
**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): **December 6, 2016**

Ensco plc

(Exact name of registrant as specified in its charter)

England and Wales
(State or other jurisdiction of
incorporation)

1-8097
(Commission
File No.)

98-0635229
(IRS Employer
Identification No.)

6 Chesterfield Gardens
Longdon, England W1J 5BQ
(Address of principal executive offices and Zip Code)

Registrant's telephone number, including area code: **44 (0) 20 7659 4660**

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 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.

Purchase Agreement

On December 6, 2016, Enesco plc (the “Company”) and Enesco Jersey Finance Limited, a wholly owned subsidiary of the Company (the “Issuer”), entered into a purchase agreement (the “Purchase Agreement”) with Citigroup Global Markets Inc. and HSBC Securities (USA) Inc., as representatives of the several initial purchasers named therein (collectively, the “Purchasers”), under which the Issuer and the Company agreed to sell \$849,500,000 aggregate principal amount of the Issuer’s 3.00% Exchangeable Senior Notes due 2024, including \$99,500,000 aggregate principal amount pursuant to the Purchasers’ option to acquire such additional amount (the “Notes”), in a private placement (the “Private Placement”) conducted pursuant to Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”). The Notes were issued at an issue price of 100% of par for net proceeds of approximately \$825.0 million, after deducting the Purchasers’ discount and estimated expenses of the offering. The closing of the issuance of the Notes occurred on December 12, 2016. The Company intends to use the net proceeds from the Private Placement to fund the cash portion of the purchase price of Notes subject to previously announced exchange offers, to repurchase or refinance other debt and for general corporate purposes.

The Purchase Agreement contains customary representations, warranties and agreements of the Company and the Issuer and customary indemnification rights.

The foregoing description of the Purchase Agreement is qualified in its entirety by reference to the full text of the Purchase Agreement, a copy of which is filed as Exhibit 10.1 to this report.

Indenture

The Notes were issued by the Issuer under an Indenture (the “Indenture”) dated as of December 12, 2016 among the Company, the Issuer, and Deutsche Bank Trust Company Americas, as trustee (the “Trustee”). The Notes bear interest at a rate of 3.00% per year, payable semiannually in arrears on January 31 and July 31 of each year, beginning on July 31, 2017. The Notes will mature on January 31, 2024, unless earlier exchanged, redeemed or repurchased. The Notes are fully and unconditionally guaranteed, on a senior, unsecured basis by the Company.

Holder may exchange their Notes at their option at any time prior to the close of business on the business day immediately preceding July 31, 2023 only under the following circumstances: (i) during any calendar quarter commencing after the calendar quarter ending on March 31, 2017 (and only during such calendar quarter), if the last reported sale price of the Company’s Class A ordinary shares for at least 20 trading days (whether or not consecutive) during the period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the applicable exchange price on each of such 20 trading days; (ii) during the five business day period after any five consecutive trading day period (the “measurement period”) in which the trading price (as defined in the Indenture) per \$1,000 principal amount of Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the Company’s Class A ordinary shares and the applicable exchange rate on each such trading day;

(iii) upon the occurrence of specified corporate events; or (iv) if the Issuer calls any or all of the Notes for redemption in the event of certain tax law changes, at any time prior to the close of business on the business day immediately preceding the redemption date. On or after July 31, 2023 until the close of business on the business day immediately preceding the maturity date, holders may exchange their Notes at any time, regardless of the foregoing circumstances. Upon exchange of each \$1,000 principal amount of Notes, the Issuer will deliver one exchangeable redeemable preference share (an “ERPS”) of the Issuer with a par value of \$0.0000001 and a paid-up value of \$1,000, as provided in the Indenture and the Articles of Association of the Issuer (the “Issuer Articles”), which ERPS will be fully and unconditionally guaranteed by the Company pursuant to a Deed Poll entered into by the Company in favor of the Issuer and the holders of any ERPS (the “Deed Poll”). Upon issuance, each ERPS will be immediately transferred, without any action on the part of the exchanging holder, to the Company in consideration for the Company’s payment or delivery, as the case may be, of cash, Class A ordinary shares or a combination of cash and Class A ordinary shares, at the Company’s election.

The exchange rate will initially be 71.3343 Class A ordinary shares per \$1,000 principal amount of Notes (equivalent to an initial exchange price of approximately \$14.02 per Class A ordinary share). The exchange rate will be subject to adjustment in some events but will not be adjusted for any accrued and unpaid interest. In addition, following certain corporate events that occur prior to the maturity date, the exchange rate will increase, in certain circumstances, for a holder who elects to exchange its Notes in connection with such a corporate event. In no event will the exchange rate per \$1,000 principal amount of Notes as a result of this adjustment exceed 94.5180 Class A ordinary shares, subject to adjustment as provided in the Indenture.

The Notes may not be redeemed by the Issuer except in the event of certain tax law changes. In addition, no sinking fund is provided for the Notes.

The Indenture contains customary events of default. If an event of default occurs and is continuing, the Trustee or the holders of at least 25% in principal amount of the outstanding notes may declare 100% of the principal of and accrued and unpaid interest, if any, on the Notes to be due and payable. In case of certain events of bankruptcy, insolvency or reorganization involving the Company or the Issuer, 100% of the principal of and accrued and unpaid interest on the Notes will automatically become due and payable. Upon such a declaration of acceleration, such principal and accrued and unpaid interest, if any, will be due and payable immediately.

If a fundamental change (as defined in the Indenture) occurs, holders may require the Issuer to repurchase for cash all or any portion of their Notes at a fundamental change repurchase price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the fundamental change repurchase date.

If, at any time during the six-month period beginning on, and including, the date that is six months after the date of issuance of the Notes, the Company fails to timely file any document or report that it is required to file with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as applicable (after giving effect to all applicable grace periods thereunder and other than reports on Form 8-K), or the Notes are not otherwise freely tradable pursuant to Rule 144 under the Securities Act of 1933 (the “Securities

Act”), by holders other than the Issuer’s or the Company’s affiliates or holders that were the Issuer’s or the Company’s affiliates at any time during the three months immediately preceding, the Issuer will pay additional interest on such Notes at a rate of 0.50% per annum of the principal amount of such Notes outstanding for each day during such period for which the Company’s failure to file has occurred and is continuing or such Notes are not otherwise freely tradable by holders other than the Issuer’s or Company’s affiliates (or holders that were the Issuer’s or the Company’s affiliates at any time during the three months immediately preceding).

Further, if, and for so long as, the restrictive legend on the Notes has not been removed, the Notes are assigned a restricted CUSIP or the Notes are not otherwise freely tradable pursuant to Rule 144 under the Securities Act by holders other than the Issuer’s or the Company’s affiliates or holders that were the Issuer’s or the Company’s affiliates at any time during the three months immediately preceding as of the 375th day after the date of issuance of the Notes, the Issuer will pay additional interest on such Notes at a rate equal to 0.50% per annum of the principal amount of such Notes outstanding until the restrictive legend has been removed from the Notes, the Notes are assigned an unrestricted CUSIP and the Notes are freely tradable as described above by holders other than the Issuer’s or the Company’s affiliates (or holders that were the Issuer’s or the Company’s affiliates at any time during the three months immediately preceding).

The foregoing description of the Indenture, the Notes, the Articles and the Deed Poll does not purport to be complete and is qualified in its entirety by reference to the full text thereof, copies of which are filed as Exhibits 3.1, 4.1, 4.2 and 4.3 hereto, respectively.

Item 2.03 Creation of a Direct Financial Obligation.

The information set forth in Item 1.01 of this report is incorporated by reference into this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth under Item 1.01 of this report is incorporated by reference into this Item 3.02. The Notes and the underlying Class A ordinary shares, par value \$0.10 per share, of the Company have not been registered under the Securities Act and the transactions set forth under Item 1.01 of this report have been or will be taken in reliance upon the exemption from the registration requirements of the Securities Act provided by Section 4(a)(2) thereof as transactions by an issuer not involving any public offering. Other exemptions may apply.

Item 8.01 Other Events

Satisfaction of Financing Condition

As a result of the completion of the Private Placement, the financing condition with respect to the Company’s previously announced exchange offers for outstanding 4.70% Senior Notes due 2021 issued by the Company, 8.50% Senior Notes due 2019 issued by Pride International, Inc., a wholly owned subsidiary of the Company (“Pride”), and 6.875% Senior Notes due 2020 issued by Pride, has been satisfied. The exchange offers are being made pursuant to an offering memorandum issued in connection with the exchange offers, and this report is not an offer to purchase any notes in the exchange offers or an offer to sell, or a solicitation of an offer to buy, any of the notes issued in connection with the exchange offers.

Item 9.01 Financial Statements and Exhibits.

Exhibit No:

- 3.1 Articles of Association adopted by the Issuer on December 6, 2016
- 4.1 Indenture dated as of December 12, 2016 among Ensco plc, Ensco Jersey Finance Limited and Deutsche Bank Trust Company Americas, as trustee
- 4.2 Form of 3.00% Exchangeable Senior Note due 2024 (included as Exhibit A to Exhibit 4.1)
- 4.3 Deed Poll, dated as of December 12, 2016, executed by Ensco plc
- 10.1 Purchase Agreement, dated December 6, 2016, by and among Ensco plc, Ensco Jersey Finance Limited, Citigroup Global Markets Inc. and HSBC Securities (USA) Inc.

SIGNATURE

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

ENSCO PLC

By: /s/ Tommy E. Darby

Name: Tommy E. Darby

Title: Controller

Date: December 12, 2016

COMPANIES (JERSEY) LAW 1991

MEMORANDUM

AND

ARTICLES OF ASSOCIATION

OF

ENSCO JERSEY FINANCE LIMITED

a par value limited company

adopted by special resolution of the Company on 06 December 2016

Company number: 122628

Incorporated 23 November 2016

COMPANIES (JERSEY) LAW 1991 (the “Law”)

MEMORANDUM OF ASSOCIATION

OF

ENSCO JERSEY FINANCE LIMITED

(the “**Company**”)

a par value public limited company

1. INTERPRETATION

Words and expressions contained in this Memorandum of Association have the same meanings as in the Law.

2. COMPANY NAME

The name of the Company is **Ensco Jersey Finance Limited**.

3. TYPE OF COMPANY

3.1 The Company is a public company.

3.2 The Company is a par value company.

4. NUMBER OF SHARES

The share capital of the Company is US\$1,001,000 divided into the following classes of shares:

4.1 1,000 shares of US\$1 each designated as “Founders’ Shares” and having the rights and restrictions set out in the Company’s Articles of Association; and

4.2 10,000,000,000,000 shares of US\$0.0000001 each designated as “Preference Shares” and having the rights and restrictions set out in the Company’s Articles of Association.

5. LIABILITY OF MEMBERS

The liability of a member arising from the holding of a share in the Company is limited to the amount (if any) unpaid on it.

COMPANIES (JERSEY) LAW 1991
ARTICLES OF ASSOCIATION
OF
ENSCO JERSEY FINANCE LIMITED
a par value public limited company
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COMPANIES (JERSEY) LAW 1991
ARTICLES OF ASSOCIATION
OF
ENSCO JERSEY FINANCE LIMITED
a par value public limited company

1. INTERPRETATION

- 1.1 In these Articles, unless the context or law otherwise requires, the following words and expressions shall have the meanings respectively assigned to them below:
- 1.1.1 “ **these Articles** ” means these Articles of Association in their present form or as from time to time amended;
 - 1.1.2 “ **Auditors** ” means the auditors of the Company appointed pursuant to these Articles;
 - 1.1.3 “ **Bankrupt** ” has the meaning ascribed to it in the Interpretation (Jersey) Law, 1954;
 - 1.1.4 “ **Board** ” means a meeting of a quorum of the Directors duly called and constituted or, as the case may be, a quorum of the Directors assembled at a meeting;
 - 1.1.5 “ **Clear Days** ” means in relation to the period of a Notice that period excluding the day when the Notice is served or deemed to be served and the day for which it is given or on which it is to take effect;
 - 1.1.6 “ **Closing Date** ” means the date the Notes are issued;
 - 1.1.7 “ **Company** ” means the company incorporated under the Law in respect of which these Articles have been registered;
 - 1.1.8 “ **Conditions** ” means the terms and conditions of the Notes as set out in the Indenture, as amended or modified from time to time;
 - 1.1.9 “ **Directors** ” means the directors of the Company for the time being or, as the case may be, the directors assembled as a Board (or as a committee);
 - 1.1.10 “ **Dividend Payment Date** ” shall have the meaning given to it in Article 2.4.1;
 - 1.1.11 “ **Dividend Period** ” shall have the meaning given to it in Article 2.4.1;

- 1.1.12 “ **Due Date** ” shall have the meaning given to it in Article 9.9;
- 1.1.13 “ **Exchange Date** ” shall mean the date of exchange of the Notes specified pursuant to the Indenture;
- 1.1.14 “ **Extraordinary Resolution** ” means a resolution of the Company passed as a special resolution in accordance with the Law;
- 1.1.15 “ **Exchange Right** ” means the right of a Noteholder at specified times in accordance with the Conditions and the terms of the Indenture to exchange each US\$1,000 principal amount of a Note for one fully paid Preference Share, with each such Preference Share being allotted at a price equal to the Paid-up Value;
- 1.1.16 “ **First Right** ” means the right carried by the Preference Shares *pari passu* with the Shares of any class having the like right, on a winding-up of the Company or other return of capital (other than a purchase or redemption of any Preference Share or any Share of any other class) to payment of the Paid-up Value thereof, together with a sum equal to any accrued but unpaid preferential dividend due in respect of such Preference Shares to be calculated to (but excluding) the date when payment of the return of capital is made and to be payable irrespective of whether or not such dividend has been declared or earned, in priority to any payment in respect of any other class of Shares in the Company (save for any Shares with a like right as aforesaid);
- 1.1.17 “ **Founders’ Shares** ” means founders’ shares having a nominal value of US\$1 each in the capital of the Company having the rights attaching thereto prescribed in these Articles;
- 1.1.18 “ **Guarantor** ” means Ensco PLC;
- 1.1.19 “ **Holder** ” means in relation to Shares the Member whose name is entered in the Register as the holder of the Shares;
- 1.1.20 “ **Indenture** ” means the indenture constituting the Notes to be entered into among the Company, the Guarantor and the Trustee on the Closing Date, as from time to time modified or amended in accordance with the terms thereof;
- 1.1.21 “ **issue** ” includes allotment;
- 1.1.22 “ **the Law** ” means the Companies (Jersey) Law 1991 and any subordinate legislation from time to time made thereunder, including any statutory modifications or re-enactments for the time being in force;
- 1.1.23 “ **Member** ” means the subscribers to the Memorandum of Association and any other Person whose name is entered in the Register as the holder of Shares in the Company;

- 1.1.24 “ **Memorandum of Association** ” means the Company’s Memorandum of Association in force from time to time;
- 1.1.25 “ **Month** ” means calendar month;
- 1.1.26 “ **Noteholder** ” means the person in whose name a Note is registered in the accordance with the Indenture;
- 1.1.27 “ **Notes** ” means the Company’s exchangeable senior notes due 2024, constituted by the Indenture and unconditionally and irrevocably guaranteed by the Guarantor;
- 1.1.28 “ **Notice** ” means a notice in Writing unless otherwise specifically stated;
- 1.1.29 “ **Office** ” means the registered office of the Company;
- 1.1.30 “ **Officer** ” includes a Secretary but otherwise has the meaning ascribed to it in the Law;
- 1.1.31 “ **Ordinary Resolution** ” means a resolution of the Company in general meeting adopted by a simple majority of the votes cast at that meeting;
- 1.1.32 “ **Ordinary Shares** ” means fully paid ordinary shares in the capital of the Guarantor currently with a par value of US\$0.10 each;
- 1.1.33 “ **Paid Up** ” includes credited as paid up;
- 1.1.34 “ **Paid-up Value** ” means the agreed issue price of US\$1,000 at which each Preference Share is to be issued credited as fully paid-up;
- 1.1.35 “ **Persons** ” includes associations and bodies of persons, whether corporate or unincorporate;
- 1.1.36 “ **Preference Shares** ” means exchangeable redeemable preference shares having a nominal value of US\$0.0000001 each in the capital of the Company having the rights attaching thereto prescribed in these Articles;
- 1.1.37 “ **Present** ” in relation to general meetings of the Company and to meetings of the Holders of any class of Shares includes present by attorney or by proxy or in the case of a corporate shareholder by representative;
- 1.1.38 “ **Register** ” means the register of Members required to be kept pursuant to Article 41 of the Law and which shall be kept in Jersey in accordance with Article 6.1;
- 1.1.39 “ **reserves** ” includes unappropriated profits;
- 1.1.40 “ **rights** ” includes rights in whatsoever form constituted;
- 1.1.41 “ **Seal** ” means the common seal of the Company;

