser (with respect to any portion of an unsold allotment from the original offering) is participating in the Shelf Registration Statement, shall use its reasonable best efforts to reflect in each such document, when so filed with the Commission, such comments as the Initial Purchaser reasonably may propose; and (ii) include the names of the Holders who propose to sell Securities pursuant to the Shelf Registration Statement as selling securityholders.

(b) The Company shall give written notice to the Initial Purchaser and the Holders of the Securities (which notice pursuant to clauses (ii)-(v) hereof shall be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made):

(i) when the Shelf Registration Statement or any amendment thereto has been filed with the Commission and when the Shelf Registration Statement or any post-effective amendment thereto has become effective;

(ii) of any request by the Commission for amendments or supplements to the Shelf Registration Statement or the prospectus included therein or for additional information, or if it shall become necessary to amend such Shelf Registration Statement or supplement the related prospectus to comply with the Securities Act or the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”) or the respective rules thereunder;

(iii) of the issuance by the Commission of any stop order suspending the effectiveness of the Shelf Registration Statement or the initiation of any proceedings for that purpose, or the issuance by the Commission of a notification of objection to the use of the form on which the Shelf

Registration Statement has been filed, and of the happening of any event that causes the Company to become an “ineligible issuer,” as defined in Rule 405 under the Securities Act;

(iv) of the receipt by the Company or its legal counsel of any notification with respect to the suspension of the qualification of the Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and

(v) of the happening of any event that requires the Company to make changes in the Shelf Registration Statement or the Prospectus in order that the Shelf Registration Statement or the Prospectus does not contain an untrue statement of a material fact nor omit to state a material fact required to be stated therein or necessary to make the statements therein (in the case of the Prospectus, in light of the circumstances under which they were made) not misleading, which written notice need not provide any detail as to the nature of such event.

(c) The Company shall make every reasonable effort to obtain the withdrawal at the earliest possible time, of any order suspending the effectiveness of the Shelf Registration Statement.

(d) The Company shall furnish to each Holder of Securities included within the coverage of the Shelf Registration, without charge, at least one copy of the Shelf Registration Statement and any post-effective amendment or supplement thereto, including financial statements and schedules, and, if the Holder so requests in writing, all exhibits thereto (including those, if any, incorporated by reference). The Company shall not, without the prior consent of the Initial Purchaser, make any offer relating to the Securities that would constitute a “free writing prospectus,” as defined in Rule 405 under the Securities Act.

(e) The Company shall, during the Shelf Registration Period, deliver to each Holder of Securities included within the coverage of the Shelf Registration, without charge, as many copies of the Prospectus (including each preliminary prospectus) included in the Shelf Registration Statement and any amendment or supplement thereto as such person may reasonably request. The Company consents, subject to the provisions of this Agreement, to the use of the Prospectus or any amendment or supplement thereto by each of the selling Holders of the Securities in connection with the offering and sale of the Securities covered by the Prospectus, or any amendment or supplement thereto, included in the Shelf Registration Statement.

(f) Prior to any public offering of the Securities pursuant to the Shelf Registration Statement, the Company shall register or qualify or cooperate with the Holders of the Securities included therein and their respective counsel in connection with the registration or qualification of the Securities for offer and sale under the securities or “blue sky” laws of such states of the United States as any Holder of the Securities reasonably requests in writing and do any and all other acts or things necessary or advisable to enable the offer and sale in such jurisdictions of the Securities covered by such Shelf Registration Statement; provided, however, that the Company shall not be required to (i) qualify generally to do business in any jurisdiction where it is not then so qualified or (ii) take any action which would subject it to general service of process or to taxation in any jurisdiction where it is not then so subject.

(g) The Company shall cooperate with the Holders of the Securities to facilitate the timely preparation and delivery of certificates representing the Securities to be sold pursuant to any Registration Statement free of any restrictive legends and in such denominations and registered in such names as the Holders may request a reasonable period of time prior to sales of the Securities pursuant to the Shelf Registration Statement.

