
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of Earliest Event Reported):

July 12, 2007

Live Nation, Inc.

(Exact name of registrant as specified in its charter)

Delaware

001-32601

20-3247759

(State or other jurisdiction
of incorporation)

(Commission
File Number)

(I.R.S. Employer
Identification No.)

9348 Civic Center Drive, Beverly Hills,
California

90210

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

310-867-7000

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:

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

On July 10, 2007, Live Nation, Inc. (the "Company") agreed to sell \$200.0 million aggregate principal amount of its 2.875% Convertible Senior Notes due 2027 (the "Notes") in a private placement. On July 12, 2007, the initial purchasers of the Notes exercised their over-allotment in full and agreed to purchase an additional \$20.0 million aggregate principal amount of the Notes. The net proceeds from the offering, after deducting estimated offering expenses payable by the Company, were approximately \$212.4 million.

The Notes and the shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"), issuable in certain circumstances upon conversion of the Notes have not been registered under the Securities Act of 1933, as amended (the "Securities Act"). The Company offered and sold the Notes to the initial purchasers in reliance on the exemption from registration provided by Section 4(2) of the Securities Act. The initial purchasers then sold or intend to sell the Notes to qualified institutional buyers pursuant to the exemption from registration provided by Rule 144A under the Securities Act. The Company relied on these exemptions from registration based in part on representations made by the initial purchasers.

The Notes are governed by an indenture, dated as of July 16, 2007 (the "Indenture"), between the Company and Wells Fargo Bank, N.A., as trustee (the "Trustee"). A copy of the Indenture (including the form of the Notes) is attached hereto as Exhibit 4.1 and is incorporated herein by reference. The descriptions of the Indenture and the Notes in this report are summaries and are qualified in their entirety by the terms of the Indenture and the form of the Notes included therein, respectively.

The Notes will bear interest at a rate of 2.875% per annum. Interest on the Notes will be payable in cash semiannually in arrears on January 15 and July 15 of each year, beginning January 15, 2008. Beginning with the period commencing on July 20, 2014 and ending on January 14, 2015, and for each of the interest periods commencing thereafter, the Company will pay contingent interest on the Notes if the average trading price of the Notes during the five consecutive trading days ending on the second trading day immediately preceding the first day of the applicable interest period equals or exceeds 120% of the principal amount of the Notes. The contingent interest payable per note will equal 0.25% per year of the average trading price of such note during the applicable five trading-day reference period, payable in arrears. The Notes mature on July 15, 2027 unless earlier redeemed, repurchased or converted.

Holders of the Notes may convert the Notes based on a conversion rate of 36.8395 shares of Common Stock per \$1,000 principal amount of Notes (which is equal to an initial conversion price of approximately \$27.14 per share), subject to adjustment, only under the following circumstances: (1) during specified periods, if the closing price of the Common Stock reaches a specified threshold for a specified duration of time; (2) if the Notes are called for redemption; (3) if specified distributions to holders of Common Stock are made or specified corporate transactions occur; (4) subject to certain limitations, during a specified conversion period, if the trading price of the Notes falls below certain thresholds; and (5) at any time on or after January 15, 2027. Upon conversion, the Company will have the right to deliver, in lieu of shares of Common Stock, cash or a combination of cash and shares of Common Stock, at its election. At any time on or prior to June 15, 2027, the Company may irrevocably elect to satisfy its conversion obligation by delivering cash for the lesser of the principal amount of converted Notes and the conversion value of the converted Notes, and, if applicable, shares of Common Stock for any amount of its conversion obligation in excess thereof. If certain corporate transactions occur on or prior to July 20, 2014, the Company will increase the conversion rate by a number of additional shares of Common Stock or, in lieu thereof, the Company may under certain circumstances elect to adjust the conversion rate and related conversion obligation so that the Notes will be convertible into shares of the acquiring or surviving corporation (or cash or a combination of cash and shares of the acquiring or surviving corporation, at its election).

Holders of the Notes may require the Company to purchase for cash all or a portion of their Notes on July 15, 2014, July 15, 2017 and July 15, 2022 at a price equal to 100% of the principal amount being offered plus accrued and unpaid interest, if any, subject to specified additional conditions. In addition, if the Company experiences a fundamental change, holders of the Notes may require the Company to purchase for cash all or a portion of their Notes, subject to specified exceptions, at a price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest, if any.

The Company may not redeem the Notes prior to July 20, 2014. On or after July 20, 2014, the Company may redeem all or a portion of the Notes for cash at a price equal to 100% of the principal amount being redeemed plus accrued and unpaid interest, if any.

The Notes will be senior unsecured obligations of the Company and will rank: junior in right of payment to the rights of the Company's secured creditors to the extent of their security in the Company's assets; equal in right of payment to the rights of creditors under the Company's other existing and future unsecured unsubordinated indebtedness; senior in right of payment to the rights of creditors under indebtedness expressly subordinated to the Notes; and effectively subordinated to secured and unsecured creditors of Company subsidiaries, none of which will be guaranteeing the Notes.

In connection with the sale of the Notes, the Company entered into a registration rights agreement, dated as of July 16, 2007, with the initial purchasers (the "Registration Rights Agreement"). Under the Registration Rights Agreement, the Company has agreed to use its commercially reasonable efforts to cause to become effective within 210 days after the closing of the offering a shelf registration statement with respect to the resale of the Notes and the shares of Common Stock issuable upon conversion of the Notes. The Company will use its commercially reasonable efforts to keep such shelf registration statement effective until the earlier of (a) the sale pursuant to the shelf registration statement or Rule 144 of all the Notes or the shares of Common Stock issuable upon conversion of the Notes and (b) the date when the holders of the Notes and the Common Stock issuable upon conversion thereof are able to sell all such securities immediately without restrictions pursuant to the volume limitation provisions of Rule 144 under the Securities Act. The Company will be required to pay additional amounts, subject to certain limitations, to the holders of the Notes if the Company fails to comply with its obligations to register the Notes and the Common Stock issuable upon conversion of the Notes. A copy of the Registration Rights Agreement is attached hereto as Exhibit 4.2 and is incorporated herein by reference. The description of the Registration Rights Agreement in this report is a summary and is qualified in its entirety by the terms of the Registration Rights Agreement.

The Notes and the underlying Common Stock issuable upon conversion of the Notes have not been registered under the Securities Act and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. This Current

Report on Form 8-K does not constitute an offer to sell, or a solicitation of an offer to buy, any security and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offering would be unlawful.

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

The disclosures set forth in Item 1.01 pertaining to the Notes are incorporated by reference herein.

Item 3.02 Unregistered Sales of Equity Securities.

The disclosures set forth in Item 1.01 pertaining to the Notes are incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

The information in the Exhibit Index of this Current Report on Form 8-K is incorporated into this Item 9.01(d) by reference.

SIGNATURES

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.

Live Nation, Inc.

July 16, 2007

By: Kathy Willard

*Name: Kathy Willard
Title: Executive Vice President and Chief Accounting
Officer*

Exhibit Index

<u>Exhibit No.</u>	<u>Description</u>
4.1	Indenture related to the 2.875% Convertible Senior Notes, due 2027, dated as of July 16, 2007, between Live Nation, Inc. and Wells Fargo Bank, N.A., as trustee (including form of 2.875% Convertible Senior Note due 2027).
4.2	Registration Rights Agreement, dated as of July 16, 2007, among Live Nation, Inc. and Banc of America Securities LLC, J.P. Morgan Securities Inc., Credit Suisse Securities (USA) LLC, Deutsche Bank Securities Inc., Goldman, Sachs & Co. and Merrill Lynch, Pierce, Fenner & Smith Incorporated.

LIVE NATION, INC.

2.875% Convertible Senior Notes Due 2027

 INDENTURE

Dated as of July 16, 2007

 WELLS FARGO BANK, N.A.

 TRUSTEE

Cross-Reference Table¹
Trust Indenture Act Section Indenture Section

310 (a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	N.A.
(b) 7.08, 7.10	
(c) N.A.	
311 (a) 7.11	
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312 (a) 2.05	
(b) 13.03	
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(c) 7.06, 13.02	
(d) 7.06	
314 (a)	4.02
(a)(4)	4.03
(b) N.A.	
(c)(1)	13.04
(c)(2)	13.04
(c)(3)	N.A.
(d) N.A.	
(e) 13.05	
(f) 4.04	
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(b) 7.05	
(c) 7.01(a)	
(d) 7.01(c)	
(e) 6.11	
316 (a)(1)(A)	6.05
(a)(1)(B)	
(a)(2)	6.04
	N.A.

(b) 6.07
(c) 1.05(e)

317 (a)(1)
(a)(2)

6.08
6.09

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318 (a) 13.01

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N.A. means not applicable.

¹ This Cross-Reference Table is not part of the Indenture.

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INDENTURE dated as of July 16, 2007 between LIVE NATION, INC., a Delaware corporation (the “**Company**”), and WELLS FARGO BANK, N.A., a national banking association, as trustee (the “**Trustee**”).

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of the Company’s 2.875% Convertible Senior Notes Due 2027:

ARTICLE I

Definitions And Incorporation By Reference

Section 1.01. *Definitions.*

“**144A Global Security**” means a permanent Global Security in the form of the Security attached hereto as Exhibit A, and that is deposited with and registered in the name of the Depository, representing Securities sold in reliance on Rule 144A under the Securities Act.

“**Additional Amounts**” means the interest that is payable by the Company pursuant to (i) the Registration Rights Agreement upon a Registration Default (as defined in such agreement) and (ii) Section 6.03.

“**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 the purposes of this definition, “control” when used with respect to any specified person means the power to direct or cause the direction of the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Applicable Procedures**” means, with respect to any transfer or transaction involving a Global Security or beneficial interest therein, the rules and procedures of the Depository for such Security, in each case to the extent applicable to such transaction and as in effect from time to time.

“**Bid Solicitation Agent**” means the agent of the Company appointed to obtain quotations for the Securities as set forth under the definition of Trading Price, which agent shall be appointed no later than the first Contingent Interest Period and shall at no time be an Affiliate of the Company. The Company may, from time to time, change the Bid Solicitation Agent.

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

“**Board Resolution**” means a resolution of the Board of Directors.

“**Business Day**” means, with respect to any Security, any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which commercial banks are authorized or required by law, regulation or executive order to close in The City of New York.

“**Capital Stock**” for any corporation means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that corporation.

“**Certificated Securities**” means Securities that are in the form of the Securities attached hereto as Exhibit B.

“**Change of Control**” means the occurrence at such time after the original issuance of the Securities when any of the following has occurred:

(1) a “person” or “group” within the meaning of Section 13(d)(3) of the Exchange Act becomes the direct or indirect “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of shares of Common Stock representing more than 50% of the Voting Stock; or

(2) the first day on which a majority of the members of the Board of Directors does not consist of Continuing Directors; or

(3) a consolidation, merger or binding share exchange, or any conveyance, transfer, sale, lease or other disposition of all or substantially all of the Company's assets to another Person, other than:

(a) any transaction (i) that does not result in any reclassification, conversion, exchange or cancellation of the Company's Capital Stock and (ii) pursuant to which holders of the Company's Capital Stock immediately prior to such transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total Voting Stock of the continuing or surviving or successor Person immediately after giving effect to such issuance; or

(b) any merger, share exchange, transfer of assets or similar transaction solely for the purpose of changing the Company's jurisdiction of incorporation and resulting in a reclassification, conversion or exchange of outstanding shares of Common Stock, if at all, solely into shares of common stock, ordinary shares or American Depositary Shares of the surviving entity or a direct or indirect parent of the surviving corporation; or

(c) any consolidation or merger with or into a Subsidiary, so long as such merger or consolidation is not part of a plan or a series of transactions designed to or having the effect of merging or consolidating with any other Person.

The term "person" includes any syndicate or group that would be deemed to be a "person" under Section 13(d)(3) of the Exchange Act.

"**close of business**" means 5:00 p.m. (New York City time).

"**Closing Price**" means, with respect to the Common Stock or any other security for which a Closing Price is to be determined, on any date, the closing sale price per share (or if no closing sale price is reported, the average of the bid and asked prices or, if more than one in either case, the average of the average bid and the average asked prices) on that date as reported for composite transactions by the NYSE or, if the Common Stock or such other security, as the case may be, is not then listed on the NYSE, as reported for composite transactions by the principal United States national or regional securities exchange on which the Common Stock or such other security is traded. The Closing Price will be determined without reference to after-hours or extended market trading. If the Common Stock or such other security is not listed for trading on a United States national or regional securities exchange on the relevant date, the "Closing Price" shall be the last quoted bid price for the Common Stock or such other security in the over-the-counter market on the relevant date as reported by the National Quotation Bureau or similar organization. If the Common Stock or such other security is not so quoted, the "Closing Price" shall be the average of the midpoint of the last bid and ask prices for the Common Stock or such other security on the relevant date from each of at least three independent nationally recognized investment banking firms selected by the Company for this purpose. Any such determination shall be conclusive absent manifest error.

"**Code**" means the Internal Revenue Code of 1986, as amended from time to time.

"**Common Stock**" means the common stock, \$0.01 par value, of the Company existing on the date of this Indenture or any other shares of Capital Stock of the Company into which such Common Stock shall be reclassified or changed, including, subject to Section 10.05 below, in the event of a merger, consolidation or other similar transaction involving the Company that is otherwise permitted hereunder in which the Company is not the surviving Person, the common stock of such surviving corporation.

"**Company**" means the party named as the "Company" in the preamble of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent such successor or successors.

"**Company Notice**" means a notice to Holders delivered pursuant to Section 3.07 or Section 3.08.

"**Company Request**" or "**Company Order**" means a written request or order signed in the name of the Company by any Officer.

"**Contingent Interest**" means such interest payable as described in Article 12.

"**Contingent Interest Period**" means (i) the period commencing on July 20, 2014 and ending on January 14, 2015, and (ii) each six-month period thereafter from January 15 to and including July 14 and from July 15 to and including January 14.

"**Continuing Director**" means a director who either was a member of the Board of Directors on July 16, 2007 or who becomes a member of the Board of Directors subsequent to that date and whose appointment, election or nomination for election by the Company's shareholders is duly approved by a majority of the Continuing Directors on the Board of Directors at the time of such approval, either by specific vote or by approval of the proxy statement issued by the Company on behalf of the Board of Directors in which such individual is named as nominee for director.

"**Conversion Price**" as of any date means \$1,000 divided by the Conversion Rate as of such date.

"**Conversion Reference Period**" with respect to any Security means: (i) with respect to any conversion of Securities occurring within 20 days prior to the Stated Maturity or a specified Repurchase Date or Redemption Date, the 20 consecutive Trading Days beginning on the fifth Trading Day following the Stated Maturity or the Repurchase Date or Redemption Date, as

the case may be; (ii) with respect to any conversion occurring (A) prior to the effective date of a Change of Control described in clause (3) of the definition thereof pursuant to which Common Stock would be converted into cash, securities or other property and (B) on or after the 25th scheduled Trading Day prior to such effective date, the 20 consecutive Trading Days beginning on the 25th Scheduled Trading Day prior to such effective date; or (iii) in all other cases, the 20 consecutive Trading Days beginning on the second Trading Day after the Conversion Date.

“**Conversion Settlement Date**” means, with respect to any conversion of Securities, the date on which the Conversion Settlement Distribution is to be made with respect to such conversion in accordance with Sections 10.02(a) and (d).

“**Conversion Value**” means the product of (1) the Conversion Rate in effect (including any Additional Shares) and (2) the average of the Closing Prices of the Common Stock for the Trading Days during the Conversion Reference Period. If a Holder tenders Securities for conversion and the Conversion Value is being determined at a time when the Securities are convertible into Exchange Property, the Conversion Value of each Security shall be determined based on the kind and amount of such Exchange Property and the value thereof during the Conversion Reference Period.

“**Corporate Trust Office**” means a designated office of the Trustee at which at any time its corporate trust business shall be administered, or such other address as the Trustee may designate from time to time in the United States by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as a successor Trustee may designate from time to time by notice to the Holders and the Company).

“**Default**” means any event that is, or after notice or passage of time, would be, an Event of Default.

“**Ex-Dividend Date**” means the first date upon which a sale of the Common Stock does not automatically transfer the right to receive the relevant dividend or distribution from the seller of the Common Stock, regular way on the relevant exchange or in the relevant market for the Common Stock, to its buyer.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

“**Fair Market Value**”, or “**fair market value**” means the amount which a willing buyer would pay a willing seller in an arm’s-length transaction.

“**Fundamental Change**” means either a Change of Control or a Termination of Trading.

“**Global Securities**” means Securities that are in the form of the Securities attached hereto as Exhibit A, and that are registered in the register of Securities in the name of a Depository or a nominee thereof, and to the extent that such Securities are required to bear the Legend required by Section 2.06(g), such Securities shall be in the form of a 144A Global Security.

“**Holder**” or “**Securityholder**” means a person in whose name a Security is registered on the Registrar’s books.

“**Indenture**” means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof, including the provisions of the TIA that are deemed to be a part hereof.

“**Interest**” means interest payable on each Security pursuant to Section 1 of the Securities.

“**Interest Payment Date**” means January 15 and July 15 of each year, commencing January 15, 2008.

“**Interest Record Date**” means January 1 and July 1 of each year.

“**Issue Date**” of any Security means the date on which the Security was originally issued or deemed issued as set forth on the face of the Security.

“**Last Reported Sale Price**” of the shares of Common Stock, or any other security for which a last reported sale price is to be determined, on any date means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid and ask prices or, if more than one in either case, the average of the average last bid and the average last ask prices) on such date as reported in composite transactions for the principal U.S. national or regional securities exchange on which shares of Common Stock or such other security are traded or, if the shares of Common Stock or such other security are not listed for trading on a U.S. national or regional securities exchange on the relevant date, the Last Reported Sale Price will be the average of the last quoted bid and ask prices for the Common Stock or such other security in the over-the-counter market on the relevant date as reported by the National Quotation Bureau or similar organization. If the Common Stock or such other security is not so quoted, the Last Reported Sale Price will be the average of the mid-point of the last bid and asked prices of the Common Stock or such other security on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose. Any such determination will be conclusive absent manifest error.

“**NYSE**” means The New York Stock Exchange, Inc.

“**Officer**” means the Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the President, any Senior Vice President, the Treasurer, the Controller, the Chief Accounting Officer, the Secretary or any Assistant Secretary of the Company.

“**Officer’s Certificate**” means a written certificate containing the information specified in Sections 13.04 and 13.05, signed in the name of the Company by any Officer, and delivered to the Trustee. An Officer’s Certificate given pursuant to Section 4.03 shall be signed by the principal executive officer, principal financial officer or principal accounting officer of the Company.

“**Offering Memorandum**” means the offering memorandum of the Company dated July 10, 2007 relating to the offering of the Securities.

“**Opinion of Counsel**” means a written opinion containing the information specified in Sections 13.04 and 13.05, from legal counsel. The counsel may be an employee of, or counsel to, the Company.

“**Person**” means a corporation, an association, a partnership, a limited liability company, an individual, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

“**Portal Market**” means the Private Offerings Resales and Trading through Automated Linkages Market operated by the National Association of Securities Dealers, Inc. or any successor thereto.

“**Purchase Agreement**” means the Purchase Agreement dated July 10, 2007, between the Company, on the one hand, and Banc of America Securities LLC and J.P. Morgan Securities Inc., as representatives of the several initial purchasers, on the other.

“**Redemption Date**” means the date specified in a notice of redemption on which the Securities may be redeemed in accordance with the terms of the Securities and this Indenture.

“**Registration Rights Agreement**” means the Registration Rights Agreement, dated the date hereof, between the Company, on the one hand, and Banc of America Securities LLC and J.P. Morgan Securities Inc., as representatives of the several initial purchasers under the Purchase Agreement, on the other.

“**Responsible Officer**” means, when used with respect to the Trustee, any officer of the Trustee within the corporate trust department (or any successor department) of the Trustee located at the office of the Trustee specified in Section 13.02 hereof who has direct responsibility for the administration of this Indenture and, for the purposes of Sections 7.01(c)(2) and 7.05 shall also mean any other officer of the Trustee to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject matter.

“**Restricted Security**” means a Security required to bear the Legend.

“**Rule 144A**” means Rule 144A under the Securities Act (or any successor provision), as it may be amended from time to time.

“**Scheduled Trading Day**” means a day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Common Stock is listed or, if the Common Stock is not listed or admitted for trading on any such exchange, a Business Day.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

“**Security**” means any of the Company’s 2.875% Convertible Senior Notes Due 2027, as amended or supplemented from time to time, issued under this Indenture.

“**Securityholder**” or “**Holder**” means a person in whose name a Security is registered on the Registrar’s books.

“**Significant Subsidiary**” shall have the meaning assigned to such term in Article 1 of Regulation S-X promulgated under the Securities Act as in effect on the date of this Indenture

“**Stated Maturity**”, when used with respect to any Security, means July 15, 2027.

“**Stock Price**” means the price per share of Common Stock paid in connection with a Change of Control transaction pursuant to which Additional Shares are issuable as set forth in Section 10.01(c) hereof, which shall be equal to (i) if holders of Common Stock receive only cash in such Change of Control transaction, the cash amount paid per share of Common Stock and (ii) in all other cases, the average of the Closing Prices of the Common Stock on the five Trading Days immediately prior to, but not including, the effective date of such Change of Control transaction.

“**Subsidiary**” means any person of which at least a majority of the outstanding Voting Stock shall at the time directly or indirectly be owned or controlled by the Company or by one or more Subsidiaries or by the Company and one or more Subsidiaries.

“**Termination of Trading**” means the occurrence, at any time, of the Common Stock of the Company (or other common stock into which the Securities are then convertible) being not listed for trading on a U.S. national securities exchange.

“**TIA**” means the Trust Indenture Act of 1939 as in effect on the date of this Indenture, *provided, however*, that in the event

the TIA is amended after such date, TIA means, to the extent required by any such amendment, the TIA as so amended.

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

“**Trading Price**” of the Securities on any date of determination means the average of the secondary market bid quotations per \$1,000 principal amount of the Securities obtained by the Bid Solicitation Agent for \$5,000,000 aggregate principal amount of the Securities at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers the Company selects, *provided* that if three such bids cannot reasonably be obtained by the Bid Solicitation Agent, but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can reasonably be obtained by the Bid Solicitation Agent, that one bid shall be used, *provided further* that if the Bid Solicitation Agent cannot reasonably obtain any such bids for \$5,000,000 aggregate principal amount of the Securities from a nationally recognized securities dealer, then for purposes of any determination of whether Contingent Interest is payable or of the amount of any Contingent Interest, the Trading Price of the Securities on any date of determination shall equal the product of (i) the applicable Conversion Rate for the Securities and (ii) the average Closing Price of the Common Stock for the five Trading Days ending on such determination date, and for purposes of any determination with respect to the condition to conversion under Section 10.01(a)(2), the Trading Price per \$1,000 principal amount of Securities shall be deemed to be less than 98% of the product of the Closing Price of the Common Stock and the applicable Conversion Rate.

“**Trustee**” means the party named as the “Trustee” in the preamble of this Indenture unless and until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent such successor or successors.

“**U.S. Treasury Regulations**” means the U.S. federal income tax regulations, including temporary regulations, promulgated under the Code, as those regulations may be amended from time to time.

“**Voting Stock**” of a Person means Capital Stock of such Person of the class or classes pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees of such Person (irrespective of whether or not at the time Capital Stock of any other class or classes shall have or might have voting power by reason of the happening of any contingency).

Section 1.02. Other Definitions.

Terms:

	Defined in Section:
“Act”	1.05
“Adjustment Determination Date”	10.04(i)
“Adjustment Event”	10.04(i)
“Acquisition Value”	10.01(d)
“Additional Amounts Notice”	4.07
“Additional Shares”	10.01(c)
“Agent Members”	2.12(e)
“Bankruptcy Law”	6.01(i)
“cash”	3.01
“Conversion Agent”	2.03
“Conversion Date”	10.02(e)
“Conversion Notice”	10.02(c)
“Conversion Obligation”	10.01(a)
“Conversion Rate”	10.02
“Conversion Settlement Distribution”	10.02(a)
“Delivery Date”	10.02(d)
“Depository”	2.01(b)
“Distributed Property”	10.04(c)
“DTC”	2.01(b)
“effective date”	10.01(c)
“Event of Default”	6.01
“Exchange Property”	10.05
“Fiscal Quarter”	10.01(a)
“Fundamental Change Repurchase Date”	3.08(a)
“Fundamental Change Repurchase Notice”	3.08(c)
“Fundamental Change Repurchase Price”	3.08(a)
“legal holiday”	13.08
“Legend”	2.06(g)
“Net Share Settlement Election”	10.02(b)
“Notice of Default”	6.01
“Paying Agent”	2.03
“Public Acquirer Change of Control”	10.01(d)

“Public Acquirer Common Stock”	10.01(d)
“Redemption Price”	3.01
“Registrar”	2.03
“Repurchase Date”	3.07(a)
“Repurchase Notice”	3.07(b)
“Repurchase Price”	3.07(a)
“Rule 144A Information”	4.06
“Specified Dollar Amount”	10.02(a)
“Specified Percentage”	10.02(a)
“Spin-off”	10.04(c)
“successor Person”	5.01(a)
“Taxes”	5.01(c)
“Trigger Event”	10.04(c)
“Valuation Period”	10.01(d)

Section 1.03. *Incorporation By Reference Of Trust Indenture Act.* Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. 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 Holder.

“**indenture to be qualified**” means this Indenture.

“**indenture trustee**” or “**institutional trustee**” means the Trustee.

“**obligor**” on the indenture securities means the Company.

All other TIA terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rules have the meanings assigned to them by such definitions.

Section 1.04. *Rules of Construction.* Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles as in effect from time to time;
- (3) “or” is not exclusive unless the context otherwise requires;
- (4) “including” means including, without limitation;
- (5) words in the singular include the plural, and words in the plural include the singular; and
- (6) references to Sections and Articles are to references to Sections and Articles of this Indenture.

Section 1.05. *Acts of Holders.* (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company, as described in Section 13.02. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “**Act**” of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer’s individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer’s authority. The fact and date of the execution of any such instrument or writing, or the authority of the person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The principal amount and serial number of any Security and the ownership of Securities shall be proved by the register for the Securities.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

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

ARTICLE II

The Securities

Section 2.01. *Form and Dating.* (a) The Securities and the Trustee's certificate of authentication shall be substantially in the form of Exhibits A and B, which are a part of this Indenture. The Securities may have notations, legends or endorsements required by law, stock exchange rule or usage (*provided* that any such notation, legend or endorsement required by usage is in a form acceptable to the Company), or as may be required by the custodian for the Depository, the Depository or by the National Association of Securities Dealers, Inc. in order for the Securities to be tradable on the Portal Market or as may be required for the Securities to be tradable on any other market developed for trading of securities pursuant to Rule 144A. 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 Securities may, but need not, have the corporate seal of the Company or a facsimile thereof affixed thereto or imprinted thereon.

(b) 144A Global Securities. Securities offered and sold within the United States to qualified institutional buyers as defined in Rule 144A ("**QIBs**") in reliance on Rule 144A shall be issued initially in the form of a 144A Global Security which shall be deposited with the Trustee at its Corporate Trust Office, as custodian for the Depository (as defined below) and registered in the name of The Depository Trust Company ("**DTC**") or the nominee thereof (DTC, or any successor thereto, and any such nominee being hereinafter referred to as the "**Depository**"), duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of the 144A Global Securities may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository as hereinafter provided.

(c) Global Securities in General. Each Global Security shall represent such of the outstanding 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, redemptions, repurchases and conversions.

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, and shall be made on the records of the Trustee and the Depository.

(d) *Book-Entry Provisions.* This Section 2.01(d) shall apply only to Global Securities deposited with or on behalf of the Depository.

The Company shall execute and the Trustee shall, in accordance with this Section 2.01(d), authenticate and deliver initially one or more Global Securities that (a) shall be registered in the name of the Depository or a nominee thereof, (b) shall be delivered by the Trustee to the Depository or held by the Trustee pursuant to the Depository's instructions and (c) shall be substantially in the form of Exhibit A attached hereto.

(e) *Certificated Securities.* Securities not issued as interests in the Global Securities shall be issued in certificated form substantially in the form of Exhibit B attached hereto.

Section 2.02. *Execution and Authentication.* The Securities shall be executed on behalf of the Company by one Officer and attested to by one Officer. The signature of such Officers may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were, at the time of the execution of the Securities, Officers shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of authentication of such Securities.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an authorized signatory, and such certificate upon any Security shall be conclusive evidence, and the

only evidence, that such Security has been duly authenticated and delivered hereunder.

The Trustee shall authenticate and deliver the Securities for original issue in an aggregate principal amount of up to \$220,000,000 upon one or more Company Orders without any further action by the Company (other than as contemplated in Section 13.04 and Section 13.05 hereof). The aggregate principal amount of the Securities due at the Stated Maturity thereof outstanding at any time may not exceed the amount set forth in the foregoing sentence.

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

Section 2.03. *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**”) and an office or agency where Securities may be presented for conversion (“**Conversion Agent**”). The Registrar shall keep a register of the Securities 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 Paying Agent includes any additional paying agent, including any designated pursuant to Section 4.05. The term Conversion Agent includes any additional conversion agent, including any designated pursuant to Section 4.05.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent, Conversion Agent, or co-registrar (in each case, if such Registrar, agent or co-registrar is a Person other than the Trustee). The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall promptly notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.07. The Company or any Subsidiary or an Affiliate of either of them may act as Paying Agent, Registrar, Conversion Agent or co-registrar.

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

Section 2.04. *Paying Agent to Hold Money and Securities in Trust* Except as otherwise provided herein, on or prior to each due date of payments in respect of any Security, the Company shall deposit with the Paying Agent a sum of money (in immediately available funds if deposited on the due date) or shares of Common Stock sufficient to make such payments when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Securityholders or the Trustee all money and shares of Common Stock held by the Paying Agent for the making of payments in respect of the Securities and shall promptly notify the Trustee of any Default by the Company in making any such payment. At any time during the continuance of any such Default, the Paying Agent shall, upon the written request of the Trustee, forthwith pay to the Trustee all money and shares of Common Stock so held in trust. If the Company, a Subsidiary or an Affiliate of either of them acts as Paying Agent, it shall segregate the money and shares of Common Stock held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money and shares of Common Stock held by it to the Trustee and to account for any funds and Common Stock disbursed by it. Upon doing so, the Paying Agent shall have no further liability for the money or shares of Common Stock.

Section 2.05. *Securityholder Lists.* The Trustee shall preserve the most recent list available to it of the names and addresses of Securityholders. If the Trustee is not the Registrar, the Company shall cause to be furnished to the Trustee at least semiannually on January 15 and July 15 a listing of Securityholders dated within 15 days of the date on which the list is furnished and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Securityholders.

Section 2.06. *Transfer and Exchange.* (a) Subject to Section 2.12 hereof, upon surrender for registration of transfer of any Security, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Securityholder or such Securityholder’s attorney duly authorized in writing, at the office or agency of the Company designated as Registrar or co-registrar pursuant to Section 2.03, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denomination or denominations, of a like aggregate principal amount. The Company shall not charge a service charge for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to pay all taxes, assessments or other governmental charges that may be imposed in connection with the transfer or exchange of the Securities from the Securityholder requesting such transfer or exchange.

At the option of the Holder, Securities may be exchanged for other Securities of any authorized denomination or denominations, of a like aggregate principal amount upon surrender of the Securities to be exchanged, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Securityholder or such Securityholder’s attorney duly authorized in writing, at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

The Company shall not be required to make, and the Registrar need not register, transfers or exchanges of Securities selected for redemption (except, in the case of Securities to be redeemed in part, the portion thereof not to be redeemed) or any Securities in respect of which a Repurchase Notice or Fundamental Change Repurchase Notice has been given and not withdrawn by the Holder thereof in accordance with the terms of this Indenture (except, in the case of Securities to be purchased

in part, the portion thereof not to be purchased) or any Securities for a period of 15 days before the mailing of a notice of redemption of Securities to be redeemed.