- 1.1.42 “ **Secretary** ” means any Person appointed to perform any of the duties of secretary of the Company (including an assistant or deputy secretary) and in the event of two or more Persons being appointed as joint secretaries any one or more of the Persons so appointed;
- 1.1.43 “ **securities** ” includes, without limitation, shares in the share capital of the Guarantor and options, warrants or other rights to subscribe for or purchase or acquire shares in the capital of the Guarantor;
- 1.1.44 “ **Share** ” means a share in the capital of the Company;
- 1.1.45 “ **Share Exchange Right** ” means a right pursuant to the Articles of a Holder of a Preference Share arising from the exercise of an Exchange Right, to exchange such Preference Share for Ordinary Shares and/or cash;
- 1.1.46 “ **Signed** ” includes a signature or representation of a signature affixed by mechanical or other means and where a document is to be signed by a company, an association or a body of Persons the word “ **Signed** ” shall be construed as including the signature of a duly authorised representative on its behalf as well as any other means by which it would normally execute the document;
- 1.1.47 “ **Sole Member-Director Contract** ” shall have the meaning given to it in Article 29.3;
- 1.1.48 “ **Sole Member’s Decision** ” shall have the meaning given to it in Article 29.4;
- 1.1.49 “ **Trustee** ” means Deutsche Bank Trust Company Americas or such other persons for the time being the trustee or trustees of the trusts constituted by the Indenture;
- 1.1.50 “ **United Kingdom** ” means the United Kingdom of Great Britain and Northern Ireland;
- 1.1.51 “ **in Writing** ” includes written, printed, telexed, electronically transmitted or represented or reproduced by any other mode of representing or reproducing words in a visible form; and
- 1.1.52 “ **US\$** ” and “ **USD** ” mean the lawful currency of the United States of America.
- 1.2 Save as defined herein and unless the context otherwise requires, words or expressions contained in these Articles shall bear the same meaning as in the Law but excluding any statutory modification thereof not in force when these Articles become binding on the Company.
- 1.3 In these Articles, unless the context or law otherwise requires:
- 1.3.1 words and expressions which are cognate to those defined in Article 1.1 shall be construed accordingly;

- 1.3.2 the word “ **may** ” shall be construed as permissive and the word “ **shall** ” shall be construed as imperative;
- 1.3.3 words importing the singular number only shall be construed as including the plural number and vice versa;
- 1.3.4 words importing the masculine gender only shall be construed as including the feminine and neuter genders;
- 1.3.5 references to any act, statute or enactment or any provision of any act, statute or enactment shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment; and
- 1.3.6 references to a numbered Article are to the Article so numbered of these Articles.
- 1.4 The clause and paragraph headings in these Articles are for convenience only and shall not be taken into account in the construction or interpretation of these Articles.
- 2. SHARE CAPITAL**
- 2.1 At the date of adoption of these Articles, the share capital of the Company comprises two Founders’ Shares.
- 2.2 The Directors may, subject as provided in these Articles, issue any unissued Shares authorised for issue in accordance with the Memorandum of Association as Founders’ Shares or Preference Shares, each conferring upon the Holder of such shares the rights hereinafter appearing.
- 2.3 The rights attaching to the Founders’ Shares are as follows:
- 2.3.1 As regards Income — Each Founders’ Share shall, subject to the relevant provisions of the Law, confer on the Holder thereof the right to receive any remaining profits of the Company after the payment to the Holders of the Preference Shares of their fixed cumulative dividend and after payment of any other preferential dividend on any other class of Shares, up to a maximum of US\$10,000,000 in any year.
- 2.3.2 As regards Capital — On a winding up of the Company or other return of capital (other than a purchase or redemption of any Preference Share or any Shares of any other class), the Holder of each Founders’ Share shall be entitled, following payment to the Holders of the Preference Shares of all amounts then due under Article 2.4.2(i), to payment of the amount Paid Up thereon and thereafter, any surplus assets then remaining shall be distributed *pari passu* among the Holders of the Founders’ Shares, in proportion to the amounts Paid Up thereon, up to a maximum of US\$250,000,000.

- 2.3.3 As regards Voting — The Holder of each Founders' Share shall be entitled to receive notice of general meetings of the Company and to attend and vote thereat. On a poll every Holder of Founders' Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by representative or by proxy shall have one million votes in respect of each Founders' Share registered in the name of such Holder.
- 2.3.4 Founders' Shares shall only be issued to, or for the benefit of, the Guarantor or to or for the benefit of a person previously approved in writing by the Guarantor.
- 2.4 The rights attaching to the Preference Shares are as follows:
- 2.4.1 As regards Income — Each Preference Share shall, on allotment, and subject to the relevant provisions of the Law, confer on the Holder thereof a right to receive a fixed cumulative dividend at the rate of x per cent. per annum of the Paid-up Value of each such Preference Share (where "x" is equal to the coupon payable on the Notes) payable in equal instalments semi-annually in arrears on 31 January and 31 July in each year (each a "**Dividend Payment Date**") commencing with the Dividend Payment Date falling on 31 July 2017 except that no such dividend shall accrue on such Preference Share prior to its allotment. The dividend payable in respect of each Preference Share for any period which is shorter than a Dividend Period shall be calculated on the basis of the number of days actually elapsed in a 30-day month (assuming a 360-day year composed of twelve 30-day months), where "**Dividend Period**" means the period beginning on (and including) the Closing Date and ending on (but excluding) the first Dividend Payment Date and each successive period beginning on (and including) a Dividend Payment Date and ending on (but excluding) the next succeeding Dividend Payment Date. Such dividends shall accrue from day to day. Each Preference Share will cease to accrue dividends from and including its due date for redemption. No account will be taken of accrued dividends on an exchange pursuant to any Share Exchange Right. The fixed cumulative dividends payable in respect of the Preference Shares shall be paid in priority to any dividend in respect of any other class of Shares in the capital of the Company, other than any such class that ranks *pari passu* with the Preference Shares as respects rights to dividends.
- 2.4.2 As regards Capital — On a winding-up of the Company or other return of capital (other than a purchase or redemption of any Preference Share or any Share of any other class), the Preference Shares shall carry (i) the First Right in priority to any payment in respect of any other class of Shares in the Company save for any Share of any class carrying the like right (in the event that the assets of the Company available for distribution are insufficient to repay in full the Paid-up Value of each Preference Share or Shares carrying the like right together with the accruals referred to in Article 1.1.16, the available assets shall be apportioned *pro rata* amongst the Preference Shares and Shares carrying the like right then in issue according to the Paid-up Value and the amount at which any such other Share is credited as paid-up and accruals outstanding) and (ii) following payment of the full

amount due to the Holders of Founders' Shares under Article 2.3.2, the right to all the surplus assets of the Company.

- 2.4.3 As regards Voting — The Holders of the Preference Shares shall be entitled to receive notice of general meetings of the Company and to attend and vote thereat. On a poll, every Holder of Preference Shares who (being an individual) is present in person or by proxy, or (being a corporation) is present by representative or by proxy shall have one vote for each Preference Share registered in his name.
- 2.4.4 As regards Redemption — The Preference Shares shall be redeemed by the Company upon and subject to the provisions of the Law and any other applicable law in Jersey and the following terms and conditions:
- (a) where an Exchange Right has been or is deemed to have been exercised and the Preference Shares have been transferred to the Guarantor or its nominee, the relevant Preference Shares may be redeemed for cash at their Paid-up Value at any time after the first transfer thereof into the name of the Guarantor or its nominee or any subsequent Holder of the Preference Shares on any date specified by the Guarantor or its nominee or any subsequent Holder of the Preference Shares in any notice given by the Guarantor or its nominee or any subsequent Holder of the Preference Shares to the Company requiring such redemption either forthwith or on any subsequent date; provided that, unless the relevant Preference Shares are earlier redeemed or the Company has been wound up in accordance with Article 37 prior to such date, the relevant Preference Shares shall be redeemed by the Company on 31 January 2037 at their Paid-up Value. Any such notice may be a standing notice (which may be revoked or amended at any time) requiring all or any part of the Preference Shares transferred from time to time into the name of the giver of such notice to be redeemed forthwith upon such transfer or at any time thereafter as specified therein and different directions may be given concerning different portions of the Preference Shares so transferred and accordingly such notice will apply to all such transfers following such notice (without the need for a separate notice requiring redemption to be served in respect of each such transfer of Preference Shares) until amended or revoked; and
 - (b) on redemption of a Preference Share, the Company will cancel the Preference Share and any certificate relating thereto and such Preference Share may not be re-issued or sold as a Preference Share.
- 2.4.5 As regards Transfer — By exercising an Exchange Right, a Noteholder will be deemed, subject to and in accordance with these Articles, to have exercised a Share Exchange Right applicable to any Preference Share arising on the exercise of such Exchange Right. Any Preference Share issued upon exercise of Exchange Rights shall immediately upon allotment and issue of the same (and registration of such Preference Share in the name of the relevant person) be transferred to the Guarantor or its nominee in exchange for cash and/or Ordinary Shares as provided

in the Conditions and the terms of the Indenture. Any such transfer shall be effected by the Company or the Guarantor (or a person appointed for this purpose by the Company or the Guarantor) as agent for the Holder thereof and the Company or the Guarantor (or a person appointed as aforesaid) shall be and is hereby authorised by such Holder to execute all such documents and do all such things as may be necessary properly to effect the same, without any cost or liability to, or any further action required by, the Holder (save as may be provided in the Conditions). Transfers of Preference Shares shall be effected by any instrument of transfer in common or usual form or such other form as may be approved by the Board. All instruments of transfer, when registered, may be retained by the Company. Preference Shares will be allotted as of the relevant Exchange Date and in accordance with the terms of the Indenture.

2.4.6 As regards Issue — The Preference Shares shall only be issued on the exchange of Notes in accordance with the Conditions and the terms of the Indenture and shall be issued at the Paid-up Value per Preference Share credited as fully paid with the excess over the nominal value of US\$0.0000001 credited to the Share premium account and will rank *pari passu* with all (if any) fully paid Preference Shares then in issue except that the Preference Shares so allotted will not rank for any dividend or other distribution declared, paid or made by reference to a record date prior to the relevant Exchange Date.

2.5 Subject to the provisions of these Articles, the unissued Shares for the time being in the capital of the Company shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such Persons at such times and generally on such terms and conditions as they think fit.

2.6 The Company may pay commissions as permitted by the Law. Subject to the provisions of the Law any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid Shares or partly in one way and partly in the other.

2.7 Except as otherwise provided by these Articles or by law, no Person shall be recognised by the Company as holding any Share upon any trust and the Company shall not be bound by or be compelled in any way to recognise any equitable, contingent, future or partial interest in any Share or any interest in any fraction of a Share or any other right in respect of any Share except an absolute right to the entirety thereof in the Holder.

3. **SHARE PREMIUM ACCOUNT**

3.1 Except as provided in Article 3.2, where the Company issues Shares at a premium, the amount or value (as determined by the Directors) of any premiums shall be transferred, as and when the premiums are Paid Up, to a Share premium account which shall be kept in the books of the Company in the manner required by the Law. The sums for the time being standing to the credit of the share premium account shall be applied only in accordance with the Law.

3.2 Where the Law permits the Company to refrain from transferring any amount to a share premium account, that amount need not be so transferred; but the Directors may if they think fit nevertheless cause all or any part of such amount to be transferred to the relevant share premium account.

4. **ALTERATION OF SHARE CAPITAL**

4.1 The Company may by Extraordinary Resolution alter its share capital as stated in the Memorandum of Association in any manner permitted by the Law.

4.2 Any new Shares created on an increase or other alteration of share capital shall be issued upon such terms and conditions as the Company may by Ordinary Resolution determine.

4.3 Any capital raised by the creation of new Shares shall, unless otherwise provided by the conditions of issue of the new Shares, be considered as part of the original capital and the new Shares shall be subject to the provisions of these Articles with reference to the payment of calls, transfer and transmission of Shares, lien or otherwise applicable to the existing Shares in the Company.

4.4 Whenever, as a result of any consolidation of Shares, any Member would become entitled to fractions of a Share, the Directors may, for the purpose of eliminating such fractions, deal with such fractions in such manner as they consider fit or sell the Shares representing the fractions for the best price reasonably obtainable and distribute the proceeds of sale in due proportion among the Members who would have been entitled to the fractions of Shares. For the purpose of any such sale, the Directors may authorise some person to transfer the Shares representing the fractions to the purchaser thereof, whose name shall thereupon be entered in the Register as the Holder of the Shares and who shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

4.5 Subject to the provisions of the Law, the Company may by Extraordinary Resolution reduce its share capital and its share premium account in any way.

5. **VARIATION OF RIGHTS**

5.1 Whenever the capital of the Company is divided into different classes of Shares, the special rights attached to any class may (unless otherwise provided by the terms of issue of the Shares of that class) be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up:

5.1.1 with the consent in Writing of the Holders of not less than two-thirds in number of the issued Shares of that class; or

5.1.2 with the sanction of an Extraordinary Resolution passed at a separate meeting of the Holders of Shares of that class.

- 5.2 To every such separate meeting all the provisions of these Articles and of the Law relating to general meetings of the Company or to the proceedings thereat shall apply *mutatis mutandis* except that the necessary quorum shall be persons holding or representing by proxy at least one-third in number of the issued Shares of that class but so that if at any adjourned meeting of such Holders a quorum as above defined is not Present those Holders who are Present shall be a quorum.
- 5.3 Subject as aforesaid, the special rights conferred upon the Holders of any Shares or class of Shares issued with preferred, deferred or other special rights shall (unless otherwise expressly provided by the conditions of issue of such Shares) be deemed not to be varied by the creation or issue of further Shares ranking after or *pari passu* therewith.

6. **REGISTER OF MEMBERS**

- 6.1 The Directors shall maintain or cause to be maintained a Register in the manner required by the Law. The Register shall be kept at the Office or at such other place in the Island of Jersey as the Directors from time to time determine. In each year the Directors shall prepare or cause to be prepared and filed an annual return containing the particulars required by the Law.
- 6.2 The Company shall not be required to enter the names of more than four joint Holders in the Register.

7. **SHARE CERTIFICATES**

- 7.1 Every Member shall be entitled:
- 7.1.1 without payment, upon becoming the Holder of any Shares, to one certificate for all the Shares of each class held by him and, upon transferring a part only of the Shares comprised in a certificate, to a new certificate for the remainder of the Shares so comprised; or
 - 7.1.2 upon payment of such reasonable sum for each certificate as the Directors shall from time to time determine, to several certificates, each for one or more of his Shares of any class.
- 7.2 Every certificate shall be issued within two Months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) and shall be executed by the Company. A certificate may be executed:
- 7.2.1 if the Company has a Seal, by causing a seal of the Company to be affixed to the certificate in accordance with these Articles; or
 - 7.2.2 whether or not the Company has a Seal, by the signature on behalf of the Company of either two Directors or one Director and the Secretary.

Every certificate shall further specify the number and class of the Shares to which it relates, whether or not the shares are fully Paid Up and if so required by the Law the distinguishing numbers of such Shares.

7.3 The Company shall not be bound to issue more than one certificate in respect of a Share held jointly by several Persons and delivery of a certificate for a Share to one of several joint Holders shall be sufficient delivery to all such Holders.

7.4 If a share certificate shall be worn out, defaced, lost or destroyed a duplicate certificate may be issued on payment of such reasonable fee and on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses of the Company in relation thereto as the Directors think fit.

8. **LIEN**

8.1 The Company shall have a first and paramount lien on every Share (not being a fully paid Share) for all monies (whether presently payable or not) called or payable at a fixed time in respect of that Share and the Company shall also have a first and paramount lien on all Shares (other than fully paid Shares) registered in the name of a single Member for all the debts and liabilities of such Member or his estate to the Company whether the period for the payment or discharge of the same shall have actually commenced or not and notwithstanding that the same are joint debts or liabilities of such Member or his estate and any other Person whether a Member or not. The Company's lien (if any) on a Share shall extend to all distributions, bonus issues, returns of capital or other monies payable thereon or in respect thereof. The Directors may resolve that any Share shall for such period as they think fit be exempt from the provisions of this Article.

8.2 The Company may sell in such manner as the Directors think fit any Shares on which the Company has a lien, but no sale shall be made unless the monies in respect of which such lien exists or some part thereof are or is presently payable nor until fourteen Clear Days have expired after a Notice stating and demanding payment of the monies presently payable and giving Notice of intention to sell in default shall have been served on the Holder for the time being of the Shares or the Person entitled thereto by reason of the death, bankruptcy or incapacity of such Holder.