(h) Upon the occurrence of any event contemplated by paragraphs (ii) through (v) of Section 2(b) above during the period for which the Company is required to maintain an effective Shelf Registration Statement, the Company shall as required hereby prepare and file a post-effective amendment to the Shelf Registration Statement or an amendment or supplement to the Prospectus and any other required document so that, as thereafter delivered to Holders or purchasers of the Securities, the Prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or

necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the Company may delay filing and distributing any such supplement or amendment (and continue the suspension of the use of the Prospectus) if the Company determines in good faith that such supplement or amendment would, in the reasonable judgment of the Company, (i) interfere with or affect the negotiation or completion of a transaction that is being contemplated by the Company or (ii) involve initial or continuing disclosure obligations that are not in the best interests of the Company's stockholders at such time; provided, further, that neither such delay nor such suspension shall extend for a period of more than 45 consecutive days or an aggregate of 90 days in any twelve-month period. If the Company notifies the Initial Purchasers and the Holders in accordance with paragraphs (ii) through (v) of Section 2(b) above to suspend the use of the Prospectus until the requisite changes to the Prospectus have been made, then the Initial Purchasers and the Holders shall suspend use of such prospectus, and the period of effectiveness of the Shelf Registration Statement provided for in Section 1(b) above shall be extended by the number of days from and including the date of the giving of such notice to and including the date when the Initial Purchaser and the Holders shall have received such amended or supplemented prospectus pursuant to this Section 2(h). During the period during which the Company is required to maintain an effective Shelf Registration Statement pursuant to this Agreement, the Company will prior to the three year expiration of such Shelf Registration Statement file, and use its best efforts to cause to be declared effective (unless it becomes effective automatically upon filing) within a period that avoids any interruption in the ability of Holders of Securities covered by the expiring Shelf Registration Statement to make registered dispositions, a new registration statement relating to the Securities, which shall be deemed the "Shelf Registration Statement" for purposes of this Agreement.

(i) Not later than the effective date of the Shelf Registration Statement, the Company will provide CUSIP numbers for the Initial Securities and the Common Stock registered under the Shelf Registration Statement, and provide the Trustee with printed certificates for the Initial Securities, in a form eligible for deposit with The Depository Trust Company.

(j) The Company will comply with all rules and regulations of the Commission to the extent and so long as they are applicable to the Shelf Registration and will make generally available to its security holders (or otherwise provide in accordance with Section 11(a) of the Securities Act) an earnings statement satisfying the provisions of Section 11(a) of the Securities Act, no later than 45 days after the end of a 12-month period (or 90 days, if such period is a fiscal year) beginning with the first month of the Company's first fiscal quarter commencing after the effective date of the Shelf Registration Statement, which statement shall cover such 12-month period.

(k) The Company shall cause the Indenture to be qualified under the Trust Indenture Act of 1939, as amended, (the "**Trust Indenture Act**") in a timely manner and containing such changes, if any, as shall be necessary for such qualification. In the event that such qualification would require the appointment of a new trustee under the Indenture, the Company shall appoint a new trustee thereunder pursuant to the applicable provisions of the Indenture.

(l) Each Holder agrees, by acquisition of the Securities, that no Holder shall be entitled to sell any such Securities pursuant to the Shelf Registration Statement or to receive a prospectus relating thereto, unless such Holder has furnished the Company with a Notice and Questionnaire as required pursuant to Section 2(m) hereof and the information set forth in the next sentence. Each Holder agrees promptly to furnish the Company all information required to be disclosed in order to make the information previously furnished to the Company by such Holder not misleading and any other information regarding such Holder and the distribution of such Securities as the Company may from time to time reasonably request.

(m) Each Holder agrees that if such Holder wishes to sell such Holder's Securities pursuant to the Shelf Registration Statement and related prospectus, it will do so in accordance with this Section 2(m). Each Holder wishing to sell Securities pursuant to a Shelf Registration Statement and related prospectus agrees to deliver a properly, completely and signed Notice and Questionnaire (included in the Offering Circular (as defined in the Purchase Agreement) as Annex A and the form of attached hereto) to the Company at least fifteen (15) business days prior to any intended distribution of Securities under the Shelf