(b) Notwithstanding any provision to the contrary herein, so long as a Global Security remains outstanding and is held by or on behalf of the Depository, transfers of a Global Security, in whole or in part, shall be made only in accordance with Section 2.12 and this Section 2.06(b). Transfers of a Global Security shall be limited to transfers of such Global Security in whole or in part, to the Depository, to nominees of the Depository or to a successor of the Depository or such successor's nominee.

(c) Successive registrations and registrations of transfers and exchanges as aforesaid may be made from time to time as desired, and each such registration shall be noted on the register for the Securities.

(d) Except as otherwise set forth in this Indenture, any such action taken by a Holder shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued in exchange or substitution therefor, irrespective of whether any notation in regard thereto is made upon such Security or any Security issued in exchange or substitution therefor.

(e) Any Registrar appointed pursuant to Section 2.03 hereof shall provide to the Trustee such information as the Trustee may reasonably require in connection with the delivery by such Registrar of Securities upon transfer or exchange of Securities.

(f) No Registrar shall be required to make registrations of transfer or exchange of Securities during any periods designated in the text of the Securities or in this Indenture as periods during which such registration of transfers and exchanges need not be made.

(g) If Securities are issued upon the transfer, exchange or replacement of, or if Common Stock is issued upon conversion of, Securities subject to restrictions on transfer and bearing the legends set forth on the forms of Security attached hereto as Exhibits A and B setting forth such restrictions (collectively, the "**Legend**"), or if a request is made to remove the Legend on a Security (or shares of Common Stock issued upon conversion of a Security), the Securities or shares of Common Stock so issued shall bear the Legend, or the Legend shall not be removed, as the case may be, unless there is delivered to the Company and the Registrar such satisfactory evidence, which shall include an opinion of counsel, as may be reasonably required by the Company and the Registrar and the Trustee (if not the same Person as the Registrar), that neither the Legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144A or Rule 144 under the Securities Act or that such Securities or shares of Common Stock, as the case may be, are not "restricted" within the meaning of Rule 144 under the Securities Act. Upon (i) provision of such satisfactory evidence or (ii) notification by the Company to the Trustee and Registrar of the sale of such Security or shares of Common Stock pursuant to a registration statement that is effective at the time of such sale, the Trustee, at the written direction of the Company, shall authenticate and deliver a Security or shares of Common Stock, as the case may be, that does not bear the Legend. If the Legend is removed from the face of a Security or shares of Common Stock and the Security or such Common Stock is subsequently held by the Company or an Affiliate of the Company, the Legend shall be reinstated.

Section 2.07. Replacement Securities. If (a) any mutilated Security is surrendered to the Trustee or (b) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and upon its written request the Trustee shall 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 certificate 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 redeemed or purchased by the Company pursuant to Article 3 hereof, the Company in its discretion may, instead of issuing a new Security, pay or purchase such Security, as the case may be.

Upon the issuance of any new Securities under this Section 2.07, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security issued pursuant to this Section 2.07 in lieu of any mutilated, destroyed, lost or stolen Security shall constitute an original contractual obligation of the Company, whether or not the 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 hereunder.

The provisions of this Section 2.07 are 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 2.08. Outstanding Securities; Determinations of Holders' Action. Securities outstanding at any time are all the Securities authenticated by the Trustee except for those cancelled by it, those redeemed, purchased or paid pursuant to Section 2.07, those delivered to it for cancellation and those described in this Section 2.08 as not outstanding. A Security does not cease to be outstanding because the Company or an Affiliate thereof holds the Security; *provided, however*, that in determining whether the Holders of the requisite principal amount of Securities have given or concurred in any request, demand,

authorization, direction, notice, consent, waiver, or other Act hereunder, Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other act, only Securities which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded. Subject to the foregoing, only Securities outstanding at the time of such determination shall be considered in any such determination (including, without limitation, determinations pursuant to Article 6 and Article 9).

If a Security is replaced pursuant to Section 2.07, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the Paying Agent holds, in accordance with this Indenture, on a Redemption Date, or on the Business Day immediately following a Repurchase Date or a Fundamental Change Repurchase Date, or on Stated Maturity, money or securities, if permitted hereunder, sufficient to pay Securities payable on that date, then from and after such Redemption Date, Repurchase Date, Fundamental Change Repurchase Date or Stated Maturity, as the case may be, such Securities shall cease to be outstanding and Interest, Contingent Interest and Additional Amounts, if any, on such Securities shall cease to accrue; *provided*, that if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made.

If a Security is converted in accordance with Article 10, then from and after the time of conversion on the date of conversion, such Security shall cease to be outstanding and Interest, Contingent Interest, Additional Amounts, if any, and the rights of the Holders therein shall terminate (other than the right to receive the Conversion Settlement Distribution).

Section 2.09. *Temporary Securities.* Pending the preparation of Certificated Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the Certificated Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the Officers executing such Securities may determine, as conclusively evidenced by their execution of such Securities.

If temporary Securities are issued, the Company shall cause Certificated Securities to be prepared without unreasonable delay. After the preparation of Certificated Securities, the temporary Securities shall be exchangeable for Certificated Securities upon surrender of the temporary Securities at the office or agency of the Company designated for such purpose pursuant to Section 2.03, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of Certificated Securities of authorized denominations. Until so exchanged the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as Certificated Securities.

Section 2.10. *Cancellation.* All Securities surrendered for payment, purchase by the Company pursuant to Article 3, conversion, redemption or registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by the Trustee. The Company may not issue new Securities to replace Securities it has paid or delivered to the Trustee for cancellation, other than in connection with registrations of transfer or exchange, or that any Holder has converted pursuant to Article 10. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of by the Trustee in accordance with the Trustee's customary procedure.

Section 2.11. *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 the principal amount of the Security or any portion thereof, or the payment of any Redemption Price, Repurchase Price or Fundamental Change Repurchase Price in respect thereof, and Interest, Contingent Interest or Additional Amounts thereon, for the purpose of conversion and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 2.12. *Global Securities.* (a) Notwithstanding any other provisions of this Indenture or the Securities, (A) transfers of a Global Security, in whole or in part, shall be made only in accordance with Section 2.06 and Section 2.12(a)(i) below, (B) transfers of a beneficial interest in a Global Security for a Certificated Security shall comply with Section 2.06 and Section 2.12(a)(ii) below and Section 2.12(e) below, and (C) transfers of a Certificated Security shall comply with Section 2.06, Section 2.12(a)(iii) and Section 2.12(a)(iv) below.

(i) *Transfer of Global Security.* A Global Security may not be transferred, in whole or in part, to any Person other than the Depositary or a nominee or any successor thereof, and no such transfer to any such other Person may be registered; *provided* that this Section 2.12(a)(i) shall not prohibit any transfer of a Security that is issued in exchange for a Global Security but is not itself a Global Security. No transfer of a Security to any Person shall be effective under this Indenture or the Securities unless and until such Security has been registered in the name of such Person. Nothing in this Section 2.12(a)(i) shall prohibit or render ineffective any transfer of a beneficial interest in a Global Security effected in accordance with the other provisions of this Section 2.12.

(ii) *Restrictions on Transfer of a Beneficial Interest in a Global Security for a Certificated Security.* A beneficial interest in a Global Security may not be exchanged for a Certificated Security except upon satisfaction of the requirements set forth in this paragraph below and in Section 2.12(e) below. Upon receipt by the Trustee of a request to transfer a beneficial interest in a Global Security in accordance with Applicable Procedures for a Certificated Security in the form satisfactory to the Trustee, together with:

(A) so long as the Securities are Restricted Securities, certification in the form set forth in Exhibit C;

(B) written instructions to the Trustee to make, or direct the Registrar to make, an adjustment on its books and records with respect to such Global Security to reflect a decrease in the aggregate principal amount of the Securities represented by the Global Security, such instructions to contain information regarding the Depository account to be decreased; and

(C) if the Company or the Trustee so requests, an opinion of counsel or other evidence reasonably satisfactory to it as to the compliance with the restrictions set forth in the Legend,

then the Trustee shall cause, or direct the Registrar to cause, in accordance with the standing instructions and procedures existing between the Depository and the Registrar, the aggregate principal amount of the Securities represented by the Global Security to be decreased by the aggregate principal amount of the Certificated Security to be issued, shall issue such Certificated Security and shall debit or cause to be debited to the account of the person specified in such instructions a beneficial interest in the Global Security equal to the principal amount of the Certificated Security so issued.

(iii) *Transfer and Exchange of Certificated Securities.* When Certificated Securities are presented to the Registrar with a request:

(A) to register the transfer of such Certificated Securities; or

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

the Registrar shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met; *provided, however*, that the Certificated Securities surrendered for transfer or exchange:

(1) shall be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing; and

(2) so long as such Securities are Restricted Securities, such Securities are being transferred or exchanged pursuant to an effective registration statement under the Securities Act or pursuant to clause (x), (y) or (z) below, and are accompanied by the following additional information and documents, as applicable:

(x) if such Certificated Securities are being delivered to the Registrar by a Holder for registration in the name of such Holder, without transfer, a certification from such Holder to that effect; or

(y) if such Certificated Securities are being transferred to the Company, a certification to that effect; or

(z) if such Certificated Securities are being transferred pursuant to an exemption from registration, (i) a certification to that effect (in the form set forth in Exhibit C, if applicable) and (ii) if the Company or the Trustee so requests, an opinion of counsel or other evidence reasonably satisfactory to it as to the compliance with the restrictions set forth in the Legend.

(iv) *Restrictions on Transfer or Exchange of a Certificated Security for a Beneficial Interest in a Global Security.* A Certificated Security may not be transferred or exchanged for a beneficial interest in a Global Security except upon satisfaction of the requirements set forth below.

Upon receipt by the Trustee of a Certificated Security, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with:

(A) so long as the Securities are Restricted Securities, certification, in the form set forth in Exhibit C, that such Certificated Security (1) is being transferred to a QIB in accordance with Rule 144A under the Securities Act or (2) is being transferred pursuant to and in compliance with Rule 144 under the Securities Act; and

(B) written instructions directing the Trustee to make, or to direct the Registrar to make, an adjustment on its books and records with respect to such Global Security to reflect an increase in the aggregate principal amount of the Securities represented by the Global Security, such instructions to contain information regarding the Depository account to be credited with such increase, then the Trustee shall cancel such Certificated Security and cause, or direct the Registrar to cause, in accordance with the standing instructions and procedures existing between the Depository and the Registrar, the aggregate principal amount of Securities represented by the Global Security to be increased by the aggregate principal amount of the Certificated Security to be exchanged, and shall credit or cause to be credited to the account of the person specified in such instructions a beneficial interest in the Global Security equal to the principal amount of the Certificated Security so cancelled. If no Global Securities are then outstanding, the Company

shall issue and the Trustee shall authenticate, upon written order of the Company in the form of an Officer's Certificate, a new Global Security in the appropriate principal amount.

(b) Subject to the succeeding Section 2.12(c), every Security shall be subject to the restrictions on transfer provided in the Legend including the delivery of an opinion of counsel, if so provided. Whenever any Restricted Security is presented or surrendered for registration of transfer or for exchange for a Security registered in a name other than that of the Holder, such Security must be accompanied by a certificate in substantially the form set forth in Exhibit C, dated the date of such surrender and signed by the Holder of such Security, as to compliance with such restrictions on transfer. The Registrar shall not be required to accept for such registration of transfer or exchange any Security not so accompanied by a properly completed certificate.

(c) The restrictions imposed by the Legend upon the transferability of any Security shall cease and terminate when such Security has been sold pursuant to an effective registration statement under the Securities Act or transferred in compliance with Rule 144 under the Securities Act (or any successor provision thereto) or, if earlier, upon the expiration of the holding period applicable to sales thereof under Rule 144(k) under the Securities Act (or any successor provision). Any Security as to which such restrictions on transfer shall have expired in accordance with their terms or shall have terminated may, upon a surrender of such Security for exchange to the Registrar in accordance with the provisions of this Section 2.12 (accompanied, in the event that such restrictions on transfer have terminated by reason of a transfer in compliance with Rule 144 under the Securities Act or any successor provision, by an opinion of counsel having substantial experience in practice under the Securities Act and otherwise reasonably acceptable to the Company and the Trustee, addressed to the Company and the Trustee and in form acceptable to the Company and the Trustee, to the effect that the transfer of such Security has been made in compliance with Rule 144 under the Securities Act or such successor provision), be exchanged for a new Security, of like tenor and aggregate principal amount, which shall not bear the restrictive Legend. The Company shall inform the Trustee of the effective date of any registration statement registering the Securities under the Securities Act. The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the aforementioned opinion of counsel or registration statement.

(d) As used in the preceding two paragraphs of this Section 2.12, the term "transfer" encompasses any sale, pledge, transfer, loan, hypothecation, or other disposition of any Security.

(e) The provisions of clauses (i), (ii), (iii), (iv) and (v) below shall apply only to Global Securities:

(i) Notwithstanding any other provisions of this Indenture or the Securities, a Global Security shall not be exchanged in whole or in part for a Security registered in the name of any Person other than the Depositary or one or more nominees thereof, *provided* that a Global Security may be exchanged for Securities registered in the names of any Person designated by the Depositary in the event that (i) the Depositary has notified the Company that it is unwilling or unable to continue as Depositary for such Global Security or such Depositary has ceased to be a "clearing agency" registered under Exchange Act, and a successor Depositary is not appointed by the Company within 90 days, (ii) the Company determines at any time that the Securities shall no longer be represented by Global Securities and shall inform such Depositary of such determination in writing and participants in such Depositary elect to withdraw their beneficial interests in the Global Securities from such Depositary, following notification by the Depositary of their right to do so or (iii) an Event of Default has occurred and is continuing. Any Global Security exchanged pursuant to clause (i) above shall be so exchanged in whole and not in part, and any Global Security exchanged pursuant to clauses (ii) or (iii) above may be exchanged in whole or from time to time in part as directed by the Depositary. Any Security issued in exchange for a Global Security or any portion thereof shall be a Global Security; *provided* that any such Security so issued that is registered in the name of a person other than the Depositary or a nominee thereof or any successor of either of the foregoing pursuant to this paragraph shall not be a Global Security.

(ii) Securities issued in exchange for a Global Security or any portion thereof shall be issued in definitive, fully registered form, shall have an aggregate principal amount equal to that of such Global Security or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Depositary shall designate and shall bear the applicable legends provided for herein. Any Global Security to be exchanged in whole shall be surrendered by the Depositary to the Registrar. With regard to any Global Security to be exchanged in part, either such Global Security shall be so surrendered for exchange or, if the Trustee is acting as custodian for the Depositary or its nominee with respect to such Global Security, the principal amount thereof shall be reduced by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon any such surrender or adjustment, the Trustee shall authenticate and deliver the Security issuable on such exchange to or upon the order of the Depositary or an authorized representative thereof.

(iii) Subject to the provisions of clause (v) below, the registered Holder may grant proxies and otherwise authorize any person, including Agent Members (as defined below) and persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Securities.

(iv) In the event of the occurrence of any of the events specified in clause (i) above, the Company shall promptly make available to the Trustee a reasonable supply of Certificated Securities in definitive, fully registered form.

(v) Neither any members of, or participants in, the Depositary (collectively, the "**Agent Members**") nor any other persons on whose behalf Agent Members may act shall have any rights under this Indenture with respect to any Global Security registered in the name of the Depositary or any nominee thereof, or under any such Global Security, and the Depositary or such nominee, as the case may be, 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 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 Depository or such nominee, as the case may be, or impair, as between the Depository, its Agent Members and any other person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a Holder of any Security.

(vi) Except as expressly set forth in this Indenture, including Sections 2.12(a)(ii) and 2.12(e), none of the Trustee, any Paying Agent, Conversion Agent, the Company or the Registrar shall have any responsibility or obligation to any beneficial owner in the Global Securities, a member of, or a participant in the Depository or other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Global Securities or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Global Securities. All notices and communications to be given to the Holders and all payments to be made to Holders under the Securities shall be given or made only to or upon the order of the registered Holders (which shall be, in the case of a Global Security, the Depository or its nominee). The rights of beneficial owners in the Global Securities shall be exercised only through the Depository subject to the applicable rules and procedures of the Depository. Other than as set forth in this Indenture, the Trustee, any Paying Agent, the Conversion Agent, the Company and the Registrar may rely and shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners. Except as expressly set forth in this Indenture, including Sections 2.12(a)(ii) and 2.12(e), the Trustee, each Paying Agent, the Conversion Agent, the Company and the Registrar shall be entitled to deal with any depository (including the Depository), and any nominee thereof, that is the Holder of any Global Securities as a Holder for all purposes of this Indenture relating to such Global Securities (including the payment of principal, Interest, Contingent Interest, if any, and Additional Amounts, if any, and the giving of instructions or directions by or to the owner or Holder of a beneficial ownership interest in such Global Securities) as the sole Holder of such Global Securities and shall have no obligations to the beneficial owners thereof. None of the Trustee, any Paying Agent, the Conversion Agent, the Company or the Registrar shall have any responsibility or liability for any acts or omissions of any such depository with respect to such Global Securities, for the records of any such depository, including records in respect of beneficial ownership interests in respect of any such Global Securities, for any transactions between such depository and any participant in such depository or between or among any such depository, any such participant and/or any Holder or owner of a beneficial interest in such Global Securities or for any transfers of beneficial interests in any such Global Securities.

(f) The Trustee and the Registrar 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 beneficial owners of interests in any Global Security) other than to require delivery of such 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, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

The Trustee shall have no responsibility for the actions or omissions of the Depository, or the accuracy of the books and records of the Depository.

Section 2.13. *CUSIP Numbers*. The Company may issue the Securities with 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 redemption as a convenience to Holders; *provided* 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 redemption or purchase and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee in writing of any change in the CUSIP, ISIN or other similar numbers.

Section 2.14. *Tax Treatment of Securities*. The Company agrees, and by acceptance of a Security, each Holder hereof is deemed to have agreed, with respect to each of the matters set forth below, as follows:

(a) Tax Treatment:

(i) to treat the Securities as indebtedness of the Company for all tax purposes;

(ii) to treat the Securities as indebtedness that are subject to the special U.S. Treasury Regulations governing contingent payment debt instruments; and

(iii) to treat any payment to and receipt by a Holder, upon conversion of a Security, of cash, Common Stock or other property, as a contingent payment of such cash or the fair market value of such Common Stock or other property, under U.S. Treasury Regulation section 1.1275-4(b) that will result in an adjustment under U.S. Treasury Regulation section 1.1275-4(b)(3)(iv) and U.S. Treasury Regulation section 1.1275-4(b)(6).

(b) Comparable Yield and Projected Payment Schedule. Solely for purposes of applying U.S. Treasury Regulation section 1.1275-4 to the Securities:

(i) for United States federal income tax purposes, to accrue interest with respect to outstanding Securities pursuant to the “noncontingent bond method,” as set forth in U.S. Treasury Regulation section 1.1275-4(b), regardless of the usual method of tax accounting of any Holder, based on the comparable yield of the Securities as described below;

(ii) the comparable yield, as defined in U.S. Treasury Regulation section 1.1275-4(b)(4)(i), for the Securities is 9.40%, compounded semi-annually;

(iii) the projected payment schedule, as defined in U.S. Treasury Regulation section 1.1275-4(b)(4)(ii), is the schedule found at Annex A of this Indenture; and

(iv) the Company acknowledges and agrees, and each Holder and any beneficial owner of a Security, by its purchase of a Security shall be deemed to acknowledge and agree, that (A) the projected payment schedule is determined on the basis of an assumption of the linear growth of the stock price, (B) the comparable yield and the projected payment schedule are not determined for any other purpose other than for the purposes of applying U.S. Treasury Regulation section 1.1275-4(b) to the Securities and (C) the comparable yield and the projected payment schedule do not constitute a projection or representation regarding the actual amounts payable on the Securities.

Section 2.15. *Contingent Debt Tax Treatment.* Each Security shall bear a legend relating to United States federal income tax matters in the form set forth below.

“THIS SECURITY IS BEING ISSUED WITH AN INDETERMINATE AMOUNT OF ORIGINAL ISSUE DISCOUNT FOR UNITED STATES FEDERAL INCOME TAX PURPOSES. THE ISSUE PRICE FOR THIS SECURITY IS \$1,000 PER \$1,000 PRINCIPAL AMOUNT AND THE ISSUE DATE FOR THIS SECURITY IS JULY 16, 2007. THIS SECURITY IS SUBJECT TO UNITED STATES FEDERAL INCOME TAX REGULATIONS GOVERNING CONTINGENT PAYMENT DEBT INSTRUMENTS. THE COMPARABLE YIELD FOR THIS SECURITY IS 9.40% PER ANNUM, COMPOUNDED SEMI-ANNUALLY (WHICH WILL BE TREATED AS THE YIELD TO MATURITY FOR UNITED STATES FEDERAL INCOME TAX PURPOSES). FOR INFORMATION REGARDING THE PROJECTED PAYMENT SCHEDULE FOR THIS SECURITY, HOLDERS SHOULD CONTACT THE INVESTOR RELATIONS OF LIVE NATION, INC. AT 9348 CIVIC CENTER DRIVE, BEVERLY HILLS, CA 90210.”

Section 2.16. *Calculation of Certain Amounts.* The Company shall file with the Trustee promptly at the end of each calendar year (i) a written notice specifying the amount of original issue discount (including daily rates and accrual periods) accrued on outstanding Securities as of the end of such year and (ii) such other specific information relating to such original issue discount as may then be relevant under the Code.

ARTICLE III

Redemption And Repurchases

Section 3.01. *Company's Right to Redeem; Notices to Trustee.* Prior to July 20, 2014, the Securities shall not be redeemable at the Company's option. On or after July 20, 2014, the Company, at its option, may redeem the Securities for U.S. legal tender (“cash”) at any time, in whole or in part, at a redemption price (the “Redemption Price”) equal to 100% of the principal amount of the Securities redeemed, plus any accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, on the Securities redeemed up to, but not including, the Redemption Date, *provided* that if the Redemption Date is on a date that is after an Interest Record Date and on or prior to the corresponding Interest Payment Date, the Redemption Price shall be 100% of the principal amount of the Securities redeemed but shall not include accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and Additional Amounts, if any. Instead, the Company shall pay such Interest, Contingent Interest, if any, and Additional Amounts, if any, on the Interest Payment Date to the Holder of record on the corresponding Interest Record Date. If the Company elects to redeem Securities pursuant to this Section 3.01, it shall notify the Trustee in writing of such election together with the Redemption Date, the Conversion Rate, the principal amount of Securities to be redeemed and the Redemption Price. Notwithstanding the foregoing, the Company may not redeem the Securities if it has failed to pay any Interest, including Contingent Interest, if any, and Additional Amounts, if any, on the Securities when due and such failure is continuing. If the Company's notice of redemption pursuant to Section 3.03 does not indicate an election to settle its obligation in cash or a combination of cash and shares, the Company shall settle all conversions in shares of its Common Stock after the giving of the notice of redemption until the corresponding Redemption Date.

Only in the case that the Company elects to have the Trustee mail the notices of redemption to the Holders, the Company shall give the notice to the Trustee provided for in this Section 3.01 by a Company Order, at least 40 days but not more than 60 days before the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee).

Section 3.02. *Selection of Securities to Be Redeemed.* If less than all of the Securities are to be redeemed, unless the procedures of the Depositary provide otherwise, the Trustee shall select the Securities to be redeemed by lot, on a pro rata basis or by another method the Trustee considers fair and appropriate (so long as such method is not prohibited by the rules of any stock exchange or quotation association on which the Securities are then traded or quoted). The Trustee may select for redemption portions of the principal amount of Securities that have denominations larger than \$1,000.

Securities and portions of Securities that the Trustee selects shall be in principal amounts of \$1,000 or an integral multiple of \$1,000. Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption. The Trustee shall notify the Company promptly (but in any case within 7 days of the Company Order referred to in Section 3.01) of the Securities or portions of the Securities selected to be redeemed and, in the case of any Securities selected for partial redemption, the method it has chosen for the selection of the Security.

Following a notice of redemption, Securities and portions of Securities are convertible, pursuant to Section 10.01(a)(3), by

the Holder until the close of business on the Business Day prior to the Redemption Date. If any Security selected for partial redemption is converted in part before termination of the conversion right with respect to the portion of the Security so selected, the converted portion of such Security shall be deemed (so far as may be) to be from the portion selected for redemption. Securities that have been converted during a selection of Securities to be redeemed may be treated by the Trustee as outstanding for the purpose of such selection.

Section 3.03. *Notice of Redemption.* At least 30 days but not more than 60 days before a Redemption Date, the Company shall mail a notice of redemption (substantially in the form of Exhibit D) by first-class mail, postage prepaid, to each Holder of Securities to be redeemed.

The notice shall identify the Securities to be redeemed and shall state (along with any other information the Company wishes to include):

- (1) the Redemption Date;
- (2) the Redemption Price;
- (3) the Conversion Rate;
- (4) the name and address of the Paying Agent and Conversion Agent;
- (5) that Securities may be converted at any time before the close of business on the Business Day prior to the Redemption Date;
- (6) that Securities called for redemption and not converted shall be redeemed on the Redemption Date;
- (7) that Holders who want to convert their Securities must satisfy the requirements set forth in the Securities;
- (8) that Securities called for redemption must be surrendered to the Paying Agent (by effecting book-entry transfer of the Securities or delivering Certificated Securities, together with necessary endorsements, as the case may be) to collect the Redemption Price;
- (9) if fewer than all of the outstanding Securities are to be redeemed, the certificate numbers, if any, and principal amounts of the particular Securities to be redeemed;
- (10) if the Company has not made an irrevocable Net Share Settlement Election, whether it has elected to settle its obligation upon conversion in cash or a combination of cash and shares of the Common Stock in lieu of shares of Common Stock only;
- (11) that, unless the Company defaults in making payment of such Redemption Price, Interest, Contingent Interest, if any, and Additional Amounts, if any, the Securities called for redemption shall cease to accrue from and after the Redemption Date; and
- (12) the CUSIP, "ISIN" or other similar number(s), as the case may be, of the Securities being redeemed.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at the Company's expense, *provided* that the Company makes such request at least seven Business Days (or such shorter period as may be satisfactory to the Trustee) prior to the date by which such notice of redemption must be given to Holders in accordance with this Section 3.03.

Section 3.04. *Effect of Notice of Redemption.* Once notice of redemption is given, Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price stated in the notice except for Securities that are converted in accordance with the terms of this Indenture. Failure to give notice or any defect in the notice to any Holder shall not affect the validity of the notice to any other Holder. Upon surrender to the Paying Agent, such Securities shall be paid at the Redemption Price stated in the notice and from and after the Redemption Date (unless the Company shall default in the payment of the Redemption Price) such Securities shall cease to bear Interest, Contingent Interest, if any, and Additional Amounts, if any, and the rights of the Holders therein shall terminate (other than the right to receive the Redemption Price).

Section 3.05. *Deposit of Redemption Price.* Prior to 10:00 a.m. (New York City time) on the Redemption Date, the Company shall deposit with the Paying Agent (or if the Company or a Subsidiary or an Affiliate of either of them is the Paying Agent, shall segregate and hold in trust) money sufficient to pay the Redemption Price of all Securities to be redeemed on that date other than Securities or portions of Securities called for redemption which on or prior thereto have been delivered by the Company to the Trustee for cancellation or have been converted. The Paying Agent shall as promptly as practicable return to the Company any money not required for that purpose because of conversion of Securities pursuant to Article 10. If such money is then held by the Company or a Subsidiary or an Affiliate of either in trust and is not required for such purpose it shall be discharged from such trust.

Section 3.06. *Securities Redeemed in Part.* Upon surrender of a Security that is redeemed in part, the Company shall execute and the Trustee shall, without charge, authenticate and deliver to the Holder a new Security in an authorized

denomination equal in principal amount to the unredeemed portion of the Security surrendered.

Section 3.07. *Repurchase of Securities by the Company at Option of the Holder.*

(a) On each of July 15, 2014, July 15, 2017 and July 15, 2022 (each, a “**Repurchase Date**”), each Holder shall have the option to require the Company to repurchase Securities for which that Holder has properly delivered and not withdrawn a written Repurchase Notice (as described below) at a repurchase price in cash equal to 100% of the principal amount of those Securities, plus accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, on those Securities, to, but not including, such Repurchase Date (the “**Repurchase Price**”); *provided* that if the Repurchase Date is on a date that is after an Interest Record Date and on or prior to the corresponding Interest Payment Date, the Repurchase Price shall be 100% of the principal amount of the Securities repurchased but shall not include accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and Additional Amounts, if any. Instead, the Company shall pay such accrued and unpaid Interest, Contingent Interest, if any, and Additional Amounts, if any, on the Interest Payment Date, to the Holder of Record on the corresponding Interest Record Date. Not later than 20 Business Days prior to any Repurchase Date, the Company shall mail a Company Notice (substantially in the form of Exhibit E) by first class mail to the Trustee and to each Holder (and to beneficial owners if required by applicable law). The Company Notice shall include a form of Repurchase Notice to be completed by a Holder and shall state:

(i) the Repurchase Price, the Repurchase Date and the Conversion Rate;

(ii) the name and address of the Paying Agent and the Conversion Agent;

(iii) that Securities as to which a Repurchase Notice has been given may be converted if they are otherwise convertible only in accordance with Article 10 hereof and the terms of the Securities if the applicable Repurchase Notice has been withdrawn in accordance with the terms of this Indenture;

(iv) that Securities must be surrendered to the Paying Agent (by effecting book-entry transfer of the Securities or delivering Certificated Securities, together with necessary endorsements, as the case may be) to collect payment;

(v) that the Repurchase Price for any security as to which a Repurchase Notice has been given and not withdrawn shall be paid promptly following the later of the Business Day immediately following the Repurchase Date and the time of surrender of such Security as described in clause (iv) above;

(vi) the procedures the Holder must follow to exercise its right to require the Company to repurchase such Holder’s Securities under this Section 3.07 and a brief description of that right;

(vii) briefly, the conversion rights, if any, that exist at the date of the Company Notice or as a result of the Company Notice with respect to the Securities;

(viii) the procedures for withdrawing a Repurchase Notice;

(ix) that, unless the Company defaults in making payment on Securities for which a Repurchase Notice has been submitted, Interest, Contingent Interest, if any, or Additional Amounts, if any, on such Securities shall cease to accrue from and after the Repurchase Date; and

(x) the CUSIP, “ISIN” or other similar number(s), as the case may be, of the Securities.

At the Company’s request, the Trustee shall give such Company Notice to each Holder in the Company’s name and at the Company’s expense; *provided, however*, that, in all cases, the text of such Company Notice shall be prepared by the Company.

(b) A Holder may exercise its rights specified in Section 3.07(a) upon delivery to the Paying Agent of a written notice of repurchase (a “**Repurchase Notice**”) during the period beginning at any time from the opening of business on the date that is 20 Business Days prior to the relevant Repurchase Date until the close of business on such Repurchase Date, stating:

(i) if Certificated Securities have been issued, the certificate number(s) of the Securities which the Holder shall deliver to be repurchased or, if Certificated Securities have not been issued for such Security, the Repurchase Notice shall comply with the appropriate Depository procedures for book-entry transfer,

(ii) the portion of the principal amount of the Security which the Holder shall deliver to be repurchased, which portion must be in principal amounts of \$1,000 or an integral multiple of \$1,000, and

(iii) that such Security shall be repurchased by the Company as of the Repurchase Date pursuant to the terms and conditions specified in Section 6 of the Securities and in this Indenture.

The delivery of such Security (together with all necessary endorsements) to the Paying Agent at any time after delivery of the Repurchase Notice at the offices of the Paying Agent shall be a condition to receipt by the Holder of the Repurchase Price therefor; *provided, however*, that such Repurchase Price shall be so paid pursuant to this Section 3.07 only if the Security (together with all necessary endorsements) so delivered to the Paying Agent shall conform in all respects to the description thereof in the related Repurchase Notice.

The Company shall repurchase from the Holder thereof, pursuant to this Section 3.07, 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 Indenture that apply to the repurchase of all of a Security also apply to the repurchase of such portion of such Security.

Any repurchase by the Company contemplated pursuant to the provisions of this Section 3.07 shall be consummated by the delivery of the consideration to be received by the Holder promptly following the later of the Business Day immediately following the Repurchase Date and the time of delivery of the Security (together with all necessary endorsements or notifications of book-entry transfer).