8.3 To give effect to any such sale the Directors may authorise some Person to execute an instrument of transfer of the Shares sold to the purchaser thereof. The purchaser shall be registered as the Holder of the Shares so transferred and he shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

8.4 The net proceeds of such sale after payment of the costs of such sale shall be applied in or towards payment or satisfaction of the debt or liability in respect of which the lien exists so far as the same is presently payable and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the Shares prior to the sale) be paid to the Person entitled to the Shares at the time of the sale.

9. **CALLS ON SHARES**

- 9.1 The Directors may, subject to the provisions of these Articles and to any conditions of allotment from time to time, make calls upon the Members in respect of any monies unpaid on their Shares (whether on account of the nominal value of the Shares or by way of premium) and each Member shall (subject to being given at least fourteen Clear Days' Notice specifying the time or times and place of payment) pay to the Company at the time or times and place so specified the amount called on his Shares.
- 9.2 A call may be required to be paid by instalments.
- 9.3 A call may, before receipt by the Company of any sum due thereunder, be revoked in whole or in part and payment of a call may be postponed in whole or in part.
- 9.4 A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
- 9.5 The joint Holders of a Share shall be jointly and severally liable to pay all calls to be made in respect of such Share.
- 9.6 If a sum called in respect of a Share is not paid before or on the day appointed for payment thereof, the Person from whom the sum is due may be required to pay interest on the sum from the day appointed for payment thereof to the time of actual payment at a rate determined by the Directors but the Directors shall be at liberty to waive payment of such interest wholly or in part.
- 9.7 Any sum which by or pursuant to the terms of issue of a Share becomes payable upon allotment or at any fixed date whether on account of the nominal value of the Shares or by way of premium shall for the purposes of these Articles be deemed to be a call duly made and payable on the date on which by or pursuant to the terms of issue the same becomes payable and in case of non-payment all the relevant provisions of these Articles as to payment of interest, forfeiture, surrender or otherwise shall apply as if such sum had become due and payable by virtue of a call duly made and notified.
- 9.8 The Directors may, on the issue of Shares, differentiate between the Holders as to the amount of calls to be paid and the times of payment.
- 9.9 The Directors may, if they think fit, receive from any Member an advance of monies which have not yet been called on his Shares or which have not yet fallen due for payment. Such advance payments shall, to their extent, extinguish the liability in respect of which they are paid. The Company may pay interest on any such advance, at such rate as the Directors think fit, for the period covering the date of payment to the date (the "**Due Date**") when the monies would have been due had they not been paid in advance. For the purposes of entitlement to any distribution or bonus issue, monies paid in advance of a call or instalment shall not be treated as paid until the Due Date.

10. **FORFEITURE OF SHARES**

- 10.1 If a Member fails to pay any call or instalment of a call on or before the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a Notice on him requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued and any costs, charges and expenses which may have been incurred by the Company by reason of such non-payment.
- 10.2 The Notice shall name a further day (not earlier than the expiration of fourteen Clear Days from the date of service of such Notice) on or before which the payment required by the Notice is to be made and the place where payment is to be made and shall state that in the event of non-payment at or before the time appointed and at the place appointed the Shares in respect of which the call was made will be liable to be forfeited.
- 10.3 If the requirements of any such Notice as aforesaid are not complied with, any Share in respect of which such Notice has been given may at any time thereafter, before payment of all calls and interest due in respect thereof has been made, be forfeited by a resolution of the Directors to that effect and such forfeiture shall include all distributions, bonus issues, returns of capital or other monies which shall have been resolved to be paid or made on the forfeited Shares and not actually paid before the forfeiture.
- 10.4 When any Share has been forfeited in accordance with these Articles, Notice of the forfeiture shall forthwith be given to the Holder of the Share or the Person entitled to the Share by transmission, as the case may be, and an entry of such Notice having been given and of the forfeiture with the date thereof shall forthwith be made in the Register opposite to the entry of the Share but no forfeiture shall be invalidated in any manner by any omission or neglect to give such Notice or to make such entry as aforesaid.
- 10.5 The Directors may, at any time after serving a Notice in accordance with Article 10.1, accept from the Member concerned the surrender of such Shares as are the subject of the Notice, without the need otherwise to comply with the provisions of Articles 10.1 to 10.4. Any such Shares shall be surrendered immediately and irrevocably upon the Member delivering to the Company the Share certificate for the Shares and such surrender shall also constitute a surrender of all dividends declared on the surrendered Shares but not actually paid before the surrender. The Company shall, upon such surrender, forthwith make an entry in the Register of the surrender of the Share with the date thereof but no surrender shall be invalidated in any manner by any omission or neglect to make such entry as aforesaid.
- 10.6 A forfeited or surrendered Share shall become the property of the Company and may be sold, re-allotted or otherwise disposed of either to the Person who was before forfeiture or surrender the Holder thereof or entitled thereto or to any other Person upon such terms and in such manner as the Directors think fit and at any time before a sale, re-allotment or other disposition the forfeiture or surrender may be cancelled on such terms as the Directors think fit. Where for the purposes of its disposal a forfeited or surrendered Share

is to be transferred to any Person the Directors may authorise some Person to execute an instrument of transfer of the Share to that Person.

- 10.7 A Member whose Shares have been forfeited or surrendered shall cease to be a Member in respect of the forfeited or surrendered Shares and shall (if he has not done so already) surrender to the Company for cancellation the certificate for the Shares forfeited or surrendered. Notwithstanding the forfeiture or the surrender such Member shall remain liable to pay to the Company all monies which at the date of forfeiture or surrender were presently payable by him in respect of those Shares with interest thereon at the rate at which interest was payable before the forfeiture or surrender or at such rate as the Directors may determine from the date of forfeiture or surrender until payment, provided that the Directors may waive payment wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or surrender or for any consideration received on their disposal.
- 10.8 A declaration under oath by a Director or the Secretary (or by an Officer of a corporate Secretary) that a Share has been duly forfeited or surrendered on a specified date shall be conclusive evidence of the facts therein stated as against all Persons claiming to be entitled to the Share. The declaration and the receipt of the Company for the consideration (if any) given for the Share on the sale re-allotment or disposal thereof together with the certificate for the Share delivered to a purchaser or allottee thereof shall (subject to the execution of an instrument of transfer if the same be so required) constitute good title to the Share. The Person to whom the Share is sold, re-allotted or disposed of shall be registered as the Holder of the Share and shall not be bound to see to the application of the consideration (if any) nor shall his title to the Share be affected by any irregularity in or invalidity of the proceedings in respect of the forfeiture, surrender, sale, re-allotment or disposal of the Share.
11. **TRANSFER OF SHARES**
- 11.1 Save as provided in Article 2.4.5, any Member may transfer all or any of his Shares.
- 11.2 Save as otherwise permitted under the provisions of the Law, all transfers of Shares shall be effected using an instrument of transfer.
- 11.3 The instrument of transfer of any Share shall be in Writing in any usual common form or any form approved by the Directors.
- 11.4 Save as provided in Article 2.4.5, the instrument of transfer of any Share shall be Signed by or on behalf of the transferor and in the case of an unpaid or partly paid Share by the transferee. The transferor shall be deemed to remain the Holder of the Share until the name of the transferee is entered in the Register in respect thereof.
- 11.5 The Directors may refuse to register the transfer of a Share unless the instrument of transfer:

- 11.5.1 is lodged at the Office or at such other place as the Directors may appoint accompanied by the certificate for the Shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;
- 11.5.2 is in respect of only one class of Shares; and
- 11.5.3 is in favour of not more than four transferees.
- 11.6 If the Directors refuse to register a transfer of a Share they shall within two Months after the date on which the instrument of transfer was lodged with the Company send to the proposed transferor and transferee Notice of the refusal.
- 11.7 All instruments of transfer relating to transfers of Shares which are registered shall be retained by the Company but any instrument of transfer relating to transfers of Shares which the Directors decline to register shall (except in any case of fraud) be returned to the Person depositing the same.
- 11.8 The registration of transfers of Shares or of transfers of any class of Shares may be suspended at such times and for such periods as the Directors may determine.
- 11.9 No fee shall be charged in respect of the registration of any instrument of transfer or other document relating to or affecting the title to any Share.
- 11.10 In respect of any allotment of any Share the Directors shall have the same right to decline to approve the registration of any renounee of any allottee as if the application to allot and the renunciation were a transfer of a Share under these Articles.
12. **TRANSMISSION OF SHARES**
- 12.1 In the case of the death of a Member, the survivor or survivors where the deceased was a joint Holder and the executors or administrators of the deceased where he was a sole or only surviving Holder shall be the only Persons recognised by the Company as having any title to his interest in the Shares but nothing in this Article shall release the estate of a deceased joint Holder from any liability in respect of any Share which had been jointly held by him.
- 12.2 Any Person becoming entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member may, upon such evidence as to his title being produced as may from time to time be required by the Directors and subject as hereinafter provided, elect either to be registered himself as the Holder of the Share or to have some Person nominated by him registered as the Holder thereof.
- 12.3 If the Person so becoming entitled shall elect to be registered himself he shall deliver or send to the Company a Notice Signed by him stating that he so elects. If he shall elect to have another Person registered he shall testify his election by an instrument of transfer of the Share in favour of that Person. All the limitations restrictions and provisions of these

Articles relating to the right to transfer and the registration of transfers of Shares shall be applicable to any such Notice or instrument of transfer as aforesaid as if it were an instrument of transfer executed by the Member and the death, bankruptcy or incapacity of the Member had not occurred.

- 12.4 A Person becoming entitled to a Share by reason of the death, bankruptcy or incapacity of a Member shall be entitled to the same distributions and other advantages to which he would be entitled if he were the Holder of the Share except that he shall not before being registered as the Holder of the Share be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company provided always that the Directors may at any time give Notice requiring any such Person to elect either to be registered himself or to transfer the Share and, if the Notice is not complied with within one Month, such Person shall be deemed to have so elected to be registered himself and all the restrictions on the transfer and transmission of Shares contained in these Articles shall apply to such election.

13. **GENERAL MEETINGS**

- 13.1 Each General Meeting shall be held at such time and place in the United Kingdom as may be determined by the Directors.
- 13.2 The Directors may whenever they think fit, or upon a requisition of Members pursuant to the provisions of the Law the Directors shall forthwith, proceed to convene a General Meeting for a date not later than two Months after the receipt of the requisition. If there are not sufficient Directors to convene the General Meeting any Director or any Member may convene such a meeting.
- 13.3 At any General Meeting called pursuant to a requisition, unless such meeting is called by the Directors, no business other than that stated in the requisition as the objects of the meeting shall be transacted.
- 13.4 Notwithstanding any other provision of these Articles, all meetings of the Company and any class meeting, and all adjourned meetings thereof, must take place in the United Kingdom. Attendance by conference telephone or similar means will not be sufficient for a member to be present at a meeting.

14. **CLASS MEETINGS**

Save as otherwise provided in these Articles, all the provisions of these Articles and of the Law relating to general meetings of the Company and to the proceedings thereat shall apply mutatis mutandis to every class meeting. A Director who is entitled to receive Notice of general meetings of the Company in accordance with Article 15.4 shall also be entitled, unless he has notified the Secretary in Writing of his contrary desire, to receive Notice of all class meetings. At any class meeting the Holders of Shares of the relevant class shall, on a poll, have one vote in respect of each Share of that class held by them.

15. **NOTICE OF GENERAL MEETINGS**

- 15.1 At least fourteen Clear Days' Notice shall be given of every General Meeting, including without limitation, every general meeting called for the passing of an Extraordinary Resolution. Every notice shall specify the place, the day and the time of the meeting and, in the case of special business, the general nature of such business. Notice of every meeting shall be given in the manner hereinafter mentioned to all the Members and to the Directors and to the auditors (if any).
- 15.2 A meeting of the Company shall, notwithstanding that it is called by shorter Notice than that specified in Article 15.1, be deemed to have been duly called if it is so agreed:
- 15.2.1 in the case of any meeting at which it is intended to propose a resolution as an Extraordinary Resolution, by a majority in number of Members having a right to attend and vote at the meeting, being a majority together holding not less than ninety-five per cent of total voting rights of the members who have that right; and
- 15.2.2 in the case of any other meeting, by a majority in number of Members having a right to attend and vote at the meeting, being a majority together holding not less than ninety-five per cent of the total voting rights of the Members who have that right.
- 15.3 Every Notice shall specify the place, the day and the time of the meeting and the general nature of the business to be transacted and, in the case of an Annual General Meeting, shall specify the meeting as such.
- 15.4 Subject to the provisions of these Articles and to any restrictions imposed on any Shares, Notice of every general meeting shall be given to all the Members, to all Persons entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member, to the Auditors (if any) and to every Director who has notified the Secretary in Writing of his desire to receive Notice of general meetings.
- 15.5 In every Notice calling a meeting of the Company there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and that a proxy need not also be a Member.
- 15.6 The accidental omission to give Notice of a meeting to, or the non-receipt of Notice of a meeting by, any Person entitled to receive Notice shall not invalidate the proceedings at that meeting.

16. **PROCEEDINGS AT GENERAL MEETINGS**

- 16.1 The business of an Annual General Meeting shall be to receive and consider the accounts of the Company and the reports of the Directors and Auditors (if any), to elect Directors (if necessary), to elect Auditors (if proposed) and fix their remuneration, to sanction a

dividend (if thought fit so to do) and to transact any other business of which Notice has been given.

- 16.2 No business shall be transacted at any general meeting, except the adjournment of the meeting, unless a quorum of Members is Present at the time when the meeting proceeds to business. Such quorum shall consist of not less than two Members Present who are the Holders of Founders' Shares but so that not less than two individuals will constitute the quorum, provided that if at any time all of the Founders' Shares are held by one Member such quorum shall consist of that Member Present.
- 16.3 Subject to Article 13.4, if a Member is by any means in communication with one or more other Members so that each Member participating in the communication can hear what is said by any other of them, each Member so participating in the communication is deemed to be Present at a meeting with the other Members so participating. A meeting at which any or all of the Members participate as aforesaid shall be deemed to be a general meeting of the Company for the purposes of these Articles and all of the provisions of these Articles and of the Law relating to general meetings of the Company and to the proceedings thereat shall apply mutatis mutandis to every such meeting.
- 16.4 If within half-an-hour from the time appointed for the meeting a quorum is not Present, or if during the meeting a quorum ceases to be Present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such other time and place as the Directors shall determine and, if at such adjourned meeting a quorum is not Present, within half-an-hour from the time appointed for the holding of the meeting those Members Present shall constitute a quorum.
- 16.5 The chairman (if any) of the Directors shall preside as chairman at every general meeting of the Company or if there is no such chairman or, if he shall not be Present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Directors shall select one of their number to be chairman of the meeting.
- 16.6 If at any meeting no Director is willing to act as chairman or if no Director is Present within fifteen minutes after the time appointed for holding the meeting, the Members Present shall choose one of their number to be chairman of the meeting.
- 16.7 The chairman may, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, Notice of the adjourned meeting shall be given as in the case of the original meeting. Save as aforesaid it shall not be necessary to give any Notice of any adjourned meeting or of the business to be transacted at an adjourned meeting.
- 16.8 At any general meeting a resolution put to the vote of the meeting shall be decided by a poll. For the avoidance of doubt, no resolution put to the vote of any general meeting shall be decided on a show of hands.

- 16.9 A poll shall be taken in such manner as the chairman directs and the results of each poll shall be deemed to be the resolution of the meeting at which the poll was taken.
- 16.10 In the event of an equality of votes at any general meeting the chairman shall not be entitled to a second or casting vote.
- 16.11 A resolution in Writing (including an Extraordinary Resolution but excluding a resolution removing an Auditor) Signed by all Members who would be entitled to receive Notice of and to attend and vote at a general meeting at which such a resolution would be proposed or by their duly appointed attorneys shall be as valid and effectual as if it had been passed at a general meeting of the Company duly convened and held. Any such resolution may consist of several documents in the like form each Signed by one or more of the Members or their attorneys.
17. **VOTES OF MEMBERS**
- 17.1 Subject to any special rights, restrictions or prohibitions as regards voting for the time being attached to any Shares as may be specified in the terms of issue thereof or these Articles, every Member Present (including by proxy) shall have one vote for each Share of which he is the Holder.
- 17.2 In the case of joint Holders of any Share, such Persons shall not have the right of voting individually in respect of such Share but shall elect one of their number to represent them and to vote whether personally or by proxy in their name. In default of such election the Person whose name appears first in order in the Register in respect of such Share shall be the only Person entitled to vote in respect thereof.
- 17.3 A Member in respect of whom an order has been made by any court having jurisdiction (whether in the Island of Jersey or elsewhere) in matters concerning legal incapacity or interdiction may vote, by his attorney, curator, receiver or other Person authorised in that behalf appointed by that court and any such attorney, curator, receiver or other Person may vote by proxy. Evidence to the satisfaction of the Directors of the authority of such attorney, curator, receiver or other Person may be required by the Directors prior to any vote being exercised by such attorney, curator, receiver or other Person.
- 17.4 No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of Shares in the Company of which he is Holder or one of the joint Holders have been paid.
- 17.5 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- 17.6 Votes may be given either personally or by proxy.