Registration Statement. From and after the date the Shelf Registration Statement is declared effective, the Company shall, as promptly as is practicable after the date a Notice and Questionnaire is delivered, and in any event within fifteen (15) business days after such date, (i) if required by law, file with the Commission a post-effective amendment to the Registration Statement or prepare and, if required by applicable law, file a supplement to the related prospectus or a supplement or amendment to any document incorporated therein by reference or file any other required document so that the Holder delivering such Notice and Questionnaire is named a selling securityholder in the Registration Statement and the related prospectus in such a manner as to permit such Holder to deliver such prospectus to purchasers of the Securities in accordance with applicable law and, if the Company shall file a post-effective amendment to the Registration Statement, use all reasonable efforts to cause such post-effective amendment to be declared effective under the Securities Act as promptly as practical, but in any event by the date that is thirty (30) business days after the date such post-effective amendment is required by this clause to be filed; (ii) provide such Holder copies of any documents filed pursuant to this Section; and (iii) notify such Holder as promptly as practicable after the effectiveness under the Securities Act of any post-effective amendment filed pursuant to this Section; provided, that if such Notice and Questionnaire is delivered during a period in which the use of such prospectus is suspended pursuant to Section 2(c) hereof, the Company shall so inform the Holder delivering such Notice and Questionnaire and shall take the actions set forth in clauses (i), (ii) and (iii) above upon expiration of such suspension period. Notwithstanding anything contained herein to the contrary, the Company shall be under no obligation to name any Holder that has not supplied the requisite information required by this Section as a selling securityholder in the Registration Statement and related prospectus and any amendment or supplement thereto; provided, however, that any Holder that has subsequently supplied the requisite information required by this Section pursuant to the provisions of this Section (whether or not such Holder has supplied the requisite information required by this Section at the time the Registration Statement was declared effective) shall be named as a selling securityholder in the Registration Statement or related prospectus in accordance with the requirements of this Section. Notwithstanding anything contained herein to the contrary, the Company shall not be required to file more than one post-effective amendment or supplement for the purpose of naming selling security holders in any seven-day period.

(n) The Company shall enter into such customary agreements (including, if requested, an underwriting agreement in customary form) and take all such other actions, if any, as any Holder shall reasonably request in order to facilitate the disposition of the Securities pursuant to the Shelf Registration; provided, however, that the Company shall not be required to facilitate an underwritten offering pursuant to a Shelf Registration Statement by any Holders unless the offering relates to at least \$25,000,000 principal amount of the Initial Securities or an equivalent amount of Common Stock.

(o) The Company shall (i) make reasonably available for inspection by the Holders, any underwriter participating in any disposition pursuant to the Shelf Registration Statement and any attorney, accountant or other agent retained by the Holders or any such underwriter, all relevant financial and other records, pertinent corporate documents and properties of the Company and (ii) cause the Company's officers, directors, employees, accountants and auditors to supply all relevant information reasonably requested by the Holders or any such underwriter, attorney, accountant or agent in connection with the Shelf Registration Statement, in each case, as shall be reasonably necessary to enable such persons, to conduct a reasonable investigation within the meaning of Section 11 of the Securities Act; provided, however, that the foregoing inspection and information gathering shall be coordinated on behalf of the Initial Purchasers by the Company and on behalf of the other parties, by one counsel designated by and on behalf of such other parties as described in Section 3 hereof.

(p) In the event of an underwritten offering, the Company shall use reasonable best efforts to cause (i) its counsel to deliver an opinion and updates thereof relating to the Securities in customary form addressed to such Holders and the managing underwriters, if any, thereof, and dated, in the case of the initial opinion, the effective date of such Shelf Registration Statement (it being agreed that the matters to be covered by such opinion shall include, subject to customary assumptions and other qualifications, the due incorporation and good standing of the Company and its subsidiaries; the qualification of the Company and its subsidiaries to transact business as foreign corporations; the due authorization, execution and delivery of

the relevant agreement of the type referred to in Section 2(m) hereof; the due authorization, execution, authentication and issuance, and the validity and enforceability, of the Securities; the absence of material legal or governmental proceedings involving the Company and its subsidiaries; the absence of governmental approvals required to be obtained in connection with the Shelf Registration Statement, the offering and sale of the Securities, or any agreement of the type referred to in Section 2(m) hereof; the compliance as to form of the Shelf Registration Statement and any documents incorporated by reference therein and of the Indenture with the requirements of the Securities Act and the Trust Indenture Act, respectively; and provided, however, that such opinion shall state that (A) as of the date of the opinion and as of the effective date of the Shelf Registration Statement or the most recent post-effective amendment thereto or most recent prospectus supplement thereto that is deemed to establish a new effective date with respect thereto, as the case may be, such Shelf Registration Statement and the Prospectus and any prospectus supplement included therein, as then amended or supplemented, and any documents incorporated by reference therein, do not contain an untrue statement of a material fact or omit to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading and (B) as of an applicable time on the date of pricing identified by such Holders or managing underwriters, if any, that the Prospectus (as supplemented by the most recent prospectus amendment or supplement thereto), taken together with (1) the most recent Prospectus or prospectus amendment or supplement, (2) any “free writing prospectuses” issued in compliance with Section 2(d) and (3) the pricing information with respect to the applicable Securities, do not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they are made, not misleading; (ii) its officers to execute and deliver all customary documents and certificates and updates thereof requested by any underwriters of the Securities and (iii) its independent public accountants and the independent public accountants with respect to any other entity for which financial information is provided in the Shelf Registration Statement to provide to the selling Holders of the applicable Securities and any underwriter therefor a comfort letter in customary form and covering matters of the type customarily covered in comfort letters in connection with primary underwritten offerings, subject to receipt of appropriate documentation as contemplated, and only if permitted, by AU Section 634.