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Repurchase Notice contemplated by this Section 3.07 shall have the right to withdraw such Repurchase Notice by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 3.09 at any time prior to the close of business on the Repurchase Date.

The Paying Agent shall promptly notify the Company of the receipt by it of any Repurchase Notice or written notice of withdrawal thereof.

Section 3.08. Repurchase of Securities at Option of the Holder Upon a Fundamental Change

(a) If a Fundamental Change occurs, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Securities not previously called for redemption by the Company, or any portion thereof that is equal to or an integral multiple of \$1,000 principal amount, at a repurchase price equal to 100% of the principal amount of those Securities, plus accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, on those Securities (the "**Fundamental Change Repurchase Price**") to, but not including, the date that is specified in the notice of a Fundamental Change pursuant to Section 3.08(b) (which shall be no less than 15 and no more than 40 days following the date of such notice) (the "**Fundamental Change Repurchase Date**"), subject to satisfaction by or on behalf of the Holder of the requirements set forth in Section 3.08(c); *provided* that if the Fundamental Change Repurchase Date is on a date that is after an Interest Record Date and on or prior to the corresponding Interest Payment Date, the Fundamental Change Repurchase Price shall be 100% of the principal amount of the Securities repurchased but shall not include accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and Additional Amounts, if any. Instead, the Company shall pay such Interest, Contingent Interest, if any, and Additional Amounts, if any, on the Interest Payment Date to the Holder of Record on the corresponding Interest Record Date.

(b) No later than 15 days after the occurrence of a Fundamental Change (which, for avoidance of doubt, may be a date prior to such occurrence), the Company shall mail a Company Notice of the Fundamental Change (substantially in the form of Exhibit F) by first class mail to the Trustee and to each Holder (and to beneficial owners if required by applicable law). The Company Notice shall include a form of Fundamental Change Repurchase Notice to be completed by the Holder and shall state:

(i) the occurrence of a Fundamental Change and the date of such Fundamental Change;

(ii) the date by which the Fundamental Change Repurchase Notice pursuant to this Section 3.08 must be delivered to the Paying Agent in order for a Holder to exercise the repurchase rights;

(iii) the Fundamental Change Repurchase Date;

(iv) the Fundamental Change Repurchase Price;

(v) the name and address of the Paying Agent and the Conversion Agent;

(vi) the Conversion Rate;

(vii) that the Securities as to which a Fundamental Change Repurchase Notice has been given may be converted if they are otherwise convertible pursuant to Article 10 hereof only if the Fundamental Change Repurchase Notice has been withdrawn in accordance with the terms of this Indenture;

(viii) that the Securities must be surrendered to the Paying Agent (by effecting book-entry transfer of the Securities or delivering Certificated Securities, together with necessary endorsements, as the case may be) to collect payment;

(ix) that the Fundamental Change Repurchase Price for any Security as to which a Fundamental Change Repurchase Notice has been duly given and not withdrawn shall be paid promptly following the later of the Business Day immediately following the Fundamental Change Repurchase Date and the time of surrender of such Security as described in clause (viii);

(x) briefly, the procedures the Holder must follow to exercise rights under this Section 3.08;

(xi) briefly, the conversion rights, if any, that exist on the Securities at the date of the Company Notice and as a result of such Fundamental Change;

(xii) the procedures for withdrawing a Fundamental Change Repurchase Notice;

(xiii) that, unless the Company defaults in making payment of such Fundamental Change Repurchase Price on

Securities for which a Fundamental Change Repurchase Notice is submitted, Interest, Contingent Interest and Additional Amounts, if any, on such Securities shall cease to accrue from and after the Fundamental Change Repurchase Date; and

(xiv) the CUSIP, "ISIN" or other similar number(s), as the case may be, of the Securities.

At the Company's request, the Trustee shall give such Company Notice to each Holder in the Company's name and at the Company's expense; *provided, however*, that, in all cases, the text of such Company Notice shall be prepared by the Company.

(c) A Holder may exercise its rights specified in this Section 3.08 upon delivery of a written notice of repurchase (a "**Fundamental Change Repurchase Notice**") to the Paying Agent at any time on or prior to the close of business on the Fundamental Change Repurchase Date, stating:

(i) if Certificated Securities have been issued, the certificate number(s) of the Securities which the Holder shall deliver to be repurchased or, if Certificated Securities have not been issued, the Fundamental Change Repurchase Notice shall comply with the appropriate Depository procedures for book-entry transfer;

(ii) the portion of the principal amount of the Security which the Holder shall deliver to be repurchased, which portion must be \$1,000 or an integral multiple of \$1,000; and

(iii) that such Security shall be repurchased pursuant to the terms and conditions specified in Section 6 of the Securities and in this Indenture.

The delivery of such Security (together with all necessary endorsements) to the Paying Agent with the Fundamental Change Repurchase Notice at the offices of the Paying Agent shall be a condition to the receipt by the Holder of the Fundamental Change Repurchase Price therefor; *provided, however*, that such Fundamental Change Repurchase Price shall be so paid pursuant to this Section 3.08 only if the Security (together with all necessary endorsements) so delivered to the Paying Agent shall conform in all respects to the description thereof set forth in the related Fundamental Change Repurchase Notice.

The Company shall repurchase from the Holder thereof, pursuant to this Section 3.08, 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 Indenture that apply to the repurchase of all of a Security also apply to the repurchase of such portion of such Security.

Any repurchase by the Company contemplated pursuant to the provisions of this Section 3.08 shall be consummated by the delivery of the Fundamental Change Repurchase Price promptly following the later of the Business Day following the Fundamental Change Repurchase Date or the time of delivery of such Security (together with all necessary endorsements or notifications of book-entry transfer).

Notwithstanding the foregoing, Holders shall not have the right to require us to repurchase the Securities upon a Change of Control described in clause (3) of the definition thereof if 90% or more of the consideration in the transaction or transactions constituting such Change of Control consists of shares of common stock traded or to be traded immediately following such Change of Control on a U.S. national securities exchange, and, as a result of such transaction or transactions, the Securities become convertible into such common stock (and any rights attached thereto).

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 3.08(c) shall have the right to withdraw such Fundamental Change Repurchase Notice by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 3.09 at any time prior to the close of business on the Fundamental Change Repurchase Date.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Repurchase Notice or written withdrawal thereof.

Section 3.09. *Effect of Repurchase Notice or Fundamental Change Repurchase Notice*

(a) Upon receipt by the Paying Agent of the Repurchase Notice or Fundamental Change Repurchase Notice specified in Section 3.07 or Section 3.08, as applicable, the Holder of the Security in respect of which such Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, was given shall (unless such Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, is withdrawn as specified in Section 3.09(b)) thereafter be entitled solely to receive the Repurchase Price or Fundamental Change Repurchase Price, as the case may be, with respect to such Security whether or not the Security is, in fact, properly delivered. Such Repurchase Price or Fundamental Change Repurchase Price shall be paid to such Holder, subject to receipt of funds and/or securities by the Paying Agent, promptly following the later of (x) the Business Day following the Repurchase Date or the Fundamental Change Repurchase Date, as the case may be, with respect to such Security (*provided* the conditions in Section 3.07 or Section 3.08, as applicable, have been satisfied) and (y) the time of delivery of such Security to the Paying Agent by the Holder thereof in the manner required by Section 3.07 or Section 3.08, as applicable. Securities in respect of which a Repurchase Notice or Fundamental Change Repurchase Notice has been given by the Holder thereof may not be converted pursuant to and to the extent permitted by Article 10 hereof on or after the date of the delivery of such Repurchase Notice or Fundamental Change Repurchase Notice unless such Repurchase Notice or Fundamental Change Repurchase Notice has first been validly withdrawn as specified in Section 3.09(b). If the Paying Agent holds money sufficient to pay the Repurchase Price or Fundamental Change Repurchase Price, as the case may be, of the Securities which Holders have elected to require the Company to repurchase on the Business Day following the Repurchase Date or Fundamental Change Repurchase Date, as the case may be, in accordance with the terms of this Indenture, then, immediately after the

Repurchase Date or Fundamental Change Repurchase Date, as the case may be, such Securities will cease to be outstanding and Interest, Contingent Interest, if any, and Additional Amounts, if any, on the Securities will cease to accrue, whether or not the Securities are transferred by book-entry or delivered to the Paying Agent. Thereafter, all other rights of the Holders shall terminate, other than the right to receive the Repurchase Price or Fundamental Change Repurchase Price, as the case may be, upon book-entry transfer of the Securities or delivery of the Securities.

(b) A Repurchase Notice or Fundamental Change Repurchase Notice may be withdrawn by means of a written notice of withdrawal delivered to the office of the Paying Agent in accordance with the Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, at any time (i) in the case of the Repurchase Notice, if received by the Paying Agent prior to the close of business on the Repurchase Date or (ii) in the case of the Fundamental Change Repurchase Notice, if received by the Paying Agent prior to the close of business on the Fundamental Change Repurchase Date, as the case may be, specifying:

(1) the principal amount, if any, of such Security which remains subject to the original Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, and which has been or shall be delivered for purchase by the Company,

(2) if Certificated Securities have been issued, the certificate number, if any, of the Security in respect of which such notice of withdrawal is being submitted (or, if Certificated Securities have not been issued, that such withdrawal notice shall comply with the appropriate Depository procedures), and

(3) the principal amount of the Security with respect to which such notice of withdrawal is being submitted.

Section 3.10. *Deposit of Repurchase Price or Fundamental Change Repurchase Price* Prior to 10:00 a.m. (local time in The City of New York) on the Business Day following the Repurchase Date or the Fundamental Change Repurchase Date, as the case may be, the Company shall deposit with the Paying Agent (or, if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.04) an amount of cash in immediately available funds sufficient to pay the aggregate Repurchase Price or Fundamental Change Repurchase Price, as the case may be, of all the Securities or portions thereof which are to be purchased as of the Repurchase Date or Fundamental Change Repurchase Date, as the case may be.

Section 3.11. *Securities Purchased in Part*. Any Certificated Security which is to be purchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Security, without service charge, a new Security or Securities, of any authorized denomination as 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 which is not purchased.

Section 3.12. *Covenant to Comply with Securities Laws upon Purchase of Securities* When complying with the provisions of Section 3.07 or Section 3.08 hereof (*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 (i) comply with Rule 13e-4 and Rule 14e-1 (or any successor provision) and any other applicable tender offer rules under the Exchange Act, (ii) file the related Schedule TO (or any successor schedule, form or report) under the Exchange Act, and (iii) otherwise comply with all Federal and state securities laws so as to permit the rights and obligations under Sections Section 3.07 and Section 3.08 to be exercised in the time and in the manner specified in Sections Section 3.07 and Section 3.08.

Section 3.13. *Repayment to the Company*. The Trustee and the Paying Agent shall return to the Company any cash that remains unclaimed as provided in Section 18 of the Securities, together with interest, if any, thereon (subject to the provisions of Section 7.01(f)), held by them for the payment of the Repurchase Price or Fundamental Change Repurchase Price, as the case may be.

ARTICLE IV

Covenants

Section 4.01. *Payment of Securities*. The Company shall make all payments in respect of the Securities on the dates and in the manner provided in the Securities or pursuant to this Indenture. Any amounts of cash in immediately available funds or shares of Common Stock to be given to the Trustee or Paying Agent shall be deposited with the Trustee or Paying Agent by 10:00 a.m., New York City time, on the applicable date due by the Company. The principal amount of, and Interest, Contingent Interest, if any, and Additional Amounts, if any, on the Securities, and the Redemption Price, Repurchase Price and the Fundamental Change Repurchase Price shall be considered paid on the applicable date due if on such date (which, in the case of a Repurchase Price or a Fundamental Change Repurchase Price, shall be on the Business Day immediately following the applicable Repurchase Date or Fundamental Change Repurchase Date, as the case may be) the Trustee or the Paying Agent holds, in accordance with this Indenture, cash or securities, if permitted hereunder, sufficient to pay all such amounts then due.

Section 4.02. *SEC and Other Reports*. The Company shall deliver to the Trustee, within 15 days after it is required to file such annual and quarterly reports, information, documents and other reports with the SEC, copies of such annual report and

of the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act; *provided* that any such documents filed with the SEC via the EDGAR system will be deemed provided to the Trustee as of the time such documents are filed via EDGAR. The Company shall also comply with the other provisions of TIA Section 314(a). Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely conclusively on Officer's Certificates).

Section 4.03. *Compliance Certificate*. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company (beginning with the fiscal year ending December 31, 2007) an Officer's Certificate, stating whether or not to the knowledge of the signer thereof, the Company is in default in the performance and observance of any of the terms, provisions and conditions of 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 such Officer may have knowledge and otherwise comply with Section 314(a)(4) of the TIA.

The Company shall, so long as any of the Securities are outstanding, deliver to the Trustee, promptly and in any event within 30 days of any executive officer of the Company becoming aware of any Default or Event of Default in respect of the performance or observance of any covenant or agreement contained in this Indenture or the Securities, an Officer's Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.04. *Further Instruments and Acts*. The Company shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

Section 4.05. *Maintenance of Office or Agency*. The Company shall maintain in the United States an office or agency of the Trustee, Registrar, Paying Agent and Conversion Agent where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer, exchange, purchase, redemption 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 initially designates the Corporate Trust Office of the Trustee as 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 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 Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the United States for such purposes.

Section 4.06. *Delivery of Certain Information*. At any time when the Company is not subject to Section 13 or 15(d) of the Exchange Act, upon the request of a Holder or any beneficial owner of Securities or Holder or beneficial owner of shares of Common Stock issued upon conversion thereof, the Company shall promptly furnish or cause to be furnished Rule 144A Information (as defined below) to such Holder or any beneficial owner of Securities or Holder or beneficial owner of shares of Common Stock, or to a securities analyst or to a prospective purchaser of any such security designated by any such Holder, as the case may be, to the extent required to permit compliance by such Holder or beneficial owner with Rule 144A under the Securities Act in connection with the resale of any such security. "**Rule 144A Information**" shall be such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act. Whether a person is a beneficial owner shall be determined by the Company to the Company's reasonable satisfaction.

Section 4.07. *Additional Amounts Notice*. In the event that the Company is required to pay Additional Amounts to Holders of Securities pursuant to the Registration Rights Agreement or Section 6.03 hereof, the Company shall provide written notice ("**Additional Amounts Notice**") to the Trustee of its obligation to pay Additional Amounts prior to the required payment date for the Additional Amounts, and the Additional Amounts Notice shall set forth the amount of Additional Amounts to be paid by the Company on such payment date. The Trustee shall not at any time be under any duty to any Holder of Securities to determine the Additional Amounts, or with respect to the nature, extent or calculation of the amount of Additional Amounts when made, or with respect to the method employed in such calculation of the Additional Amounts.

ARTICLE V

Successor Person

Section 5.01. *When Company May Merge or Transfer Assets*. The Company shall not consolidate with or merge with or into any other Person or convey, transfer, sell, lease or otherwise dispose of all or substantially all of its properties and assets to any Person, unless:

(a) the resulting, surviving or transferee person (the "**successor Person**") and, if any resulting Conversion Obligation relates to Public Acquirer Common Stock that is not issued by such successor Person in a transaction for which the Company has made the election set forth in Section 10.01(d), such public acquirer, will be a corporation organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, or Bahamas, Bermuda, British Virgin Islands, Cayman

Islands, Channel Islands, Gibraltar, Isle of Man, Labuan, Liechtenstein, Luxembourg, Netherlands Antilles or U.S. Virgin Islands, and the successor Person (if not the Company) and the public acquirer, as applicable, will expressly assume, by indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, fully and unconditionally all of the obligations of the Company under the Securities and this Indenture;

(b) immediately after giving effect to such transaction, no Default shall have occurred and be continuing; and

(c) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such transaction and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with this Article 5 and that all conditions precedent herein provided relating to such transaction have been satisfied.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise) of the properties and assets of one or more Subsidiaries (other than to the Company or another Subsidiary), which, if such assets and the assets of each other Subsidiary of the Company were owned by the Company, would constitute all or substantially all of the properties and assets of the Company, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

If, following a transaction to which this Section 5.01 is applicable, the successor Person is organized other than under the laws of the United States of America, any State thereof or the District of Columbia, all payments made by the successor Person under, or with respect to, the Securities will be made free and clear of, and without withholding or deduction for or on account of, any present or future tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and other liabilities related thereto (collectively referred to for purposes of this Section 5.01 as "**Taxes**")), imposed or levied by or on behalf of the jurisdiction of organization of the successor Person or any political subdivision thereof or taxing authority therein, unless the successor Person is required to withhold or deduct such Taxes by law or by the official interpretation or administration thereof. If the successor Person is so required to withhold or deduct any amount for, or on account of, such Taxes from any payment made under or with respect to the Securities, the successor Person will pay such additional amounts as may be necessary so that the net amount received by each Holder after such withholding or deduction will not be less than the amount such Holder would have received if such Taxes had not been required to be withheld or deducted. The foregoing provisions will survive any termination or discharge of this Indenture.

The successor Person formed by such consolidation or into which the Company is merged or the successor Person to which such conveyance, transfer, sale, lease or other disposition 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 had been named as the Company herein; and thereafter, except in the case of a lease of all or substantially all of the properties and assets of the Company and with respect to obligations the Company may have under a supplemental indenture, the Company shall be discharged from all obligations and covenants under this Indenture and the Securities. Subject to Section 9.06, the Company, the Trustee and the successor Person shall enter into a supplemental indenture to evidence the succession and substitution of such successor Person and such discharge and release of the Company; *provided, however*, that in the case of a lease of all or substantially all of the properties and assets of the Company, the Company shall not be released from the obligations to pay the principal amount of, and Interest, Contingent Interest or Additional Amounts, if any, on the Securities.

ARTICLE VI

Defaults and Remedies

Section 6.01. *Events of Default*. So long as any Securities are outstanding, each of the following shall be an "**Event of Default**":

(a) following the exercise by the Holder of the right to convert a Security in accordance with Article 10 hereof, the Company fails to comply with its obligations to deliver the applicable Conversion Settlement Distribution on the applicable Conversion Settlement Date and such failure continues for a period of five Business Days or more;

(b) the Company defaults in its obligation to provide timely notice of a Fundamental Change to the Trustee and each Holder as required under Section 3.08(b);

(c) the Company defaults in its obligation to repurchase any Security, or any portion thereof, tendered for repurchase pursuant to and in accordance with Section 3.07 or 3.08;

(d) the Company defaults in the payment of the principal amount of any Security when due at maturity, redemption, upon repurchase or otherwise (including, without limitation, upon the exercise by a Holder of its right to require the Company to repurchase such Securities pursuant to and in accordance with Section 3.07 or Section 3.08 hereof);

(e) the Company defaults in the payment of any Interest, Contingent Interest or Additional Amounts when due and payable, and continuance of such default for a period of 30 days;

(f) the Company fails to perform or observe any covenant or agreement in the Securities or this Indenture (other than those referred to in clause (a) through clause (e) above) and such failure continues for 90 days after receipt by the Company of a Notice of Default (as defined below);

(g) a failure to pay when due at maturity (which failure continues after any applicable grace or notice period), or a default, event of default or other similar condition or event (however described) that results in the acceleration of maturity of, any

indebtedness for borrowed money of the Company or any Subsidiary (other than indebtedness that is non-recourse to the Company or any Subsidiary) in an aggregate principal amount of \$20 million or more, unless the acceleration is rescinded, stayed or annulled within 30 days after receipt by the Company of a Notice of Default; *provided* that, for so long as Electric Trading Limited is a Subsidiary of the Company and the Company holds directly or indirectly not more than 50% of the equity interests in Electric Trading Limited (or any subsidiary of Electric Trading Limited), no default under or acceleration of indebtedness incurred by Electric Trading Limited and its subsidiaries under the Senior Sterling Term and Revolving Facilities Agreement between Electric Trading Limited, Lloyds TSB Bank plc and the other parties thereto, dated August 27, 2004, the Supplemental Agreement between Electricland Limited and Lloyds TSB Bank plc, dated September 19, 2006, or the Mezzanine Facility Agreement between Electric Trading Limited, Lloyds TSB Bank plc and the other parties thereto, dated August 27, 2004, shall give rise to an Event of Default pursuant to this Section 6.01(g);

(h) one or more judgments for the payment of money in an aggregate amount in excess of \$20 million (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage) shall be rendered against the Company or any of its Subsidiaries and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed;

(i) the entry by a court having jurisdiction in the premise of (i) a decree or order for relief in respect of the Company or any of Significant Subsidiary, in an involuntary case or proceeding under any applicable bankruptcy, insolvency, reorganization or other similar law (any “**Bankruptcy Law**”) or (ii) a decree or order adjudging the Company or any Significant Subsidiary a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company or any Significant Subsidiary, under any applicable Bankruptcy Law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any Significant Subsidiary or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order described in clause (i) or (ii) above is unstayed and in effect for a period of 60 consecutive days; and

(j) (i) the commencement by the Company or any Significant Subsidiary of a voluntary case or proceeding under any applicable Bankruptcy Law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, (ii) the consent by the Company or any Significant Subsidiary to the entry of a decree or order for relief in respect of the Company or any Significant Subsidiary in an involuntary case or proceeding under any applicable Bankruptcy Law or to the commencement of any bankruptcy or insolvency case or proceeding against the Company or any Significant Subsidiary, (iii) the filing by the Company or any Significant Subsidiary of a petition or answer or consent seeking reorganization or relief under any applicable Bankruptcy Law, (iv) the consent by the Company or any Significant Subsidiary to the filing of such petition or to the appointment of or the taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any Significant Subsidiary of any substantial part of its property or (v) the making by the Company or any Significant Subsidiary of a general assignment for the benefit of creditors, or the admission by the Company or any Significant Subsidiary, in writing of its inability to pay its debts generally as they become due.

The foregoing shall constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

For the avoidance of doubt, clauses (f) and (g) above shall not constitute an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in aggregate principal amount of the Securities at the time outstanding notify the Company and the Trustee, of such default and the Company does not cure such default (and such default is not waived) within the time specified in clauses (f) and (g) above after actual receipt of such notice. Any such notice must specify the default, demand that it be remedied and state that such notice is a “**Notice of Default.**”

Section 6.02. *Acceleration.* If an Event of Default (other than an Event of Default specified in Section 6.01(i) or Section 6.01(j)) occurs and is continuing (the Event of Default not having been cured or waived), the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Securities at the time outstanding by notice to the Company and the Trustee, may declare the principal amount of the Securities and any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, on all the Securities to be immediately due and payable. Upon such a declaration, such accelerated amount shall be due and payable immediately. If an Event of Default specified in Section 6.01(i) or Section 6.01(j) occurs and is continuing, the principal amount of the Securities and any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, on all the Securities shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Securityholders. The Holders of a majority in aggregate principal amount of the Securities at the time outstanding, by notice to the Trustee (and without notice to any other Securityholder) may rescind an acceleration and its consequences, and thereby waive the Events of Default giving rise to such acceleration, if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of the principal amount of the Securities and any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, that have become due solely as a result of acceleration. No such rescission shall affect any subsequent Event of Default or impair any right consequent thereto.

Section 6.03. *Reporting Defaults.* (a) Notwithstanding anything to the contrary in this Article 6 (but subject to Section 6.03(b)), the Company may elect, at its option (which option shall be exercised by notice to the Trustee and to the Holders prior to the occurrence of the applicable Event of Default given (i) by issuing a press release or providing such information on the Company’s Website and (ii) in respect of Global Securities, through the Depository in accordance with the

procedures thereof), that the sole remedy for an Event of Default arising under Section 4.02 (including any failure to comply with TIA Section 314(a)(1)) be, for a period of 365 days immediately following the occurrence of such Event of Default, the right to receive Additional Amounts on the Securities at an annual rate equal to 0.50% of the principal amount of the Securities. Such Additional Amounts shall be in addition to any Additional Amounts that may accrue pursuant to the Registration Rights Agreement, and shall be payable in the same manner as such Additional Amounts accruing pursuant to the Registration Rights Agreement. Additional Amounts accruing pursuant to this Section 6.03 shall accrue on all outstanding Securities from and including the date on which the applicable Event of Default arising under Section 4.02 first occurs to but excluding the 365th day thereafter (or such earlier date on which such Event of Default shall have been cured or waived). On such 365th day (or earlier day, if such Event of Default is cured or waived prior to such 365th day), such Additional Amounts shall cease to accrue and such Event of Default shall thereafter be subject to the remedies otherwise applicable to Events of Default as provided in this Indenture (including acceleration pursuant to Section 6.02) if such Event of Default is continuing.

(b) Section 6.03(a) shall cease to be applicable (other than the requirement to pay any Additional Amounts theretofore accrued pursuant to such Section) in the event and as of the date that the facts giving rise to the Event of Default under Section 4.02 shall also give rise to a default under, and result in the acceleration of, other indebtedness for borrowed money of the Company or its Subsidiaries (other than indebtedness that is non-recourse to the Company or any of its Subsidiaries), in which case the Event of Default under Section 4.02 shall then be subject to the remedies otherwise applicable to Events of Default as provided in this Indenture (including acceleration pursuant to Section 6.02).

Section 6.04. *Other Remedies.* If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of the principal amount of the Securities and any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, 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 the Trustee does not possess any of the Securities or does not produce any of the Securities 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.

Section 6.05. *Waiver of Past Defaults.* Subject to Sections 6.08 and 9.02 hereof, the Holders of a majority in aggregate principal amount of the Securities at the time outstanding, by notice to the Trustee (and without notice to any other Securityholder), may waive any existing or past Default and its consequences except (1) an Event of Default described in clauses (a), (c), (d), and (e) of Section 6.01 or (2) an Event of Default in respect of a provision that under Section 9.02 cannot be amended without the consent of each Securityholder affected. When a 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 6.05 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 6.06. *Control by Majority.* The Holders of a majority in aggregate principal amount of the Securities at the time outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of other Securityholders or would involve the Trustee in personal liability; *provided* that the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction or this Agreement. Prior to taking any action under this Indenture, the Trustee may require indemnity satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking such action. This Section 6.06 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 6.07. *Limitation on Suits.* A Securityholder may not pursue any remedy with respect to this Indenture or the Securities, except in case of a Default described under clause (a) of Section 6.01 or a Default due to the non-payment of the principal amount of the Securities, any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, or any accrued and unpaid Additional Amounts, if any, unless:

- (1) the Holder gives to the Trustee written notice stating that a Default is continuing;
- (2) the Holders of at least 25% in aggregate principal amount of the Securities at the time outstanding make a written request to the Trustee to pursue the remedy;
- (3) the Trustee does not comply with the request within 60 days after receipt of such notice and offer of security or indemnity reasonably satisfactory to it; and
- (4) the Holders of a majority in aggregate principal amount of the Securities at the time outstanding do not give the Trustee a direction inconsistent with the request during such 60-day period.

A Securityholder may not use this Indenture to prejudice the rights of any other Securityholder or to obtain a preference or priority over any other Securityholder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Securityholders).

Section 6.08. *Rights of Holders to Receive Payment and Convert* Notwithstanding any other provision of this

Indenture, the right of any Holder to receive payment of the principal amount of the Securities and any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, in respect of the Securities held by such Holder, on or after the respective due dates expressed in the Securities or any Redemption Date, Repurchase Date or Fundamental Change Repurchase Date, and to convert the Securities in accordance with Article 10, or to bring suit for the enforcement of any such payment or the right to convert on or after such respective dates, shall not be impaired or affected adversely without the consent of such Holder.

Section 6.09. *Collection Suit by Trustee.* If an Event of Default described in Section 6.01 clauses (a) through (e) (other than (b)) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount owing with respect to the Securities and the amounts provided for in Section 7.07.

Section 6.10. *Trustee May File Proofs of Claim.* In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal amount of the Securities and any accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, in respect of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of any such amount) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole principal amount of the Securities and any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel or any other amounts due the Trustee under Section 7.07) and of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official 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 the Trustee any amount due 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 7.07.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder 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.

The Company agrees not to object to the Trustee participating as a member of any official committee of creditors of the Company as it deems necessary or advisable.

Section 6.11. *Priorities.* Any money collected by the Trustee pursuant to this Article 6, 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 7.07;

SECOND: to Securityholders for amounts due and unpaid on the Securities for the principal amount of the Securities and any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, 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

THIRD: the balance, if any, to the Company.

The Trustee may fix a record date and payment date for any payment to Securityholders pursuant to this Section 6.11. At least 15 days before such record date, the Trustee shall mail to each Securityholder and the Company a notice that states the record date, the payment date and the amount to be paid.

Section 6.12. *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 (other than the Trustee) 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 6.12 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.08 or a suit by Holders of more than 10% in aggregate principal amount of the Securities at the time outstanding. This Section 6.12 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 6.13. *Waiver of Stay, Extension or Usury Laws.* The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury or other law wherever enacted, now or at any time hereafter in force, which would prohibit or

forgive the Company from paying all or any portion of the principal amount of the Securities and any accrued and unpaid Interest, any accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, on Securities, as contemplated herein, or which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE VII

Trustee

Section 7.01. *Duties of Trustee.*

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

(b) Except during the continuance of an Event of Default:

- (1) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied duties shall be read into this Indenture against the Trustee; and
- (2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture, but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine such certificates and opinions to determine whether or not they conform to the requirements of this Indenture, but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

- (1) this Section 7.01(c) does not limit the effect of Sections 7.01(b) and 7.01(g);
- (2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and
- (3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.06.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to this Section 7.01.

(e) The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any loss, liability or expense.

(f) Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee (acting in any capacity hereunder) shall be under no liability for interest on any money received by it hereunder unless otherwise agreed in writing with the Company (*provided* that any interest earned on money held by the Trustee in trust hereunder shall be the property of the Company).

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

Section 7.02. *Rights of Trustee.* Subject to the provisions of Section 7.01:

(a) the Trustee may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon an Officer's Certificate;

(c) 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;

(d) the Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith which it believes to be authorized or within its rights or powers conferred under this Indenture;

(e) the Trustee may consult with counsel selected by it and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

(f) 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 Holders, pursuant to the provisions of this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which may be incurred therein or thereby;

(g) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(h) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to, during regular business hours, 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;

(i) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the offices of the Trustee specified in Section 13.02 hereof, and such notice references the Securities and this Indenture;

(j) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian for the Depository and other Person employed to act hereunder;

(k) the Trustee may request that the Company deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded; and

(l) the permissive rights of the Trustee to take certain actions under this Indenture shall not be construed as a duty unless so specified herein.

(m) to the extent permitted by applicable law, in no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 7.03. *Individual Rights of Trustee.* The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, Conversion Agent or co-registrar may do the same with like rights. However, the Trustee must comply with Section 7.10 and Section 7.11.

Section 7.04. *Trustee's Disclaimer.* The Trustee makes no representation as to, and shall have no responsibility for, the validity or adequacy of this Indenture or the Securities, it shall not be accountable for the Company's use or application by the Company of the Securities or of the proceeds from the Securities, it shall not be responsible for the correctness of any statement in the registration statement for the Securities under the Securities Act or in any offering document for the Securities, the Indenture or the Securities (other than its certificate of authentication), or the determination as to which beneficial owners are entitled to receive any notices hereunder.

Section 7.05. *Notice of Defaults.* If a Default or Event of Default occurs and if it is known to the Trustee, the Trustee shall give to each Securityholder notice of the Default or Event of Default within 90 days after it occurs, or, if later, within 15 days after it is known to the Trustee, unless such Default or Event of Default shall have been cured or waived before the giving of such notice. Notwithstanding the preceding sentence, except in the case of a Default or Event of Default described in clauses (d) and (e) of Section 6.01, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interest of the Securityholders. The Trustee shall not be deemed to have knowledge of a Default or Event of Default unless a Responsible Officer of the Trustee has received written notice of such Default or Event of Default, which notice specifically references this Indenture and the Securities.

Section 7.06. *Reports by Trustee to Holders.* Within 60 days after each July 15 beginning with July 15, 2008, the Trustee shall mail to each Securityholder a brief report dated as of such July 15 that complies with TIA Section 313(a), if required by such Section 313(a). The Trustee also shall comply with TIA Section 313(b). Any reports required by this Section 7.06 shall be transmitted by mail to Securityholders pursuant to TIA Section 313(c). A copy of each report at the time of

its mailing to Securityholders shall be filed with the SEC and each securities exchange, if any, on which the Securities are listed. The Company agrees to notify the Trustee promptly in writing whenever the Securities become listed on any securities exchange and of any delisting thereof.