- 17.7 The Directors may, at the expense of the Company, send by post or otherwise to the Members instruments of proxy (with or without provision for their return prepaid) for use at any general meeting or at any separate meeting of the Holders of any class of Shares of the Company either in blank or nominating in the alternative any one or more of the Directors or any other Persons. If for the purpose of any meeting invitations to appoint as proxy a Person or one or more of a number of Persons specified in the invitations are issued at the Company's expense they shall be issued to all (and not to some only) of the Members entitled to be sent a Notice of the meeting and to vote thereat by proxy.
- 17.8 The instrument appointing a proxy shall be in Writing in any common form or as approved by the Directors and shall be under the hand of the appointor or of his attorney duly authorised in Writing or if the appointor is a corporation either under seal or under the hand of a duly authorised officer, attorney or other representative. A proxy need not be a Member.
- 17.9 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is Signed or a notarially certified copy of that power or authority shall be deposited at the Office or at such other place as is specified for that purpose by the Notice convening the meeting not less than forty-eight hours (excluding non-business days) before the time for holding the meeting or adjourned meeting at which the Person named in the instrument proposes to vote. An instrument of proxy which is not deposited in the manner so required shall be valid only if it is approved by all the other Members who are Present at the meeting.
- 17.10 Unless the contrary is stated thereon the instrument appointing a proxy shall be as valid as well for any adjournment of the meeting as for the meeting to which it relates.
- 17.11 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no Notice in Writing of such death, insanity or revocation shall have been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which such vote is cast.
18. **CORPORATE MEMBERS**
- 18.1 Any body corporate which is a Member may, by resolution of its directors or other governing body, authorise such Person or Persons as it thinks fit to act as its representative or representatives at any meeting of Members (or of any class of Members) and the Person or Persons so authorised shall be entitled to exercise on behalf of the body corporate which he represents the same powers as that body corporate could exercise if it were an individual, provided always that, where more than one person is authorised to represent a body corporate and more than one person purports to exercise a power on behalf of that body corporate:
- 18.1.1 if each such person purports to exercise their power in the same way, the power is treated as exercised in that way; and

18.1.2 if each such person does not purport to exercise their power in the same way, the power is treated as not exercised.

18.2 Where a Person is authorised to represent a body corporate at a general meeting of the Company the Directors or the chairman of the meeting may require him to produce a certified copy of the resolution from which he derives his authority.

19. **DIRECTORS**

19.1 The Company may, by Ordinary Resolution, determine the maximum and minimum number of Directors and unless and until otherwise so determined and, subject to the provisions of the Law, the minimum number of Directors shall be two. All the Directors at all times must be resident in the United Kingdom for the purposes of United Kingdom taxation.

19.2 A Director need not be a Member but, provided he has notified the Secretary in Writing of his desire to receive Notice of general meetings in accordance with Article 15.4, he shall be entitled to receive Notice of any general meeting and, subject to Article 14, all separate meetings of the Holders of any class of Shares in the Company. Whether or not a Director is entitled to receive such Notice, he may nevertheless attend and speak at any such meeting.

19.3 Notwithstanding any other provision of these Articles, no person shall be appointed to be a Director if he or she is resident outside the United Kingdom for the purposes of United Kingdom taxation.

20. **ALTERNATE DIRECTORS**

20.1 Any Director (other than an alternate Director) may, at his sole discretion and at any time and from time to time, appoint any other Director or any other natural person (other than one disqualified or ineligible by law to act as a director of a company) as an alternate Director, provided that no person who is resident outside the United Kingdom may be appointed or continue to act as an alternate Director, to attend and vote in his place at any meetings of Directors at which he is not personally present. Each Director shall be at liberty to appoint under this Article more than one alternate Director provided that only one such alternate Director may at any one time act on behalf of the Director by whom he has been appointed.

20.2 An alternate Director, while he holds office as such, shall be entitled to receive Notice (which need not be in Writing) of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member and to attend and to exercise all the rights and privileges of his appointor at all such meetings at which his appointor is not personally present and generally to perform all the functions of his appointor as a Director in his absence.

20.3 An alternate Director shall ipso facto vacate office if and when he becomes resident outside the United Kingdom for the purposes of United Kingdom taxation, his appointment expires

or the Director who appointed him ceases to be a Director of the Company or removes the alternate Director from office by Notice under his hand served upon the Company.

- 20.4 An alternate Director shall be entitled to be paid all travelling and other expenses reasonably incurred by him in attending meetings. The remuneration (if any) of an alternate Director shall be payable out of the remuneration payable to the Director appointing him as may be agreed between them.
- 20.5 Where a Director acts as an alternate Director for another Director he shall be entitled to vote for such other Director as well as on his own account, but no Director shall at any meeting be entitled to act as alternate Director for more than one Director.
- 20.6 A Director who is also appointed an alternate Director shall be considered as two Directors for the purpose of making a quorum of Directors when such quorum shall exceed two.

21. **POWERS OF DIRECTORS**

- 21.1 The business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not by the Law or these Articles required to be exercised by the Company in general meeting.
- 21.2 The Directors' powers shall be subject to the provisions of these Articles, to the provisions of the Law and to such regulations (being not inconsistent with the aforesaid regulations or provisions) as may be prescribed by the Company in general meeting but no regulations made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if such regulations had not been made.
- 21.3 The powers of the Directors shall be exercised only within the United Kingdom.
- 21.4 The Directors may, by power of attorney, mandate or otherwise, appoint any Person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers, provided that the terms on which any such agent is appointed shall include terms that the appointee shall exercise any powers conferred upon him by these Articles within the United Kingdom and, in particular, meetings at which such powers are exercised shall be held within the United Kingdom and any decisions taken and directions given by him shall be taken and given within the United Kingdom.

22. **DELEGATION OF DIRECTORS' POWERS**

- 22.1 The Directors may delegate any of their powers to committees consisting of such Director or Directors or such other Persons (provided all such persons are resident in the United Kingdom for United Kingdom tax purposes) as they think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.

22.2 The meetings and proceedings of any such committee consisting of two or more Persons shall be governed by the provisions of these Articles regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations made by the Directors under this Article.

23. **APPOINTMENT OF DIRECTORS**

23.1 Where these Articles are adopted by the Company, either upon incorporation or for any other reason prior to the appointment of the first Directors, the first Directors of the Company shall be appointed in Writing by the subscribers to the Memorandum of Association or by a majority of them. Any Director so appointed, and any Director duly holding office prior to the adoption of these Articles, shall continue to hold office until he resigns or is disqualified or removed in accordance with the provisions hereof.

23.2 The Directors shall have power at any time and from time to time to appoint any natural person (other than one disqualified or ineligible by law to act as a director of a company) to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of Directors. Any Director so appointed shall hold office until he resigns or is disqualified or removed in accordance with the provisions of these Articles.

23.3 The Company may by Ordinary Resolution:

23.3.1 appoint any natural person (other than one disqualified or ineligible by law to act as a director of a company) as a Director; and

23.3.2 remove any Director from office.

23.4 No Person shall, unless recommended by the Directors, be appointed a Director at any general meeting unless, no less than seven and not more than twenty-eight Clear Days before the day appointed for the meeting, there has been given to the Secretary Notice by some Member (not being the person to be proposed) entitled to attend and vote at the meeting for which such Notice is given of his intention to propose such person for appointment and also Notice signed by the person to be proposed of his willingness to be appointed.

23.5 The Company shall keep or cause to be kept a register of particulars with regard to its Directors in the manner required by the Law.

24. **RESIGNATION, DISQUALIFICATION AND REMOVAL OF DIRECTORS**

24.1 The office of a Director shall be vacated if the Director:

24.1.1 resigns his office by Notice to the Company;

- 24.1.2 ceases to be a Director by virtue of any provision of the Law or he becomes prohibited or disqualified by law from being a Director;
- 24.1.3 becomes Bankrupt or makes any arrangement or composition with his creditors generally;
- 24.1.4 becomes of unsound mind;
- 24.1.5 subsequent to his appointment he becomes resident outside the United Kingdom for the purposes of United Kingdom taxation;
- 24.1.6 is removed from office by notice signed by the Holders of three-quarters in number of the Founders' Shares; or
- 24.1.7 is removed from office by Ordinary Resolution passed pursuant to Article 23.3.2.

25. **REMUNERATION AND EXPENSES OF DIRECTORS**

- 25.1 The Directors shall be entitled to such remuneration as the Company may by Ordinary Resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.
- 25.2 The Directors shall be paid out of the funds of the Company for their travelling, hotel and other expenses properly and necessarily incurred by them in connection with their attendance at meetings of the Directors or Members or otherwise in connection with the discharge of their duties.

26. **EXECUTIVE DIRECTORS**

- 26.1 The Directors may from time to time appoint one or more of their number to the office of managing director or to any other executive office under the Company on such terms and for such periods as they may determine. All powers of a Director holding executive office shall be exercised in the United Kingdom and in particular any decisions taken and directions given by him shall be taken and given in the United Kingdom.
- 26.2 The appointment of any Director to any executive office shall be subject to termination if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- 26.3 The Directors may entrust to and confer upon a Director holding any executive office any of the powers exercisable by the Directors upon such terms and conditions and with such restrictions as they think fit and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers and all powers of a Director holding executive office shall be exercised within the United Kingdom and, in particular, any decisions taken and directions given by him shall be taken and given within the United Kingdom.

27. **DIRECTORS' INTERESTS**

- 27.1 A Director who has, directly or indirectly, an interest in a transaction entered into or proposed to be entered into by the Company or by a subsidiary of the Company which to a material extent conflicts or may conflict with the interests of the Company and of which he is aware, shall disclose to the Company the nature and extent of his interest.
- 27.2 For the purposes of Article 27.1:
- 27.2.1 the disclosure shall be made at the first meeting of the Directors at which the transaction is considered after the Director concerned becomes aware of the circumstances giving rise to his duty to make it or, if for any reason he fails to do so at such meeting, as soon as practical after the meeting, by Notice in Writing delivered to the Secretary;
 - 27.2.2 the Secretary, where the disclosure is made to him, shall inform the Directors that it has been made and shall in any event table the Notice of the disclosure at the next meeting after it is made;
 - 27.2.3 a disclosure to the Company by a Director in accordance with Article 27.1 that he is to be regarded as interested in a transaction with a specified Person is sufficient disclosure of his interest in any such transaction entered into after the disclosure is made; and
 - 27.2.4 any disclosure made at a meeting of the Directors shall be recorded in the minutes of the meeting.
- 27.3 Subject to the provisions of the Law, a Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms as to tenure of office, remuneration and otherwise as the Directors may determine.
- 27.4 Subject to the provisions of the Law, and provided that he has disclosed to the Company the nature and extent of any of his material interests in accordance with Article 27.1, a Director notwithstanding his office:
- 27.4.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is otherwise interested;
 - 27.4.2 may be a director or other officer of or employed by or a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is otherwise interested;
 - 27.4.3 shall not by reason of his office be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such

transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and

27.4.4 may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.

28. **PROCEEDINGS OF DIRECTORS**

28.1 Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit, save that no meeting of the Directors, including a meeting held by telephone or other means of communication in accordance with Article 28.8, shall be held unless each of the Directors participating therein is present in the United Kingdom, and any decision reached or resolution passed by the Directors at any meeting which is held outside the United Kingdom shall be invalid and of no effect.

28.2 A Director may at any time and the Secretary shall, at the request of a Director, summon a meeting of the Directors by giving to each Director and alternate Director not less than twenty-four hours' Notice of the meeting provided that any meeting may be convened at shorter Notice and in such manner as each Director or his alternate Director shall approve and provided further that unless otherwise resolved by the Directors Notices of Directors' meetings need not be in Writing.

28.3 Questions arising at any meeting shall be determined by a majority of votes.

28.4 In the case of an equality of votes the chairman shall not have a second or casting vote.

28.5 A Director who is also an alternate Director shall be entitled to a separate vote for each Director for whom he acts as alternate in addition to his own vote.

28.6 A meeting of the Directors at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two. For the purposes of this Article and subject to the provisions of Article 28.7 an alternate Director shall be counted in a quorum but so that not less than two individuals will constitute the quorum.

28.7 A Director, notwithstanding his interest, may be counted in the quorum present at any meeting at which any contract or arrangement in which he is interested is considered and, provided he has made the disclosure required by Article 27.1, may vote in respect of any such contract or arrangement except those concerning his own terms of appointment.

28.8 Subject to the chairman of the meeting certifying that all of the Directors attending are physically present in the United Kingdom for the duration of the meeting, if a Director is by any means in communication with one or more other Directors so that each Director participating in the communication can hear what is said by any other of them, each Director so participating in the communication who is situated within the United Kingdom

is deemed to be present at a meeting with the other Directors so participating who are situated within the United Kingdom notwithstanding that all the Directors so participating are not present together in the same place. For the avoidance of doubt, nothing in this Article shall restrict any person who is not a Director from attending any meeting of the Directors from outside the United Kingdom by any means of communication with the Directors present at that meeting.

- 28.9 The continuing Directors or Director may act notwithstanding any vacancies in their number but, if the number of Directors is less than the number fixed as the quorum or becomes less than the number required by the Law, the continuing Directors or Director may act only for the purpose of filling vacancies or of calling a general meeting of the Company. If there are no Directors or no Director is able or willing to act then any Member or the Secretary may summon a general meeting for the purpose of appointing Directors.
- 28.10 The Directors may from time to time elect from their number, and remove, a chairman and/or deputy chairman and/or vice-chairman of the board of Directors and determine the period for which they are to hold office.
- 28.11 The chairman, or in his absence the deputy chairman, or in his absence the vice-chairman, shall preside at all meetings of the Directors but if no such chairman, deputy chairman or vice-chairman be elected or if at any meeting the chairman, deputy chairman or vice-chairman be not present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be the chairman of the meeting.
- 28.12 Subject to each Director certifying that he is physically present in the United Kingdom at the time of signing, a resolution in Writing Signed by all the Directors entitled to receive Notice of a meeting of Directors or of a committee of Directors shall be valid and effectual as if it had been passed at a meeting of the Directors or of a committee of Directors duly convened and held in the United Kingdom and may consist of several documents in like form each Signed by one or more Directors, but a resolution Signed by an alternate Director need not also be Signed by his appointor and if it is Signed by a Director who has appointed an alternate Director it need not be Signed by the alternate Director in that capacity. No resolution in Writing shall be valid if any Director or alternate Director signing such resolution in Writing does so outside the United Kingdom.
- 28.13 All acts done bona fide by any meeting of Directors or of a committee appointed by the Directors or by any Person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or committee or Person acting as aforesaid or that they or any of them were disqualified or had vacated office or were not entitled to vote, be as valid as if every such Person had been duly appointed and was qualified and had continued to be a Director or a member of a committee appointed by the Directors and had been entitled to vote.

29. **MINUTE BOOK**

- 29.1 The Directors shall cause to be entered in books kept for the purpose:

- 29.1.1 the minutes of all proceedings at general meetings, class meetings, Directors' meetings and meetings of committees appointed by the Directors;
 - 29.1.2 all resolutions in Writing passed in accordance with these Articles;
 - 29.1.3 every memorandum in Writing of a Sole Member-Director Contract (as defined in Article 29.3) which is drawn up pursuant to Article 29.3;
 - 29.1.4 every record in Writing of a Sole Member's Decision (as defined in Article 29.4); and
 - 29.1.5 all such other records as are from time to time required by the Law or, in the opinion of the Directors, by good practice to be minuted or retained in the books of the Company.
- 29.2 Any minutes of a meeting if purporting to be Signed by the chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting shall be conclusive evidence of the proceedings.
- 29.3 This Article 29.3 applies where the Company has only one Member and that Member is also a Director. If the Company, acting otherwise than in the ordinary course of its business, enters into a contract with such Member (a "**Sole Member-Director Contract**") and that Sole Member-Director Contract is not in Writing, the terms thereof shall be:
- 29.3.1 set out in a memorandum in Writing;
 - 29.3.2 recorded in the minutes of the first meeting of the Directors following the making of the contract; or
 - 29.3.3 recorded in such other manner or on such other occasion as may for the time being be permitted or required by the Law.
- 29.4 This Article 29.4 applies where the Company has only one Member and that Member has taken a decision which may be taken by the Company in general meeting and which has effect in law as if agreed by the Company in general meeting (a "**Sole Member's Decision**"). A Sole Member's Decision may (without limitation) be taken by way of resolution in Writing but if not so taken, the sole Member shall provide the Company with a record in Writing of his decision as soon as practicable thereafter.
30. **SECRETARY**
- 30.1 Subject to the provisions of the Law, the Secretary shall be appointed by the Directors for such term at such remuneration and upon such conditions as they may think fit and any Secretary so appointed may be removed by the Directors.
- 30.2 Anything required or authorised to be done by or to the Secretary may, if the office is vacant or there is for any other reason no secretary capable of acting, be done by or to any assistant or deputy secretary or, if there is no assistant or deputy secretary capable of

acting, by or to any Person authorised generally or specifically in that behalf by the Directors.