(q) The Company shall use its reasonable best efforts to take all other steps necessary to effect the registration of the Securities covered by a Shelf Registration Statement contemplated hereby.

3. *Registration Expenses.* (a) The Company shall bear all fees and expenses incurred in connection with the performance of its obligations hereunder, whether or not a Shelf Registration Statement is filed or becomes effective and shall bear or reimburse the Holders of the Securities covered thereby for reasonable fees and disbursements of not more than one counsel, designated by the Holders of a majority in principal amount of the Securities covered by the Shelf Registration Statement (provided that Holders of Common Stock issued upon the conversion of the Initial Securities shall be deemed to be Holders of the aggregate principal amount of Initial Securities from which such Common Stock was converted) to act as counsel for the Holders in connection therewith.

(b) In connection with any underwritten Shelf Registration Statement, the participating Holders shall be responsible for the payment of any and all underwriters and brokers and dealers discounts and selling commissions and such discounts and commissions shall be borne by the participating Holders in proportion to the number of Securities sold by such Holders.

4. *Indemnification.* (a) The Company agrees to indemnify and hold harmless each Holder and each person, if any, who controls such Holder within the meaning of the Securities Act or the Exchange Act (each Holder, and such controlling persons are referred to collectively as the “**Indemnified Parties**”) from and against any losses, claims, damages or liabilities, joint or several, or any actions in respect thereof (including, but not limited to, any losses, claims, damages, liabilities or actions relating to purchases and sales of the Securities) to which each Indemnified Party may become subject under the Securities Act, the Exchange Act or otherwise, insofar as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Shelf Registration Statement or Prospectus including any document incorporated by reference therein, or in any amendment or supplement thereto or in any preliminary prospectus or “issuer free writing prospectus,” as

defined in Rule 433 under the Securities Act (“**Issuer FWP**”) relating to the Shelf Registration, or arise out of, or are based upon, the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and shall reimburse, as incurred, the Indemnified Parties for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action in respect thereof; provided, however, that (i) the Company shall not be liable in any such case to the extent that such loss, claim, damage or liability arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in the Shelf Registration Statement or Prospectus or in any amendment or supplement thereto or in any preliminary prospectus or Issuer FWP relating to the Shelf Registration in reliance upon and in conformity with written information pertaining to such Holder and furnished to the Company by or on behalf of such Holder specifically for inclusion therein and (ii) with respect to any untrue statement or omission or alleged untrue statement or omission made in any preliminary prospectus relating to the Shelf Registration Statement, the indemnity agreement contained in this subsection (a) shall not inure to the benefit of any Holder from whom the person asserting any such losses, claims, damages or liabilities purchased the Securities concerned, to the extent that a prospectus relating to such Securities was required to be delivered by such Holder under the Securities Act in connection with such purchase and any such loss, claim, damage or liability of such Holder results from the fact that there was not sent or given to such person, at or prior to the written confirmation of the sale of such Securities to such person, a copy of the final prospectus if the Company had previously furnished copies thereof to such Holder; provided further, however, that this indemnity agreement will be in addition to any liability which the Company may otherwise have to such Indemnified Party. The Company shall also indemnify underwriters, their officers and directors and each person who controls such underwriters within the meaning of the Securities Act or the Exchange Act to the same extent as provided above with respect to the indemnification of the Holders of the Securities if requested by such Holders.

(b) Each Holder, severally and not jointly, will indemnify and hold harmless the Company, its officers and directors and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act from and against any losses, claims, damages or liabilities or any actions in respect thereof, to which the Company or any such controlling person may become subject under the Securities Act, the Exchange Act or otherwise, insofar as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Shelf Registration Statement or Prospectus or in any amendment or supplement thereto or in any preliminary prospectus or Issuer FWP relating to the Shelf Registration, or arise out of or are based upon the omission or alleged omission to state therein a material fact necessary to make the statements therein not misleading, but in each case only to the extent that the untrue statement or omission or alleged untrue statement or omission was made in reliance upon and in conformity with written information pertaining to such Holder and furnished to the Company by or on behalf of such Holder specifically for inclusion therein; and, subject to the limitation set forth immediately preceding this clause, shall reimburse, as incurred, the Company for any legal or other expenses reasonably incurred by the Company or any such controlling person in connection with investigating or defending any loss, claim, damage, liability or action in respect thereof. This indemnity agreement will be in addition to any liability which such Holder may otherwise have to the Company or any of its controlling persons.