Section 7.07. *Compensation and Indemnity.* The Company agrees:

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

(b) to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the reasonable expenses, advances and disbursements of its agents and counsel), except any such expense, disbursement or advance as shall have been caused by its own negligence, willful misconduct or bad faith; and

(c) to indemnify the Trustee or any predecessor Trustee and their agents for, and to hold them harmless against, any loss, damage, claim, liability, cost or expense (including reasonable attorney's fees and expenses, and taxes (other than taxes based upon, measured by or determined by the income of the Trustee)) incurred without negligence, willful misconduct or bad faith on its part, 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 (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder.

To secure the Company's payment obligations in this Section 7.07, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay the principal amount of, or the Redemption Price, Repurchase Price, Fundamental Change Repurchase Price, Interest, Contingent Interest or Additional Amounts, if any, as the case may be, on particular Securities.

The Company's payment, reimbursement and indemnity obligations pursuant to this Section 7.07 shall survive the satisfaction and discharge of this Indenture, the resignation or removal of the Trustee and the termination of this Indenture for any reason. In addition to and without prejudice to its rights hereunder, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 6.01(i) or Section 6.01(j), the expenses, including the reasonable charges and expenses of its counsel and the compensation for services payable pursuant to Section 7.07(a), are intended to constitute expenses of administration under any applicable federal or state bankruptcy, insolvency or similar laws.

For the purposes of this Section 7.07, the "Trustee" shall include any predecessor Trustee; *provided, however*, that except as may be otherwise agreed among the parties, the negligence, willful misconduct or bad faith of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

Section 7.08. *Replacement of Trustee.* The Trustee may resign at any time by so notifying the Company; *provided, however*, no such resignation shall be effective until a successor Trustee has accepted its appointment pursuant to this Section 7.08. The Holders of a majority in aggregate principal amount of the Securities at the time outstanding may remove the Trustee by so notifying the Trustee and the Company in writing. The Company shall remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;
- (2) the Trustee is adjudged bankrupt or insolvent;
- (3) a receiver or public officer takes charge of the Trustee or its property; or
- (4) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint, by resolution of its Board of Directors, a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company satisfactory in form and substance to the retiring Trustee and the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Securityholders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.07.

If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of a majority in aggregate principal amount of the Securities at the time outstanding may petition any court of competent jurisdiction at the expense of the Company for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 7.10, any Securityholder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

So long as no Default or Event of Default shall have occurred and be continuing, if the Company shall have delivered to the Trustee (i) a Board Resolution appointing a successor Trustee, effective as of a date at least 30 days after delivery of such Resolution to the Trustee, and (ii) an instrument of acceptance of such appointment, effective as of such date, by such successor

Trustee in accordance with this Indenture, the Trustee shall be deemed to have resigned as contemplated in this Section 7.08, the successor Trustee shall be deemed to have been accepted as contemplated in this Indenture, all as of such date, and all other provisions of this Indenture shall be applicable to such resignation, appointment and acceptance.

Section 7.09. *Successor Trustee by Merger.* If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another Person, the resulting, surviving or transferee Person without any further act shall be the successor Trustee, subject to Sections 7.10 and 7.11.

Section 7.10. *Eligibility; Disqualification.* The Trustee shall at all times satisfy the requirements of TIA Sections 310(a)(1) and 310(b). The Trustee (or any parent holding company) shall have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition. Nothing herein contained shall prevent the Trustee from filing with the Commission the application referred to in the penultimate paragraph of TIA Section 310(b).

Section 7.11. *Preferential Collection of Claims Against Company.* The Trustee shall comply with TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

ARTICLE VIII

Discharge of Indenture

Section 8.01. *Discharge of Liability on Securities.* When (i) the Company causes to be delivered to the Trustee all outstanding Securities (other than Securities replaced or repaid pursuant to Section 2.07) for cancellation or (ii) all outstanding Securities have become due and payable, whether at Stated Maturity, or any Repurchase Date or Redemption Date, or upon conversion or otherwise, and the Company deposits with the Trustee or delivers to the Holders, as applicable, after the Securities have become due and payable, cash or shares of Common Stock (in respect of conversions) sufficient to pay all amounts in respect of the outstanding Securities, and if in either case the Company pays all other sums payable hereunder by the Company, then this Indenture shall, subject to Section 7.07, cease to be of further effect. The Trustee shall join in the execution of a document prepared by the Company acknowledging satisfaction and discharge of this Indenture on demand of the Company accompanied by an Officer's Certificate and Opinion of Counsel and at the cost and expense of the Company.

Section 8.02. *Repayment to the Company.* The Trustee and the Paying Agent shall return to the Company upon written request any money or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years; *provided* that the Trustee and Paying Agent shall have the right to withhold paying such money or securities back to the Company until they publish (in no event later than five days after the Company requests repayment) in a newspaper of general circulation in the City of New York, or mail to each registered Holder, a notice stating that such money or securities shall be paid back to the Company if unclaimed after a date no less than 30 days from the date of such publication or mailing. After return to the Company, Holders entitled to the money or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person and the Trustee and the Paying Agent shall have no further liability to the Securityholders with respect to such money or securities for that period commencing after the return thereof.

Section 8.03. *Application of Trust Money.* The Trustee shall hold in trust all money and other consideration deposited with it pursuant to Section 8.01 and shall apply such deposited money and other consideration through the Paying Agent and in accordance with this Indenture to the payment of amounts due on the Securities. Money and other consideration so held in trust is subject to the Trustee's rights under Section 7.07.

ARTICLE IX

Amendments

Section 9.01. *Without Consent of Holders.* The Company and the Trustee may modify or amend this Indenture or the Securities without the consent of any Securityholder to:

- (a) add guarantees with respect to the Securities or secure the Securities;
- (b) provide for the assumption by a successor Person of the Company's obligations to the Holders of Securities in the case of a merger, consolidation, conveyance, transfer, sale, lease or other disposition pursuant to Article 5 hereof;
- (c) surrender any right or power herein conferred upon the Company (including the Company's right to elect to pay cash upon conversion in lieu of Common Stock and the Company's right to make a Net Share Settlement Election);
- (d) add to the covenants or Events of Default of the Company for the benefit of the Holders of Securities;
- (e) cure any ambiguity or to correct or supplement any provision herein which may be inconsistent with any other provision herein or which is otherwise defective; *provided, however*, that any such change or modification does not, in the good faith opinion of the Board of Directors of the Company (as evidenced by a Board Resolution) and the Trustee, adversely affect the interests of the Holders of Securities;
- (f) comply with the requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;

(g) establish the form of Securities if issued in definitive form (substantially in the form of Exhibit B);

(h) evidence and provide for the acceptance of the appointment under this Indenture of a successor Trustee in accordance with the terms of this Indenture;

(i) provide for uncertificated Securities in addition to or in place of Certificated Securities; *provided, however*, that uncertificated Securities are issued in registered form for purposes of Section 163(f) of the Code or in a manner such that uncertificated Securities are described in Section 163(f)(2)(B) of the Code;

(j) conform, as necessary, this Indenture and the Securities to the "Description of Notes" as set forth in the Offering Memorandum;

(k) provide for conversion rights of Holders of Securities if any reclassification or change of the Common Stock or any consolidation, merger, sale, lease or other disposition of all or substantially all of the Company's assets occurs; or

(l) change the Conversion Rate in accordance with this Indenture; *provided, however*, that any increase in the Conversion Rate other than pursuant to Article 10 shall not adversely affect the interests of the Holders of Securities (after taking into account U.S. federal income tax and other consequences of such increase).

Section 9.02. *With Consent of Holders.* Except as provided below in this Section 9.02 and in Section 9.01, this Indenture or the Securities may be amended, modified or supplemented, and noncompliance in any particular instance with any provision of this Indenture or the Securities may be waived, in each case with the written consent of the Holders of at least a majority of the principal amount of the Securities at the time outstanding.

Without the written consent or the affirmative vote of each Holder of Securities affected thereby, an amendment, supplement or waiver under this Section 9.02 may not:

(a) reduce the principal amount of or change the Stated Maturity of any Security, or the payment date of any installment of Interest, Contingent Interest or Additional Amounts payable on any Security;

(b) reduce or alter the manner of calculation or rate of accrual of Interest, Contingent Interest or Additional Amounts, or extend the time for payment of any such amount of any Security;

(c) reduce the Redemption Price, Repurchase Price or Fundamental Change Repurchase Price of, any Security or change the time at which or circumstances under which the Securities may be redeemed or repurchased;

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

(e) change the currency of payment of such Securities or Interest, Contingent Interest, Additional Amounts, Redemption Price, Fundamental Change Repurchase Price or Repurchase Price thereon;

(f) adversely affect the repurchase option of the Holders of the Securities as provided in Article 3 or the right of the Holders of the Securities to convert any Security as provided in Article 10 or reduce the number of shares of Common Stock or any other property receivable upon conversion as provided in Article 10, except as otherwise permitted pursuant to Article 5 or Article 10 hereof;

(g) modify the redemption provisions of Article 3 in a manner adverse to the Holders of the Securities;

(h) change the Company's obligation to maintain an office or agency in the places and for the purposes specified in this Indenture; or

(i) modify any of the provisions of this Section, or reduce the percentage of the aggregate principal amount of outstanding Securities required to amend, modify or supplement the Indenture or the Securities or waive an Event of Default, except to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each outstanding Security affected thereby.

It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

After an amendment under this Section 9.02 becomes effective, the Company shall mail to each Holder a notice briefly describing the amendment.

Section 9.03. *Compliance With Trust Indenture Act.* Every supplemental indenture executed pursuant to this Article shall comply with the TIA as then in effect.

Section 9.04. *Revocation and Effect of Consents, Waivers and Actions.* Until an amendment, waiver or other action by Holders becomes effective, a consent thereto by a Holder of a Security hereunder is a continuing consent by the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same obligation as the consenting Holder's Security, even if notation of the consent, waiver or action is not made on the Security. However, any such Holder or subsequent

Holder may revoke the consent, waiver or action as to such Holder's Security or portion of the Security if the Trustee receives the notice of revocation before the date the amendment, waiver or action becomes effective. After an amendment, waiver or action becomes effective, it shall bind every Securityholder.

Section 9.05. *Notice of Amendments, Notation on or Exchange of Securities.* Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 9 may, and shall if required by the Company, bear a notation in form approved by the Company as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for outstanding Securities.

Section 9.06. *Trustee to Sign Supplemental Indentures.* The Trustee shall sign any supplemental indenture authorized pursuant to this Article 9 if the amendment contained therein does not affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, but need not, sign such supplemental indenture. In signing such supplemental indenture the Trustee shall receive, and (subject to the provisions of Section 7.01) shall be fully protected in conclusively relying upon, an Officer's Certificate and an Opinion of Counsel stating that such amendment is authorized or permitted by this Indenture.

Section 9.07. *Effect of Supplemental Indentures.* Upon the execution of any supplemental indenture under this Article, 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 X

Conversions

Section 10.01. *Conversion Privilege.* (a) Subject to and upon compliance with the provisions of this Article 10, a Holder of a Security shall have the right, at such Holder's option, to convert all or any portion (if the portion to be converted is \$1,000 principal amount or an integral multiple thereof) of such Security prior to the close of business on the Business Day immediately preceding Stated Maturity into shares of Common Stock (or cash or a combination of cash and shares of Common Stock, as provided in Section 10.02) at the Conversion Rate (the "**Conversion Obligation**") in effect on the date of conversion only as follows:

(1) prior to January 15, 2027 and during any fiscal quarter of the Company (a "**Fiscal Quarter**") commencing after September 30, 2007 (and only during such Fiscal Quarter), if the Closing Price of the Common Stock for at least 20 Trading Days during the period of 30 consecutive Trading Days ending on the last Trading Day of the immediately preceding Fiscal Quarter is greater than or equal to 130% of the Conversion Price in effect on such last Trading Day;

(2) prior to January 15, 2027, during the five Business Days immediately following any five consecutive Trading Day period in which the Trading Price per \$1,000 principal amount of the Securities (as determined following a request by a Securityholder in accordance with the procedures described below) for each day of that period was less than 98% of the product of the Closing Price of the Common Stock and the current Conversion Rate of the Securities on each such day;

(3) at any time prior to the close of business on the Business Day immediately preceding the Redemption Date, if the Company has called the Securities for redemption pursuant to Article 3 hereof, even if the Securities are not otherwise convertible at that time;

(4) at any time on or after January 15, 2027 until the close of business on the Business Day immediately preceding the Stated Maturity of the Securities;

(5) as provided in clause (b) of this Section 10.01.

The Company or, at its option, the Conversion Agent on behalf of the Company, shall determine on a daily basis during the time periods specified in Section 10.01(a)(1) or, following a request by a Securityholder in accordance with the procedures described below, Section 10.01(a)(2), whether the Securities shall be convertible as a result of the occurrence of an event specified in such Sections and, if the Securities shall be so convertible, the Company or the Conversion Agent, as applicable, shall promptly deliver to the Trustee and Conversion Agent or the Company, as applicable, written notice thereof. Whenever the Securities shall become convertible pursuant to Section 10.01(a)(2) (as determined in accordance with this Section 10.01), the Company or, at the Company's request, the Trustee in the name and at the expense of the Company, shall promptly notify the Holders of the event triggering such convertibility in the manner provided in Section 13.02, and the Company shall also promptly (i) in respect of Global Securities, provide notice through the Depositary in accordance with the procedures thereof and (ii) disseminate a press release or publish such information on the Company's Website. Any notice so given shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice.

The Trustee shall have no obligation to determine the Trading Price of the Securities unless the Company has requested such determination; and the Company shall have no obligation to make such request unless a Securityholder delivers written notice to the Company at the address or telecopier number set forth in Section 13.02 stating that such Securityholder is

requesting that the Trustee make such determination set forth in Section 10.01(a)(2), with such notice being accompanied with reasonable evidence that (x) the Person is a Securityholder as of the date the notice is delivered and (y) the Trading Price per \$1,000 original principal amount of Securities would be less than 98% of the product of the Closing Price of the Common Stock and the current Conversion Rate of the Securities. At such time, the Company will be required to instruct the Trustee to determine the Trading Price of the Securities beginning on the next Trading Day and on each successive Trading Day until the Trading Price per \$1,000 principal amount of Securities is greater than or equal to 98% of the product of the Closing Price of the Common Stock and the current Conversion Rate of the Securities.

The Trustee shall be entitled at its sole discretion to consult with the Company and to request the assistance of the Company in connection with the Trustee's duties and obligations pursuant to this Section 10.01(a), and the Company agrees, if requested by the Trustee, to cooperate with, and provide assistance to, the Trustee in carrying out its duties under this Section 10.01; *provided, however*, that nothing herein shall be construed to relieve the Trustee of its duties pursuant to this Section 10.01(a).

(b) In the event that:

(1) (A) the Company distributes to all holders of Common Stock rights or warrants entitling them to purchase, for a period expiring within 45 days after the date of such distribution, Common Stock at less than the Closing Price of the Common Stock on the Trading Day immediately preceding the announcement date for such distribution; or (B) the Company distributes to all holders of Common Stock assets (including cash), debt securities or rights or warrants to purchase the Company's securities, which distribution has a per share value as determined by the Board of Directors exceeding 15% of the Closing Price of the Common Stock on the Trading Day immediately preceding the announcement date of such distribution, then, in either case, the Securities may be surrendered for conversion at any time on and after the date that the Company gives notice to the Holders of such distribution (which notice shall be given by (i) issuing a press release or providing such information on the Company's Website and (ii) in respect of Global Securities, through the Depository in accordance with the procedures thereof), which shall be not less than 25 Scheduled Trading Days prior to the Ex-Dividend Date for such distribution, until the earlier of the close of business on the Business Day immediately preceding the Ex-Dividend Date or the date the Company announces that such distribution shall not take place, even if the Securities are not otherwise convertible at such time; *provided* that no Holder of a Security shall have the right to convert if the Holder otherwise would participate in such distribution without conversion in respect of Securities held by such Holder; or

(2) a Change of Control occurs pursuant to clause (1) of the definition thereof or clause (3) of the definition thereof pursuant to which the Common Stock is to be converted into cash, securities or other property, then the Securities may be surrendered for conversion at any time from and after the date which is 25 Scheduled Trading Days prior to the anticipated effective date of such transaction (or, in the case of a Change of Control as defined in clause (1) of the definition thereof, the later of the date which is 25 Scheduled Trading Days prior to the anticipated effective date of such transaction and the date that is the second Business Day following the Company's receipt of notice of such transaction) until and including the date which is 15 days after the actual effective date of such transaction (or, if such transaction also constitutes a Change of Control pursuant to which Holders have a right to require the Company to repurchase the Securities pursuant to Section 3.08, until the applicable Fundamental Change Repurchase Date). The Company shall notify the Trustee and the Holders of any such transaction and the corresponding conversion right at the time the Company publicly announces the Change of Control transaction giving rise to the above conversion right (but in no event later than the date on which the period for conversion with respect thereto commences as provided in this Section 10.01(b)(2)). Such notice shall be given by (i) issuing a press release or providing such information on the Company's Website and (ii) in respect of Global Securities, through the Depository in accordance with the procedures thereof.

(c) If and only to the extent a Holder timely elects to convert Securities during the period specified in Section 10.01(b)(2) above in respect of a transaction the effective date of which is on or prior to July 20, 2014, and 10% or more of the consideration for the Common Stock in such Change of Control transaction consists of consideration other than common stock traded or scheduled to be traded immediately following such transaction on a U.S. national securities exchange, the Conversion Rate shall be increased by an additional number of shares of Common Stock (the "**Additional Shares**") as described below; *provided* that if the Stock Price paid in connection with such transaction is greater than \$100.00 or less than \$21.29 (subject in each case to adjustment as described below), no Additional Shares shall be added to the Conversion Rate. Notwithstanding this Section 10.01(c), if the Company elects to adjust the Conversion Rate pursuant to Section 10.01(d), the provisions of Section 10.01(d) shall apply in lieu of the provisions of this Section 10.01(c). The Company shall notify the Trustee and the Holders whether the Company elects to increase the Conversion Rate as described above or to adjust the Conversion Rate pursuant to Section 10.01(d) (i) no later than 25 Scheduled Trading Days prior to the anticipated effective date of such transaction with respect to any transaction described in clause (3) of the definition of Change of Control and (ii) on the effective date of such transaction with respect to any transaction described in clause (1) of the definition of Change of Control; *provided* that if the Company does not provide such notice prior to such date, the Company shall be deemed to have elected to increase the Conversion Rate by the Additional Shares.

The number of Additional Shares to be added to the Conversion Rate as described in the immediately preceding paragraph shall be determined by reference to the table attached as Schedule I hereto, based on the effective date of such Change of Control transaction and the Stock Price paid in connection with such transaction; *provided* that if the Stock Price is between two Stock Price amounts in the table or such effective date is between two effective dates in the table, the number of Additional Shares shall be determined by a straight- line interpolation between the number of Additional Shares set forth for the higher and lower Stock Price amounts and the two dates, as applicable, based on a 365/366-day year. The "**effective date**" with respect to a Change of Control transaction means the date that a Change of Control becomes effective.

The Stock Prices set forth in the first row of the table in Schedule I hereto shall be adjusted as of any date on which the Conversion Rate of the Securities is adjusted pursuant to Section 10.04. The adjusted Stock Prices shall 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 shall be adjusted in the same manner as the Conversion Rate as set forth in Section 10.04. Notwithstanding anything to the contrary herein, the maximum amount of Additional Shares is 10.1309 per \$1,000 principal amount of Securities, subject to adjustment in the same manner as the Conversion Rate as set forth in Section 10.04.

Notwithstanding the foregoing, in no event shall the total number of shares of Common Stock issuable upon conversion of the Securities exceed 46.9704 per \$1,000 principal amount of Securities, subject to adjustment in the same manner as the Conversion Rate as set forth in Section 10.04.

(d) Notwithstanding the provisions of Section 10.01(c), in the case of a Change of Control that would lead to the issuance of Additional Shares as set forth in clause (c) above that is also a Public Acquirer Change of Control, the Company may, in lieu of increasing the Conversion Rate by Additional Shares as described in Section 10.01(c), elect to adjust the Conversion Rate and the related Conversion Obligation such that from and after the effective date of such Public Acquirer Change of Control, Holders of Securities shall be entitled to convert their Securities (subject to the satisfaction of the conditions to conversion set forth in Section 10.01(a)) into Public Acquirer Common Stock (or cash or a combination of cash and Public Acquirer Common Stock, at the election of the Company). The Conversion Rate following the effective date of such transaction will be a number of shares of Public Acquirer Common Stock equal to the product of the Conversion Rate in effect immediately before the Public Acquirer Change of Control times the average of the quotients obtained, for each Trading Day in the 20 consecutive Trading Day period ending on the Trading Day immediately preceding the effective date of such Public Acquirer Change of Control (the “**Valuation Period**”), of:

- (i) the Acquisition Value of the Common Stock on each such Trading Day in the Valuation Period, divided by
- (ii) the Closing Price of the Public Acquirer Common Stock on each such Trading Day in the Valuation Period.

The “**Acquisition Value**” of the Common Stock means, for each Trading Day in the Valuation Period, the value of the consideration paid per share of Common Stock in connection with such Public Acquirer Change of Control, as follows:

- (i) for any cash, 100% of the face amount of such cash;
- (ii) for any Public Acquirer Common Stock, 100% of the Closing Price of such Public Acquirer Common Stock on such Trading Day; and
- (iii) for any other securities, assets or property, 102% of the fair market value of such security, asset or property on such Trading Day, as determined by an independent nationally recognized investment bank selected by the Company for this purpose.

“**Public Acquirer Change of Control**” means a Change of Control pursuant to clause (1) or (3) of the definition thereof set forth above and the acquirer, the Person formed by or surviving the merger or consolidation or any entity that is direct or indirect “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act) of more than 50% of such Person’s or acquirer’s Voting Stock has a class of common stock traded on a U.S. national securities exchange or which shall be so traded when issued or exchanged in connection with such Change of Control (the “**Public Acquirer Common Stock**”); *provided*, that if there is more than one of such entity, the relevant entity shall be such entity with the most direct beneficial ownership to such acquirer’s or Person’s capital stock.

Upon a Public Acquirer Change of Control, if the Company so elects, Holders may convert their Securities (subject to the satisfaction of the conditions to conversion set forth in Section 10.01(a)) at the adjusted Conversion Rate described above but shall not be entitled to the increased Conversion Rate described in Section 10.01(c). The Company shall notify Holders of its election in its notice to Holders pursuant to Section 10.01(b)(2) above. Holders may convert their Securities upon a Public Acquirer Change of Control during the period specified in Section 10.01(b)(2). In addition, Holders can also, subject to certain conditions, require the Company to repurchase all or a portion of their Securities as described in Section 3.08.

After any adjustment of the Conversion Rate in connection with a Public Acquirer Change of Control, the Conversion Rate shall be subject to further similar adjustments in the event that any of the events described in Section 10.04 occur thereafter.

Section 10.02. *Conversion Procedures; Payment Upon Conversion.* Subject to Section 10.01 and this Section 10.02, each Security shall be convertible at the office of the Conversion Agent into fully paid and nonassessable shares (calculated to the nearest 1/100th of a share) of Common Stock at a rate (the “**Conversion Rate**”) equal to, initially, 36.8395 shares of Common Stock for each \$1,000 principal amount of Securities. The Conversion Rate shall be adjusted in certain instances as provided in Section 10.04 hereof, but shall not be adjusted for any accrued and unpaid Interest, Contingent Interest, or Additional Amounts, if any. Except to the extent that the Company has irrevocably made a Net Share Settlement Election pursuant to paragraph (b) of this Section 10.02, the Company may satisfy its Conversion Obligation in cash or in any combination of cash and shares of Common Stock selected by the Company, in accordance with paragraph (a) of this Section 10.02. The Company may elect to deliver shares of Common Stock, cash or a combination of cash and shares of Common Stock in satisfaction of a Conversion Obligation by providing the Holders through the Trustee with notice of the

method of settlement at any time no later than the close of business on the second Trading Day immediately following the Conversion Date. Notwithstanding the foregoing, (i) in the case that the Company has not made a Net Share Settlement Election, the Company shall only be permitted to make a one-time election for all Securities for which the Conversion Date is on or after June 15, 2027, and such election shall be made on or before the close of business on the Trading Day immediately preceding June 15, 2027, and (ii) with respect to any redemption, the Company's notice of redemption shall include its election. If the Company does not make such election (A) in the case of clause (i), all related Conversion Obligations shall be settled in shares of Common Stock as set forth in clause (a)(i) below, or (B) in the case of clause (ii), all related Conversion Obligations from the date of the notice of redemption to the Redemption Date shall be settled in shares of Common Stock as set forth in clause (a) (i) below (unless, in either case, the Company has previously irrevocably made a Net Share Settlement Election pursuant to paragraph (b) of this Section 10.02).

(a) Upon conversion of Securities, the Company shall deliver to Holders surrendering Securities for conversion, for each \$1,000 principal amount of Securities, a settlement amount (the "**Conversion Settlement Distribution**") on the Conversion Settlement Date consisting of:

(i) If the Company elects to satisfy the entire Conversion Obligation in shares of Common Stock, the Company will deliver to Holders a number of shares of Common Stock equal to (A)(1) the aggregate principal amount of Securities to be converted, divided by (2) 1,000, multiplied by (B) the Conversion Rate in effect on the relevant Conversion Date (or, if the Conversion Date is not a Trading Day, the next following Trading Day); together with cash in lieu of fractional shares of Common Stock as provided in Section 10.03.

(ii) If the Company elects to satisfy the entire Conversion Obligation in cash, the Company will deliver to the Holder, for each \$1,000 principal amount of the Securities to be converted, cash in an amount equal to the Conversion Value for the related Conversion Reference Period.

(iii) If the Company elects to satisfy the Conversion Obligation in a combination of cash and Common Stock, the Company will pay either (i) an amount in cash equal to the dollar amount per \$1,000 principal amount of Securities specified in the notice regarding the chosen method of settlement (the "**Specified Dollar Amount**" (which, for avoidance of doubt, shall be deemed to equal the lesser of \$1,000 and the Conversion Value of each Security to be converted, in the event the Company has previously made a Net Share Settlement Election)) or (ii) an amount in cash equal to a fixed percentage of the Conversion Obligation specified in the notice regarding the chosen method of settlement (the "**Specified Percentage**"); and deliver shares of Common Stock for the remainder of the Conversion Obligation. The Company will deliver cash in lieu of any fractional shares of the Common Stock as provided in Section 10.03. The Company will settle each \$1,000 in principal amount of Securities being converted by delivering cash and shares of the Common Stock, if any, equal to the Conversion Value for the related Conversion Reference Period.

Subject to Section 10.02(d), settlement (in cash and/or shares) will occur (A) with respect to clause (a)(i), on the third Trading Day after the relevant Conversion Date and (B) with respect to clauses (a)(ii) and (a)(iii), on the third Trading Day immediately following the last Trading Day of the related Conversion Reference Period. The Company shall settle all Securities converted on the same Trading Day in the same manner. Except for all conversions that occur (i) during the period between the date the Company has given a notice of redemption and the related Redemption Date and (ii) on or after June 15, 2027, the Company shall not have any obligation to settle Conversion Obligations arising on different Trading Days in the same manner.

(b) At any time on or prior to June 15, 2027, the Company may irrevocably elect (the "**Net Share Settlement Election**") to satisfy the Conversion Obligation with respect to each \$1,000 principal amount of Securities tendered for conversion for which the Conversion Date occurs after the Company issues the notice referred to in subsection (b)(ii) below in cash and shares of Common Stock, if applicable, by delivering, on the third Trading Day immediately following the last Trading Day of the related Conversion Reference Period, cash and shares of Common Stock, if any, equal to the Conversion Value for the related Conversion Reference Period, determined in accordance with clause (iii) of paragraph (a) of this Section 10.02 based on a Specified Dollar Amount equal to the lesser of \$1,000 and the Conversion Value of each Security to be converted; *provided* that the Company shall deliver cash in lieu of fractional shares of Common Stock as provided in Section 10.03. Notwithstanding the foregoing, the Company may not make a Net Share Settlement Election during any period between the date on which the Company gives notice of redemption pursuant to Section 3.03 and the corresponding Redemption Date.

(i) If the Company makes a Net Share Settlement Election, the Company will promptly (x) issue a press release or post such information on its Website and (y) provide notice to the Holders of Securities and the Trustee through the facilities of the Depository.

(ii) Notwithstanding anything to the contrary in this Indenture, the Company may irrevocably renounce its right to the Net Share Settlement Election in subsection (b)(i) above at any time prior to June 15, 2027. Upon such renouncement, the Company will no longer have the right to make the Net Share Settlement Election in respect of its Conversion Obligation and any such attempt shall have no effect. If the Company renounces its right to the Net Share Settlement Election, the Company will promptly (x) issue a press release or post such information on its Website (and the renouncement will become effective on the date when such press release is issued or such notice is posted) and (y) in respect of Global Securities, provide notice to the Holders of Securities and the Trustee through the facilities of the Depository.

(c) Notwithstanding the provisions described above in paragraphs (a) and (b) of this Section 10.02, in satisfaction of the Conversion Obligation, the Company may direct the Conversion Agent to surrender, on or prior to the second Trading Day after the relevant Conversion Date, such Securities to a financial institution designated by the Company for exchange in lieu of

conversion. In order to accept any Securities surrendered for conversion, the designated institution must agree to deliver, in exchange for such Securities, the shares of Common Stock (or cash or a combination of cash and shares of Common Stock, as applicable) equal to the Conversion Obligation pursuant to this Section 10.02, as is designated to the Conversion Agent by the Company. By the close of business on the Business Day immediately preceding the date of commencement of the applicable Conversion Reference Period, the Company shall notify the Holder surrendering Securities for conversion (i) that the Company has directed the designated financial institution to make an exchange in lieu of conversion and (ii) the consideration to be delivered in satisfaction of the Conversion Obligation, and such financial institution will be required to notify the Conversion Agent that it will deliver, upon exchange, the applicable Conversion Settlement Distribution. If the designated institution accepts any such Securities, it shall deliver the applicable Conversion Settlement Distribution to the Conversion Agent and the Conversion Agent will deliver such Conversion Settlement Distribution to the Holder. Any Securities exchanged by the designated institution shall remain outstanding. If the designated institution agrees to accept any Securities for exchange but does not timely deliver the related consideration, or if such designated financial institution does not accept the Securities for exchange, the Company shall satisfy its Conversion Obligation pursuant to paragraphs (a) and (b) of this Section 10.02.

(d) Notwithstanding paragraphs (a) and (b) of this Section 10.02, the Company shall satisfy the Conversion Obligation with respect to each \$1,000 principal amount of Securities tendered for conversion to which Additional Shares shall be added to the Conversion Rate pursuant to this paragraph (d).

(i) If the date (the “**Delivery Date**”) on which the Company is otherwise required to deliver shares of Common Stock, cash or a combination of cash and shares of the Common Stock upon conversion is prior to the effective date of the applicable Change of Control, the Company shall satisfy the related Conversion Obligation with respect to each \$1,000 principal amount of Securities tendered for conversion as provided in paragraph (a) of this Section 10.02 by delivering a number of shares of Common Stock, if any, based on the applicable Conversion Rate in effect for each such \$1,000 principal amount of Securities, but without regard to the number of Additional Shares to be added to the Conversion Rate, on the Delivery Date. As soon as practicable following the effective date of the applicable Change of Control, the Company shall deliver the increase in such amount of Common Stock or Exchange Property in lieu of shares of Common Stock, if any, as if the applicable Conversion Rate had been increased by such number of Additional Shares on the applicable Conversion Date (or, if applicable, during the related Conversion Reference Period and based upon the related Conversion Value). If the Company made a Net Share Settlement Election and such increased amount of cash and shares, if any, of Common Stock results in an increase to the amount of cash to be paid to Holders, the Company shall pay such increase in cash, and if such increased amount results in an increase to the number of shares of Common Stock, the Company shall deliver such increase by delivering Common Stock or Exchange Property based on such increased number of shares.