30.3 The Company shall keep or cause to be kept at the Office a register of particulars with regard to its Secretary in the manner required by the Law.

31. **THE SEAL**

31.1 The Directors may determine that the Company shall have a Seal. Subject to the Law, if the Company has a Seal the Directors may determine that it shall also have an official seal for use outside of the Island of Jersey and an official seal for sealing securities issued by the Company or for sealing documents creating or evidencing securities so issued.

31.2 The Directors shall provide for the safe custody of all seals and no seal shall be used except by the authority of a resolution of the Directors or of a committee of the Directors authorised in that behalf by the Directors.

31.3 The Directors may from time to time make such regulations as they think fit determining the Persons and the number of such Persons who shall sign every instrument to which a seal is affixed and, until otherwise so determined, every such instrument shall be Signed by one Director and by the Secretary or by a second Director.

31.4 The Company may authorise an agent appointed for the purpose to affix any seal of the Company to a document to which the Company is a party.

32. **AUTHENTICATION OF DOCUMENTS**

32.1 Any Director or the Secretary or any Person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the constitution of the Company (including the Memorandum of Association and these Articles), any resolutions passed by the Company or the Directors and any books, records, documents and accounts relating to the business of the Company and to certify copies thereof or extracts therefrom as true copies or extracts.

32.2 Where any books, records, documents or accounts of the Company are situated elsewhere than at the Office the local manager or other Officer or the company having the custody thereof shall be deemed to be a Person appointed by the Directors for the purposes set out in Article 32.1.

33. **DIVIDENDS AND OTHER DISTRIBUTIONS**

33.1 The provisions of this Article 33 are subject to the other provisions of these Articles (including, without limitation, Articles 2.3 and 2.4).

33.2 Subject to the provisions of the Law, the Company may by Ordinary Resolution declare dividends in accordance with the respective rights of the Members but no dividend shall exceed the amount recommended by the Directors.

- 33.3 Subject to the provisions of the Law, the Directors may if they think fit from time to time pay to the Members such interim dividends or any other distributions as they may determine.
- 33.4 If at any time the share capital of the Company is divided into different classes the Directors may pay such interim dividends or any other distributions in respect of those Shares which confer on the Holders thereof deferred or non-preferred rights as well as in respect of those Shares which confer on the Holders thereof preferential rights with regard to dividends or any other distributions.
- 33.5 Subject to the provisions of the Law, the Directors may also pay half-yearly or at other suitable intervals to be settled by them any dividend which may be payable at a fixed rate.
- 33.6 Provided the Directors act bona fide they shall not incur any personal liability to the Holders of Shares conferring a preference for any damage that they may suffer by reason of the payment of an interim dividend on any Shares having deferred or non-preferred rights.
- 33.7 Subject to any particular rights or limitations as to dividend for the time being attached to any Shares as may be specified in these Articles or upon which such Shares may be issued, all dividends or distributions shall be declared apportioned and paid pro rata according to the amounts Paid Up on the Shares on which the dividend or distribution is paid (otherwise than in advance of calls) provided that if any Share is issued on terms providing that it shall rank for dividend or distribution as if Paid Up (in whole or in part) or as from a particular date (either past or future) such Share shall rank for dividend or distribution accordingly.
- 33.8 The Directors may, before recommending any dividend or distribution, set aside such sums as they think proper as a reserve or reserves which shall at the discretion of the Directors be applicable for any purpose to which such sums may be properly applied and, pending such application may, at the like discretion, be employed in the business of the Company or be invested in such investments as the Directors may from time to time think fit.
- 33.9 The Directors may carry forward to the account of the succeeding year or years any balance which they do not think fit either to dividend, distribute or to place to reserve.
- 33.10 A general meeting declaring a dividend or distribution may, upon the recommendation of the Directors, direct that payment of such dividend or distribution shall be satisfied wholly or in part by the distribution of specific assets and in particular of Paid Up Shares or debentures of any other company and the Directors shall give effect to such resolution. Where any difficulty arises in regard to the distribution the Directors may settle the same as they think expedient and in particular may:
- 33.10.1 issue certificates representing part of a shareholding or fractions of Shares and may fix the value for distribution of such specific assets or any part thereof;

- 33.10.2 determine that cash payment shall be made to any Members on the basis of the value so fixed in order to adjust the rights of Members;
- 33.10.3 vest any specific assets in trustees upon trust for the Persons entitled to the dividend or distribution as may seem expedient to the Directors; and
- 33.10.4 generally make such arrangements for the allotment, acceptance and sale of such specific assets or certificates representing part of a shareholding or fractions of Shares or any part thereof or otherwise as they think fit.
- 33.11 Any resolution declaring a dividend or distribution on the Shares of any class, whether a resolution of the Company in general meeting or a resolution of the Directors or any resolution of the Directors for the payment of a fixed dividend or distribution on a date prescribed for the payment thereof, may specify that the same shall be payable to the Persons registered as the Holders of Shares of the class concerned at the close of business on a particular date notwithstanding that it may be a date prior to that on which the resolution is passed (or as the case may be that prescribed for payment of a fixed dividend or distribution) and thereupon the dividend or distribution shall be payable to them in accordance with their respective holdings so registered but without prejudice to the rights inter se in respect of such dividend or distribution of transferors and transferees of any Shares of the relevant class.
- 33.12 The Directors may deduct from any dividend, distribution or other monies payable to any Member on or in respect of a Share all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in relation to the Shares of the Company.
- 33.13 Any dividend, distribution or other monies payable in respect of a Share may be paid by cheque or warrant sent through the post to the registered address of the Member or Person entitled thereto and, in the case of joint Holders, to any one of such joint Holders or to such Person and to such address as the Holder or joint Holders may in Writing direct. Every such cheque or warrant shall be made payable to the order of the Person to whom it is sent or to such other Person as the Holder or joint Holders may in Writing direct and payment of the cheque or warrant shall be a good discharge to the Company. Every such cheque or warrant shall be sent at the risk of the Person entitled to the money represented thereby.
- 33.14 All unclaimed dividends or distributions may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed. No dividend or distribution shall bear interest as against the Company.
- 33.15 Any dividend or distribution which has remained unclaimed for a period of ten years from the date of declaration thereof shall, if the Directors so resolve, be forfeited and cease to remain owing by the Company and shall thenceforth belong to the Company absolutely.
- 33.16 All payments of dividend, distribution or other monies payable in respect of a Share shall be made subject to the deduction of, or withholding of, or on account of, any taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or in the

Island of Jersey or the United Kingdom or any political sub-division or authority therein having power to tax, where such withholding or deduction is required or permitted by law. No additional payment will be required to be made in respect of such withholding or deduction.

- 33.17 In determining amounts payable to Members, a fraction of one penny will be rounded to the nearest penny with one half of one penny being rounded upwards.

34. **CAPITALISATION OF PROFITS**

The Directors may with the authority of an Extraordinary Resolution of the Company:

- 34.1 subject as hereinafter provided, resolve that it is desirable to capitalise any undistributed profits of the Company (including profits carried and standing to any reserve or reserves) not required for paying any fixed dividends on any Shares entitled to fixed preferential dividends with or without further participation in profits or to capitalise any sum carried to reserve as a result of the sale or revaluation of the assets of the Company (other than goodwill) or any part thereof or to capitalise any sum standing to the credit of the Company's share premium account or capital redemption reserve fund;
- 34.2 appropriate the profits or sum resolved to be capitalised to the Members in the proportion in which such profits or sum would have been divisible amongst them had the same been applicable and had been applied in paying dividends and to apply such profits or sum on their behalf either in or towards paying up any amount for the time being unpaid on any Shares held by such Members respectively or in paying up in full either at par or at such premium as the said resolution may provide any unissued Shares or debentures of the Company such Shares or debentures to be allotted and distributed credited as fully Paid Up to and amongst such Members in the proportions aforesaid or partly in one way and partly in the other provided that the share premium account and the capital redemption reserve fund and any unrealised profits may for the purposes of this Article only be applied in the paying up of unissued Shares to be allotted to Members credited as fully Paid Up;
- 34.3 make all appropriations and applications of the profits or sum resolved to be capitalised thereby and all allotments and issues of fully paid Shares or debentures, if any, and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provision by the issue of certificates representing part of a shareholding or fractions of Shares or by payments in cash or otherwise as they think fit in the case of Shares or debentures becoming distributable in fractions; and
- 34.4 authorise any Person to enter on behalf of all the Members entitled to the benefit of such appropriations and applications into an agreement with the Company providing for the allotment to them respectively credited as fully Paid Up of any further Shares or debentures to which they may be entitled upon such capitalisation and any agreement made under such authority shall be effective and binding on all such Members.

35. **ACCOUNTS AND AUDIT**

35.1 The Company shall keep accounting records which are sufficient to show and explain the Company's transactions and are such as to:

35.1.1 disclose with reasonable accuracy at any time the financial position of the Company at that time; and

35.1.2 enable the Directors to ensure that any accounts prepared by the Company comply with requirements of the Law.

35.2 The Directors shall prepare accounts of the Company made up to such date in each year as the Directors shall from time to time determine in accordance with and subject to the provisions of the Law.

35.3 No Member shall (as such) have any right to inspect any accounting records or other book or document of the Company except as conferred by the Law or authorised by the Directors or by Ordinary Resolution of the Company.

35.4 The Directors shall deliver to the Registrar of Companies a copy of the accounts of the Company signed on behalf of the Directors by one of them together with a copy of the report thereon by the Auditors in accordance with the Law.

35.5 The Directors or the Company by Ordinary Resolution shall appoint Auditors for any period or periods to examine the accounts of the Company and to report thereon in accordance with the Law.

36. **NOTICES**

36.1 In the case of joint Holders of a Share, all Notices shall be given to that one of the joint Holders whose name stands first in the Register in respect of the joint holding and Notice so given shall be sufficient Notice to all the joint Holders.

36.2 A Notice may be given to any Person either personally or by sending it by post to him at his registered address. Where a Notice is sent by post, service of the Notice shall be deemed to be effected by properly addressing prepaying and posting a letter containing the Notice and the Notice shall be deemed to have been effected one Clear Day after the day it was posted.

36.3 Any Member Present at any meeting of the Company shall for all purposes be deemed to have received due Notice of such meeting and, where requisite, of the purposes for which such meeting was convened.

36.4 A Notice may be given by the Company to the Persons entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member by sending or delivering it in any manner authorised by these Articles for the giving of Notice to a Member addressed to them by name or by the title of representatives of the deceased or trustee of the Bankrupt

or curator of the Member or by any like description at the address if any supplied for that purpose by the Persons claiming to be so entitled. Until such an address has been supplied, a Notice may be given in any manner in which it might have been given if the death, bankruptcy or incapacity had not occurred. If more than one Person would be entitled to receive a Notice in consequence of the death, bankruptcy or incapacity of a Member, Notice given to any one of such Persons shall be sufficient Notice to all such Persons.

36.5 Notwithstanding any of the provisions of these Articles, any Notice to be given by the Company to a Director or to a Member may be given in any manner agreed in advance by any such Director or Member.

36.6 Notwithstanding any of the provisions of these Articles, any Notice to be given to a Holder of a Preference Share shall be valid if given in the manner provided in the Conditions.

37. **WINDING UP**

37.1 Subject to any particular rights or limitations for the time being attached to any Shares as may be specified in these Articles or upon which such Shares may be issued if the Company is wound up, the assets available for distribution among the Members shall be applied first in repaying to the Members the amount Paid Up on their Shares respectively and, if such assets shall be more than sufficient to repay to the Members the whole amount Paid Up on their Shares, the balance shall be distributed among the Members in proportion to the amount which at the time of the commencement of the winding up had been actually Paid Up on their said Shares respectively.

37.2 If the Company is wound up, the Company may, with the sanction of an Extraordinary Resolution and any other sanction required by the Law, divide the whole or any part of the assets of the Company among the Members in specie and the liquidator or, where there is no liquidator, the Directors may for that purpose value any assets and determine how the division shall be carried out as between the Members or different classes of Members and with the like sanction vest the whole or any part of the assets in trustees upon such trusts for the benefit of the Members as the liquidator or the Directors (as the case may be) with the like sanction determine but no Member shall be compelled to accept any assets upon which there is a liability.

38. **INDEMNITY**

38.1 In so far as the Law allows, every present or former Officer of the Company shall be indemnified out of the assets of the Company against any loss or liability incurred by him by reason of being or having been such an Officer.

38.2 The Directors may without sanction of the Company in general meeting authorise the purchase or maintenance by the Company for any Officer or former Officer of the Company of any such insurance as is permitted by the Law in respect of any liability which would otherwise attach to such Officer or former Officer.

39. **NON-APPLICATION OF STANDARD TABLE**

The regulations constituting the Standard Table prescribed pursuant to the Law shall not apply to the Company and are hereby expressly excluded in their entirety.

ENSCO JERSEY FINANCE LIMITED,

as Issuer

ENSCO PLC,

as Guarantor

AND

DEUTSCHE BANK TRUST COMPANY AMERICAS,

as Trustee

INDENTURE

Dated as of December 12, 2016

3.00% Exchangeable Senior Notes due 2024

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EXHIBIT

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INDENTURE dated as of December 12, 2016 among ENSCO JERSEY FINANCE LIMITED, a company incorporated under the laws of Jersey, as issuer (the “**Company**” as more fully set forth in Section 1.01), ENSCO PLC, a public limited company incorporated under the laws of England and Wales, as Guarantor (the “**Guarantor**” as more fully set forth in Section 1.01), and DEUTSCHE BANK TRUST COMPANY AMERICAS, as trustee (the “**Trustee**,” as more fully set forth in Section 1.01).

WITNESSETH:

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the issuance of its 3.00% Exchangeable Senior Notes due 2024 (each a “**Note**” and collectively, the “**Notes**”) fully and unconditionally guaranteed on a senior unsecured basis by the Guarantor of the tenor and amount hereinafter set for, initially in an aggregate principal amount not to exceed \$849,500,000, and in order to provide the terms and conditions upon which the Notes are to be authenticated, issued and delivered, the Company has duly authorized the execution and delivery of this Indenture; and

WHEREAS, the Form of Note, the certificate of authentication to be borne by each Note, the Form of Notice of Exchange, the Form of Fundamental Change Repurchase Notice and the Form of Assignment and Transfer to be borne by the Notes are to be substantially in the forms hereinafter provided; and

WHEREAS, all acts and things necessary to make the Notes and the Guarantee, when the Notes are executed by the Company and this Indenture is executed by the Company and the Guarantor, respectively, and authenticated and delivered by the Trustee or a duly authorized authenticating agent, as in this Indenture provided, the valid, binding and legal obligations of the Company and the Guarantor, and this Indenture a valid agreement according to its terms, have been done and performed, and the execution of this Indenture and the issuance hereunder of the Notes have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Notes are, and are to be, authenticated, issued and delivered, and in consideration of the premises and of the purchase and acceptance of the Notes by the Holders thereof, the Company and the Guarantor covenant and agree with the Trustee for the equal and proportionate benefit of the respective Holders from time to time of the Notes (except as otherwise provided below), as follows:

ARTICLE 1
Definitions

Section 1.01 *Definitions*. The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01. The words “herein,” “hereof,” “hereunder” and words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article include the plural as well as the singular.

“ **Additional Amounts** ” shall have the meaning specified in Section 4.10.

“ **Additional Interest** ” means all amounts, if any, payable pursuant to Section 4.06(d) and Section 4.06(e), as applicable.

“ **Additional Shares** ” shall have the meaning specified in Section 15.03(a).