(c) Promptly after receipt by an indemnified party under this Section 4 of notice of the commencement of any action or proceeding (including a governmental investigation), such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 4, notify the indemnifying party of the commencement thereof; but the failure to notify the indemnifying party shall not relieve it from any liability that it may have under subsection (a) or (b) above except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided further that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under subsection (a) or (b) above. In case any such action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the

indemnified party, be counsel to the indemnifying party), and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof the indemnifying party will not be liable to such indemnified party under this Section 4 for any legal or other expenses, other than reasonable costs of investigation, subsequently incurred by such indemnified party in connection with the defense thereof. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened action in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party unless such settlement (i) includes an unconditional release of such indemnified party from all liability on any claims that are the subject matter of such action, and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party. No indemnified party shall effect any settlement of any pending or threatened action without the prior written consent of the indemnifying party, which such consent shall not be unreasonably withheld or delayed.

(d) If the indemnification provided for in this Section 4 is unavailable or insufficient to hold harmless an indemnified party under subsections (a) or (b) above, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to in subsection (a) or (b) above in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party or parties on the one hand and the indemnified party on the other from the sale of the Securities, pursuant to the Shelf Registration, or (ii) if the allocation provided by the foregoing clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the indemnifying party or parties on the one hand and the indemnified party on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities (or actions in respect thereof) as well as any other relevant equitable considerations. The relative fault of the parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or such Holder or such other indemnified party, as the case may be, on the other, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The amount paid by an indemnified party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any action or claim which is the subject of this subsection (d). Notwithstanding any other provision of this Section 4(d), the Holders shall not be required to contribute any amount in excess of the amount by which the net proceeds received by such Holders from the sale of the Securities pursuant to the Shelf Registration Statement exceeds the amount of damages which such Holders have otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this paragraph (d), each person, if any, who controls such indemnified party within the meaning of the Securities Act or the Exchange Act shall have the same rights to contribution as such indemnified party and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act shall have the same rights to contribution as the Company.

(e) The agreements contained in this Section 4 shall survive the sale of the Securities pursuant to the Shelf Registration Statement and shall remain in full force and effect, regardless of any termination or cancellation of this Agreement or any investigation made by or on behalf of any indemnified party.

5. *Additional Interest Under Certain Circumstances.* (a) Additional interest (the “**Additional Interest**”) with respect to the Initial Securities shall be assessed as follows if any of the following events occur (each such event in clauses (i) through (iv) below being herein called a “**Registration Default**”):

(i) the Shelf Registration Statement has not been filed with the Commission by the 120th day after the first date of original issuance of the Initial Securities;

(ii) the Shelf Registration Statement has not been declared effective by the Commission by the 180th day after the first date of original issue of the Initial Securities;

(iii) the Company fails with respect to a Holder that supplies properly executed and completed Notice and Questionnaire described in Paragraph 2(m) to amend or supplement the Registration Statement in the manner set forth in 2(m); provided that such assessment shall be paid only to such Holder and directly to such Holder; or

(iv) the Shelf Registration Statement is declared effective, and such Shelf Registration Statement ceases to be effective or fails to be usable in connection with resales of Initial Securities and the Transfer Restricted issuable upon the conversion of the Initial Securities in accordance with and during the periods specified in this Agreement and (A) the Company does not cure the Shelf Registration Statement within fifteen business days by a post-effective amendment or a report filed pursuant to the Exchange Act or (B) if applicable, the Company does not terminate the suspension period described above by the 45th or 90th day, as the case may be.

Each of the foregoing will constitute a Registration Default whatever the reason for any such event and whether it is voluntary or involuntary or is beyond the control of the Company or pursuant to operation of law or as a result of any action or inaction by the Commission.

Additional Interest shall accrue on the Initial Securities over and above the interest set forth in the title of the Initial Securities from and including the date on which any such Registration Default shall occur to but excluding the date on which all such Registration Defaults have been cured, at the rate of 0.25% per annum for the first 90 days after the occurrence of the registration default and at the rate of 0.50% per annum thereafter. (the “**Additional Interest Rate**”) (or an equivalent amount of any Common Stock issued upon conversion of the Initial Securities). In the case of a Registration Default described in clause (iii) the Company’s obligation to pay additional interest extends only to the affected Initial Securities. The Company shall have no other liabilities for monetary damages with respect to its registration obligations. With respect to each Holder, the Company’s obligations to pay additional interest remain in effect only so long as the Initial Securities and the Common Stock issuable upon the conversion of the Initial Securities held by the Holder are Transfer Restricted Securities within the meaning of this Agreement.