(ii) If the Delivery Date related to Securities surrendered for conversion is on or following the effective date of the applicable Change of Control, the Company shall satisfy the Conversion Obligation with respect to each \$1,000 principal amount of Securities tendered for conversion as described in Section 10.02(a) (based on the Conversion Rate as increased by the Additional Shares) on such Delivery Date.

(e) Before any Holder of a Security shall be entitled to convert the same as set forth above, such Holder shall (1) in the case of a Certificated Security (A) complete and manually sign and deliver an irrevocable written notice to the Conversion Agent in the form attached to this Indenture (or a facsimile thereof) (a “**Conversion Notice**”) at the office of the Conversion Agent which shall state in writing therein the principal amount of Securities to be converted and the name or names (with addresses) in which such Holder wishes the certificate or certificates for any shares of Common Stock, if any, to be delivered upon settlement of the Conversion Obligation to be registered, (B) surrender such Securities, duly endorsed to the Company or in blank (and accompanied by appropriate endorsement and transfer documents) at the office of the Conversion Agent, (C) if required, pay funds payable on the next Interest Payment Date to which such Holder is not entitled as set forth in paragraph (l) of this Section 10.02, and (D) if required, pay all taxes or duties, if any; or (2) in the case of a Global Security, (w) deliver all appropriate endorsement and transfer documents, if any, at the office of the Conversion Agent, (x) if required, pay funds payable on the next Interest Payment Date to which such Holder is not entitled as set forth in paragraph (l) of this Section 10.02, (y) if required, pay all taxes or duties, if any, and (z) comply with the procedures of the Depositary in effect at that time for converting a beneficial interest in a Global Security. A Security shall be deemed to have been converted immediately prior to the close of business on the date (the “**Conversion Date**”) that the Holder has complied with the requirements set forth in this paragraph (e).

(f) No Conversion Notice with respect to any Securities may be tendered by a Holder thereof if such Holder has also tendered a Repurchase Notice or Fundamental Change Repurchase Notice and not validly withdrawn such Repurchase Notice or Fundamental Change Repurchase Notice in accordance with the applicable provisions of this Indenture.

(g) If more than one Security shall be surrendered for conversion at one time by the same Holder, the Conversion Settlement Distribution with respect to such Securities, if any, that shall be payable upon conversion shall be computed on the basis of the aggregate principal amount of the Securities (or specified portions thereof to the extent permitted thereby) so surrendered.

(h) Delivery of the amounts owing in satisfaction of the Conversion Obligation shall be made by the Company in no event later than the date specified in paragraph (b) of this Section 10.02, except to the extent specified in paragraph (d) of this Section 10.02. The Company shall make such delivery by paying the cash amount owed, if any, to the Holder of the Security surrendered for conversion, or such Holder’s nominee or nominees, and/or by issuing, or causing to be issued, and delivering to such Holder, or such Holder’s nominee or nominees, certificates or a book-entry transfer through the Depositary for the number of full shares of Common Stock, if any, to which such Holder shall be entitled as part of such Conversion Settlement Distribution (together with any cash in lieu of fractional shares).

(i) In case any Security shall be surrendered for partial conversion, the Company shall execute and the Trustee shall, as provided in a Company Order, authenticate and deliver to or upon the written order of the Holder of the Security so surrendered, without charge to such Holder, a new Security or Securities in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Securities.

(j) Except as provided in Section 10.04, no adjustment shall be made for dividends on any shares of Common Stock issued upon the conversion of any Security as provided in this Article 10.

(k) Upon the conversion of an interest in a Global Security, the Trustee, or the custodian at the direction of the Trustee, shall make a notation on such Global Security as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversion of Securities effected through any Conversion Agent other than the Trustee.

(l) Upon conversion, a Holder shall not receive any separate cash payment for accrued and unpaid Interest, including Contingent Interest, if any, and Additional Amounts, if any, except as set forth below. The Company's settlement of the Conversion Obligation pursuant to this Section 10.02 shall be deemed to satisfy its obligation to pay the principal amount of the Security and accrued and unpaid Interest, including Contingent Interest, if any, and Additional Amounts, if any, to, but not including, the Conversion Date. As a result, accrued and unpaid Interest, including Contingent Interest, if any, and Additional Amounts, if any, to, but not including, the Conversion Date shall be deemed to be paid in full rather than cancelled, extinguished or forfeited. Notwithstanding the preceding sentence, if Securities are converted after the close of business on an Interest Record Date, Holders of such Securities as of such time shall receive the Interest, including Contingent Interest, if any, and Additional Amounts, if any, payable on such Securities on the immediately following Interest Payment Date notwithstanding the conversion. Securities surrendered for conversion during the period from the close of business on any Interest Record Date to the open of business on the corresponding Interest Payment Date must be accompanied by payment of an amount equal to the Interest, including Contingent Interest, if any, and Additional Amounts, if any, payable on the Securities so converted on such Interest Payment Date; *provided, however*, that no such payment need be made (i) if the Company has specified a Redemption Date or a Fundamental Change Repurchase Date that is after an Interest Record Date and on or prior to the corresponding Interest Payment Date; (ii) to the extent of any overdue Interest (including Contingent Interest, if any, and Additional Amounts, if any) existing at the time of conversion with respect to such Security; or (iii) with respect to any Conversion Date that occurs during the period from the close of business on the Interest Record Date immediately preceding Stated Maturity to Stated Maturity. Except as described above, no payment or adjustment shall be made for accrued interest on converted Securities.

Section 10.03. *Fractions of Shares.* No fractional shares of Common Stock shall be issued upon conversion of any Security or Securities. If more than one Security shall be surrendered for conversion at one time by the same Holder, the number of full shares which shall be issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of the Securities (or specified portions thereof) so surrendered. Instead of any fractional share of Common Stock that would otherwise be issuable upon conversion of any Security or Securities (or specified portions thereof), the Company shall calculate and pay a cash adjustment in respect of such fraction (calculated to the nearest 1/100th of a share) based on the corresponding fraction of the Closing Price of the Common Stock on the Trading Day immediately preceding the Conversion Date.

Section 10.04. *Adjustment of Conversion Rate.* The Conversion Rate shall be adjusted from time to time by the Company as follows; *provided* that the Company shall not make any adjustments to the Conversion Rate if Holders of the Securities participate (as a result of holding the Securities, and at the same time as holders of the Common Stock participate) in any of the transactions described below as if such Holders held a number of shares of Common Stock equal to the applicable Conversion Rate, multiplied by the principal amount (expressed in thousands) of Securities held by such Holders, without having to convert their Securities:

(a) In case the Company shall issue shares of Common Stock as a dividend or distribution to holders of Common Stock, or shall effect a share split or share combination of the Common Stock, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS'}{OS_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Ex-Dividend Date for such dividend or distribution or the effective date of such share split or share combination, as the case may be;

CR' = the Conversion Rate in effect immediately after the Ex-Dividend Date for such dividend or distribution or the effective date of such share split or share combination, as the case may be;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Ex-Dividend Date for such dividend or distribution or the effective date of such share split or share combination, as the case may be; and

OS' = the number of shares of Common Stock outstanding as of the Ex-Dividend Date for such dividend or distribution immediately after giving effect to such dividend or distribution or immediately after the effective date of such share split or share combination, as the case may be.

Such adjustment shall become effective immediately after 9:00 a.m., New York City time, on the Ex-Dividend Date fixed for such dividend or distribution, or the effective date for such share split or share combination, as the case may be. If any dividend or distribution of the type described in this Section 10.04(a) is declared but not so paid or made, or the outstanding shares of Common Stock are not split or combined, as the case may be, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, or split or combine the outstanding shares of Common Stock, as the case may be, to the Conversion Rate that would then be in effect if such dividend, distribution, share split or share combination had not been declared.

(b) In case the Company shall distribute to all holders of its outstanding shares of Common Stock any rights or warrants entitling them (for a period expiring within 45 days after the Ex-Dividend Date for such distribution) to subscribe for or purchase shares of Common Stock at a price per share less than the average of the Last Reported Sale Prices of the Common Stock for the ten consecutive Trading Day period ending on the Trading Day immediately preceding the declaration date of such distribution, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Ex-Dividend Date for such distribution;

CR' = the Conversion Rate in effect immediately after the Ex-Dividend Date for such distribution;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Ex-Dividend Date for such distribution;

X = the total number of shares of Common Stock issuable pursuant to such rights or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights or warrants divided by the average of the Last Reported Sale Prices of Common Stock over the ten consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

Such adjustment shall be successively made whenever any such rights or warrants are distributed and shall become effective immediately after the opening of business on the Ex-Dividend Date for such distribution. To the extent that shares of 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 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 such Ex-Dividend Date for such distribution had not been fixed.

In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such Last Reported Sale Price, and in determining the aggregate exercise or conversion price payable for such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights or warrants and any amount payable on exercise or conversion thereof, with the value of such consideration, if other than cash, to be determined in good faith by the Board of Directors.

(c) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock shares of any class of Capital Stock of the Company (other than Common Stock as covered by paragraph (a) of this Section 10.04), evidences of its indebtedness or other assets or property of the Company (including securities, but excluding dividends or distributions covered by paragraph (a) or (b) of this Section 10.04, dividends or distributions paid exclusively in cash and distributions described below in this paragraph (c) with respect to Spin-Offs) (any of such shares of capital stock, indebtedness, or other asset or property hereinafter in this paragraph (c) called the “**Distributed Property**”), then, in each such case, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Ex-Dividend Date for such distribution;

CR' = the Conversion Rate in effect immediately after the Ex-Dividend Date for such distribution;

SP_0 = the average of the Last Reported Sale Prices of Common Stock over the ten consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined in good faith by the Board of Directors) of the shares of Capital Stock,

evidences of indebtedness, assets or property distributed with respect to each outstanding share of Common Stock on the Ex-Dividend Date for such distribution.

Such adjustment shall become effective immediately after the opening of business on the Ex-Dividend Date for such distribution; *provided* that if “FMV” as set forth above is equal to or greater than “SR₀” as set forth above, in lieu of the foregoing adjustment, adequate provision shall be made so that each Holder of Securities has the right to receive, for each \$1,000 principal amount of Securities, the amount of Distributed Property such Holder would have received had such Holder owned a number of shares of Common Stock equal to the Conversion Rate on the Ex-Dividend Date for such distribution, without being required to convert the Securities. If such distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors determines “FMV” for purposes of this Section 10.04(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 Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

With respect to an adjustment pursuant to this paragraph (c) where there has been a payment of a dividend or other distribution on the Common Stock in shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary of the Company or other business unit of the Company (a “Spin-Off”), the Conversion Rate in effect immediately before the close of business on the tenth Trading Day immediately following, and including, the effective date of the Spin-Off, shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

CR₀ = the Conversion Rate in effect immediately prior to the tenth Trading Day immediately following, and including, the effective date of the Spin-Off;

CR' = the Conversion Rate in effect immediately after the tenth Trading Day immediately following, and including, the effective date of the Spin-Off;

FMV₀ = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of Common Stock applicable to one share of Common Stock over the first ten consecutive Trading Day period immediately following, and including, the effective date of the Spin-Off; and

MP₀ = the average of the Last Reported Sale Prices of the Common Stock over the first ten consecutive Trading Day period immediately following, and including, the effective date of the Spin-Off.

Such adjustment shall occur immediately after the tenth Trading Day immediately following, and including, the effective date of the Spin-Off; *provided* that in respect of any conversion within the ten Trading Days immediately following, and including, the effective date of any Spin-Off, references with respect to the Spin-Off to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed between the effective date of such Spin-Off and the Conversion Date in determining the applicable Conversion Rate. If such distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

Rights or warrants distributed by the Company to all holders of Common Stock entitling the Holders thereof to subscribe for or purchase shares of the Company's Capital Stock, including Common Stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events (“Trigger Event”): (i) are deemed to be transferred with such shares of Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 10.04 (and no adjustment to the Conversion Rate under this Section 10.04 shall be required) until the occurrence of the earliest Trigger Event, whereupon such rights and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this paragraph (c). If any such rights or warrants are subject to events, upon the occurrence of which such rights or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and record date with respect to new rights or warrants with such rights (and a termination or expiration of the existing rights or warrants without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 10.04 was made, (1) in the case of any such rights or warrants that shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Rate shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder or holders of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of such rights or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall

be readjusted as if such rights and warrants had not been issued.

For purposes of this paragraph (c) and paragraphs (a) and (b) of this Section 10.04, any dividend or distribution to which this paragraph (c) is applicable that also includes shares of Common Stock to which paragraph (a) of this Section 10.04 applies or rights or warrants to subscribe for or purchase shares of Common Stock to which paragraph (b) of this Section 10.04 applies (or both), shall be deemed instead to be (1) a dividend or distribution of the evidences of indebtedness, assets or shares of Capital Stock other than such shares of Common Stock or rights or warrants, to which this paragraph (c) applies (and any Conversion Rate adjustment required by this paragraph (c) with respect to such dividend or distribution shall then be made) immediately followed by (2) a dividend or distribution of such shares of Common Stock or such rights or warrants (and any further Conversion Rate adjustment required by paragraph (a) or (b) of this Section 10.04 with respect to such dividend or distribution shall then be made), except (A) the Ex-Dividend Date of such dividend or distribution shall under this paragraph (c) be substituted as the Ex-Dividend Date within the meaning of paragraphs (a) and (b) and (B) any shares of Common Stock included in such dividend or distribution shall not be deemed “outstanding immediately prior to the Ex-Dividend Date for such dividend or distribution or immediately prior to the effective date of such share split or share combination, as the case may be” within the meaning of paragraph (a) or “outstanding immediately prior to the Ex-Dividend Date for such distribution” within the meaning of paragraph (b).

(d) In case the Company shall pay dividends or make distributions consisting exclusively of cash to all Holders of its Common Stock, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 - C}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Ex-Dividend Date for such distribution;

CR' = the Conversion Rate in effect immediately after the Ex-Dividend Date for such distribution;

SP_0 = the Last Reported Sale Price of Common Stock on the Trading Day immediately preceding the Ex-Dividend Date for such distribution;

C = the amount in cash per share the Company distributes to holders of Common Stock in such distribution.

Such adjustment shall become effective immediately after the opening of business on the Ex-Dividend Date for such dividend or distribution; *provided* that if the portion of the cash so distributed applicable to one share of Common Stock is equal to or greater than SP_0 as set forth above, in lieu of the foregoing adjustment, adequate provision shall be made so that each Holder of Securities shall receive on the date on which such cash dividend is distributed to holders of Common Stock, for each \$1,000 principal amount of Securities, the amount of cash such Holder would have received had such Holder owned a number of shares equal to the Conversion Rate on the Ex-Dividend Date for such dividend or distribution, without being required to convert the Securities. If such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

For the avoidance of doubt, for purposes of this paragraph (d), in the event of any reclassification of the Common Stock, as a result of which the Securities become convertible into more than one class of Common Stock, if an adjustment to the Conversion Rate is required pursuant to this paragraph (d), references in this Section 10.04 to one share of Common Stock or Last Reported Sale Price of one share of Common Stock shall be deemed to refer to a unit or to the price of a unit consisting of the number of shares of each class of Common Stock into which the Securities are then convertible equal to the numbers of shares of such class issued in respect of one share of Common Stock in such reclassification. The above provisions of this paragraph shall similarly apply to successive reclassifications.

(e) In case the Company or any of its Subsidiaries make a payment in respect of a tender offer or exchange offer for all or any portion of the Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the Last Reported Sale Price of the Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{AC + (SP' \times OS')}{OS_0 \times SP'}$$

where,

CR_0 = the Conversion Rate in effect at the close of business on the last Trading Day of the ten consecutive Trading Day period commencing on the Trading Day next succeeding the date such tender or exchange offer expires;

CR' = the Conversion Rate in effect immediately following the last Trading Day of the ten consecutive Trading Day period commencing on the Trading Day next succeeding the date such tender or exchange offer expires;

AC = the aggregate value of all cash and any other consideration (as determined in good faith by the Board of Directors) paid or payable for shares purchased in such tender or exchange offer;

OS₀ = the number of shares of Common Stock outstanding immediately prior to the expiration of such tender or exchange offer;

OS' = the number of shares of Common Stock outstanding immediately after the date such tender or exchange offer expires (after giving effect to the purchase or exchange of shares pursuant to such tender offer or exchange offer); and

SP' = the average of the Last Reported Sale Prices of Common Stock over the ten consecutive Trading Day period commencing on the Trading Day next succeeding the date such tender or exchange offer expires.

Such adjustment shall become effective immediately after the close of business on the tenth Trading Day next succeeding the date such tender or exchange offer expires; *provided* that, for purposes of determining the Conversion Rate in respect of any conversion during the ten Trading Days following the date that any such tender or exchange offer expires, references within this clause (e) to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed between the date such tender or exchange offer expires and the relevant Conversion Date. If the Company or its Subsidiary is obligated to purchase shares of Common Stock pursuant to any such tender or exchange offer, but the Company or its Subsidiary is permanently prevented by applicable law from effecting all or any such purchases or all or any portion of such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made or had only been made in respect of the purchases that had been effected.

(f) Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly file with the Trustee and any Conversion Agent (if other than the Trustee) an Officer's Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officer's Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume that the last Conversion Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall mail such notice of such adjustment of the Conversion Rate to the Holder of each Security at his last address appearing on the Security register provided for in Section 2.03 of this Indenture, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(g) Notwithstanding the foregoing, no adjustment to the Conversion Rate need be made:

(i) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company and the investment of additional optional amounts in shares of Common Stock under any plan;

(ii) upon the issuance of any shares of Common Stock or options or rights to purchase or acquire shares of Common Stock pursuant to any present or future employee, director or consultant benefit plan or program or employee stock purchase plan of or assumed by the Company or any of its Subsidiaries;

(iii) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right, or exercisable, exchangeable or convertible security not described in clause (ii) above and outstanding as of the Issue Date;

(iv) for a change in the par value of the Common Stock; or

(v) for accrued and unpaid Interest (including Contingent Interest and Additional Amounts, if any).

No adjustment to the Conversion Rate shall be made if the application of any of the foregoing formulas (other than in connection with a share combination) would result in a decrease in the Conversion Rate.

(h) All calculations and other determinations under this Article 10 shall be made by the Company and shall be made to the nearest cent or to the nearest one-tenth thousandth (1/10,000) of a share, as the case may be. No adjustment shall be made to the Conversion Rate unless such adjustment would require a change of at least 1% in the Conversion Rate then in effect. The Company shall carry forward any adjustments that are less than 1% of the Conversion Rate and make such carried forward adjustments, regardless of whether the aggregate adjustment is less than 1%, upon the first to occur of (i) any subsequent adjustment, (ii) the first day of the next calendar year and (iii) any conversion of the Securities.

(i) In any case in which this Section 10.04 provides that an adjustment shall become effective immediately after (1) the Ex-Dividend Date for an event or (2) the last date on which tenders or exchanges may be made pursuant to any tender or exchange offer pursuant to paragraph (e) of this Section 10.04 (each an "**Adjustment Determination Date**"), the Company may elect to defer until the occurrence of the applicable Adjustment Event (as hereinafter defined) (x) issuing to the Holder of any Security converted after such Adjustment Determination Date and before the occurrence of such Adjustment Event, the additional shares of Common Stock or other securities (or, if the Company has elected to settle its Conversion Obligation other than solely in

shares of Common Stock, cash and, if applicable, shares of Common Stock or other securities) issuable upon such conversion by reason of the adjustment required by such Adjustment Event over and above the amounts deliverable upon such conversion before giving effect to such adjustment and (y) paying to such Holder any amount in cash in lieu of any fractional share of Common Stock pursuant to Section 10.03. For purposes of this subsection (i), the term “**Adjustment Event**” shall mean:

(i) in any case referred to in clause (1) hereof, the date any dividend or distribution of Common Stock, shares of capital stock, evidences of indebtedness, other assets or property or cash is paid or made, the effective date of any share split or combination or the date of expiration of any rights or warrants, and

(ii) in any case referred to in clause (2) hereof, the date a sale or exchange of Common Stock pursuant to such tender or exchange offer is consummated and becomes irrevocable.

(j) For purposes of this Section 10.04, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(k) With respect to a conversion of Securities pursuant to this Article 10, at and after the close of business on the Conversion Date, the Person in whose name any certificate representing any shares of Common Stock issuable upon such conversion is registered shall be treated as a stockholder of record of the Company on such Conversion Date; *provided, however*, that if any such shares of Common Stock constitute Additional Shares, then the date on which such Person shall be treated as a stockholder with respect to such shares that constitute Additional Shares shall instead be deemed to be the later of (i) the Conversion Date and (ii) the effective date of the Change of Control resulting in the Additional Shares. On and after the Conversion Date with respect to a conversion of Securities pursuant hereto, all rights of the Holders of such Securities shall terminate, other than the right to receive the consideration deliverable upon conversion of such Securities as provided herein. A Holder of a Security is not entitled, as such, to any rights of a holder of Common Stock until, if such Holder converts such Security and is entitled pursuant hereto to receive shares of Common Stock in respect of such conversion, the close of business on the date or dates set forth in this Section 10.04(k) with respect to such conversion.

(l) Whenever the Company has elected to settle its Conversion Obligation other than solely in shares of Common Stock and any provision of this Article 10 requires a calculation of Last Reported Sale Prices, the Company shall make appropriate adjustments (determined in good faith by the Board of Directors) to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date of the event occurs, at any time during the period from which such calculation is to be calculated.

(m) In addition to those adjustments required by subsections (a), (b), (c), (d) and (e) of this Section 10.04, the Company may in its sole discretion increase the Conversion Rate as the Board of Directors deems advisable to avoid or diminish any income tax to Holders of the Securities resulting from any dividend or distribution on Capital Stock issuable upon conversion of the Securities (or rights to acquire Capital Stock) or from any event treated as such for income tax purposes. The Company may also, from time to time, to the extent permitted by applicable law and the rules of the NYSE or any other securities exchange on which the Common Stock is then listed, increase the Conversion Rate by any amount for a period of at least 20 days if the Board of Directors determines that such increase would be in the Company’s best interest (which determination shall be conclusive). Whenever the Conversion Rate is increased pursuant to the preceding sentence, the Company shall mail to the Holder of each Security at his last address appearing on the register provided for in Section 2.03 in this Indenture and the Trustee a notice of the increase at least 15 days prior to the date the increased Conversion Rate takes effect, and such notice shall state the increased Conversion Rate and the period during which it shall be in effect.

Section 10.05. *Effect of Reclassification, Consolidation, Merger or Sale.* (a) If any of the following events occur, namely (i) any reclassification or change of the outstanding shares of Common Stock (other than a subdivision or combination to which Section 10.04(a) applies or a change in par value), (ii) any consolidation, merger, binding share exchange or combination of the Company with another Person, or (iii) any sale or conveyance of all or substantially all the properties and assets of the Company to any other Person, in each case, as a result of which holders of Common Stock shall be entitled to receive Capital Stock, other securities, other property, assets or cash (collectively, “**Exchange Property**”) with respect to or in exchange for such Common Stock, then the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture (which shall comply with the TIA as in force at the date of execution of such supplemental indenture) providing for the conversion and settlement of the Securities as set forth in this Indenture. Such supplemental indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 10. If, in the case of any such reclassification, change, merger, consolidation, binding share exchange, combination, sale or conveyance, the Exchange Property receivable thereupon by a holder of Common Stock includes shares of stock or other securities and assets of a corporation other than the successor or purchasing corporation, as the case may be, in such reclassification, change, merger, consolidation, binding share exchange, combination, sale or conveyance, then such supplemental indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the Holders of the Securities as the Board of Directors shall reasonably consider necessary by reason of the foregoing.

(b) The Conversion Obligation with respect to each \$1,000 principal amount of Securities converted following the effective date of any such transaction shall be calculated (as provided in clause (c) below) based on the Exchange Property. In the event that holders of the Common Stock have the opportunity to elect the form of consideration to be received in any such transaction, the Conversion Obligation shall be determined based upon (i) the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election or (ii) if no holders of Common Stock

affirmatively make such an election, the types and amount of consideration actually received by such holders (subject to the Company's right to settle the Conversion Obligation in cash). The Company shall not become a party to any such transaction unless its terms are consistent with the foregoing. However, if the transaction described above also constitutes a Public Acquirer Change of Control, then the Company may in certain circumstances elect to change the conversion right in the manner described in Section 10.01(d) in lieu of changing the Conversion Right in the manner described in this Section 10.05(b).

(c) The Conversion Obligation in respect of any Securities converted following the effective date of any such transaction shall be computed in the same manner as set forth in Section 10.02; *provided* that, if the Securities become convertible into Exchange Property, the Closing Price of the Common Stock shall be deemed to equal the sum of (A) 100% of the value of any Exchange Property consisting of cash received per share of Common Stock, (B) the Closing Price of any Exchange Property received per share of Common Stock consisting of securities that are traded on a U.S. national securities exchange and (3) the fair market value of any other Exchange Property received per share, as determined by three independent nationally recognized investment banks selected by the Company for this purpose; *provided further*, that any amount of the Conversion Settlement Distribution to be delivered in shares of Common Stock shall be paid in Exchange Property rather than shares of Common Stock. If the Exchange Property includes more than one kind of property, the amount of Exchange Property of each kind to be delivered shall be in the proportion that the value of the Exchange Property (as calculated pursuant to Section 10.05(b)) of such kind bears to the value of all such Exchange Property. If the foregoing calculations would require the Company to deliver a fractional share or unit of Exchange Property to a Holder of Securities being converted, the Company shall deliver cash in lieu of such fractional share or unit based on the value of the Exchange Property.

(d) The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder of Securities, at its address appearing on the Security register provided for in Section 2.03 of this Indenture, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

(e) The above provisions of this Section shall similarly apply to successive reclassifications, changes, consolidations, mergers, binding share exchanges, combinations, sales and conveyances. If this Section 10.05 applies to any event or occurrence, Section 10.04 shall not apply.

Section 10.06. *Taxes on Shares Issued.* The issue of stock certificates on conversions of Securities shall be made without charge to the converting Holder for any documentary, stamp or similar issue or transfer tax in respect of the issue thereof, except for applicable withholding, if any. The Company shall not, however, be required to pay any tax or duty which may be payable in respect of any transfer involved in the issue and delivery of stock in any name other than that of the Holder of any Securities converted, and the Company shall not be required to issue or deliver any such stock certificate unless and until the Person or Persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

Section 10.07. *Reservation of Shares, Shares to Be Fully Paid; Compliance with Governmental Requirements; Listing of Common Stock.* (a) The Company shall provide, free from preemptive rights, out of its authorized but unissued shares or shares held in treasury, sufficient shares of Common Stock for the conversion of the Securities from time to time as such Securities are presented for conversion.

(b) Before taking any action which would cause an adjustment increasing the Conversion Rate to an amount that would cause the Conversion Price to be reduced below the then par value, if any, of the shares of Common Stock issuable upon conversion of the Securities, the Company shall take all corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue shares of such Common Stock at such adjusted Conversion Rate.

(c) (i) The Company covenants that all shares of Common Stock which may be issued upon conversion of Securities shall upon issue be fully paid and nonassessable by the Company and free from all taxes, liens and charges with respect to the issue thereof.

(ii) The Company covenants that, if any shares of Common Stock to be provided for the purpose of conversion of Securities hereunder require registration with or approval of any governmental authority under any federal or state law before such shares may be validly issued upon conversion, the Company shall in good faith and as expeditiously as possible, to the extent then permitted by the rules and interpretations of the Securities and Exchange Commission (or any successor thereto), endeavor to secure such registration or approval, as the case may be.

Section 10.08. *Responsibility of Trustee.* The Trustee and any other Conversion Agent shall not at any time be under any duty or responsibility to any Holder of Securities to determine the Conversion Rate or whether any facts exist which may require any adjustment of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, or of any securities or property, which may at any time be issued or delivered upon the conversion of any Security; and the Trustee and any other Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property or cash upon the surrender of any Security for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article 10. Without limiting the generality of the foregoing, neither the Trustee nor any Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 10.05 relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by

Holders upon the conversion of their Securities after any event referred to in such Section 10.05 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 7.01, may accept as conclusive evidence of the correctness of any such provisions, and shall be protected in conclusively relying upon the Officer's Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto.

Section 10.09. *Notice to Holders Prior to Certain Actions.* In case:

(a) the Company shall declare a dividend (or any other distribution) on its Common Stock that would require an adjustment in the Conversion Rate pursuant to Section 10.04; or

(b) the Company shall authorize the granting to the holders of all of its Common Stock of rights, warrants or options to subscribe for or purchase any share of any class or any other rights, warrants or options that would require an adjustment in the Conversion Rate pursuant to Section 10.04(b); or

(c) of any reclassification or reorganization of the Common Stock of the Company (other than a subdivision or combination of its outstanding Common Stock, or a change in par value, or from par value to no par value, or from no par value to par value), or of any consolidation, merger or binding share exchange to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or

(d) of the voluntary or involuntary dissolution, liquidation or winding up of the Company;

the Company shall cause to be filed with the Trustee and to be mailed to each Holder of Securities at his address appearing on the register provided for in Section 2.03 of this Indenture, as promptly as possible but in any event at least ten days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution of rights, warrants or options, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger, or binding share exchange, sale, transfer, dissolution, liquidation or winding up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, or binding share exchange, sale, transfer, dissolution, liquidation or winding up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, reclassification, consolidation, merger, or binding share exchange, sale, transfer, dissolution, liquidation or winding up.

Section 10.10. *Shareholder Rights Plan.* To the extent that the Company has a rights plan in effect upon conversion of the Securities into Common Stock, a Holder who converts securities shall receive, in addition to the Common Stock, the rights under the rights plan, unless prior to any conversion, the rights have separated from the Common Stock, in which case the Conversion Rate shall be adjusted at the time of separation as if the Company distributed to all holders of Common Stock shares of the Company's Capital Stock, evidences of indebtedness or assets as described in Section 10.04(c) above, subject to readjustment in the event of the expiration, termination or redemption of such rights. A further adjustment shall occur as described in Section 10.04(c) if such rights become exercisable to purchase different securities, evidences of indebtedness or assets, subject to readjustment in the event of the expiration, termination or redemption of such rights.

Section 10.11. *Unconditional Right of Holders to Convert.* Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to convert its Security in accordance with this Article 10 and to bring an action for the enforcement of any such right to convert, and such rights shall not be impaired or affected without the consent of such Holder.

ARTICLE XI

[Reserved]

ARTICLE XII

Contingent Interest

Section 12.01. *Contingent Interest.* (a) The Company shall pay Contingent Interest with respect to the Securities for any Contingent Interest Period if the average Trading Price of Securities for the five consecutive Trading Days ending on the second Trading Day immediately preceding the first day of the relevant Contingent Interest Period equals or exceeds 120% of the principal amount of such Securities.

(b) The amount of Contingent Interest payable per \$1,000 principal amount of Securities in respect of any Contingent Interest Period shall equal 0.25% per annum calculated on the average Trading Price of \$1,000 principal amount of Securities during the relevant five Trading Day period used to determine whether Contingent Interest must be paid.

(c) The Company shall be responsible for calculating the amounts of Contingent Interest, if any, accrued on the Securities. The Company shall make any such calculations using the Trading Price provided by the Bid Solicitation Agent. The Bid Solicitation Agent shall be entitled in its sole discretion to consult with the Company and to request the assistance of the Company in connection with the Bid Solicitation Agent's duties pursuant to this Article 12, and the Company agrees, if requested by the Bid Solicitation Agent, to cooperate with, and provide assistance to, the Trustee in carrying out its duties under

this Article 12.

Section 12.02. *Payment of Contingent Interest.* Payments of Contingent Interest shall be made in the same manner, at the same time, and subject to the same restrictions, including those restrictions in respect of accrued and unpaid interest on any Securities that are submitted for conversion, as payments of Interest.

Section 12.03. *Contingent Interest Notification.* By the first Business Day of a Contingent Interest Period for which Contingent Interest shall be payable, the Company shall disseminate a press release containing this information or publish the information on its Website.

ARTICLE XIII

Miscellaneous

Section 13.01. *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, the required provision of the TIA shall control.

Section 13.02. *Notices.* Any request, demand, authorization, notice, waiver, consent or communication by the Company or the Trustee to the other is duly given if in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission to the following facsimile numbers:

If to the Company:

Live Nation, Inc.