“ **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. Notwithstanding anything to the contrary herein, the determination of whether one Person is an “ **Affiliate** ” of another Person for purposes of this Indenture shall be made based on the facts at the time such determination is made or required to be made, as the case may be, hereunder.

“ **Allotment Share Cap** ” shall have the meaning specified in Section 15.12.

“ **Applicable Law** ” shall have the meaning specified in Section 18.16.

“ **Articles** ” means the Memorandum and Articles of Association of the Company in effect as of the Issue Date.

“ **Attributable Indebtedness** ,” when used with respect to any Sale/Leaseback Transaction, means, as at the time of determination, the present value (discounted at the rate set forth or implicit in the terms of the lease included in such transaction) of the total obligations of the lessee for rental payments (other than amounts required to be paid on account of taxes, maintenance, repairs, insurance, assessments, utilities, operating and labor costs and other items which do not constitute payments for property rights) during the remaining term of the lease included in such Sale/Leaseback Transaction (including any period for which such lease has been extended). In the case of any lease which is terminable by the lessee upon the payment of a penalty, such net amount shall be the lesser of the net amount determined assuming termination upon the first date such lease may be terminated (in which case the net amount shall also include the amount of the penalty, but no rent shall be considered as required to be paid under such lease subsequent to the first date upon which it may be so terminated) or the net amount determined assuming no such termination.

“ **Bankruptcy Code** ” means Title 11 of the U.S. code.

“ **Bankruptcy Custodian** ” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

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

“ **Benefited Party** ” shall have the meaning specified in Section 14.01.

“ **Bid Solicitation Agent** ” means the Company or the Person appointed by the Company to solicit bids for the Trading Price of the Notes in accordance with Section 15.01(b). The Company shall initially act as the Bid Solicitation Agent.

“ **Board of Directors** ” means the board of directors of the Company or the Guarantor, as applicable, or comparable governing body or any committee thereof duly authorized, with respect to any particular matter, to act by or on behalf of the Board of Directors or comparable governing body.

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

“ **Business Day** ” means, with respect to any Note, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

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

“ **Capitalized Lease Obligation** ” of any Person means any obligation of such Person to pay rent or other amounts under a lease of property, real or personal, that is required to be accounted for as a capital lease for financial reporting purposes in accordance with GAAP; and the amount of such obligation shall be the capitalized amount thereof determined in accordance with GAAP.

“ **Cash Settlement** ” shall have the meaning specified in Section 15.02(a).

“ **Change in Tax Law** ” shall have the meaning specified in Section 17.01(a).

“ **Clause A Distribution** ” shall have the meaning specified in Section 15.04(c).

“ **Clause B Distribution** ” shall have the meaning specified in Section 15.04(c).

“ **Clause C Distribution** ” shall have the meaning specified in Section 15.04(c).

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

“ **Combination Settlement** ” shall have the meaning specified in Section 15.02(a).

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

“ **Common Equity** ” of any Person means Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners,

managers or others that will control the management or policies of such Person. For the avoidance of doubt, the ERPSs shall not be considered Common Equity of the Company.

“ **Common Stock** ” means the Class A ordinary shares of the Guarantor, par value \$0.10 per share, at the date of this Indenture, subject to Section 15.07.

“ **Company** ” shall have the meaning specified in the first paragraph of this Indenture, and subject to the provisions of Article 12, shall include its successors and assigns.

“ **Company Order** ” means a written order of the Company and the Guarantor, as applicable, signed by an Officer of the Company or the Guarantor, as applicable, and delivered to the Trustee.

“ **Consolidated Net Tangible Assets** ” means the total amount of assets (after deducting applicable reserves and other properly deductible items) of the Guarantor and its subsidiaries, on a consolidated basis, less:

(i) all current liabilities (excluding liabilities that are extendible or renewable at the Guarantor’s option to a date more than 12 months after the date of calculation and excluding current maturities of long-term Indebtedness) of the Guarantor and its subsidiaries, on a consolidated basis; and

(ii) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangible assets of the Guarantor and its subsidiaries, on a consolidated basis.

The Guarantor will calculate its Consolidated Net Tangible Assets based on its most recent quarterly balance sheet and in accordance with GAAP.

“ **Corporate Event** ” shall have the meaning specified in Section 15.01(b)(iii).

“ **Corporate Trust Office** ” means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 60 Wall Street, New York, NY 10005, Attention: Corporates Team ENSCO Jersey Finance Limited, or such other address as the Trustee may designate from time to time by notice to the Holders, the Company and the Guarantor, or the principal corporate trust office of any successor trustee (or such other address as such successor trustee may designate from time to time by notice to the Holders, the Company and the Guarantor).

“ **Custodian** ” means the Trustee, as custodian for The Depository Trust Company, with respect to the Global Notes, or any successor entity thereto.

“ **Daily Exchange Value** ” means, for each of the 40 consecutive Trading Days during the Observation Period, one-fortieth (1/40th) of the product of (a) the Exchange Rate on such Trading Day and (b) the Daily VWAP for such Trading Day.

“ **Daily Measurement Value** ” means the Specified Dollar Amount (if any), *divided by 40*.

“ **Daily Settlement Amount** ,” for each of the 40 consecutive Trading Days during the Observation Period, shall consist of:

- (a) cash in an amount equal to the lesser of (i) the Daily Measurement Value and (ii) the Daily Exchange Value on such Trading Day; and
- (b) if the Daily Exchange Value on such Trading Day exceeds the Daily Measurement Value, a number of shares of Common Stock equal to (i) the difference between the Daily Exchange Value and the Daily Measurement Value, *divided by* (ii) the Daily VWAP for such Trading Day.

“ **Daily VWAP** ” means, for each of the 40 consecutive Trading Days during the relevant Observation Period, the per share volume-weighted average price as displayed under the heading “Bloomberg VWAP” on Bloomberg page “ESV US <equity> AQR” (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or if such volume-weighted average price is unavailable, the market value of one share of the Common Stock on such Trading Day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by the Guarantor). The “ **Daily VWAP** ” shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

“ **Deed Poll** ” means that certain Deed Poll, dated as of December 12, 2016, executed by the Guarantor in favor of the Company and the holders of ERPSs.

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

“ **Defaulted Amounts** ” means any amounts on any Note (including, without limitation, the Redemption Price, the Fundamental Change Repurchase Price, principal and interest) that are payable but are not punctually paid or duly provided for.

“ **Depository** ” means, with respect to each Global Note, the Person specified in Section 2.05(c) as the Depository with respect to such Notes, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Indenture, and thereafter, “ **Depository** ” shall mean or include such successor.

“ **Distributed Property** ” shall have the meaning specified in Section 15.04(c).

“ **Effective Date** ” shall have the meaning specified in Section 15.03(c), except that, as used in Section 15.04, “ **Effective Date** ” means the first date on which shares of the Common Stock trade on the applicable exchange or in the applicable market, regular way, reflecting the relevant share split or share combination, as applicable.

“ **Entity** ” means a corporation, limited liability company or business trust (or functional equivalent of the foregoing under applicable foreign law).

“ **ERPS** ” means an exchangeable redeemable preference share of the Company with a par value of \$0.0000001 and a paid-up value of \$1,000.

“ **Event of Default** ” shall have the meaning specified in Section 7.01.

“ **Ex-Dividend Date** ” means the first date on which shares of the Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Guarantor or, if applicable, from the seller of Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

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

“ **Exchange Agent** ” shall have the meaning specified in Section 4.02.

“ **Exchange Date** ” shall have the meaning specified in Section 15.02(c).

“ **Exchange Obligation** ” shall have the meaning specified in Section 15.01(a).

“ **Exchange Price** ” means as of any time, \$1,000, *divided by* the Exchange Rate as of such time.

“ **Exchange Rate** ” shall have the meaning specified in Section 15.01(a).

“ **Exchange Share Cap** ,” as of any Exchange Date, means a number of shares of Common Stock equal to 19.9995% of the number of shares of Common Stock outstanding as of December 6, 2016 minus the aggregate number of shares of Common Stock previously issued in settlement of exchanges of the Notes. The Exchange Share Cap will be adjusted at the same time and in the same manner as the Exchange Rate as described in Section 15.04.

“ **Form of Assignment and Transfer** ” means the “Form of Assignment and Transfer” attached as Attachment 3 to the Form of Note attached hereto as Exhibit A.

“ **Form of Fundamental Change Repurchase Notice** ” means the “Form of Fundamental Change Repurchase Notice” attached as Attachment 2 to the Form of Note attached hereto as Exhibit A.

“ **Form of Note** ” means the “Form of Note” attached hereto as Exhibit A.

“ **Form of Notice of Exchange** ” means the “Form of Notice of Exchange” attached as Attachment 1 to the Form of Note attached hereto as Exhibit A.

“ **Fundamental Change** ” shall be deemed to have occurred at the time after the Notes are originally issued if any of the following occurs:

(a) except as described in clause (b) below, a “person” or “group” within the meaning of Section 13(d) of the Exchange Act, other than the Company, the Guarantor, the Guarantor’s

other Subsidiaries and their employee benefit plans, has become the direct or indirect “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of the Guarantor’s Common Equity representing more than 50% of the voting power of the Guarantor’s Common Equity; *provided, however*, that a “person” or “group” shall not be deemed a beneficial owner of, or to own beneficially, (x) any securities tendered pursuant to a tender or exchange offer made by or on behalf of such “person” or “group” pursuant to a Schedule TO until such tendered securities are accepted for purchase or exchange thereunder or (y) any securities to the extent such beneficial ownership (i) arises solely as a result of a revocable proxy delivered to such “person” or “group” by a shareholder that is not, for the avoidance of doubt, a member of such “group” in response to a proxy or consent solicitation made pursuant to, and disclosed in accordance with, the applicable rules and regulations under the Exchange Act, and (ii) is not also then reportable on Schedule 13D or Schedule 13G (or any successor schedule) under the Exchange Act.

(b) the consummation of (A) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets, or (B) any share exchange, consolidation or merger of the Guarantor pursuant to which the Common Stock will be converted into cash, securities or other property; or any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Guarantor and its Subsidiaries, taken as a whole, to any Person other than one of the Guarantor’s Wholly Owned Subsidiaries; *provided, however*, that neither (i) a transaction where the holders of all classes of the Guarantor’s Common Equity immediately prior to such transaction that is a share exchange, consolidation or merger own, directly or indirectly, more than 50% of all classes of Common Equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such event in substantially the same proportions as such ownership immediately prior to such event, nor (ii) any merger, share exchange, transfer of assets or similar transaction solely for the purpose of changing the Guarantor’s jurisdiction of incorporation and resulting in a reclassification, conversion or exchange of outstanding Common Stock solely into ordinary shares, common shares or American depositary shares of the surviving entity that are traded or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors), and as a result of such transaction the Notes become exchangeable into such shares or American depositary shares, shall be a Fundamental Change pursuant to this clause (b);

(c) the stockholders of the Guarantor approve any plan or proposal for the liquidation or dissolution of the Guarantor; or

(d) the Common Stock (or other ordinary shares, common shares or American depositary shares underlying the Notes) ceases to be listed or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors) and is not listed or quoted on one of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors) concurrently with such cessation;

provided, however, that a transaction or transactions described in clause (b) above shall not constitute a Fundamental Change, if at least 90% of the consideration received or to be received

by the ordinary shareholders of the Guarantor, excluding cash payments for fractional shares and cash payments made pursuant to dissenters' or appraisal rights, in connection with such transaction or transactions consists of ordinary shares, common shares or American depositary shares that are listed or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors) or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions and as a result of such transaction or transactions the Notes become exchangeable into such consideration or a unit including such consideration, excluding cash payments for fractional shares (subject to the provisions of [Section 15.02\(a\)](#)). If a transaction constitutes a Fundamental Change pursuant to both [clause \(a\)](#) and [clause \(b\)](#) of this definition, such transaction will be treated as Fundamental Change pursuant to solely [clause \(b\)](#) for purposes of the carve out described in this proviso. If any transaction in which the Common Stock is replaced by the securities of another entity occurs, following completion of any related Make-Whole Fundamental Change Period (or, in the case of a transaction that would have been a Fundamental Change or a Make-Whole Fundamental Change but for this proviso, following the effective date of such transaction) references to the Guarantor in this definition shall instead be references to such other entity.

“ **Fundamental Change Company Notice** ” shall have the meaning specified in [Section 16.02\(c\)](#).

“ **Fundamental Change Repurchase Date** ” shall have the meaning specified in [Section 16.02\(a\)](#).

“ **Fundamental Change Repurchase Notice** ” shall have the meaning specified in [Section 16.02\(b\)\(i\)](#).

“ **Fundamental Change Repurchase Price** ” shall have the meaning specified in [Section 16.02\(a\)](#).

“ **Funded Indebtedness** ” means all Indebtedness that matures on or is renewable to a date more than one year after the date the Indebtedness is incurred.

“ **GAAP** ” means United States generally accepted accounting principles and policies consistent with those applied in the preparation of the Guarantor's financial statements.

“ **Global Note** ” shall have the meaning specified in [Section 2.05\(b\)](#).

“ **Guarantee** ” shall have the meaning specified in [Section 14.01](#).

“ **Guarantee Obligations** ” shall have the meaning specified in [Section 14.01](#).

“ **Guarantor** ” shall have the meaning specified in the first paragraph of this Indenture, and subject to the provisions of [Article 12](#), shall include its successors and assigns.

“ **Holder** ,” as applied to any Note, or other similar terms (but excluding the term “beneficial holder”), means any Person in whose name at the time a particular Note is registered on the Note Register.

“ **Indebtedness** ” means:

- (a) all indebtedness for borrowed money (whether full or limited recourse);
- (b) all obligations evidenced by bonds, debentures, notes or other similar instruments;
- (c) all obligations under letters of credit or other similar instruments, other than standby letters of credit, performance bonds and other obligations issued in the ordinary course of business, to the extent not drawn or, to the extent drawn, if such drawing is reimbursed not later than the third Business Day following demand for reimbursement;
- (d) all obligations to pay the deferred and unpaid purchase price of property or services, except trade payables and accrued expenses incurred in the ordinary course of business;
- (e) all Capitalized Lease Obligations;
- (f) all Indebtedness of others secured by a Lien on any asset of the Person in question (provided that if the obligations so secured have not been assumed in full or are not otherwise fully the Person’s legal liability, then such obligations may be reduced to the value of the asset or the liability of the Person); or
- (g) all Indebtedness of others (other than endorsements in the ordinary course of business) guaranteed by the Person in question to the extent of such guarantee.

“ **Indenture** ” means this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented.

“ **Initial Dividend Threshold** ” shall have the meaning specified in Section 15.04(d).

“ **Interest Payment Date** ” means each January 31 and July 31 of each year, beginning on July 31, 2017.

“ **Issue Date** ” means December 12, 2016, the date on which the Notes were first authenticated and delivered under this Indenture.

“ **Joint Venture** ” means any partnership, corporation or other entity in which up to and including 50% of the partnership interests, outstanding voting stock or other equity interests is owned, directly or indirectly, by the Guarantor and/or one or more Subsidiaries. A Joint Venture shall not be treated as a Subsidiary.

“ **Last Reported Sale Price** ” of the Common Stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is traded. If the Common Stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date, the “ **Last Reported Sale Price** ” shall be the last quoted bid price for the Common Stock in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization selected by

the Company. If the Common Stock is not so quoted, the “ **Last Reported Sale Price** ” shall be the average of the mid-point of the last bid and ask prices for the Common Stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose.

“ **Lien** ” means any mortgage, pledge, lien, charge, security interest or similar encumbrance. For purposes of this Indenture, the Guarantor or any of its Subsidiaries shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capitalized Lease Obligation or other title retention agreement relating to such asset.

“ **Make-Whole Fundamental Change** ” means any transaction or event that constitutes a Fundamental Change (as defined above and determined after giving effect to any exceptions to or exclusions from such definition, but without regard to the *proviso* in clause (b) of the definition thereof).

“ **Make-Whole Fundamental Change Period** ” shall have the meaning specified in Section 15.03(a).

“ **Market Disruption Event** ” means, for the purposes of determining amounts due upon an exchange of Notes (a) a failure by the primary U.S. national or regional securities exchange or market on which the Common Stock is listed or admitted for trading to open for trading during its regular trading session or (b) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the Common Stock for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock.

“ **Maturity Date** ” means January 31, 2024.

“ **Measurement Period** ” shall have the meaning specified in Section 15.01(b).

“ **Merger Common Stock** ” shall have the meaning specified in Section 15.07(e)(i).