(b) A Registration Default referred to in Section 5(a)(iii) hereof shall be deemed not to have occurred and be continuing in relation to the Shelf Registration Statement or the related Prospectus if (i) such Registration Default has occurred solely as a result of (x) the filing of a post-effective amendment to the Shelf Registration Statement to incorporate annual audited financial information with respect to the Company where such post-effective amendment is not yet effective and needs to be declared effective to permit Holders to use the related Prospectus or (y) other material events, with respect to the Company that would need to be described in such Shelf Registration Statement or the related Prospectus and (ii) in the case of clause (y), the Company is proceeding promptly and in good faith to amend or supplement the Shelf Registration Statement and related Prospectus to describe such events as required by paragraph 2(h) hereof; provided, however, that in any case if such Registration Default occurs for a continuous period in excess of 30 days, Additional Interest shall be payable in accordance with the above paragraph from the day such Registration Default occurs until such Registration Default is cured.

(c) Any amounts of Additional Interest due pursuant to Section 5(a) will be payable in cash on the regular interest payment dates with respect to the Initial Securities. The amount of Additional Interest will be determined by multiplying the applicable Additional Interest Rate by the principal amount of the Initial Securities, further multiplied by a fraction, the numerator of which is the number of days such Additional Interest Rate was applicable during such period (determined on the basis of a 360-day year comprised of twelve 30-day months), and the denominator of which is 360.

(d) “**Transfer Restricted Securities**” means each Security until (i) the date on which such Security has been effectively registered under the Securities Act and disposed of in accordance with the

Shelf Registration Statement or (ii) the date on which such Security is distributed to the public pursuant to Rule 144 under the Securities Act or is saleable pursuant to Rule 144(k) under the Securities Act.

6. *Rules 144 and 144A.* The Company shall use its reasonable best efforts to file the reports required to be filed by it under the Securities Act and the Exchange Act in a timely manner and, if at any time the Company is not required to file such reports, it will, upon the request of any Holder, make publicly available other information so long as necessary to permit sales of their securities pursuant to Rules 144 and 144A. The Company covenants that it will take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to sell Transfer Restricted Securities without registration under the Securities Act within the limitation of the exemptions provided by Rules 144 and 144A (including the requirements of Rule 144A(d)(4)). The Company will provide a copy of this Agreement to prospective purchasers of Securities identified to the Company by the Initial Purchaser upon request. Upon the request of any Holder, the Company shall deliver to such Holder a written statement as to whether it has complied with such requirements. Notwithstanding the foregoing, nothing in this Section 6 shall be deemed to require the Company to register any of its securities pursuant to the Exchange Act.

7. *Underwritten Registrations.* If any of the Transfer Restricted Securities covered by the Shelf Registration are to be sold in an underwritten offering, the investment banker or investment bankers and manager or managers that will administer the offering (“**Managing Underwriters**”) will be selected by the holders of a majority in aggregate principal amount of such Transfer Restricted Securities to be included in such offering (provided that holders of Common Stock issued upon conversion of the Initial Securities shall not be deemed holders of Common Stock, but shall be deemed to be holders of the aggregate principal amount of Initial Securities from which such Common Stock was converted) and such selection shall be subject to the Company’s consent, which shall not be unreasonably withheld or delayed.

No person may participate in any underwritten registration hereunder unless such person (i) agrees to sell such person’s Transfer Restricted Securities on the basis reasonably provided in any underwriting arrangements approved by the persons entitled hereunder to approve such arrangements and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements.

8. *Miscellaneous.*

(a) *Remedies.* The Company acknowledges and agrees that any failure by the Company to comply with its obligations hereunder may result in material irreparable injury to the Initial Purchasers or the Holders for which there is no adequate remedy at law, that it will not be possible to measure damages for such injuries precisely and that, in the event of any such failure, the Initial Purchasers or any Holder may obtain such relief as may be required to specifically enforce the Company’s obligations hereunder.

(b) *No Inconsistent Agreements.* The Company will not on or after the date of this Agreement enter into any agreement with respect to its securities that is inconsistent with the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. The rights granted to the Holders hereunder do not in any way conflict with and are not inconsistent with the rights granted to the holders of the Company’s securities under any agreement in effect on the date hereof.