9348 Civic Center Drive

Beverly Hills, CA 90210

Attn: General Counsel

Facsimile: 310-867-7158

With a copy to:

Latham & Watkins LLP

633 West Fifth Street, Suite 4000

Los Angeles, CA 90071-2007

Attention: James Beaubien

Facsimile: 213-891-8763

If to the Trustee:

Wells Fargo Bank, N.A.

1445 Ross Avenue — 2nd Floor

Dallas, TX 75202-2812

Attn: Patrick Giordano, Corporate Trust Services

Facsimile: 214-777-4086

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

Except as otherwise expressly provided in this Indenture, any notice or communication given to a Securityholder shall be delivered to the Securityholder, in accordance with the procedures of the Registrar or by first class mail, postage prepaid, at the Securityholder's address as it appears on the registration books of the Registrar and shall be deemed to have been given on the date of mailing.

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. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not received by the addressee; *provided, however*, that no notice to the Trustee shall be deemed to be duly given unless and until the Trustee actually receives same at the address given above.

If the Company mails a notice or communication to the Securityholders, it shall mail a copy to the Trustee and each

Registrar, Paying Agent, Conversion Agent or co-registrar.

Section 13.03. *Communication 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 anyone else shall have the protection of TIA Section 312(c).

Section 13.04. *Certificate and Opinion as to Conditions Precedent.* 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:

(1) an Officer's Certificate stating that, in the opinion of the signer, all conditions 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 have been complied with.

Section 13.05. *Statements Required in Certificate or Opinion.* Each Officer's Certificate or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(1) a statement that each person making such Officer's Certificate or Opinion of Counsel 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 Officer's Certificate or Opinion of Counsel are based;

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

(4) a statement that, in the opinion of such person, such covenant or condition has been complied with.

Section 13.06. *Separability Clause.* In case any provision 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 13.07. *Rules by Trustee, Paying Agent, Conversion Agent and Registrar.* The Trustee may make reasonable rules for action by or a meeting of Securityholders. The Registrar, the Conversion Agent and the Paying Agent may make reasonable rules for their functions.

Section 13.08. *Legal Holidays.* A "legal holiday" is any day other than a Business Day. If any specified date (including a date for giving notice) is a legal holiday, the action shall be taken on the next succeeding day that is not a legal holiday, and, if the action to be taken on such date is a payment in respect of the Securities, no interest shall accrue with respect to such payment for the intervening period.

Section 13.09. *Governing Law.* THIS INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 13.10. *No Recourse Against Others.* A director, officer, employee, incorporator, stockholder or partner, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Securityholder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Securities.

Section 13.11. *Successors.* All agreements of the Company in this Indenture and the Securities shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

Section 13.12. *Execution in Counterparts.* This Indenture may be executed in any number of counterparts and by different 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. Delivery of an executed counterpart of a signature page to this Indenture by telecopier shall be effective as delivery of a manually executed counterpart of this Indenture.

Section 13.13. *Multiple Originals.* The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture.

Section 13.14. *Benefits of Indenture.* Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 13.15. *No Adverse Interpretation of Other Agreements.* This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 13.16. *Calculations in Respect of Securities.* The Company or its agents shall be responsible for making all calculations called for under the Securities including, but not limited to, determination of the market prices for the Securities and of the Common Stock and the amounts of Interest, Contingent Interest and Additional Amounts, if any, accrued on the Securities. The Company shall make all calculations in good faith. Any calculations made in good faith and without manifest error shall be final and binding on Holders of the Securities. The Company or its agents shall be required to deliver to the Trustee and the Conversion Agent, upon the request of the Trustee or the Conversion Agent, a schedule of its calculations and each of the Trustee and the Conversion Agent shall be entitled to conclusively rely upon the accuracy of such calculations without independent verification. The Trustee will forward such calculations to any Holder upon the request of such Holder.

Section 13.17. *Table of Contents, Cross Reference Sheet and Headings.* 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 intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 13.18. *Force Majeure.* In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

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

LIVE NATION, INC.

By: /s/ Michael Rapino
Name: Michael Rapino
Title: Chief Executive Officer

Attestation: /s/ Michael Rowles
Name: Michael Rowles
Title: Executive Vice President,
General Counsel and Secretary

WELLS FARGO as Trustee
BANK, N.A.,
By: /s/ Patrick T. Giordano
Name: Patrick T. Giordano
Title: Vice President

EXHIBIT A

[FORM OF FACE OF GLOBAL SECURITY]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE ISSUER 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 THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS TO NOMINEES OF THE DEPOSITORY TRUST COMPANY, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE TWO OF THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

[NEITHER THIS SECURITY NOR THE SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR THE SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SECURITY, NOR ANY INTEREST OR PARTICIPATION HEREIN OR THEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, (1) REPRESENTS THAT IT AND ANY INVESTOR ACCOUNT FOR

WHICH IT HAS PURCHASED SECURITIES IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT ("RULE 144A")); (2) AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES TO OFFER, SELL OR OTHERWISE TRANSFER THIS SECURITY OR ANY COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SECURITY, PRIOR TO THE EXPIRATION OF THE HOLDING PERIOD APPLICABLE TO SALES OF THIS SECURITY UNDER RULE 144(k) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION), ONLY (A) TO LIVE NATION, INC. (THE "ISSUER"), (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT (AND WHICH CONTINUES TO BE EFFECTIVE AT THE TIME OF SUCH TRANSFER), (C) IN COMPLIANCE WITH RULE 144A TO A PERSON IT REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A OR (D) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUER'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM; AND (3) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. THIS LEGEND WILL BE REMOVED UPON THE EARLIER OF THE TRANSFER OF THIS SECURITY PURSUANT TO CLAUSE 2(B) ABOVE OR UPON ANY TRANSFER OF THIS SECURITY UNDER RULE 144 UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION).]

[The foregoing legend may be removed from this Security upon the earlier of the transfer of this Security pursuant to clause 2(B) above or upon the transfer of this Security under Rule 144 under the Securities Act of 1933 (or any successor provision).]

THIS SECURITY IS BEING ISSUED WITH AN INDETERMINATE AMOUNT OF ORIGINAL ISSUE DISCOUNT FOR UNITED STATES FEDERAL INCOME TAX PURPOSES. THE ISSUE PRICE FOR THIS SECURITY IS \$1,000 PER \$1,000 OF PRINCIPAL AMOUNT AND THE ISSUE DATE FOR THIS SECURITY IS JULY 16, 2007. THIS SECURITY IS SUBJECT TO UNITED STATES FEDERAL INCOME TAX REGULATIONS GOVERNING CONTINGENT PAYMENT DEBT INSTRUMENTS. THE COMPARABLE YIELD FOR THIS SECURITY IS 9.40% PER ANNUM, COMPOUNDED SEMI-ANNUALLY (WHICH WILL BE TREATED AS THE YIELD TO MATURITY FOR UNITED STATES FEDERAL INCOME TAX PURPOSES). FOR INFORMATION REGARDING THE PROJECTED PAYMENT SCHEDULE FOR THIS SECURITY, HOLDERS SHOULD CONTACT THE INVESTOR RELATIONS OF LIVE NATION, INC. AT 9348 CIVIC CENTER DRIVE, BEVERLY HILLS, CA 90210.

Pursuant to Section 2.15 of the Indenture, the foregoing legend is required for U.S. federal income tax purposes.

LIVE NATION, INC.

2.875% Convertible Senior Notes Due 2027

CUSIP: [538034 AA7]¹ [538034 AB5]²

Principal Amount: \$\$ []

No.

LIVE NATION, INC., a Delaware corporation, promises to pay to Cede & Co. or registered assigns, the principal amount of [] Dollars (\$[]) (as modified by the Schedule of Increases and Decreases of Global Security attached hereto), on July 15, 2027.

Interest Rate: 2.875% per year.

Interest Payment Dates: January 15 and July 15 of each year, commencing January 15, 2008.

Interest Record Date: January 1 and July 1 of each year.

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

¹ 144A CUSIP

² Unrestricted CUSIP

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated: July 16, 2007

LIVE NATION, INC.

By:
Name:
Title:

Attestation:

Name:

Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

WELLS FARGO BANK, N.A.,

as Trustee, certifies that this is one
of the Securities referred to in the
within-mentioned Indenture.

By___

Authorized Officer

Dated: July 16, 2007

[FORM OF REVERSE OF GLOBAL SECURITY]

2.875% Convertible Senior Notes Due 2027

This Security is one of a duly authorized issue of 2.875% Convertible Senior Notes Due 2027 (the "**Securities**") of Live Nation, Inc., a Delaware corporation (including any successor corporation under the Indenture hereinafter referred to, the "**Company**"), issued under an Indenture, dated as of July 16, 2007 (the "**Indenture**"), between the Company and Wells Fargo Bank, N.A., 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 ("**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, in the event of any inconsistency between the terms of this Security and the terms of the Indenture, the terms of the Indenture shall control. Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture unless otherwise indicated.

1. Interest.

The Securities shall bear interest on the principal amount thereof at a rate of 2.875% per year. The Company shall pay Contingent Interest, if any, as set forth in the Indenture and in Section 3 hereof. The Company shall also pay Additional Amounts, if any, as set forth in Sections 4.07 and 6.03 of the Indenture and the Registration Rights Agreement.

Interest shall be payable semi-annually in arrears on each Interest Payment Date to Holders at the close of business on the preceding Interest Record Date. Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Interest shall accrue from July 16, 2007, or from the most recent date to which Interest has been paid or duly provided for. If any Interest Payment Date, Stated Maturity, Redemption Date, Repurchase Date or Fundamental Change Repurchase Date falls on a day that is not a Business Day, then the required payment shall be made on the next succeeding Business Day with the same force and effect as if made on the date that such payment was due, and no additional interest will accrue on that payment for the period from and after the Interest Payment Date, Stated Maturity, Redemption Date, Repurchase Date or Fundamental Change Repurchase Date, as the case may be, to that next succeeding Business Day.

The Company shall pay Interest to the Securityholder of record on the Interest Record Date even if the Company elects to redeem or Securityholders elect to require the Company to repurchase, the Securities on a date that is after an Interest Record Date but on or prior to the corresponding Interest Payment Date. In that instance, the Company shall pay accrued and unpaid Interest on the Securities being redeemed to, but not including, the Redemption Date, the Repurchase Date or the Fundamental Change Repurchase Date, as the case may be, to the Securityholder of record on the Interest Record Date.

If the principal amount of any Security, or any accrued and unpaid Interest, Contingent Interest, if any, or Additional Amounts, if any, are not paid when due (whether upon acceleration pursuant to Section 6.02 of the Indenture, upon the date set for payment of the Redemption Price pursuant to Section 5 hereof, upon the date set for payment of the Repurchase Price or Fundamental Change Repurchase Price pursuant to Section 6 hereof, upon the Stated Maturity of the Securities or upon the Interest Payment Dates, then in each such case the overdue amount shall, to the extent permitted by law, bear cash interest at the rate of 2.875% per annum, compounded semiannually, which interest shall accrue from the date such overdue amount was originally due to the date payment of such amount, including interest thereon, has been made or duly provided for. All such interest shall be payable in cash on demand but if not so demanded shall be paid quarterly to the Holders on the last day of each quarter.

2. Method of Payment.

Except as provided below, the Company shall pay Interest, including Contingent Interest, if any, and Additional Amounts, if any, on (i) Global Securities, to DTC, or its nominee, as the case may be, as the registered owner thereof, in immediately available funds, (ii) any Certificated Security having an aggregate principal amount of \$2,000,000 or less, by check mailed to the Holder of such Security and (iii) any Certificated Security having an aggregate principal amount of more than \$2,000,000, by wire transfer in immediately available funds if requested by the Holder of any such Security at least five business days prior to the relevant Interest Payment Date.

At Stated Maturity, the Company shall pay Interest on Certificated Securities at the Company's office or agency maintained for that purpose, which initially shall be the Corporate Trust Office of the Trustee.

Subject to the terms and conditions of the Indenture, the Company shall make payments in cash in respect of Redemption Prices, Repurchase Prices, Fundamental Change Repurchase Prices and at Stated Maturity to Holders who surrender Securities to a Paying Agent to collect such payments in respect of the Securities. The Company shall pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may make such cash payments by check payable in such money.

3. Contingent Interest

The Company shall pay Contingent Interest under the circumstances and in the amounts described in Article 12 of the Indenture. Such Contingent Interest, if any, shall be payable in the same manner, at the same time, and subject to the same restrictions, including those restrictions in respect of accrued and unpaid interest on any Securities that are submitted for conversion, as payments of Interest.

4. Indenture.

The Securities are general unsecured obligations of the Company limited to \$220,000,000 aggregate principal amount. The Indenture does not limit other indebtedness of the Company, secured or unsecured.

5. Redemption at the Option of the Company.

No sinking fund is provided for the Securities. The Securities are redeemable for cash at the option of the Company, in whole or in part, at any time or from time to time on or after July 20, 2014 upon not less than 30 nor more than 60 days' notice by mail for a redemption price (the "**Redemption Price**") equal to the principal amount of those Securities plus accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and Additional Amounts, if any, on those Securities up to, but not including, the Redemption Date.

In no event shall any Security be redeemable before July 20, 2014.

6. Purchase By the Company at the Option of the Holder.

Subject to the terms and conditions of the Indenture, the Company shall become obligated to repurchase, at the option of the Holder, all or any portion of the Securities held by such Holder on July 15, 2014, July 15, 2017 and July 15, 2022 in integral multiples of \$1,000 at a Repurchase Price equal to 100% of the principal amount of those Securities plus accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and Additional Amounts, if any, on those Securities up to, but not including, the Repurchase Date. To exercise such right, a Holder shall deliver to the Paying Agent a Repurchase Notice containing the information set forth in the Indenture, at any time from the opening of business on the date that is 20 Business Days prior to such Repurchase Date until the close of business on the Repurchase Date, and shall deliver the Securities to the Paying Agent as set forth in the Indenture.

At the option of the Holder and subject to the terms and conditions of the Indenture, the Company shall become obligated to repurchase the Securities held by such Holder after the occurrence of a Fundamental Change for a Fundamental Change Repurchase Price equal to the principal amount of those Securities plus accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and Additional Amounts, if any, on those Securities up to, but not including, the Fundamental Change Repurchase Date.

Holders have the right to withdraw any Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, 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 Repurchase Price or Fundamental Change Repurchase Price, as the case may be, of all Securities or portions thereof to be purchased as of the Repurchase Date or the Fundamental Change Repurchase Date, as the case may be, is deposited with the Paying Agent, Interest, Contingent Interest, if any, and Additional Amounts, if any, shall cease to accrue on such Securities (or portions thereof) on and following such Repurchase Date or Fundamental Change Repurchase Date, and the Holder thereof shall have no other rights as such other than the right to receive the Repurchase Price or Fundamental Change Repurchase Price upon surrender of such Security.

7. Notice of Redemption.

Notice of redemption pursuant to Section 5 of this Security shall be mailed at least 30 days but not more than 60 days

before the Redemption Date to each Holder of Securities to be redeemed at the Holder's registered address. If money sufficient to pay the Redemption Price of all Securities (or portions thereof) to be redeemed on the Redemption Date is deposited with the Paying Agent prior to or on the Redemption Date, immediately on and after such Redemption Date, Interest, Contingent Interest, if any, and Additional Amounts, if any, shall cease to accrue on such Securities or portions thereof. Securities in denominations larger than \$1,000 principal amount may be redeemed in part but only in integral multiples of \$1,000 of principal amount.

8. Conversion.

Subject to the occurrence of certain events and in compliance with the provisions of the Indenture (including, without limitation, the conditions to conversion of this Security set forth in Section 10.01 thereof), a Holder is entitled, at such Holder's option, to convert the Holder's Security (or any portion of the principal amount thereof that is \$1,000 or an integral multiple of \$1,000), into fully paid and nonassessable shares of Common Stock (or cash or a combination of cash and shares of Common Stock, at the Company's election as provided in the Indenture) at the Conversion Rate in effect at the time of conversion. The Company may irrevocably elect net share settlement of the Securities as provided in the Indenture.

The Company shall notify Holders of any event triggering the right to convert the Securities as specified in the Indenture.

A Security in respect of which a Holder has delivered a Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, exercising the option of such Holder to require the Company to purchase such Security, may be converted only if such Repurchase Notice or Fundamental Change Repurchase Notice, as the case may be, is withdrawn in accordance with the terms of the Indenture.

The initial Conversion Rate is 36.8395 shares of Common Stock per \$1,000 principal amount, subject to adjustment in certain events described in the Indenture. The Conversion Rate shall not be adjusted for any accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, or accrued and unpaid Additional Amounts, if any. Upon conversion, no payment shall be made by the Company with respect to accrued and unpaid Interest and accrued and unpaid Contingent Interest or Additional Amounts, if any; *provided* that if a Conversion Date with respect to any Security occurs between an Interest Record Date for the payment of Interest (including Contingent Interest and Additional Amounts, if any) but prior to the corresponding Interest Payment Date, Interest, Contingent Interest, if any, and Additional Amounts, if any, will be paid to the Holder of record of such Security on such Interest Record Date. Instead, such amount shall be deemed paid by the cash and shares of Common Stock, if any, delivered upon conversion of any Security. In addition, no payment or adjustment shall be made in respect of dividends on the Common Stock, except as set forth in the Indenture.

In addition, following certain corporate transactions as set forth in Section 10.01(c) of the Indenture that occur prior to July 20, 2014, and that also constitute a Change of Control, a Holder who elects to convert its Securities in connection with such corporate transaction shall be entitled to receive Additional Shares of Common Stock upon conversion. Notwithstanding the previous sentence, in the case of a Public Acquirer Change of Control, the Company may, in lieu of increasing the Conversion Rate by Additional Shares, elect to adjust the Conversion Rate and Conversion Obligation such that from and after the effective date of such Public Acquirer Change of Control, Holders of the Securities shall be entitled to convert their Securities into a number of shares of Public Acquirer Common Stock (or cash or a combination of cash and shares of Public Acquirer Common Stock, at the Company's election as provided in the Indenture), as determined pursuant to Section 10.01(d) of the Indenture.

To surrender a Security for conversion, a Holder must (1) complete and manually sign the Conversion Notice attached hereto (or complete and manually sign a facsimile of such notice) and deliver such notice to the Conversion Agent, (2) surrender the Security to the Conversion Agent, (3) furnish appropriate endorsements and transfer documents, (4) if required by Section 10.02(1) of the Indenture, pay Interest, Contingent Interest and Additional Amounts and (5) pay any transfer or similar tax, if required.

No fractional shares of Common Stock shall be issued upon conversion of any Security. Instead of any fractional share of Common Stock that would otherwise be issued upon conversion of such Security, the Company shall pay a cash adjustment as provided in the Indenture.

In the event that the Company (i) is a party to a consolidation, merger, binding share exchange or combination, (ii) reclassifies the Common Stock, (iii) sells or conveys all or substantially all of its property or assets to any Person, and as a result of any such event the holders of Common Stock would be entitled to receive Exchange Property for their Common Stock, upon conversion of the Securities after the effective date of such event, the Conversion Obligation and the Conversion Settlement Distribution shall be based on the applicable Conversion Rate and the Exchange Property, in each case in accordance with the Indenture.

9. Trustee, Paying Agent and Conversion Agent

Initially, the Trustee shall act as Paying Agent, Conversion Agent and Registrar. The Company may appoint and change any Paying Agent, Conversion Agent or Registrar without notice, other than notice to the Trustee. The Company or any of its Subsidiaries or any of their Affiliates may act as Paying Agent, Conversion Agent or Registrar.

10. Denominations; Transfer; Exchange.

The Securities are in fully registered form, without coupons, in denominations of \$1,000 of principal amount and integral multiples of \$1,000. A Holder may transfer 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 any taxes and fees required by law or permitted by the Indenture. The Registrar need not transfer or exchange any Securities selected for redemption (except, in the case of a Security to be redeemed in part, the portion of the Security not to be redeemed) for a period of 15 days before the mailing of a notice of redemption of Securities to be redeemed or any Securities in respect of which a Repurchase Notice or Fundamental Change Repurchase Notice has been given and not withdrawn (except, in the case of a Security to be purchased in part, the portion of the Security not to be purchased).

11. Persons Deemed Owners.

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

12. Amendment; Waiver.

Subject to certain exceptions set forth in the Indenture, (i) the Indenture or the Securities may be amended with the written consent of the Holders of at least a majority in aggregate principal amount of the outstanding Securities and (ii) certain Events of Defaults may be waived with the written consent of the Holders of a majority in aggregate principal amount of the outstanding Securities. Subject to certain exceptions set forth in the Indenture, without the consent of any Securityholder, the Company and the Trustee may amend the Indenture or the Securities (i) to add guarantees with respect to the Securities or secure the Securities, (ii) to provide for the assumption by a successor Person of the Company's obligations to the Holders of Securities in the case of a merger, consolidation, conveyance, transfer, sale, lease or other disposition pursuant to Article 5 of the Indenture, (iii) to surrender any right or power conferred upon the Company in the Indenture (including the Company's right to elect to pay cash upon conversion in lieu of Common Stock and the Company's right to make a Net Share Settlement Election), (iv) to add to the covenants or Events of Default of the Company for the benefit of the Holders of Securities, (v) to cure any ambiguity or to correct or supplement any provision in the Indenture which may be inconsistent with any other provision in the Indenture or which is otherwise defective; *provided, however*, that any such change or modification does not, in the good faith opinion of the Board of Directors of the Company (as evidenced by a Board Resolution) and the Trustee, adversely affect the interests of the Holders of Securities, (vi) to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the TIA, (vii) to establish the form of Securities if issued in definitive form, (viii) to evidence and provide for the acceptance of the appointment under the Indenture of a successor Trustee, (ix) to provide for uncertificated Securities in addition to or in place of Certificated Securities; *provided, however*, that uncertificated Securities are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that uncertificated Securities are described in Section 163(f)(2) (B) of the Code, (x) to conform, as necessary, the Indenture and this Security to the "Description of Notes" as set forth in the Offering Memorandum, (xi) to provide for conversion rights of Holders of Securities if any reclassification or change of the Company's Common Stock or any consolidation, merger, sale, lease or other disposition of all or substantially all of the Company's assets occurs, and (xii) to change the Conversion Rate in accordance with the Indenture; *provided, however*, that any increase in the Conversion Rate other than pursuant to Article 10 shall not adversely affect the interests of the Holders of Securities (after taking into account U.S. federal income tax and other consequences of such increase).

13. Defaults and Remedies.

If any Event of Default with respect to Securities shall occur and be continuing, the principal amount of the Securities and any accrued and unpaid Interest, accrued and unpaid Contingent Interest, if any, and accrued and unpaid Additional Amounts, if any, on all the Securities may be declared due and payable in the manner and with the effect provided in the Indenture; *provided* that, in respect of defaults of the Company's reporting obligations under the Indenture, the Company may elect in certain circumstances and for specified periods to pay Additional Amounts as the sole and exclusive remedy for such defaults.

14. 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 Trustee.

15. Calculations in Respect of Securities.

The Company or its agents shall be responsible for making all calculations called for under the Securities including, but not limited to, determination of the market prices for the Securities and of the Common Stock and the amounts of Interest, Contingent Interest and Additional Amounts, if any, accrued on the Securities. The Company shall make all calculations in good faith. Any calculations made in good faith and without manifest error shall be final and binding on Holders of the Securities. The Company or its agents shall be required to deliver to the Trustee and the Conversion Agent a schedule of its calculations and each of the Trustee and the Conversion Agent shall be entitled to conclusively rely upon the accuracy of such calculations without independent verification. The Trustee will forward such calculations to any Holder upon the request of such Holder.

16. No Stockholder Rights for Holders of Securities

Holders of Securities, as such, do not have any rights as stockholders of the Company (including, without limitation, voting rights and rights to receive any dividends or other distributions on the Common Stock).

17. No Personal Liability of Directors, Officers, Employees and Stockholders

No director, officer, employee, incorporator, stockholder or partner of the Company, as such, has any liability for any obligation of the Company under the Securities, the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Securities by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Securities. The waiver may not be effective to waive liabilities under the federal securities laws.

18. Unclaimed Money

If money deposited with the Trustee or Paying Agent for the payment of principal of, premium, if any, or accrued and unpaid Interest on, the Securities remains unclaimed for two years, the Trustee and Paying Agent will pay the money back to the Company upon the Company's written request. However, the Trustee and Paying Agent have the right to withhold paying the money back to the Company until they publish (in no event later than five days after the Company requests repayment) in a newspaper of general circulation in The City of New York, or mail to each registered Holder, a notice stating that the money will be paid back to the Company if unclaimed after a date no less than 30 days from the publication or mailing. After the Trustee or Paying Agent pays the money back to the Company, Holders of Securities entitled to the money must look to the Company for payment as general creditors, subject to applicable law, and all liability of the Trustee and the Paying Agent with respect to the money will cease.

19. U.S. Federal Income Tax Treatment.

This Security is being issued with an indeterminate amount of original issue discount for U.S. federal income tax purposes. The issue price for this Security is \$1,000 per \$1,000 principal amount and the issue date for this Security is July 16, 2007. The comparable yield for this Security is 9.40% per annum, compounded semi-annually (which will be treated as the yield to maturity for U.S. federal income tax purposes). For information regarding the projected payment schedule for the Securities, Holders should contact the Investor Relations of Live Nation, Inc. at 9348 Civic Center Drive, Beverly Hills, CA 90210.

The Company agrees, and by acceptance of a Security, each Holder hereof is deemed to have agreed, with respect to each of the matters set forth below, as follows:

Tax Treatment:

- (i) to treat the Securities as indebtedness of the Company for all tax purposes;
- (ii) to treat the Securities as indebtedness that are subject to the special U.S. Treasury Regulations governing contingent payment debt instruments; and
- (iii) to treat any payment to and receipt by a Holder, upon conversion of a Security, of cash, Common Stock or other property, as a contingent payment of such cash or the fair market value of such Common Stock or other property under U.S. Treasury Regulation section 1.1275-4(b) that will result in an adjustment under U.S. Treasury Regulation section 1.1275-4(b)(3)(iv) and U.S. Treasury Regulation section 1.1275-4(b)(6).

(b) Comparable Yield and Projected Payment Schedule. Solely for purposes of applying U.S. Treasury Regulation section 1.1275-4 to the Securities:

- (i) for United States federal income tax purposes, to accrue interest with respect to outstanding Securities pursuant to the "noncontingent bond method," as set forth in U.S. Treasury Regulation section 1.1275-4(b), regardless of the usual method of tax accounting of any Holder, based on the comparable yield of the Securities as described below;
- (ii) the comparable yield, as defined in U.S. Treasury Regulation section 1.1275-4(b)(4)(i), for the Securities is 9.40%, compounded semi-annually;
- (iii) the projected payment schedule, as defined in U.S. Treasury Regulation section 1.1275-4(b)(4)(ii), is the schedule found at Annex A of the Indenture; and
- (iv) the Company acknowledges and agrees, and each Holder and any beneficial owner of a Security, by its purchase of a Security shall be deemed to acknowledge and agree, that (A) the projected payment schedule is determined on the basis of an assumption of linear growth of the stock price, (B) the comparable yield and the projected payment schedule are not determined for any other purpose other than for the purposes of applying U.S. Treasury Regulation section 1.1275-4(b) to the Securities and (C) the comparable yield and the projected payment schedule do not constitute a projection or representation regarding the actual amounts payable on the Securities.

20. Authentication.

This Security shall not be valid until an authorized signatory of the Trustee manually signs the Trustee's Certificate of Authentication on the other side of this Security.

21. Abbreviations.

Customary abbreviations may be used in the name of a Securityholder 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 U/G/M/A (=Uniform Gift to Minors Act).

22. Governing Law.

THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN THE INDENTURE AND THIS SECURITY.

23. Copy of Indenture.

The Company shall furnish to any Securityholder upon written request and without charge a copy of the Indenture which has in it the text of this Security in larger type. Requests may be made to:

[24.] Live Nation, Inc.
9348 Civic Center Drive
Beverly Hills, CA 90210
Attn: Investor Relations
Facsimile No.: 310-975-6909
Registration Rights.

The Holders of the Securities are entitled to the benefits of a Registration Rights Agreement, dated as of July 16, 2007, between the Company and Banc of America Securities LLC and J.P. Morgan Securities Inc., as representatives of the initial purchasers, including the right to receive Additional Amounts upon a Registration Default (as defined in such agreement).³

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

ASSIGNMENT FORM

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

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

CONVERSION NOTICE

To convert this Security, check the box [] To convert only part of this Security, state the principal amount to be converted (which must be \$1,000 or an integral multiple of \$1,000):

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

(Insert the other person's soc. sec. tax ID no.)

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

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:___

SCHEDULE OF INCREASES AND DECREASES

OF GLOBAL SECURITY

Initial Principal Amount of Global Security: [] Dollars
 (\$[]).

Date	Amount of Increase in Principal Amount of Global Security	Amount of Decrease in Principal Amount of Global Security	Principal Amount of Global Security After Increase or Decrease	Notation by Registrar or Security Custodian

EXHIBIT B

[FORM OF FACE OF CERTIFICATED SECURITY]

[NEITHER THIS SECURITY NOR THE SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR THE SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SECURITY, NOR ANY INTEREST OR PARTICIPATION HEREIN OR THEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, (1) REPRESENTS THAT IT AND ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT ("RULE 144A")); (2) AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES TO OFFER, SELL OR OTHERWISE TRANSFER THIS SECURITY OR ANY COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SECURITY, PRIOR TO THE EXPIRATION OF THE HOLDING PERIOD APPLICABLE TO SALES OF THIS SECURITY UNDER RULE 144(k) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION), ONLY (A) TO LIVE NATION, INC. (THE "ISSUER"), (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT (AND WHICH CONTINUES TO BE EFFECTIVE AT THE TIME OF SUCH TRANSFER), (C) IN COMPLIANCE WITH RULE 144A TO A PERSON IT REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A OR (D) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUER'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM; AND (3) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. THIS LEGEND WILL BE REMOVED UPON THE EARLIER OF THE TRANSFER OF THIS SECURITY PURSUANT TO CLAUSE 2(B) ABOVE OR UPON ANY TRANSFER OF THIS SECURITY UNDER RULE 144 UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION).]

[The foregoing legend may be removed from this Security upon the earlier of the transfer of this Security pursuant to clause 2(B) above or upon the transfer of this Security under Rule 144 under the Securities Act of 1933 (or any successor provision).]

THIS SECURITY IS BEING ISSUED WITH AN INDETERMINATE AMOUNT OF ORIGINAL ISSUE DISCOUNT FOR UNITED STATES FEDERAL INCOME TAX PURPOSES. THE ISSUE PRICE FOR THIS SECURITY IS \$1,000 PER \$1,000 OF PRINCIPAL AMOUNT AND THE ISSUE DATE FOR THIS SECURITY IS JULY 16, 2007. THIS SECURITY IS SUBJECT TO UNITED STATES FEDERAL INCOME TAX REGULATIONS GOVERNING CONTINGENT PAYMENT DEBT INSTRUMENTS. THE COMPARABLE YIELD FOR THIS SECURITY IS 9.40% PER ANNUM, COMPOUNDED SEMI-ANNUALLY (WHICH WILL BE TREATED AS THE YIELD TO MATURITY FOR UNITED STATES FEDERAL INCOME TAX PURPOSES). FOR INFORMATION REGARDING THE PROJECTED PAYMENT SCHEDULE FOR THIS SECURITY, HOLDERS SHOULD CONTACT THE INVESTOR RELATIONS OF LIVE NATION, INC. AT 9348 CIVIC CENTER DRIVE, BEVERLY HILLS, CA 90210.

Pursuant to Section 2.15 of the Indenture, the foregoing legend is required for U.S. federal income tax purposes.

LIVE NATION, INC.

2.875% Convertible Senior Notes Due 2027

CUSIP: [538034 AA7]⁴ [538034 AB5]⁵

Principal Amount: \$ []

No.

LIVE NATION, INC., a Delaware corporation, promises to pay to [] or registered assigns, the principal amount of [] (\$[]), on July 15, 2027.

Interest Rate: 2.875% per year.

Interest Payment Dates: January 15 and July 15 of each year, commencing January 15, 2008.

Interest Record Date: January 1 and July 1 of each year.