“ **Merger Valuation Percentage** ” for any Share Exchange Event shall be equal to (x) the arithmetic average of the Last Reported Sale Prices of one share of such Merger Common Stock over the relevant Merger Valuation Period (determined as if references to “Common Stock” in the definition of “Last Reported Sale Price” were references to the “Merger Common Stock” for such Share Exchange Event), *divided by* (y) the arithmetic average of the Last Reported Sale Prices of one share of Common Stock over the relevant Merger Valuation Period.

“ **Merger Valuation Period** ” for any Share Exchange Event means the five consecutive Trading Day period immediately preceding, but excluding, the effective date for such Share Exchange Event.

“ **Note** ” or “ **Notes** ” shall have the meaning specified in the first paragraph of the recitals of this Indenture.

“ **Note Register** ” shall have the meaning specified in Section 2.05(a).

“ **Note Registrar** ” shall have the meaning specified in Section 2.05(a).

“ **Notice of Exchange** ” shall have the meaning specified in Section 15.02(b).

“ **Observation Period** ” with respect to any Note surrendered for exchange means: (i) subject to clause (ii), if the relevant Exchange Date occurs prior to July 31, 2023, the 40 consecutive Trading Day period beginning on, and including, the second Trading Day immediately succeeding such Exchange Date; (ii) if the relevant Exchange Date occurs on or after the date of the Company’s issuance of a Redemption Notice with respect to the Notes pursuant to Section 17.02 and prior to the relevant Redemption Date, the 40 consecutive Trading Days beginning on, and including, the first Scheduled Trading Day immediately succeeding such Redemption Date; and (iii) subject to clause (ii), if the relevant Exchange Date occurs on or after July 31, 2023, the 40 consecutive Trading Days beginning on, and including, the 42nd Scheduled Trading Day immediately preceding the Maturity Date.

“ **Offering Memorandum** ” means the preliminary offering memorandum dated December 6, 2016, as supplemented by the related pricing term sheet dated December 6, 2016, relating to the offering and sale of the Notes.

“ **Officer** ” of a Person means such Person’s Chairman of the Board, President, Vice President, Treasurer, Controller, Secretary, Assistant Treasurer, Assistant Controller or Assistant Secretary, and in the case of the Company, any director thereof.

“ **Officers’ Certificate** ,” when used with respect to the Company or the Guarantor, means a certificate signed by any two Officers of the Company or the Guarantor, respectively, and delivered to the Trustee, which certificate shall be in compliance with this Indenture.

“ **open of business** ” means 9:00 a.m. (New York City time).

“ **Opinion of Counsel** ” means an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Company, the Guarantor or other counsel, in each case that is reasonably acceptable to the Trustee, that is delivered to the Trustee. Each such opinion shall include the statements provided for in Section 18.05 if and to the extent required by the provisions of such Section 18.05.

“ **outstanding** ,” when used with reference to Notes, shall, subject to the provisions of Section 9.04, mean, as of any particular time, all Notes authenticated and delivered by the Trustee under this Indenture, except:

(a) Notes theretofore canceled by the Trustee or accepted by the Trustee for cancellation;

(b) Notes, or portions thereof, that have become due and payable and in respect of which monies in the necessary amount shall have been deposited in trust with the Trustee or with any Paying Agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent);

(c) Notes that have been paid pursuant to Section 2.06 or Notes in lieu of which, or in substitution for which, other Notes shall have been authenticated and delivered pursuant to the terms of Section 2.06 unless proof satisfactory to the Trustee is presented that any such Notes are held by protected purchasers in due course;

(d) Notes exchanged pursuant to Article 15 and required to be cancelled pursuant to Section 2.08; and

(e) Notes redeemed pursuant to Article 17; and

(f) Notes repurchased by the Company pursuant to the penultimate sentence of Section 2.10.

“ **Pari Passu Indebtedness** ” means any Indebtedness, whether outstanding on the Issue Date or thereafter created, incurred or assumed, unless, in the case of any particular Indebtedness, the instrument creating or evidencing the same or pursuant to which the same is outstanding expressly provides that such Indebtedness shall be subordinated in right of payment to the Notes.

“ **Paying Agent** ” shall have the meaning specified in Section 4.02.

“ **Permitted Liens** ” means:

(a) Liens existing on the Issue Date;

(b) Liens on property or assets of, or any shares of stock of, or other equity interests in, or Indebtedness of, any Person existing at the time such Person becomes a Subsidiary of the Guarantor or at the time such Person is merged into or consolidated with the Guarantor or any of its Subsidiaries or at the time of a sale, lease or other disposition of the properties of a Person (or a division thereof) as an entirety or substantially as an entirety to the Guarantor or any of its Subsidiaries, and not incurred in contemplation of such merger, consolidation, sale, lease or other disposition;

(c) Liens in favor of the Guarantor or any of its Subsidiaries or Liens securing debt of a Subsidiary owing to the Guarantor or to another Subsidiary;

(d) Liens in favor of governmental bodies to secure partial, progress, advance or other payments or performance pursuant to the provisions of any contract or statute;

(e) Liens securing industrial revenue, pollution control or similar revenue bonds;

(f) Liens on assets existing at the time of acquisition thereof, securing all or any portion of the cost of acquiring, constructing, improving, developing, expanding or repairing such assets or securing Indebtedness incurred prior to, at the time of, or within 24 months after, the later of the acquisition, the completion of construction, improvement, development, expansion or repair or the commencement of commercial operation of such assets, for the purpose of (a) financing all or any part of the purchase price of such assets or (b) financing all or any part of the cost of construction, improvement, development, expansion or repair of any such assets;

(g) statutory liens or landlords', carriers', warehouseman's, mechanics', suppliers', materialmen's, repairmen's, maritime or other like Liens arising in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate proceedings;

(h) Liens in connection with in rem and other legal proceedings, which are being contested in good faith;

(i) Liens securing taxes, assessments, government charges or levies not yet due or delinquent, or which can thereafter be paid without penalty, or which are being contested in good faith by appropriate proceedings;

(j) Liens on the stock, partnership or other equity interest of the Guarantor or any Subsidiary in any Joint Venture or any Subsidiary that owns an equity interest in such Joint Venture to secure Indebtedness, provided the amount of such Indebtedness is contributed and/or advanced solely to such Joint Venture;

(k) Liens incurred in the ordinary course of business to secure performance of tenders, bids or contracts entered into in the ordinary course of business, including without limitation any rights of offset or liquidated damages, penalties, or other fees that may be contractually agreed to in conjunction with any tender, bid, or contract entered into by the Guarantor or any of its Subsidiaries in the ordinary course of business;

(l) Liens on current assets of the Guarantor or any of its Subsidiaries securing the Guarantor's Indebtedness or Indebtedness of any such Subsidiary, respectively;

(m) deposits made in connection with maintaining self-insurance, to obtain the benefits of laws, regulations or arrangements relating to unemployment insurance, old age pensions, social security or similar matters or to secure surety, appeal or customs bonds; and

(n) any extensions, substitutions, replacements or renewals in whole or in part of a Lien enumerated in clauses (a) through (m) above, provided that the amount of Indebtedness secured by such extension, substitution, replacement or renewal shall not exceed the principal amount of Indebtedness being substituted, extended, replaced or renewed, together with the amount of any premiums, fees, costs and expenses associated with such substitution, extension, replacement or renewal, nor shall the pledge, mortgage or lien be extended to any additional Principal Property unless otherwise permitted under Section 6.01.

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

“ **Physical Notes** ” means permanent certificated Notes in registered form issued in denominations of \$1,000 principal amount and integral multiples thereof.

“ **Physical Settlement** ” shall have the meaning specified in Section 15.02(a).

“ **Predecessor Note** ” of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 2.06 in lieu of or in exchange for a mutilated, lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note that it replaces.

“ **Principal Property** ” means any drilling rig or drillship, or integral portion thereof, owned or leased by the Guarantor or any Subsidiary and used for drilling offshore oil and gas wells, which, in the opinion of the Guarantor’s Board of Directors, is of material importance to the business of the Guarantor and its Subsidiaries taken as a whole, but no such drilling rig or drillship, or portion thereof, shall be deemed of material importance if its net book value (after deducting accumulated depreciation) is less than 2% of Consolidated Net Tangible Assets.

“ **Record Date** ” means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock (or other applicable security) have the right to receive any cash, securities or other property or in which the Common Stock (or such other applicable security) is exchanged for or exchanged into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock (or such other applicable security) entitled to receive such cash, securities or other property (whether such date is fixed by the Guarantor’s Board of Directors, statute, contract or otherwise).

“ **Redemption Date** ” shall have the meaning specified in Section 17.02(b).

“ **Redemption Notice** ” shall have the meaning specified in Section 17.01(b).

“ **Redemption Price** ” means, for any Notes to be redeemed pursuant to Section 17.01, 100% of the principal amount of such Notes, *plus* accrued and unpaid interest, if any, to, but excluding, the Redemption Date (unless the Redemption Date falls after a Regular Record Date but on or prior to the immediately succeeding Interest Payment Date, in which case interest accrued to the Interest Payment Date will be paid to Holders of record of such Notes as of the close of business on such Regular Record Date, and the Redemption Price will be equal to 100% of the principal amount of such Notes).

“ **Reference Property** ” shall have the meaning specified in Section 15.07(a).

“ **Regular Record Date** ,” with respect to any Interest Payment Date, means the January 15 or July 15 (whether or not such day is a Business Day) immediately preceding the applicable January 31 or July 31 Interest Payment Date, respectively.

“ **Resale Restriction Termination Date** ” shall have the meaning specified in Section 2.05(c).

“ **Responsible Officer** ” means, when used with respect to the Trustee, any officer within the Corporate Trust Office of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such

person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“ **Restricted Securities** ” shall have the meaning specified in Section 2.05(c).

“ **Rule 144** ” means Rule 144 as promulgated under the Securities Act.

“ **Rule 144A** ” means Rule 144A as promulgated under the Securities Act.

“ **Sale/Leaseback Transaction** ” means any arrangement with any Person pursuant to which the Guarantor or any Subsidiary leases any Principal Property that has been or is to be sold or transferred by the Guarantor or the Subsidiary to such Person, other than (1) temporary leases for a term, including renewals at the option of the lessee, of not more than five years; (2) leases between the Guarantor and a Subsidiary or between Subsidiaries; and (3) leases of Principal Property executed by the time of, or within 12 months after the latest of, the acquisition, the completion of construction, alteration, improvement or repair, or the commencement of commercial operation, of the Principal Property.

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

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

“ **Settlement Amount** ” has the meaning specified in Section 15.02(a)(iv).

“ **Settlement Method** ” means, with respect to any exchange of Notes, Physical Settlement, Cash Settlement or Combination Settlement, as elected (or deemed to have been elected) by the Guarantor.

“ **Settlement Notice** ” has the meaning specified in Section 15.02(a)(iii).

“ **Share Exchange Event** ” shall have the meaning specified in Section 15.07(a).

“ **Specified Dollar Amount** ” means the maximum cash amount per \$1,000 principal amount of Notes to be received upon exchange as specified in the Settlement Notice related to any exchanged Notes.

“ **Spin-Off** ” shall have the meaning specified in Section 15.04(c).

“ **Stock Price** ” shall have the meaning specified in Section 15.03(c).

“ **Subsidiary** ” means a Person at least a majority of the outstanding Voting Stock of which is owned, directly or indirectly, by the Guarantor or by one or more other Subsidiaries or by the Guarantor and one or more other Subsidiaries. A Joint Venture shall not be treated as a Subsidiary.

“ **Successor Company** ” shall have the meaning specified in Section 12.01(a)(i).

“ **Tax** ” or “ **Taxes** ” shall have the meaning specified in Section 4.10.

“ **Tax Jurisdiction** ” or “ **Taxing Jurisdiction** ” shall have the meaning specified in Section 4.10.

“ **Trading Day** ” means a day on which (i) trading in the Common Stock (or other security for which a closing sale price must be determined) generally occurs on The New York Stock Exchange or, if the Common Stock (or such other security) is not then listed on The New York Stock Exchange, on the principal other U.S. national or regional securities exchange on which the Common Stock (or such other security) is then listed or, if the Common Stock (or such other security) is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock (or such other security) is then traded and (ii) a Last Reported Sale Price for the Common Stock (or such other security) is available on such securities exchange or market; *provided* that if the Common Stock (or such other security) is not so listed or traded, “ **Trading Day** ” means a Business Day; and *provided, further* , that for purposes of determining amounts due upon exchange only, “ **Trading Day** ” means a day on which (x) there is no Market Disruption Event and (y) trading in the Common Stock generally occurs on The New York Stock Exchange or, if the Common Stock is not then listed on The New York Stock Exchange, on the principal other U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then listed or admitted for trading, except that if the Common Stock is not so listed or admitted for trading, “ **Trading Day** ” means a Business Day.

“ **Trading Price** ” of the Notes on any date of determination means the average of the secondary market bid quotations obtained by the Bid Solicitation Agent for \$5,000,000 principal amount of Notes at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers the Company selects for this purpose; *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. If the Bid Solicitation Agent cannot reasonably obtain at least one bid for \$5,000,000 principal amount of Notes from a nationally recognized securities dealer on any determination date, then the Trading Price per \$1,000 principal amount of Notes on such determination date shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the Common Stock and the Exchange Rate.

“ **transfer** ” shall have the meaning specified in Section 2.05(c).

“ **Trigger Event** ” shall have the meaning specified in Section 15.04(c).

“ **Trust Indenture Act** ” means the Trust Indenture Act of 1939, as amended, as it was in force at the date of execution of this Indenture; *provided* , *however* , that in the event the Trust Indenture Act of 1939 is amended after the date hereof, the term “Trust Indenture Act” shall mean, to the extent required by such amendment, the Trust Indenture Act of 1939, as so amended.

“ **Trustee** ” means the Person named as the “ **Trustee** ” in the first paragraph of this Indenture until a successor trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “ **Trustee** ” shall mean or include each Person who is then a Trustee hereunder.

“ **unit of Reference Property** ” shall have the meaning specified in Section 15.07(a).

“ **Valuation Period** ” shall have the meaning specified in Section 15.04(c).

“ **Voting Stock** ” means, with respect to any Person, securities of any class or classes of capital stock of such Person entitling the holders thereof (whether at all times or at the times that such class of capital stock has voting power by reason of the happening of any contingency) to vote in the election of members of the Board of Directors or comparable body of such Person.

“ **Wholly Owned Subsidiary** ” means, with respect to any Person, any Subsidiary of such Person to the extent:

(a) all of the Voting Stock of such Subsidiary, other than any director’s qualifying shares mandated by applicable law, is owned directly or indirectly by such Person; or

(b) such Subsidiary is organized in a foreign jurisdiction and is required by the applicable laws and regulations of such foreign jurisdiction to be partially owned by another Person, if such Person:

(i) directly or indirectly owns the remaining capital stock of such Subsidiary; and

(ii) by contract or otherwise, controls the management and business of such Subsidiary and derives the economic benefits of ownership of such Subsidiary to substantially the same extent as if such Subsidiary were a Wholly Owned Subsidiary

Section 1.02 *References to Interest* . Unless the context otherwise requires, any reference to interest on, or in respect of, any Note in this Indenture shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to either of Section 4.06(d) and Section 4.06(e). Unless the context otherwise requires, any express mention of Additional Interest in any provision hereof shall not be construed as excluding Additional Interest in those provisions hereof where such express mention is not made.

ARTICLE 2

Issue, Description, Execution, Registration and Exchange of Notes

Section 2.01 *Designation and Amount* . The Notes shall be designated as the “3.00% Exchangeable Senior Notes due 2024.” The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is initially limited to \$849,500,000, subject to Section 2.10 and except for Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes to the extent expressly permitted hereunder.

Section 2.02 *Form of Notes* . The Notes and the Trustee's certificate of authentication to be borne by such Notes shall be substantially in the respective forms set forth in Exhibit A, the terms and provisions of which shall constitute, and are hereby expressly incorporated in and made, a part of this Indenture. To the extent applicable, the Company, the Guarantor and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. In the case of any conflict between this Indenture and the Notes, the provisions of this Indenture shall control and govern to the extent of such conflict.

Any Global Note may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Indenture as may be required by the Custodian or the Depositary, or as may be required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange or automated quotation system upon which the Notes may be listed or traded or designated for issuance or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Notes are subject.

Any of the Notes may have such letters, numbers or other marks of identification and such notations, legends or endorsements as the Officer executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, or to conform to usage or to indicate any special limitations or restrictions to which any particular Notes are subject.

Each Global Note shall represent such principal amount of the outstanding Notes as shall be specified therein and shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be increased or reduced to reflect redemptions, repurchases, cancellations, exchanges or transfers or exchanges for other Notes permitted hereby. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in such manner and upon instructions given by the Holder of such Notes in accordance with this Indenture. Payment of principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, a Global Note shall be made to the Holder of such Note on the date of payment, unless a record date or other means of determining Holders eligible to receive payment is provided for herein.