(c) *Amendments and Waivers.* The provisions of this Agreement may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, except by the Company and the written consent of the holders of a majority in principal amount of the Securities affected by such amendment, modification, supplement, waiver or consents (provided that holders of Common Stock issued upon conversion of Initial Securities shall not be deemed holders of Common Stock, but shall be deemed to be holders of the aggregate principal amount of Initial Securities from which such Common Stock was converted). Without the consent of the Holder of each Initial Security, however, no modification may change the provisions relating to the payment of Additional Interest.

(d) *Notices*. All notices and other communications provided for or permitted hereunder shall be made in writing by hand delivery, first-class mail, facsimile transmission, or air courier which guarantees overnight delivery:

(1) if to a Holder of the Securities, at the most current address given by such Holder to the Company.

(2) if to the Initial Purchaser;

Credit Suisse Securities (USA) LLC
Eleven Madison Avenue
New York, NY 10010-3629
Fax No.: (212) 325-8278
Attention: LCD-IBD Group

with a copy to:

Cravath, Swaine & Moore
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019-7475
Attn: William J. Whelan, III, Esq.

(3) if to the Company, at its address as follows:

Skyworks Solutions Inc.
20 Sylvan Road
Woburn, MA 01801
Attn: Chief Financial Officer

with a copy to:

WilmerHale
60 State Street
Boston, MA 02109
Fax No.: (617) 526-5000
Attn: Mark G. Borden, Esq.

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; three business days after being deposited in the mail, postage prepaid, if mailed; when receipt is acknowledged by recipient's facsimile machine operator, if sent by facsimile transmission; and on the day delivered, if sent by overnight air courier guaranteeing next day delivery.

(e) *Third Party Beneficiaries*. The Holders shall be third party beneficiaries to the agreements made hereunder between the Company, on the one hand, and the Initial Purchasers, on the other hand, and shall have the right to enforce such agreements directly to the extent they may deem such enforcement necessary or advisable to protect their rights or the rights of Holders hereunder.

(f) *Successors and Assigns*. This Agreement shall be binding upon the Company and its successors and assigns.

(g) *Counterparts*. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(h) *Headings*. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(i) *Governing Law*. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.

By the execution and delivery of this Agreement, the Company submits to the nonexclusive jurisdiction of any federal or state court in the State of New York.

(j) *Severability*. If any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

(k) *Securities Held by the Company*. Whenever the consent or approval of Holders of a specified percentage of principal amount of Securities is required hereunder, Securities held by the Company or its affiliates (other than subsequent Holders of Securities if such subsequent Holders are deemed to be affiliates solely by reason of their holdings of such Securities) shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Initial Purchaser and the Company in accordance with its terms.

Very truly yours,

Skyworks Solutions, Inc.

by /s/ David J. Aldrich
Name: David J. Aldrich
Title: President and Chief Executive Officer

The foregoing Registration
Rights Agreement is hereby confirmed
and accepted as of the date first
above written.

By: CREDIT SUISSE SECURITIES (USA) LLC

by /s/ Amr El Shaer
Name: Amr El Shaer
Title: Managing Director

FORM OF SELLING SECURITYHOLDER NOTICE AND QUESTIONNAIRE

The undersigned beneficial holder of [*Title of Securities*] (the “Notes”) of [*Name of Issuer*] (the “Company”) or Common Stock, par value [\$] per share (the “Common Stock” and together with the Notes, the “Registrable Securities”), of the Company understands that the Company has filed or intends to file with the Securities and Exchange Commission a registration statement (the “Shelf Registration Statement”) for the registration and resale under Rule 415 of the Securities Act of 1933, as amended, of the Registrable Securities in accordance with the terms of the Registration Rights Agreement, dated as of [*Date*] (the “Registration Rights Agreement”), between the Company and the Initial Purchaser named therein. A copy of the Registration Rights Agreement is available from the Company upon request at the address set forth below. All capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Registration Rights Agreement.

Each beneficial owner of Registrable Securities is entitled to the benefits of the Registration Rights Agreement. In order to sell or otherwise dispose of any Registrable Securities pursuant to the Shelf Registration Statement, a beneficial owner of Registrable Securities generally will be required to be named as a selling securityholder in the related prospectus, deliver a prospectus to each purchaser of Registrable Securities and be bound by those provisions of the Registration Rights Agreement applicable to such beneficial owner (including certain indemnification provisions, as described below). Beneficial owners are encouraged to complete and deliver this Notice and Questionnaire prior to the effectiveness of the Shelf Registration Statement so that such beneficial owners may be named as selling securityholders in the related prospectus at the time of effectiveness. Any beneficial owner of Notes wishing to include its Registrable Securities must deliver to the Company a properly completed and signed Selling Securityholder Notice and Questionnaire.