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

⁴ 144A CUSIP

⁵ Unrestricted CUSIP

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated: []

LIVE NATION, INC.

By:

Name:

Title:

Attestation: _____

Name:

Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

WELLS FARGO BANK, N.A.,
as Trustee, certifies that this is one
of the Securities referred to in the
within-mentioned Indenture.

By _____

Authorized Officer

Dated: []

[FORM OF REVERSE OF CERTIFICATED SECURITY IS IDENTICAL TO EXHIBIT A]

EXHIBIT C

LIVE NATION, INC.

2.875% Convertible Senior Notes Due 2027

Transfer Certificate

In connection with any transfer of any of the Securities within the period prior to the expiration of the holding period applicable to the sales thereof under Rule 144(k) under the Securities Act of 1933, as amended (the "Securities Act") (or any successor provision), the undersigned registered owner of this Security hereby certifies with respect to \$__ principal amount of the above-captioned Securities presented or surrendered on the date hereof (the "Surrendered Securities") for registration of transfer, or for conversion where the securities issuable upon such conversion are to be registered in a name other than that of the undersigned registered owner (each such transaction being a "transfer"), that such transfer complies with the restrictive legend set forth on the face of the Surrendered Securities for the reason checked below:

A transfer of the Surrendered Securities is made to the Company; or

The transfer of the Surrendered Securities is pursuant to an effective registration statement under the Securities Act; or

The transfer of the Surrendered Securities complies with Rule 144A under the Securities Act; or

The transfer of the Surrendered Securities is pursuant to Rule 144 under the Securities Act and each of the conditions

set forth in such rule have been met;

and unless the box below is checked, the undersigned confirms that, to the undersigned's knowledge, such Securities are not being transferred to an "affiliate" of the Company as defined in Rule 144 under the Securities Act (an "Affiliate").

The transferee is an Affiliate of the Company.

DATE: _____

Signature(s)

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

Signature Guaranteed

Participant in a Recognized Signature

Name:

Address:

Tax I.D.:

EXHIBIT D

LIVE NATION, INC.

NOTICE OF REDEMPTION

[DATE]

To the Holders of the 2.875% Convertible Senior Notes Due 2027 issued by Live Nation, Inc.:

Live Nation, Inc. (the "Issuer") by this written notice hereby exercises, pursuant to Section 3.01 of that certain Indenture (the "Indenture"), dated as of July 16, 2007, between the Issuer and Wells Fargo Bank, N.A., its right to redeem \$[] of its 2.875% Convertible Senior Notes Due 2027 (the "Securities"). All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

1. Redemption Date: [], []

2. Redemption Price: \$[]

3. Conversion Rate: Each \$1,000 principal amount of the Securities is convertible at your option into [[insert number of shares] shares of the Issuer's common stock, no par value (the "Common Stock")] [other mix of cash and Common Stock], subject to adjustment, during the period described below.

4. Paying Agent and Conversion Agent: [NAME] [ADDRESS]

5. The Securities called for redemption may be converted at your option at any time from the date of this Notice of Redemption until 5:00 p.m. on the Business Day immediately prior to the Redemption Date set forth above.

6. The Securities called for redemption and not converted at your election prior to 5:00 p.m. on the Business Day immediately prior to Redemption Date set forth above shall be redeemed on the Redemption Date.

7. If you elect to convert your Securities, you must satisfy the requirements for conversion set forth in your Securities.

8. Your Securities called for redemption must be surrendered by you (by effecting book-entry transfer of the Securities or delivering Certificated Securities, together with necessary endorsements, as the case may be) to [Name of Paying Agent] at [insert address] in order for you to collect the Redemption Price.

9. [The Securities bearing the following Certificate Number(s) in the principal amount set forth below opposite such Certificate Number(s) are being redeemed:

Certificate Number(s)	Principal Amount
-----------------------	------------------

10. Unless the Company defaults in making the payment of the Redemption Price owed to you, Interest, Contingent Interest, if any, and Additional Amounts, if any, on your Securities called for redemption shall cease to accrue on and after the Redemption Date.

LIVE NATION, INC.

NOTICE OF REPURCHASE

[DATE]

To the Beneficial Owners of the 2.875% Convertible Senior Notes Due 2027 (the "Securities") issued by Live Nation, Inc.:

Live Nation, Inc. (the "Issuer") by this written notice hereby notifies you, pursuant to Section 3.07 of that certain Indenture (the "Indenture"), dated as of July 16, 2007, between the Issuer and Wells Fargo Bank, N.A., that you may request the Issuer to repurchase your Securities by delivery of a Repurchase Notice. Included herewith is the form of Repurchase Notice to be completed by you if you wish to have your Securities repurchased by the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

1. Repurchase Date: []
 2. Repurchase Price: []

3. Conversion Rate: To the extent described in Item 5 below, each \$1,000 principal amount of the Securities is convertible into [[insert number of shares] shares of the Issuer's common stock, no par value (the "Common Stock")] [other mix of cash and Common Stock], subject to adjustment.

4. Paying Agent and Conversion Agent: [NAME] [ADDRESS]

5. The Securities as to which you have delivered a Repurchase Notice to the Paying Agent may be converted if they are otherwise convertible pursuant to Article 10 of the Indenture and the terms of the Securities only if you withdraw such Repurchase Notice pursuant to the terms of the Indenture. You may be entitled to have your Securities converted into [mix of conversion consideration]:

(i) prior to January 15, 2027, and during any fiscal quarter commencing after September 30, 2007 (and only during such quarter, if the Closing Price (as defined in the Indenture) of the Issuer's Common Stock for at least 20 Trading Days in the 30 Trading-Day period ending on the last Trading Day of the preceding fiscal quarter was 130% or more of the Conversion Price (as defined in the Indenture) on such Trading Day;

(ii) prior to January 15, 2027, during the five Business Days immediately following any five consecutive Trading Day period in which the Trading Price per \$1,000 principal amount of the Securities (as determined following a request by a Security holder in accordance with the procedures described in the Indenture) for each day of that period was less than 98% of the product of the Closing Price of the Company's Common Stock and the current Conversion Rate of the Securities on each such day;

(iii) if the Issuer has called the Securities for redemption;

(iv) at any time on or after January 15, 2027 until the close of business on the Business Day immediately preceding the Stated Maturity of the Securities; or

(v) upon the occurrence of certain specified corporate transactions described in the Indenture.

6. The Securities as to which you have delivered a Repurchase Notice must be surrendered by you (by effecting book-entry transfer of the Securities or delivering Certificated Securities, together with necessary endorsements, as the case may be) to [Name of Paying Agent] at [insert address] in order for you to collect the Repurchase Price.

7. The Repurchase Price for the Securities as to which you have delivered a Repurchase Notice and not withdrawn such Repurchase Notice shall be paid promptly following the later of the Business Day immediately following such Repurchase Date and the date you deliver such Securities to [Name of Paying Agent].

8. In order to exercise your option to have the Issuer repurchase your Securities, you must deliver the Repurchase Notice, duly completed by you with the information required by such Repurchase Notice (as specified in Section 3.07 of the Indenture) and deliver such Repurchase Notice to the Paying Agent at any time from 9:00 a.m. on [insert specified day] until 5:00 p.m. on the [insert day that is the Repurchase Date].

9. In order to withdraw any Repurchase Notice previously delivered by you to the Paying Agent, you must deliver to the Paying Agent, by 5:00 p.m. on [insert day that is the Repurchase Date], a written notice of withdrawal specifying (i) the certificate number, if any, of the Securities in respect of which such notice of withdrawal is being submitted, (ii) the principal amount of the Securities in respect of which such notice of withdrawal is being submitted, and (iii) if you are not withdrawing your Repurchase

Notice for all of your Securities, the principal amount of the Securities which still remain subject to the original Repurchase Notice.

10. Unless the Issuer defaults in making the payment of the Repurchase Price owed to you, Interest, Contingent Interest, if any, and Additional Amounts, if any, on your Securities as to which you have delivered a Repurchase Notice shall cease to accrue on and after the Repurchase Date.

11. CUSIP Number: [] LIVE NATION, INC.

EXHIBIT F

LIVE NATION, INC.
NOTICE OF OCCURRENCE
OF FUNDAMENTAL CHANGE

[DATE]

To the Holders of the 2.875% Convertible Senior Notes Due 2027 (the "Securities") issued by Live Nation, Inc.:

Live Nation, Inc. (the "Issuer") by this written notice hereby notifies you, pursuant to Section 3.08 of that certain Indenture (the "Indenture"), dated as of July 16, 2007, between the Issuer and Wells Fargo Bank, N.A., that a Fundamental Change (as such term and other capitalized terms used herein and not otherwise defined herein is defined in the Indenture) as described below has occurred. Included herewith is the form of Fundamental Change Repurchase Notice to be completed by you if you wish to have your Securities repurchased by the Issuer.

1. Fundamental Change: [Insert brief description of the Fundamental Change and the date of the occurrence thereof].
2. Date by which Fundamental Change Repurchase Notice must be delivered by you to Paying Agent in order to have your Securities repurchased:
3. Fundamental Change Repurchase Date:
4. Fundamental Change Repurchase Price:
5. Paying Agent and Conversion Agent: [NAME] [ADDRESS]
6. Conversion Rate: To the extent described in Item 7 below, each \$1,000 principal amount of the Securities is convertible into [[insert number of shares] shares of the Issuer's common stock, no par value (the "Common Stock")] [other mix of cash and Common Stock], subject to adjustment.
7. The Securities as to which you have delivered a Fundamental Change Repurchase Notice to the Paying Agent may be converted if they are otherwise convertible pursuant to Article 10 of the Indenture and the terms of the Securities only if you withdraw such Fundamental Change Repurchase Notice pursuant to the terms of the Indenture. You may be entitled to have your Securities converted into shares of the Issuer's Common Stock (or, at the option of the Issuer, cash or a combination of cash and shares of the Issuer's Common Stock):
 - (i) prior to January 15, 2027, and during any fiscal quarter commencing after September 30, 2007 (and only during such fiscal quarter), if the Closing Price (as defined in the Indenture) of the Issuer's Common Stock for at least 20 Trading Days in the 30 Trading-Day period ending on the last Trading Day of the preceding fiscal quarter was 130% or more of the Conversion Price (as defined in the Indenture) on such last Trading Day;
 - (ii) prior to January 15, 2027, during the five Business Days immediately following any five consecutive Trading Day period in which the Trading Price per \$1,000 principal amount of the Securities (as determined following a request by a Security holder in accordance with the procedures described in the Indenture) for each day of that period was less than 98% of the product of the Closing Price of the Company's Common Stock and the current Conversion Rate of the Securities on each such day;
 - (iii) if the Issuer has called the Securities for redemption;
 - (iv) at any time on or after January 15, 2027 until the close of business on the Business Day immediately preceding the Stated Maturity of the Securities; or
 - (v) upon the occurrence of certain specified corporate transactions described in the Indenture.

8. The Securities as to which you have delivered a Fundamental Change Repurchase Notice must be surrendered by you (by effecting book-entry transfer of the Securities or delivering Certificated Securities, together with necessary endorsements, as the case may be) to [Name of Paying Agent] at [insert address] in order for you to collect the Fundamental Change Repurchase

Price.

9. The Fundamental Change Repurchase Price for the Securities as to which you have delivered a Fundamental Change Repurchase Notice and not withdrawn such Notice shall be paid promptly following the later of the Business Day immediately following such Fundamental Change Repurchase Date and the date you deliver such Securities to [Name of Paying Agent].

10. In order to have the Issuer repurchase your Securities, you must deliver the Fundamental Change Repurchase Notice, duly completed by you with the information required by such Fundamental Change Repurchase Notice (as specified in Section 3.08 of the Indenture) and deliver such Fundamental Change Repurchase Notice to the Paying Agent at any time from 9:00 a.m. on the date of the occurrence of the Change of Control until 5:00 p.m. on the Fundamental Change Repurchase Date.

11. In order to withdraw any Fundamental Change Repurchase Notice previously delivered by you to the Paying Agent, you must deliver to the Paying Agent, by 5:00 p.m. on the Fundamental Change Repurchase Date, a written notice of withdrawal specifying (i) the certificate number, if any, of the Securities in respect of which such notice of withdrawal is being submitted, (ii) the principal amount of the Securities in respect of which such notice of withdrawal is being submitted, and (iii) if you are not withdrawing your Fundamental Change Repurchase Notice for all of your Securities, the principal amount of the Securities which still remain subject to the original Fundamental Change Repurchase Notice.

12. Unless the Issuer defaults in making the payment of the Fundamental Change Repurchase Price owed to you, Interest, Contingent Interest, if any, and Additional Amounts, if any, on your Securities as to which you have delivered a Fundamental Change Repurchase Notice shall cease to accrue on and after the Fundamental Change Repurchase Date.

13. CUSIP Number: []

LIVE NATION, INC.

SCHEDULE I

Number of Additional Shares

The following table sets forth the Stock Prices and the number of Additional Shares per \$1,000 principal amount of Securities.

Stock Price Effective Date	\$ 21.29	\$ 23.00	\$ 25.00	\$ 27.14	\$ 30.00	\$ 32.50	\$ 35.00	\$ 37.50	\$ 40.00	\$ 45.00	\$ 50.00	\$ 60.00	\$ 80.00	\$100.00
16-Jul-07	10.1309	8.7952	7.5945	6.5169	5.4691	4.7202	4.1462	3.6503	3.2650	2.6402	2.1909	1.5721	0.9080	0.5593
15-Jul-08	10.1309	8.6096	7.3309	6.2590	5.1791	4.4337	3.8633	3.3893	3.0050	2.4094	1.9935	1.4238	0.8217	0.5085
15-Jul-09	10.1309	8.3735	7.0105	5.9231	4.7905	4.0706	3.4836	3.0375	2.6505	2.1087	1.7227	1.2155	0.6955	0.4285
15-Jul-10	10.1309	8.1052	6.7113	5.5101	4.3571	3.6322	3.0476	2.6218	2.2697	1.7714	1.4277	1.0031	0.5792	0.3623
15-Jul-11	10.1309	7.8039	6.2685	4.9907	3.8378	3.0771	2.5399	2.1157	1.8100	1.3691	1.0815	0.7531	0.4383	0.2764
15-Jul-12	10.1309	7.4035	5.5837	4.2876	3.0288	2.2752	1.7862	1.4039	1.1625	0.8294	0.6381	0.4458	0.2642	0.1655
15-Jul-13	10.1309	6.7113	4.7281	3.1435	1.7865	1.1934	0.7587	0.5429	0.3875	0.2538	0.2035	0.1510	0.0938	0.0595
20-Jul-14	10.1309	6.6387	3.1605	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

ANNEX A

Projected Payment Schedule

[attached following
this

page]Payment

Dates	Projected Payments	Interest Income
31-Dec-07	\$ 13.18	\$ 43.08
15-Jan-08	\$ 1.12	\$ 3.66
15-Jul-08	\$ 14.38	\$ 48.52
31-Dec-08	\$ 13.26	\$ 46.23
15-Jan-09	\$ 1.12	\$ 3.90
15-Jul-09	\$ 14.38	\$ 51.81
31-Dec-09	\$ 13.26	\$ 49.40
15-Jan-10	\$ 1.12	\$ 4.17
15-Jul-10	\$ 14.38	\$ 55.41
31-Dec-10	\$ 13.26	\$ 52.88
15-Jan-11	\$ 1.12	\$ 4.46
15-Jul-11	\$ 14.38	\$ 59.36
31-Dec-11	\$ 13.26	\$ 56.69
15-Jan-12	\$ 1.12	\$ 4.78
15-Jul-12	\$ 14.38	\$ 63.69
31-Dec-12	\$ 13.26	\$ 60.87
15-Jan-13	\$ 1.12	\$ 5.13
15-Jul-13	\$ 14.38	\$ 68.43
31-Dec-13	\$ 13.26	\$ 65.45
15-Jan-14	\$ 1.12	\$ 5.52
15-Jul-14	\$ 14.38	\$ 73.63

31-Dec-14	\$	14.93	\$	70.47
15-Jan-15	\$	1.26	\$	5.94
15-Jul-15	\$	16.27	\$	79.25
31-Dec-15	\$	15.08	\$	75.82
15-Jan-16	\$	1.27	\$	6.39
15-Jul-16	\$	16.44	\$	85.31
31-Dec-16	\$	15.24	\$	81.66
15-Jan-17	\$	1.29	\$	6.89
15-Jul-17	\$	16.63	\$	91.93
31-Dec-17	\$	15.43	\$	88.04
15-Jan-18	\$	1.30	\$	7.43
15-Jul-18	\$	16.83	\$	99.17
31-Dec-18	\$	15.63	\$	95.02
15-Jan-19	\$	1.32	\$	8.01
15-Jul-19	\$	17.06	\$	107.08
31-Dec-19	\$	15.84	\$	102.66
15-Jan-20	\$	1.34	\$	8.66
15-Jul-20	\$	17.30	\$	115.74
31-Dec-20	\$	16.08	\$	111.00
15-Jan-21	\$	1.36	\$	9.36
15-Jul-21	\$	17.57	\$	125.20
31-Dec-21	\$	16.34	\$	120.13
15-Jan-22	\$	1.38	\$	10.13
15-Jul-22	\$	17.86	\$	135.55
31-Dec-22	\$	16.62	\$	130.11
15-Jan-23	\$	1.40	\$	10.97
15-Jul-23	\$	18.18	\$	146.86
31-Dec-23	\$	16.93	\$	141.02
15-Jan-24	\$	1.43	\$	11.89
15-Jul-24	\$	18.53	\$	159.24
31-Dec-24	\$	17.26	\$	152.95
15-Jan-25	\$	1.46	\$	12.90
15-Jul-25	\$	18.91	\$	172.77
31-Dec-25	\$	17.63	\$	166.00
15-Jan-26	\$	1.49	\$	14.00
15-Jul-26	\$	19.33	\$	187.56
31-Dec-26	\$	18.03	\$	180.26
15-Jan-27	\$	1.52	\$	15.20
15-Jul-27	\$	4,538.47	\$	203.73

\$200,000,000 AGGREGATE PRINCIPAL AMOUNT**Live Nation, Inc.****2.875% CONVERTIBLE SENIOR NOTES****DUE 2027****Resale Registration Rights Agreement****Dated July 16, 2007**

RESALE REGISTRATION RIGHTS AGREEMENT, dated as of July 16, 2007, among Live Nation, Inc., a Delaware corporation (together with any successor entity, herein referred to as the “**Company**”), Banc of America Securities LLC and J.P. Morgan Securities Inc., as representatives (the “**Representatives**”) of the several initial purchasers (the “**Initial Purchasers**”) under the Purchase Agreement (as defined below).

Pursuant to the Purchase Agreement, dated as of •, 2007, between the Company and the Representatives (the “**Purchase Agreement**”), relating to the initial placement (the “**Initial Placement**”) of the Notes (as defined below), the Initial Purchasers have agreed to purchase from the Company \$200,000,000 (\$220,000,000 if the Initial Purchasers exercise their option in full) in aggregate principal amount of 2.875% Convertible Senior Notes due 2027 (the “**Notes**”). The Notes will be convertible, subject to the terms thereof, into cash and fully paid, nonassessable shares of common stock, par value \$0.01 per share, of the Company (the “**Common Stock**”). To induce the Initial Purchasers to purchase the Notes, the Company has agreed to provide the registration rights set forth in this Agreement pursuant to Section 5(g) of the Purchase Agreement.

The parties hereby agree as follows:

1. *Definitions.* Capitalized terms used in this Agreement without definition shall have their respective meanings set forth in the Purchase Agreement. As used in this Agreement, the following capitalized terms shall have the following meanings:

“**Affiliate**” of any specified person means any other person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such specified person. For purposes of this definition, control of a person means the power, direct or indirect, to direct or cause the direction of the management and policies of such person whether by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Agreement**”: This Resale Registration Rights Agreement.

“**Amendment Effectiveness Deadline Date**”: has the meaning set forth in Section 2(f) hereof.

“**Blue Sky Application**”: As defined in Section 6(a)(i) hereof.

“**Business Day**”: The definition of “Business Day” in the Indenture.

“**Closing Date**”: The date of the first issuance of the Notes.

“**Commission**”: Securities and Exchange Commission.

“**Common Stock**”: As defined in the preamble hereto.

“**Company**”: As defined in the preamble hereto.

“**Notes**”: As defined in the preamble hereto.

“**Effectiveness Date**”: As defined in Section 2(a)(i) hereof.

“**Effectiveness Period**”: As defined in Section 2(a)(ii) hereof.

“**Effectiveness Target Date**”: As defined in Section 2(a)(i) hereof.

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

“Free Writing Prospectus”: A free writing prospectus, as defined in Rule 405 under the Securities Act.

“Holder”: A Person who owns, beneficially or otherwise, Transfer Restricted Securities.

“Indemnified Holder”: As defined in Section 6(a) hereof.

“Indenture”: The Indenture, dated as of •, 2007, between the Company and •, as trustee (the **“Trustee”**), pursuant to which the Securities are to be issued, as such Indenture is amended, modified or supplemented from time to time in accordance with the terms thereof.

“Initial Placement”: As defined in the preamble hereto.

“Initial Purchasers”: As defined in the preamble hereto.

“Issuer Free Writing Prospectus”: An issuer free writing prospectus, as defined in Rule 433 under the Securities Act.

“Liquidated Damages”: As defined in Section 3(a) hereof.

“Liquidated Damages Payment Date”: Each January 15 and July 15.

“Losses”: As defined in Section 6(a) hereof.

“Majority of Holders”: Holders holding over 50% of the aggregate principal amount of Notes outstanding; *provided* that, for the purpose of this Agreement, a holder of shares of Common Stock which constitute Transfer Restricted Securities shall not be deemed a holder of shares, but shall be deemed to be Holders of the aggregate principal amount of the Notes from which such shares were converted (in addition to the principal amount of the Notes held by such Holder).

“Managing Underwriter”: The investment banker or investment bankers and manager or managers that administer an underwritten offering, if any, conducted pursuant to Section 8 hereof.

“NASD”: National Association of Securities Dealers, Inc.

“Notice and Questionnaire” means a written notice executed by the respective Holder and delivered to the Company containing substantially the information called for by the Selling Securityholder Notice and Questionnaire attached as Appendix A to the Offering Memorandum of the Company relating to the Notes.

“Notice Holder”: On any date, any Holder of Transfer Restricted Securities that has delivered a Notice and Questionnaire to the Company on or prior to such date.

“Permitted Free Writing Prospectus”: As defined in Section 9(a) hereof.

“Person”: An individual, partnership, corporation, company, unincorporated organization, trust, joint venture or a government or agency or political subdivision thereof.

“Purchase Agreement”: As defined in the preamble hereto.

“Prospectus”: The prospectus included in a Shelf Registration Statement, as amended or supplemented by any prospectus supplement and by all other amendments thereto, including post-effective amendments, and all material incorporated by reference into such prospectus.

“Record Holder”: With respect to any Liquidated Damages Payment Date, each Person who is a registered holder of the Notes on the 15th day preceding the relevant Liquidated Damages Payment Date.

“Registration Default”: As defined in Section 3(a) hereof.

“Representatives”: As defined in the preamble hereto.

“Securities Act”: Securities Act of 1933, as amended.

“Shelf Registration Statement”: As defined in Section 2(a)(i) hereof.

“Suspension Notice”: As defined in Section 4(c) hereof.

“**Suspension Period**”: As defined in Section 4(b)(ii) hereof.

“**TIA**”: Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission thereunder, in each case, as in effect on the date the Indenture is qualified under the TIA.

“**Transfer Restricted Securities**”: Each Note and each share of Common Stock issued upon conversion of Notes until the earliest of:

(i) the date on which such Note or such share of Common Stock issued upon conversion has been effectively registered under the Securities Act and disposed of in accordance with the Shelf Registration Statement;

(ii) the date on which such Note or such share of Common Stock issued upon conversion is transferred in compliance with Rule 144 (or any other similar provision then in force) under the Securities Act or transferable pursuant to paragraph (k) of Rule 144 under the Securities Act (or any other similar provision then in force);

(iii) the date on which such Note or such share of Common Stock issued upon conversion ceases to be outstanding (whether as a result of redemption, repurchase and cancellation, conversion or otherwise); or

(iv) the date on which such Note or such share of Common Stock has otherwise been transferred and a new Note or share of Common Stock not subject to transfer restrictions under the Securities Act has been delivered by or on behalf of the Company in accordance with Section • of the Indenture.

“**underwriter**”: Any underwriter of Transfer Restricted Securities in connection with an offering thereof under the Shelf Registration Statement.

“**Underwritten Registration**”: A registration in which Transfer Restricted Securities of the Company are sold to an underwriter for reoffering to the public.

Unless the context otherwise requires, the singular includes the plural, and words in the plural include the singular.

2. Shelf Registration.

(a) The Company shall:

(i) use its commercially reasonable efforts to, as promptly as practicable (but in no event more than 210 days after the Closing Date (such 210th day, the “**Effectiveness Target Date**”)), cause to become effective under the Securities Act a registration statement pursuant to Rule 415 under the Securities Act or any similar rule that may be adopted by the Commission (the “**Shelf Registration Statement**”), or otherwise make available for use by Holders a previously filed effective Shelf Registration Statement (the date of such effectiveness or availability, the “**Effectiveness Date**”), which Shelf Registration Statement shall provide for the registration and resales, on a continuous or delayed basis, of all Transfer Restricted Securities subject to the terms and conditions hereof; and

(ii) use its commercially reasonable efforts to keep the Shelf Registration Statement continuously effective, supplemented and amended as required by the Securities Act and by the provisions of Section 4(b) hereof to the extent necessary to ensure that (A) it is available for resales by the Holders of Transfer Restricted Securities entitled, subject to the terms and conditions hereof, to the benefit of this Agreement and (B) conforms with the requirements of this Agreement and the Securities Act and the rules and regulations of the Commission promulgated thereunder as announced from time to time, for a period (the “**Effectiveness Period**”) from the date the Shelf Registration Statement becomes effective until the date that the Notes and the shares of Common Stock issuable upon exchange thereof have ceased to be Transfer Restricted Securities.

The Company shall be deemed not have used its commercially reasonable efforts to keep the Shelf Registration Statement effective during the Effectiveness Period if it voluntarily takes any action that would result in Holders of Transfer Restricted Securities not being able to offer and sell such securities at any time during the Effectiveness Period, unless such action is (x) required by applicable law or otherwise undertaken by the Company in good faith and for valid business reasons (not including avoidance of the Company’s obligations hereunder), including the acquisition or divestiture of assets, or (y) permitted by Section 4(b)(ii) hereof.

(b) Not less than 30 days prior to the Effectiveness Target Date, the Company shall mail the Notice and Questionnaire to the Holders. Each Holder that becomes a Notice Holder (and provides such additional information as the Company reasonably may request) no later than 15 days following such Holder's receipt of notice from the Company of the filing or designation of the Shelf Registration Statement shall be named as a selling securityholder in the initial Registration Statement made available to Holders under the Shelf Registration Statement.

(c) If the Shelf Registration Statement ceases to be effective for any reason at any time during the Effectiveness Period (other than because all Transfer Restricted Securities registered thereunder shall have been resold pursuant thereto or shall have otherwise ceased to be Transfer Restricted Securities), the Company shall use its commercially reasonable efforts to obtain the prompt withdrawal of any order suspending the effectiveness thereof or file or designate a subsequent Shelf Registration Statement covering all of the securities that as of the date of such filing or designation are Transfer Restricted Securities. If such a subsequent Shelf Registration Statement is filed or designated (and is not already effective), the Company shall use its commercially reasonable efforts to cause the subsequent Shelf Registration Statement to become effective as promptly as is practicable after such filing or designation and to keep such subsequent Shelf Registration Statement continuously effective until the end of the Effectiveness Period.

(d) The Company shall supplement and amend the Shelf Registration Statement if required by the rules, regulations or instructions applicable to the registration form used by the Company for such Shelf Registration Statement, if required by the Securities Act or as reasonably requested by the Initial Purchasers or by the Trustee on behalf of the Holders of the Transfer Restricted Securities covered by such Shelf Registration Statement.

(e) The Company shall cause the Shelf Registration Statement and the related Prospectus and any amendment or supplement thereto, as of the effective date of the Shelf Registration Statement or such amendment or supplement, and any Issuer Free Writing Prospectus, as of the date thereof, (i) to comply in all material respects with the applicable requirements of the Securities Act, 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 the case of the Prospectus and any Issuer Free Writing Prospectus, in light of the circumstances under which they were made) not misleading.

(f) Each Holder agrees that if such Holder wishes to sell Transfer Restricted Securities pursuant to a Shelf Registration Statement and related Prospectus, it will do so only in accordance with the terms and conditions of this Agreement. Each Holder wishing to sell Transfer Restricted Securities pursuant to a Shelf Registration Statement and related Prospectus from and after the Effectiveness Date agrees to deliver a Notice and Questionnaire to the Company at least 10 Business Days prior to any intended distribution of Transfer Restricted Securities under the Shelf Registration Statement. From and after the Effectiveness Date, the Company shall, as promptly as practicable after the date a Notice and Questionnaire is delivered to it, and in any event upon the later of (x) 10 Business Days after such date (but no earlier than 10 Business Days after effectiveness) or (y) 10 Business Days after the expiration of any Suspension Period in effect when the Notice and Questionnaire is delivered or put into effect within 10 Business Days of such delivery date:

(i) if required by applicable law, file with the SEC a post-effective amendment to the Shelf 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 as a selling securityholder in the Shelf Registration Statement and the related Prospectus in such a manner as to permit such Holder to deliver such Prospectus to purchasers of the Transfer Restricted Securities in accordance with applicable law and, if the Company shall file a post-effective amendment to the Shelf Registration Statement, use its commercially reasonable efforts to cause such post-effective amendment to become effective under the Securities Act as promptly as is practicable, but in any event by the date (the "**Amendment Effectiveness Deadline Date**") that is 45 days after the date such post-effective amendment is required by this clause to be filed;

(ii) provide such Holder copies of the any documents filed pursuant to Section 2(f)(i); and

(iii) notify such Holder as promptly as practicable after the effectiveness under the Securities Act of any post-effective amendment filed pursuant to Section 2(f)(i);

provided that if such Notice and Questionnaire is delivered during a Suspension Period, 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 the Suspension Period in accordance with Section 4(b). Notwithstanding anything

contained herein to the contrary, (i) the Company shall be under no obligation to name any Holder that is not a Notice Holder as a selling securityholder in any Registration Statement or related Prospectus and (ii) the Amendment Effectiveness Deadline Date shall be extended by up to 20 Business Days from the Expiration of a Suspension Period (and the Company shall incur no obligation to pay Liquidated Damages during such extension) if such Suspension Period shall be in effect on the Amendment Effectiveness Deadline Date.

3. Liquidated Damages.

(a) If:

(i) the Shelf Registration Statement has not become effective, or a previously effective Shelf Registration Statement has not been made available, prior to or on the Effectiveness Target Date;

(ii) the Company has failed to perform its obligations set forth in Section 2(f) within the time periods required therein;

(iii) any post-effective amendment to a Shelf Registration filed pursuant to Section 2(f)(i) has not become effective under the Securities Act on or prior to the Amendment Effectiveness Deadline Date;

(iv) except as provided in Section 4(b)(ii) hereof, the Shelf Registration Statement is filed and has become effective but, during the Effectiveness Period, shall thereafter cease to be effective or fail to be usable for its intended purpose, and the Company does not cure such failure within 10 business days by a post-effective amendment, prospectus supplement or report filed pursuant to the Exchange Act; or

(v) Suspension Periods exceed 45 consecutive days or an aggregate of 120 days in any 360-day period;

(each such event referred to in foregoing clauses (i) through (vi), a “**Registration Default**”), the Company hereby agrees to pay interest (“**Liquidated Damages**”) with respect to the Transfer Restricted Securities from and including the day following the Registration Default to but excluding the earlier of (1) the day on which the Registration Default has been cured and (2) the date the Shelf Registration Statement is no longer required to be kept effective, accruing at a rate:

(A) in respect of the Notes, to each holder of Notes, (x) with respect to the first 90-day period during which a Registration Default shall have occurred and be continuing, equal to 0.25% per annum of the aggregate principal amount of the Notes, and (y) with respect to the period commencing on the 91st day following the day the Registration Default shall have occurred and be continuing, equal to 0.50% per annum of the aggregate principal amount of the Notes; *provided* that in no event shall Liquidated Damages accrue at a rate per year exceeding 0.50% of the aggregate principal amount of the Notes; and

(B) in respect of the Notes that are Transfer Restricted Securities submitted for conversion into Common Stock during the existence of a Registration Default with respect to the Common Stock, the holder will not be entitled to receive any Liquidated Damages with respect to such Common Stock but (x) will be entitled to a conversion rate adjustment in accordance with the terms of the Notes as set forth in the Indenture and (y) will receive from the Company on the settlement date with respect to such conversion, accrued and unpaid Liquidated Damages calculated in accordance with paragraph (A) to the Conversion Date (as defined in the Indenture); and

(C) in respect of Common Stock issued upon conversion of Notes, each holder of such Common Stock will not be entitled to any Liquidated Damages if the Registration Default with respect to such Common Stock occurs after the holder has converted the Notes into Common Stock.