Certain legal consequences arise from being named as a selling securityholder in the Shelf Registration Statement and the related prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling securityholder in the Shelf Registration Statement and the related prospectus.

Notice

The undersigned beneficial owner (the “Selling Securityholder”) of Registrable Securities hereby gives notice to the Company of its intention to sell or otherwise dispose of Registrable Securities beneficially owned by it and listed below in Item 3 (unless otherwise specified under Item 3) pursuant to the Shelf Registration Statement. The undersigned, by signing and returning this Notice and Questionnaire, understands that it will be bound by the terms and conditions of this Notice and Questionnaire and the Registration Rights Agreement.

The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate and complete:

QUESTIONNAIRE

1. (a) Full Legal Name of Selling Securityholder:

- (b) Full Legal Name of Registered Holder (if not the same as (a) above) through which Registrable Securities listed in (3) below are held:

- (c) Full Legal Name of DTC Participant (if applicable and if not the same as (b) above) through which Registrable Securities listed in (3) below are held:

2. Address for Notices to Selling Securityholder:

- Telephone: _____
Fax: _____
Contact Person: _____
3. Beneficial Ownership of Registrable Securities:
- (a) Type and Principal Amount of Registrable Securities beneficially owned:

- (b) CUSIP No(s). of Registrable Securities beneficially owned:

4. Beneficial Ownership of the Company's securities owned by the Selling Securityholder:
- Except as set forth below in this Item (4), the undersigned is not the beneficial or registered owner of any "Other Securities," defined as securities of the Company other than the Registrable Securities listed above in Item (3).*
- (a) Type and Amount of Other Securities beneficially owned by the Selling Securityholder:

- (b) CUSIP No(s). of such Other Securities beneficially owned:

5. Relationship with the Company:

Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equityholders (5% or more) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.

State any exceptions here:

6. Plan of Distribution:

Except as set forth below, the undersigned (including its donees or pledgees) intends to distribute the Registrable Securities listed above in Item (3) pursuant to the Shelf Registration Statement only as follows (if at all): Such Registrable Securities may be sold from time to time directly by the undersigned or alternatively, through underwriters, broker-dealers or agents. If the Registrable Securities are sold through underwriters or broker-dealers, the Selling Securityholder will be responsible for underwriting discounts or commissions or agent's commissions. Such Registrable Securities may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at varying prices determined at the time of sale, or at negotiated prices. Such sales may be effected in transactions (which may involve block transactions) (i) on any national securities exchange or quotation service on which the Registrable Securities may be listed or quoted at the time of sale, (ii) in the over-the-counter market, (iii) in transactions otherwise than on such exchanges or services or in the over-the-counter market, or (iv) through the writing of options. In connection with sales of the Registrable Securities or otherwise, the undersigned may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the Registrable Securities and deliver Registrable Securities to close out such short positions, or loan or pledge Registrable Securities to broker-dealers that in turn may sell such securities.

State any exceptions here:

The undersigned acknowledges that it understands its obligation to comply with the provisions of the Securities Exchange Act of 1934, as amended, and the rules thereunder relating to stock manipulation, particularly Regulation M thereunder (or any successor rules or regulations), in connection with any offering of Registrable Securities pursuant to the Shelf Registration Statement. The undersigned agrees that neither it nor any person acting on its behalf will engage in any transaction in violation of such provisions.

The Selling Securityholder hereby acknowledges its obligations under the Registration Rights Agreement to indemnify and hold harmless certain persons as set forth therein.

Pursuant to the Registration Rights Agreement, the Company has agreed under certain circumstances to indemnify the Selling Securityholder against certain liabilities.

In accordance with the undersigned's obligation under the Registration Rights Agreement to provide such information as may be required by law for inclusion in the Shelf Registration Statement, the undersigned agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof at any time while the Shelf Registration Statement remains effective. All notices hereunder and pursuant to the Registration Rights Agreement shall be made in writing at the address set forth below.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to items (1) through (6) above and the inclusion of such information in the Shelf Registration Statement and the related prospectus. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Shelf Registration Statement and the related prospectus.

IN WITNESS WHEREOF, the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated: _____ Beneficial Owner

By: _____
Name:
Title:

PLEASE RETURN THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE TO:

***[Name, address and telephone number
of Issuer]***