(b) All accrued Liquidated Damages shall be paid in arrears to Record Holders by the Company on each Liquidated Damages Payment Date. Upon the cure of all Registration Defaults relating to any particular Transfer Restricted Security, the accrual of applicable Liquidated Damages will cease.

All obligations of the Company set forth in this Section 3 that are outstanding with respect to any Transfer Restricted Security at the time such security ceases to be a Transfer Restricted Security shall survive until such time as all such obligations with respect to such Transfer Restricted Security shall have been satisfied in full.

The Liquidated Damages set forth above shall be the exclusive monetary remedy available to the Holders of Transfer Restricted Securities for each Registration Default.

4. Registration Procedures.

(a) In connection with the Shelf Registration Statement, the Company shall comply with all the provisions of Section 4(b) hereof and shall use its commercially reasonable efforts to effect such registration to permit the sale of the Transfer Restricted Securities, and pursuant thereto, shall as expeditiously as reasonably possible prepare and file with the Commission a Shelf Registration Statement relating to the registration on any appropriate form under the Securities Act, or otherwise make available for use by Holders a previously filed Shelf Registration Statement.

(b) In connection with the Shelf Registration Statement and any Prospectus required by this Agreement to permit the sale or resale of Transfer Restricted Securities, the Company shall:

(i) Subject to any notice by the Company in accordance with this Section 4(b) of the existence of any fact or event of the kind described in Section 4(b)(iv)(D), use its commercially reasonable efforts to keep the Shelf Registration Statement continuously effective during the Effectiveness Period; upon the occurrence of any event that would cause the Shelf Registration Statement or the Prospectus contained therein (A) to contain a material misstatement or omission or (B) not to be effective and usable for resale of Transfer Restricted Securities during the Effectiveness Period, the Company shall file promptly a post-effective amendment to the Shelf Registration Statement or an amendment or supplement to the related Prospectus or file any other required document, in the case of clause (A), correcting any such misstatement or omission, and, in the case of either clause (A) or (B), use its commercially reasonable efforts to cause any such amendment to become effective and the Shelf Registration Statement and the related Prospectus to become usable for their intended purposes as soon as practicable thereafter.

(ii) Notwithstanding Section 4(b)(i) hereof, the Company may suspend the effectiveness of the Shelf Registration Statement (each such period, a “**Suspension Period**”):

(x) if an event occurs and is continuing as a result of which the Shelf Registration Statement, the Prospectus, any amendment or supplement thereto, or any document incorporated by reference therein would, in the Company’s judgment, 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 not misleading; or

(y) if the Company determines in good faith that the disclosure of a material event at such time would be seriously detrimental to the Company and its subsidiaries.

Upon the occurrence of any event described in clauses (x) and (y) of this Section 4(b)(ii), the Company shall give notice (without notice of the specific nature or details of such events or developments) to the Holders that the availability of the Shelf Registration is suspended and, upon actual receipt of any such notice, each Holder agrees not to sell any Transfer Restricted Securities pursuant to the Shelf Registration until such Holder’s receipt of copies of the supplemented or amended Prospectus provided for in Section 4(b) hereof. The period during which the availability of the Shelf Registration and any Prospectus is suspended (the “**Suspension Period**”) shall not exceed 45 consecutive days, *provided* that Suspension Periods shall not exceed an aggregate of 120 days in any 360-day period. The Company shall not be required to specify in the written notice to the Holders the nature of the event giving rise to the Suspension Period.

(iii) Prepare and file with the Commission such amendments and post-effective amendments to the Shelf Registration Statement as may be necessary to keep the Shelf Registration Statement effective during the Effectiveness Period; cause the Prospectus to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the Securities Act, and to comply fully with the applicable provisions of Rule 424 under the Securities Act in a timely manner; and comply with the provisions of the Securities Act with respect to the disposition of all Transfer Restricted Securities covered by the Shelf Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the sellers thereof set forth or to be set forth in the Shelf Registration Statement or supplement to the Prospectus.

(iv) Advise the selling Holders and any Initial Purchaser that has provided in writing to the Company a telephone or facsimile number and address for notices, promptly and, if requested by such selling Holders, to confirm such advice in writing (which notice pursuant to clauses (B) through (E) below shall be accompanied by an instruction to suspend the use of the Prospectus until the Company shall have remedied the basis for such suspension):

(A) when the Prospectus, any Prospectus supplement, any post-effective amendment or any Issuer

Free Writing Prospectus has been filed, and, with respect to the Shelf Registration Statement or any post-effective amendment thereto, when the same has become effective,

(B) of any request by the Commission for amendments or supplements to the Shelf Registration Statement, the Prospectus or any Issuer Free Writing Prospectus or for additional information relating thereto,

(C) of the issuance by the Commission of any stop order suspending the effectiveness of the Shelf Registration Statement under the Securities Act or of any notice that would prevent its use, or of the suspension by any state securities commission of the qualification of the Transfer Restricted Securities for offering or sale in any jurisdiction, or the threatening or initiation of any proceeding for any of the preceding purposes,

(D) of the existence of any fact or the happening of any event, during the Effectiveness Period, that makes any statement of a material fact made in the Shelf Registration Statement, the Prospectus, any amendment or supplement thereto, or any document incorporated by reference therein untrue, or that requires the making of any additions to or changes in the Shelf Registration Statement or the Prospectus in order to make the statements therein (in the case of the Prospectus, in the light of the circumstances under which they were made) not misleading, or

(E) when any Issuer Free Writing Prospectus includes information that may conflict with the information contained in the Registration Statement.

(iv) If at any time the Commission shall issue any stop order suspending the effectiveness of the Shelf Registration Statement or any notice that would prevent its use, or any state securities commission or other regulatory authority shall issue an order suspending the qualification or exemption from qualification of the Transfer Restricted Securities under state securities or Blue Sky laws, the Company shall use its commercially reasonable efforts to obtain the withdrawal or lifting of such order at the earliest possible time, including, if necessary, by filing an amendment to the Shelf Registration Statement or a new Shelf Registration Statement and using its commercially reasonable efforts to have such amendment or new Shelf Registration Statement declared effective, and will provide to each Holder who is named in the Shelf Registration Statement prompt notice of the withdrawal of any such order or of the filing or effectiveness of any such amendment or new registration statement.

(v) Make available at reasonable times for inspection by one or more representatives of the selling Holders, designated in writing by a Majority of Holders whose Transfer Restricted Securities are included in the Shelf Registration Statement, and any attorney or accountant retained by such selling Holders and any underwriter participating in any disposition pursuant to the Shelf Registration Statement, all relevant financial and other records and pertinent corporate documents of the Company as shall be reasonably necessary to enable them to conduct a reasonable investigation within the meaning of Section 11 of the Securities Act, and cause the Company's officers, directors, managers and employees to supply all information reasonably requested by any such representative or representatives of the selling Holders, attorney or accountant in connection therewith, as is customary for similar due diligence examinations.

(vi) If requested by any selling Holders or the Representatives, promptly incorporate in the Shelf Registration Statement or Prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such selling Holders may reasonably request to have included therein, including, without limitation, information relating to the "Plan of Distribution" of the Transfer Restricted Securities.

(vii) Deliver to each selling Holder, without charge, as many copies of the Prospectus (including each preliminary Prospectus) and any amendment or supplement thereto, and any Issuer Free Writing Prospectus, as such Persons reasonably may request; subject to Section 4(b)(ii) and subject to any notice by the Company in accordance with this Section 4(b) of the existence of any fact or event of the kind described in Section 4(b) (iv)(B) through (E), the Company hereby consents to the use of the Prospectus and any amendment or supplement thereto, and any Issuer Free Writing Prospectus, by each of the selling Holders in connection with the offering and the sale of the Transfer Restricted Securities covered by the Prospectus or any amendment or supplement thereto.

(viii) Before any public offering of Transfer Restricted Securities, cooperate with the selling Holders and their counsel in connection with the registration and qualification of the Transfer Restricted Securities under the securities or Blue Sky laws of such jurisdictions in the United States as the selling Holders may

reasonably request and do any and all other acts or things as may be reasonably necessary or advisable to enable the disposition in such jurisdictions of the Transfer Restricted Securities covered by the Shelf Registration Statement; *provided*, however, that the Company shall not be required (A) to register or qualify as a foreign corporation or a dealer of securities where it is not now so qualified or to take any action that would subject it to the service of process in any jurisdiction where it is not now so subject, other than service of process for suits arising out of the Initial Placement or any offering pursuant to the Shelf Registration Statement, or (B) to subject itself to general or unlimited service of process or to taxation in any such jurisdiction if they are not now so subject.

(ix) Unless any Transfer Restricted Securities shall be in book-entry form only, cooperate with the selling Holders to facilitate the timely preparation and delivery of certificates representing Transfer Restricted Securities to be sold and not bearing any restrictive legends (unless required by applicable securities laws); and enable such Transfer Restricted Securities to be in such denominations and registered in such names as the Holders may request at least two Business Days before any sale of Transfer Restricted Securities.

(x) Use its commercially reasonable efforts to cause the Transfer Restricted Securities covered by the Shelf Registration Statement to be registered with or approved by such other U.S. governmental agencies or authorities as may be reasonably necessary to enable the seller or sellers thereof to consummate the disposition of such Transfer Restricted Securities.

(xi) Subject to Section 4(b)(ii) hereof, if any fact or event contemplated by Section 4(b)(iv)(B) through (D) hereof shall exist or have occurred, use its commercially reasonable efforts to prepare a supplement or post-effective amendment to the Shelf Registration Statement, related Prospectus (including by means of an Issuer Free Writing Prospectus), relevant Issuer Free Writing Prospectus or any document incorporated therein by reference or to file any other required document so that, as thereafter delivered to the purchasers of Transfer Restricted Securities, none of the Registration Statement, the Prospectus or any Issuer Free Writing Prospectus will 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 the case of the Prospectus and any such Issuer Free Writing Prospectus, in the light of the circumstances in which they are made) not misleading.

(xii) Provide CUSIP numbers for all Transfer Restricted Securities not later than the effective date of the Shelf Registration Statement and provide the Trustee under the Indenture with certificates for the Notes that are in a form eligible for deposit with The Depository Trust Company.

(xiii) Cooperate and assist in any filings required to be made with the NASD and in the performance of any due diligence investigation by any underwriter that is required to be undertaken in accordance with the rules and regulations of the NASD.

(xiv) Otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the Commission and all reporting requirements under the rules and regulations of the Exchange Act.

(xv) Make generally available to its security holders an earnings statement satisfying the provisions of Section 11(a) of the Securities Act as soon as practicable after the effective date of the Shelf Registration Statement and in any event no later than 40 days after the end of the 12-month period (or 60 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.

(xvi) Cause the Indenture to be qualified under the TIA in a timely manner, and, in connection therewith, cooperate with the Trustee and the holders of Notes to effect such changes to the Indenture as may be required for such Indenture to be so qualified in accordance with the terms of the TIA; and execute and use its commercially reasonable efforts to cause the Trustee thereunder to execute all documents that may be required to effect such changes and all other forms and documents required to be filed with the Commission to enable such Indenture to be so qualified in a timely manner. In the event that any such amendment or modification referred to in this Section 4(b)(xvi) involves 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.

(xvii) Cause all Common Stock covered by the Shelf Registration Statement to be listed or quoted, as the case may be, on each securities exchange or automated quotation system on which Common Stock is then listed or quoted.

(xviii) Provide to each Holder upon written request each document filed with the Commission pursuant to the requirements of Section 13 and Section 15 of the Exchange Act after the effective date of the Shelf Registration Statement, unless such document is available through the Commission's EDGAR system.

(xix) Use its commercially reasonable efforts, if the Notes have been rated prior to the initial sale of such Notes, to confirm such ratings will apply to the Notes covered by the Shelf Registration Statement.

(xx) In connection with any underwritten offering conducted pursuant to Section 8 hereof, make such representations and warranties to the Holders of Securities registered thereunder and the underwriters, in form, substance and scope as are customarily made by issuers to underwriters in primary underwritten offerings and covering matters including, but not limited to, those set forth in the Purchase Agreement;

(xxi) In connection with any underwritten offering conducted pursuant to Section 8 hereof, obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the Managing Underwriters) addressed to each selling Holder and the underwriters, if any, covering such matters as are customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such Holders and underwriters;

(xxii) In connection with any underwritten offering conducted pursuant to Section 8, hereof, obtain "comfort" letters and updates thereof from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included in the Shelf Registration Statement), addressed to each selling Holder of Securities registered thereunder and the underwriters, in customary form and covering matters of the type customarily covered in "comfort" letters in connection with primary underwritten offerings; and

(xxiii) In connection with any underwritten offering conducted pursuant to Section 8 hereof, deliver such documents and certificates as may be reasonably requested by the Majority Holders and the Managing Underwriters, including those to evidence compliance with Section 4(b)(iii) hereof and with any customary conditions contained in the Purchase Agreement or other agreement entered into by the Company.

(xxiv) In connection with underwritten offering conducted pursuant to Section 8 hereof, the Company shall, if requested, promptly include or incorporate in a Prospectus supplement or post-effective amendment to the Shelf Registration Statement such information as the Managing Underwriters reasonably agree should be included therein and to which the Company does not reasonably object and shall make all required filings of such Prospectus supplement or post-effective amendment as soon as practicable after it is notified of the matters to be included or incorporated in such Prospectus supplement or post-effective amendment.

(xxv) Use its commercially reasonable efforts to take all other steps necessary to effect the registration of the Transfer Restricted Securities covered by the Shelf Registration Statement.

(xxvi) Enter into customary agreements (including, if requested, an underwriting agreement in customary form) and take all other appropriate actions in order to expedite or facilitate the registration or the disposition of the Transfer Restricted Securities, and in connection therewith, if an underwriting agreement is entered into, cause the same to contain indemnification provisions and procedures no less favorable than those set forth in Section 6 hereof.

The actions set forth in clauses (xxi), (xxii), (xxiii) and (xxiv) of this Section 4(b) shall be performed at (A) the effectiveness of the Shelf Registration Statement and each post-effective amendment thereto; and (b) each closing under any underwriting or similar agreement as and to the extent required thereunder.

(c) Each Holder agrees by acquisition of a Transfer Restricted Security that, upon receipt of any notice (a "**Suspension Notice**") from the Company of the existence of any fact of the kind described in Section 4(b)(iv)(B) through (E) hereof, such Holder will forthwith discontinue disposition of Transfer Restricted Securities pursuant to the Shelf Registration Statement and use of the Prospectus and any related Free Writing Prospectuses until:

(i) such Holder has received copies of the supplemented or amended Prospectus or applicable Issuer Free Writing Prospectus contemplated by Section 4(b)(xi) hereof; or

(ii) such Holder is advised in writing by the Company that the use of the Prospectus and any applicable Issuer Free Writing Prospectus may be resumed, and has received copies of any additional or supplemental

filings that are incorporated by reference in the Prospectus.

If so directed by the Company, each Holder will deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holder's possession, of the Prospectus covering such Transfer Restricted Securities and any Issuer Free Writing Prospectus that was current at the time of receipt of such Suspension Notice.

(d) Each Holder agrees by acquisition of a Transfer Restricted Security, that no Holder shall be entitled to sell any of such Transfer Restricted Securities pursuant to a 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(b) or Section 2(f) hereof (including the information required to be included in such Notice and Questionnaire) and the information set forth in the next sentence. The Company may require each Notice Holder of Notes to be sold pursuant to the Shelf Registration Statement to furnish to the Company such information regarding the Holder and the distribution of such Notes as the Company may from time to time reasonably require for inclusion in such Registration Statement. Each Notice Holder agrees promptly to furnish to the Company all information required to be disclosed in order to make the information previously furnished to the Company by such Notice Holder not misleading and any other information regarding such Notice Holder and the distribution of such Transfer Restricted Securities as the Company may from time to time reasonably request in writing. The Company may exclude from such Shelf Registration Statement the Notes of any Holder that unreasonably fails to furnish such information within a reasonable time after receiving such request.

5. Registration Expenses.

All expenses incident to the Company's performance of or compliance with this Agreement shall be borne by the Company regardless of whether a Shelf Registration Statement becomes effective, including, without limitation:

- (a) all registration and filing fees and expenses (including filings made with the NASD);
- (b) all fees and expenses of compliance with federal securities and state Blue Sky or securities laws;
- (c) all expenses of printing (including printing of Prospectuses, Issuer Free Writing Prospectuses and certificates for the Common Stock to be issued upon conversion of the Notes) and the Company's expenses for messenger and delivery services and telephone;
- (d) all fees and disbursements of counsel to the Company;
- (e) all application and filing fees in connection with listing (or authorizing for quotation) the Common Stock on a national securities exchange or automated quotation system pursuant to the requirements hereof; and
- (f) all fees and disbursements of independent certified public accountants of the Company.

The Company shall bear its internal expenses (including, without limitation, all salaries and expenses of their officers and employees performing legal, accounting or other duties), the expenses of any annual audit and the fees and expenses of any Person, including special experts, retained by the Company. The Company shall pay all expenses customarily borne by issuers in an underwritten offering as set forth in Section 8(c) hereof.

6. Indemnification And Contribution .

(a) The Company agrees to indemnify and hold harmless each Holder of Transfer Restricted Securities (including each Initial Purchaser), its directors, officers, employees and agents, and each person, if any, who controls any Holder within the meaning of the Securities Act or the Exchange Act (each, an "**Indemnified Holder**"), against any loss, claim, damage, liability or expense, as incurred, or any action in respect thereof (including, but not limited to, any loss, claim, damage, liability or expense relating to resales of the Transfer Restricted Securities) (collectively, "**Losses**"), to which such Indemnified Holder may become subject, insofar as any such Loss arises out of or is based upon:

- (i) any untrue statement or alleged untrue statement of a material fact contained in (A) the Shelf Registration Statement as originally filed or in any amendment thereof, or (B) any blue sky application or other document or any amendment or supplement thereto prepared or executed by the Company (or based upon written information furnished by or on behalf of the Company expressly for use in such blue sky application or other document or amendment or supplement) filed in any jurisdiction specifically for the purpose of qualifying any or all of the Transfer Restricted Securities under the securities law of any state or

other jurisdiction (such application or document being hereinafter called a “**Blue Sky Application**”), or, in each case, the omission or alleged omission to state therein any material fact required to be stated therein or necessary to make the statements therein not misleading; or

(ii) any untrue statement or alleged untrue statement of a material fact contained in any Issuer Free Writing Prospectus, any preliminary prospectus or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact, in each case, necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading,

and to reimburse each Indemnified Holder for any and all expenses including the fees and disbursements of counsel as such expenses are reasonably incurred by such Indemnified Holder in connection with investigating, defending, settling, compromising or paying any such Loss; *provided, however*, that the foregoing indemnity agreement shall not apply to any Loss to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with written information furnished to the Company by or on behalf of such Holder (or its related Indemnified Holder) expressly for use therein. The indemnity agreement set forth in this Section 6(a) shall be in addition to any liabilities that the Company may otherwise have.

The Company also agrees to indemnify as provided in this Section 6(a) or contribute as provided in Section 6(e) hereof to Losses of each underwriter, if any, of Transfer Restricted Securities registered under a Shelf Registration Statement, their directors, officers, employees or agents and each person who controls such underwriter on substantially the same basis as that of the indemnification of the Initial Purchasers and the selling Holders provided in this Section 6(a) and shall, if requested by any Holder, enter into an underwriting agreement reflecting such agreement, as provided in Section 4(b)(xxvi) hereof.

(b) Each Holder agrees, severally and not jointly, to indemnify and hold harmless the Company, each of its directors, each of its officers who sign the Shelf Registration Statement and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act (i) to the same extent as the foregoing indemnity from the Company to each such Holder, but only with reference to written information relating to such Holder furnished to the Company by or on behalf of such Holder specifically for inclusion in the documents referred to in the foregoing indemnity and (ii) against any Loss, joint or several, including, but not limited to, any Loss relating to resales of the Transfer Restricted Securities, to which such person may become subject, insofar as any such Loss arises out of, or is based upon any Free Writing Prospectus used by such Holder without the prior consent of the Issuer, and in connection with any underwritten offering, the underwriters, provided that the indemnification obligation in this clause (ii) shall be several, not joint and several, among the Holders who used such Free Writing Prospectus. This indemnity agreement set forth in this Section shall be in addition to any liabilities which any such Holder may otherwise have.

(c) Promptly after receipt by an indemnified party under this Section 6 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under this Section 6, notify the indemnifying party in writing of the commencement thereof, but the failure to notify the indemnifying party (i) will not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraph (a) or (b) above. In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in, and, to the extent that it shall elect, jointly with all other indemnifying parties similarly notified, by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel satisfactory to such indemnified party; *provided, however*, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of such indemnifying party's election so to assume the defense of such action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 6 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the preceding sentence (it being

understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel (other than local counsel), reasonably approved by the indemnifying party, representing the indemnified parties who are parties to such action) or (ii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party.

(d) The indemnifying party under this Section 6 shall not be liable for any settlement of any proceeding effected without its written consent, which shall not be withheld unreasonably, but if settled with such consent or if there is a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party against any Loss by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by Section 6(c) hereof, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or consent to the entry of judgment in any pending or threatened action, suit or proceeding in respect of which any indemnified party is or could have been a party and indemnity was or could have been sought hereunder by such indemnified party, unless such settlement, compromise or consent (x) includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such action, suit or proceeding and (y) 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.

(e) If the indemnification provided for in Section 6 is for any reason unavailable to or otherwise insufficient to hold harmless an indemnified party in respect of any Loss referred to therein, then each indemnifying party shall contribute to the aggregate amount paid or payable by such indemnified party, as incurred, as a result of any Loss referred to therein:

(i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Holders, on the other hand, from the offering and sale of the Transfer Restricted Securities, on the one hand, and a Holder with respect to the sale by such Holder of the Transfer Restricted Securities, on the other hand, or

(ii) if the allocation provided by Section (6)(e)(i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in Section 6(e)(i) above but also the relative fault of the Company, on the one hand, and the Holders, on the other hand, in connection with the statements or omissions or alleged statements or omissions that resulted in such Loss, as well as any other relevant equitable considerations.

The relative benefits received by the Company, on the one hand, and the Holders, on the other hand, in connection with such offering and such sale of the Transfer Restricted Securities pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Notes purchased under the Purchase Agreement (before deducting expenses, but after deducting total discounts and commissions received by the Initial Purchasers) received by the Company and the total proceeds received by the Holders with respect to their sale of Transfer Restricted Securities. The relative fault of the Company, on the one hand, and the Holders, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company, on the one hand, or the Holders, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Holders agree that it would not be just and equitable if contribution pursuant to this Section 6(e) were determined by *pro rata* allocation (even if the Holders were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in this Section 6(e).

The amount paid or payable by a party as a result of the Loss referred to above shall be deemed to include, subject to the limitations set forth in Section 6(c), any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim.

Notwithstanding the provisions of this Section 6, in no event will (i) any Holder be required to undertake liability to any person under this Section 6 for any amounts in excess of the dollar amount of the proceeds to be received by such Holder from the sale of such Holder's Transfer Restricted Securities (after deducting any fees,

discounts and commissions applicable thereto) pursuant to any Shelf Registration Statement under which such Transfer Restricted Securities are to be registered under the Securities Act and (ii) any underwriter be required to undertake liability to any person hereunder for any amounts in excess of the discount or commission payable to such underwriter with respect to the Transfer Restricted Securities underwritten by it and distributed to the public. 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. The Holders' obligations to contribute as provided in this Section 6(e) are several and not joint.

(f) The provisions of this Section 6 shall remain in full force and effect, regardless of any investigation made by or on behalf of any Holder or the Company or any of the officers, directors, employees, agents or controlling persons referred to in Section 6 hereof, and will survive the sale by a Holder of Transfer Restricted Securities.

7. *Rule 144A and Rule 144.* The Company agrees with each Holder, for so long as any Transfer Restricted Securities remain outstanding and during any period in which the Company (i) is not subject to Section 13 or 15(d) of the Exchange Act, to make available, upon request of any Holder, to such Holder of Transfer Restricted Securities in connection with any sale thereof and any prospective purchaser of such Transfer Restricted Securities designated by such Holder, the information required by Rule 144A(d)(4) under the Securities Act in order to permit resales of such Transfer Restricted Securities pursuant to Rule 144A, and (ii) is subject to Section 13 or 15 (d) of the Exchange Act, to make all filings required thereby in a timely manner in order to permit resales of such Transfer Restricted Securities pursuant to Rule 144.

8. *Underwritten Registrations.*

(a) Any Holder of Transfer Restricted Securities may sell Transfer Restricted Securities (in whole or in part) in an underwritten offering; *provided* that (i) the Electing Holders of at least 33-1/3% in aggregate principal amount of the Transfer Restricted Securities then covered by the Shelf Registration Statement shall request such an offering, (ii) at least such aggregate principal amount of such Transfer Restricted Securities shall be included in such offering and (iii) the Company provides prior written approval, which may be withheld in the Company's sole discretion. Upon receipt of such a request from the necessary Electing Holders and subject to the foregoing clauses (i), (ii) and (iii), the Company shall provide all Holders of Transfer Restricted Securities written notice of the request, which notice shall inform such Holders that they have the opportunity to participate in the offering. If any of the Transfer Restricted Securities covered by the Shelf Registration Statement are to be sold in an underwritten offering, the Managing Underwriters shall be selected by the Majority Holders.

(b) No person may participate in any underwritten offering pursuant to the Shelf Registration Statement 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; (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements; and (iii) if such Holder is not then a Notice Holder, such Holder returns a completed and signed Notice and Questionnaire to the Company in accordance with Section 2(b) or Section 2(f) hereof within a reasonable amount of time before such underwritten offering.

(c) The Holders participating in any underwritten offering shall be responsible for any underwriting discounts and commissions and fees and, subject to Section 5 hereof, expenses of their own counsel. The Company shall pay all expenses customarily borne by issuers in an underwritten offering, including but not limited to filing fees, the fees and disbursements of its counsel and independent public accountants and any printing expenses incurred in connection with such underwritten offering. Notwithstanding the foregoing or the provisions of Section 4(b)(xxiv) hereof, upon receipt of a request from the Managing Underwriter or a representative of holders of a majority of the Transfer Restricted Securities to be included in an underwritten offering to prepare and file an amendment or supplement to the Shelf Registration Statement and Prospectus in connection with an underwritten offering, the Company may delay the filing of any such amendment or supplement for up to 90 days if the Board of Directors of the Company shall have determined in good faith that the Company has a bona fide business reason for such delay.

9. *Miscellaneous.*

(a) *Free Writing Prospectuses.* Each Holder represents that it has not prepared or had prepared on its behalf or used or referred to, and agrees that it will not prepare or have prepared on its behalf or use or refer to, any Free Writing Prospectus, and has not distributed and will not distribute any written materials in connection with the offer or sale of the Transfer Restricted Securities without the prior express written consent of the Company and, in

connection with any underwritten offering, the underwriters. Any such Free Writing Prospectus consented to by the Company and, if applicable, the underwriters, as the case may be, is hereinafter referred to as a “**Permitted Free Writing Prospectus.**” The Company represents and agrees that it has treated and will treat, as the case may be, each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus, including in respect of timely filing with the Commission, legending and recordkeeping.

(b) *Remedies.* The Company acknowledges and agrees that any failure by the Company to comply with its obligations under Section 2 hereof 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, in addition to being entitled to exercise all rights provided to it herein, in the Indenture or in the Purchase Agreement or granted by law, including recovery of liquidated or other damages, the Initial Purchasers or any Holder may obtain such relief as may be required to specifically enforce the Company’s obligations under Section 2 hereof. The Company further agrees to waive the defense in any action for specific performance that a remedy at law would be adequate.

(c) *No Inconsistent Agreements.* The Company has not, as of the date hereof, entered into, nor shall it, on or after the date hereof, 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. In addition, the Company shall not grant to any of its securityholders (other than the Holders of Transfer Restricted Securities in such capacity) the right to include any of its securities in the Shelf Registration Statement provided for in this Agreement other than the Transfer Restricted Securities.

(d) *Amendments and Waivers.* This Agreement may not be amended, modified or supplemented, and waivers or consents to or departures from the provisions hereof may not be given, unless the Company has obtained the written consent of a Majority of Holders; *provided, however,* that with respect to any matter that directly or indirectly adversely affects the rights of any Initial Purchaser hereunder, the Company shall obtain the written consent of each such Initial Purchaser against which such amendment, qualification, supplement, waiver or consent is to be effective. Notwithstanding the foregoing (except the foregoing proviso), a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of Holders whose securities are being sold pursuant to a Shelf Registration Statement and does not directly or indirectly adversely affect the rights of other Holders, may be given by the Majority Holders, determined on the basis of Transfer Restricted Securities being sold rather than registered under such Shelf Registration Statement.

(e) *Notices.* All notices and other communications provided for or permitted hereunder shall be made in writing by hand delivery, first class mail (registered or certified, return receipt requested), facsimile transmission, or air courier guaranteeing overnight delivery:

(i) if to a Holder, at the address set forth on the records of the registrar under the Indenture or the transfer agent of the Common Stock, as the case may be; and

(ii) if to the Company, initially at its address set forth in the Purchase Agreement,

With a copy to:

Latham & Watkins
633 West Fifth Street, Suite 400
Los Angeles, CA 90071-2007
Attention James Beaubien

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile; and on the next Business Day, if timely delivered to an air courier guaranteeing overnight delivery.

Any party hereto may change the address for receipt of communications by giving written notice to the others.

(f) *Successors and Assigns.* This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties, including without limitation and without the need for an express assignment, subsequent Holders of Transfer Restricted Securities. The Company hereby agrees to extend the benefit of this Agreement to any Holder and any such Holder may specifically enforce the provisions of this Agreement as if an original party hereto.

(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) *Jurisdiction.* The Company agrees that any suit, action or proceeding against the Company brought by any Holder or Initial Purchaser, the directors, officers, employees, Affiliates and agents of any Holder or Initial Purchaser, or by any person who controls any Holder or Initial Purchaser, arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any State or U.S. federal court in The City of New York and County of New York, and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding.

(i) *Notes Held by the Company or Their Affiliates.* Whenever the consent or approval of Holders of a specified percentage of Transfer Restricted Securities is required hereunder, Transfer Restricted Securities held by the Company or its Affiliates (other than subsequent Holders if such subsequent Holders are deemed to be Affiliates solely by reason of their holding of such Transfer Restricted Securities) shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

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

(k) *GOVERNING LAW.* THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

(l) *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, it being intended that all of the rights and privileges of the parties shall be enforceable to the fullest extent permitted by law.

(m) *Entire Agreement.* This Agreement is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein with respect to the registration rights granted by the Company with respect to the Transfer Restricted Securities. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

LIVE NATION, INC.

By: /s/ Michael Rapino
Name: Michael Rapino
Title: Chief Executive Officer

BANC OF AMERICA SECURITIES LLC

J.P. MORGAN SECURITIES INC.
Acting severally on behalf of themselves and the several Initial Purchasers

By BANC OF AMERICA SECURITIES LLC

By: /s/ Craig W. McCracken
Name: Craig W. McCracken
Title: Managing Director
Authorized Representative

By J.P. MORGAN SECURITIES INC.

By:

/s/ Gautam Sareen

Name: Gautam Sareen

Title: Vice President

Authorized Representative