Section 2.03 *Date and Denomination of Notes; Payments of Interest and Defaulted Amounts* . (a) The Notes shall be issuable in registered form without coupons in denominations of \$1,000 principal amount and integral multiples of \$1,000 in excess thereof. Each Note shall be dated the date of its authentication and shall bear interest from the date specified on the face of such Note. Accrued interest on the Notes shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

(b) The Person in whose name any Note (or its Predecessor Note) is registered on the Note Register at the close of business on any Regular Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date. The principal amount of any Note (x) in the case of any Physical Note, shall be payable at the office or agency designated by the Company for such purposes in the continental United States, which shall initially be the Corporate Trust Office and (y) in the case of any Global Note, shall be payable by wire transfer of immediately available funds to the account of the Depository or its nominee. The Company shall pay interest (i) on any Physical Notes (A) to Holders holding Physical Notes having an aggregate principal amount of \$5,000,000 or less, by check mailed to the Holders of these Notes at their address as it appears in the Note Register and (B) to Holders holding Physical Notes having an aggregate principal amount of more than \$5,000,000, either by check mailed to each Holder or, upon application by such a Holder to the Note Registrar not later than the relevant Regular Record Date, by wire transfer in immediately available funds to that Holder's account within the United States, which application shall remain in effect until the Holder notifies, in writing, the Note Registrar to the contrary or (ii) on any Global Note by wire transfer of immediately available funds to the account of the Depository or its nominee.

(c) Any Defaulted Amounts shall forthwith cease to be payable to the Holder on the relevant payment date but shall accrue interest per annum at the rate borne by the Notes, subject to the enforceability thereof under applicable law, from, and including, such relevant payment date, and such Defaulted Amounts together with such interest thereon shall be paid by the Company, at its election in each case, as provided in clause (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Amounts to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a special record date for the payment of such Defaulted Amounts, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of the Defaulted Amounts proposed to be paid on each Note and the date of the proposed payment (which shall be not less than 25 days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Amounts or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Amounts as in this clause provided. Thereupon the Company shall fix a special record date for the payment of such Defaulted Amounts which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment, and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee of such special record date and the Trustee, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Amounts and the special record date therefor to be delivered to each Holder not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Amounts and the special record date therefor having been so delivered, such Defaulted Amounts shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such special record date and shall no longer be payable pursuant to the following clause (ii) of this Section 2.03(c).

(ii) The Company may make payment of any Defaulted Amounts in any other lawful manner not inconsistent with the requirements of any securities exchange or automated quotation system on which the Notes may be listed or designated for trading, and upon such notice as may be required by such exchange or automated quotation system, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Section 2.04 *Execution, Authentication and Delivery of Notes* . The Notes shall be signed in the name and on behalf of the Company by the manual or facsimile signature of an Officer thereof.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, and the Trustee in accordance with such Company Order shall authenticate and deliver such Notes, without any further action by the Company hereunder.

Only such Notes as shall bear thereon a certificate of authentication substantially in the form set forth on the Form of Note attached as Exhibit A hereto, executed manually or by facsimile by an authorized officer of the Trustee (or an authenticating agent appointed by the Trustee as provided by Section 18.10), shall be entitled to the benefits of this Indenture and the related Guarantee or be valid or obligatory for any purpose. Such certificate by the Trustee (or such an authenticating agent) upon any Note executed by the Company shall be conclusive evidence that the Note so authenticated has been duly authenticated and delivered hereunder and that the Holder and the Notes are entitled to the benefits of this Indenture and the related Guarantee.

In case any Officer of the Company who shall have signed any of the Notes shall cease to be such Officer before the Notes so signed shall have been authenticated and delivered by the Trustee, or disposed of by the Company, such Notes nevertheless may be authenticated and delivered or disposed of as though the Person who signed such Notes had not ceased to be such Officer of the Company; and any Note may be signed on behalf of the Company by such Persons as, at the actual date of the execution of such Note, shall be the Officers of the Company, although at the date of the execution of this Indenture any such Person was not such an Officer.

Section 2.05 *Exchange and Registration of Transfer of Notes; Restrictions on Transfer; Depositary* . (a) The Company shall cause to be kept at the Corporate Trust Office a register (the register maintained in such office or in any other office or agency of the Company designated pursuant to Section 4.02, the “**Note Registrar**”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes. Such register shall be in written form or in any form capable of being converted into written form within a reasonable period of time. The Trustee is hereby initially appointed the “**Note Registrar**” for the purpose of registering Notes and transfers of Notes as herein provided. The Company may appoint one or more co-Note Registrars in accordance with Section 4.02.

Upon surrender for registration of transfer of any Note to the Note Registrar or any co-Note Registrar, and satisfaction of the requirements for such transfer set forth in this Section 2.05, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denominations and of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture.

Notes may be exchanged for other Notes of any authorized denominations and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at any such office or agency maintained by the Company pursuant to Section 4.02. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

All Notes presented or surrendered for registration of transfer or for exchange for other Notes, repurchase or exchange shall (if so required by the Company, the Trustee, the Note Registrar or any co-Note Registrar) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and duly executed, by the Holder thereof or its attorney-in-fact duly authorized in writing.

No service charge shall be imposed by the Company, the Trustee, the Note Registrar, any co-Note Registrar or the Paying Agent for any exchange of Notes for other Notes or registration of transfer of Notes, but the Company may require a Holder to pay a sum sufficient to cover any documentary, stamp or similar issue or transfer tax or other similar governmental charge required by law.

None of the Company, the Trustee, the Note Registrar or any co-Note Registrar shall be required to exchange for other Notes under this Section 2.05 or register a transfer of (i) any Notes surrendered for exchange in accordance with Article 15, or, if a portion of any Note is surrendered for exchange in accordance with Article 15, such portion thereof surrendered for exchange in accordance with Article 15, (ii) any Notes (or a portion of any Note) surrendered for purchase (and not withdrawn) in accordance with Article 16, or (iii) any Notes selected for redemption in accordance with Article 17.

All Notes issued upon any registration of transfer of Notes or exchange of Notes for other Notes in accordance with this Indenture shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer of Notes or exchange of Notes for other Notes.

(b) So long as the Notes are eligible for book-entry settlement with the Depository, unless otherwise required by law, subject to the fourth paragraph from the end of Section 2.05(c) all Notes shall be represented by one or more Notes in global form (each, a “**Global Note**”) registered in the name of the Depository or the nominee of the Depository. The transfer and exchange in accordance with this Section 2.05 of beneficial interests in a Global Note that does not involve the issuance of a Physical Note shall be effected through the Depository (but not the Trustee or the Custodian) in accordance with this Indenture (including the restrictions on transfer set forth herein) and the procedures of the Depository therefor.

(c) Every Note that bears or is required under this Section 2.05(c) to bear the legend set forth in this Section 2.05(c) (together with any Common Stock issued upon exchange of the Notes in accordance with Article 15 that is required to bear the legend set forth in Section 2.05(d), collectively, the “**Restricted Securities**”) shall be subject to the restrictions on transfer set forth in this Section 2.05(c) (including the legend set forth below), unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Company and the Guarantor, and the Holder of each such Restricted Security, by such Holder’s acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 2.05(c) and Section 2.05(d), the term “**transfer**” encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

Until the date (the “**Resale Restriction Termination Date**”) that is one year (or such shorter period as is prescribed by Rule 144 under the Securities Act as then in effect or any successor rule without any volume or manner of sale restrictions or compliance by the Guarantor with any current public information requirements thereunder) after the later of the Issue Date and the last date on which the Company or any of its Affiliates were the owner of such Notes (or any predecessor thereto), any certificate evidencing a Note (and all securities issued in exchange therefor or substitution thereof, other than Common Stock, if any, issued upon exchange thereof, which shall bear the legend set forth in Section 2.05(d), if applicable) shall bear a legend in substantially the following form (unless such Notes have been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or unless otherwise agreed by the Company and the Guarantor in writing, with notice thereof to the Trustee):

THIS SECURITY AND THE COMMON STOCK ISSUABLE UPON EXCHANGE OF THIS SECURITY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “U.S. SECURITIES ACT”) OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY, THE COMMON STOCK, IF ANY, ISSUABLE UPON EXCHANGE OF THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN OR THEREIN MAY BE OFFERED, 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, THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT. THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT IT IS A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE U.S. SECURITIES ACT (“RULE 144A”)), (2) AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR FOR WHICH IT HAS ACQUIRED SECURITIES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY OR THE COMMON STOCK, IF ANY, ISSUABLE UPON EXCHANGE OF SUCH SECURITY, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS ONE YEAR (OR SUCH SHORTER PERIOD AS IS PRESCRIBED BY RULE

144 UNDER THE SECURITIES ACT AS THEN IN EFFECT OR ANY SUCCESSOR RULE WITHOUT ANY VOLUME OR MANNER OF SALE RESTRICTIONS OR COMPLIANCE BY THE COMPANY WITH ANY CURRENT PUBLIC INFORMATION REQUIREMENTS THEREUNDER) AFTER THE LATER OF THE ISSUE DATE AND THE LAST DATE ON WHICH THE COMPANY OR ANY OF ITS AFFILIATES WERE THE OWNER OF SUCH SECURITY (OR ANY PREDECESSOR THERETO) ONLY (A) TO THE COMPANY, THE GUARANTOR OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE U.S. SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO 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 ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT, SUBJECT IN EACH OF THE FOREGOING CASES TO ANY REQUIREMENT OR LAW THAT THE DISPOSITION OF ITS PROPERTY OR THE PROPERTY OF SUCH INVESTOR ACCOUNT OR ACCOUNTS BE AT ALL TIMES WITHIN ITS OR THEIR CONTROL AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS AND ANY APPLICABLE LOCAL LAWS AND REGULATIONS AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND; PROVIDED, THAT THE COMPANY, THE TRUSTEE AND THE TRANSFER AGENT SHALL HAVE THE RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER (I) PURSUANT TO CLAUSE (D) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM AND (II) IN EACH OF THE FOREGOING CASES, TO REQUIRE THAT A CERTIFICATE OF TRANSFER IN THE FORM APPEARING ON THE REVERSE OF THIS SECURITY IS COMPLETED AND DELIVERED BY THE TRANSFEROR TO THE TRUSTEE.

THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT EITHER (1) NO PORTION OF THE ASSETS USED BY SUCH HOLDER TO ACQUIRE OR HOLD THIS SECURITY CONSTITUTES THE ASSETS OF AN EMPLOYEE BENEFIT PLAN THAT IS SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), OF A PLAN, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER ARRANGEMENT THAT IS SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”) OR PROVISIONS UNDER ANY OTHER FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS OR REGULATIONS THAT ARE

SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE (“SIMILAR LAWS”), OR OF AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE “PLAN ASSETS” OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT, (2) THE ACQUISITION AND HOLDING OF THIS SECURITY WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE OR A SIMILAR VIOLATION UNDER ANY APPLICABLE SIMILAR LAWS OR (3) NO ADVICE PROVIDED BY US OR ANY OF OUR AFFILIATES HAS FORMED A PRIMARY BASIS FOR MAKING ANY INVESTMENT OR OTHER DECISION FOR OR ON BEHALF OF SUCH PLAN OR PLAN IN CONNECTION WITH THE NOTES OR THE EXERCISE OF ANY RIGHTS WITH RESPECT TO THIS SECURITY.

No transfer of any Note prior to the Resale Restriction Termination Date will be registered by the Note Registrar unless the applicable box on the Form of Assignment and Transfer has been checked.

Any Note (or security issued in exchange or substitution therefor) (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred pursuant to a registration statement that has become effective or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (iii) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of such Note for exchange to the Note Registrar in accordance with the provisions of this Section 2.05, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the restrictive legend required by this Section 2.05(c) and shall not be assigned a restricted CUSIP number. The Company shall be entitled to instruct the Custodian in writing to so surrender any Global Note as to which any of the conditions set forth in clause (i) through (iii) of the immediately preceding sentence have been satisfied, and, upon such instruction, the Custodian shall so surrender such Global Note for exchange; and any new Global Note so exchanged therefor shall not bear the restrictive legend specified in this Section 2.05(c) and shall not be assigned a restricted CUSIP number. The Company shall promptly notify the Trustee upon the occurrence of the Resale Restriction Termination Date and promptly after a registration statement, if any, with respect to the Notes or any Common Stock issued upon exchange of the Notes has been declared effective under the Securities Act.

Notwithstanding any other provisions of this Indenture (other than the provisions set forth in this Section 2.05(c)), a Global Note may not be transferred as a whole or in part except (i) by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository and (ii) for exchange of a Global Note or a portion thereof for one or more Physical Notes in accordance with the second immediately succeeding paragraph.

The Depository shall be a clearing agency registered under the Exchange Act. The Company initially appoints The Depository Trust Company to act as Depository with respect to each Global Note. Initially, each Global Note shall be issued to the Depository, registered in the

name of Cede & Co., as the nominee of the Depositary, and deposited with the Trustee as custodian for Cede & Co.

If (i) the Depositary notifies the Company at any time that the Depositary is unwilling or unable to act as depositary for the Global Notes and the Company has not appointed a successor depositary within 90 days of such notice, (ii) an Event of Default with respect to the Notes has occurred and is continuing and the Depositary requests the issuance of Physical Notes in lieu of all or a portion of the Global Notes or (iii) the Company determines not to have the Notes represented by a Global Note, the Company shall execute, and the Trustee, upon receipt of an Officers' Certificate and a Company Order for the authentication and delivery of Notes, shall authenticate and deliver Physical Notes to each beneficial owner of the related Global Notes (or a portion thereof) in an aggregate principal amount equal to the aggregate principal amount of such Global Notes in exchange for such Global Notes, and upon delivery of the Global Notes to the Trustee such Global Notes shall be canceled.

Physical Notes issued in exchange for all or a part of the Global Note pursuant to this Section 2.05(c) shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. Upon execution and authentication, the Trustee shall deliver such Physical Notes to the Persons in whose names such Physical Notes are so registered.

At such time as all interests in a Global Note have been exchanged, canceled, repurchased, redeemed or transferred, such Global Note shall be, upon receipt thereof, canceled by the Trustee in accordance with standing procedures and existing instructions between the Depositary and the Custodian. At any time prior to such cancellation, if any interest in a Global Note is exchanged for Physical Notes, exchanged, canceled, repurchased, redeemed or transferred to a transferee who receives Physical Notes therefor or any Physical Note is exchanged or transferred for part of such Global Note, the principal amount of such Global Note shall, in accordance with the standing procedures and instructions existing between the Depositary and the Custodian, be appropriately reduced or increased, as the case may be, and an endorsement shall be made on such Global Note, by the Trustee or the Custodian, at the direction of the Trustee, to reflect such reduction or increase.

Members of, or participants in, the Depositary, and any owner of a beneficial interest in a Global Note, shall have no rights under this Indenture with respect to or under such Global Note, and the Company, the Guarantor, the Trustee and any agent of the Company, the Guarantor or the Trustee shall be entitled to treat the Depositary or its nominee as the absolute owner of such Global Note for all purposes whatsoever.

None of the Company, the Guarantor, the Trustee or any agent of the Company, the Guarantor or the Trustee shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Note or maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

(d) Until the Resale Restriction Termination Date, any stock certificate representing Common Stock issued upon exchange of a Note shall bear a legend in substantially the following form (unless such Common Stock has been transferred pursuant to a registration statement that

has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or such Common Stock has been issued upon exchange of a Note that has transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or unless otherwise agreed by the Company and the Guarantor with written notice thereof to the Trustee and any transfer agent for the Common Stock):

THIS SECURITY HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THIS SECURITY OR PARTICIPATION MAY NOT BE OFFERED, 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, THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT. THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE U.S. SECURITIES ACT ("RULE 144A")), (2) AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR FOR WHICH IT HAS ACQUIRED SECURITIES TO OFFER, SELL OR OTHERWISE TRANSFER THIS SECURITY PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS ONE YEAR (OR SUCH SHORTER PERIOD AS IS PRESCRIBED BY RULE 144 UNDER THE SECURITIES ACT AS THEN IN EFFECT OR ANY SUCCESSOR RULE WITHOUT ANY VOLUME OR MANNER OF SALE RESTRICTIONS OR COMPLIANCE BY THE COMPANY WITH ANY CURRENT PUBLIC INFORMATION REQUIREMENTS THEREUNDER) AFTER THE LATER OF THE ISSUE DATE AND THE LAST DATE ON WHICH THE COMPANY OR ANY OF ITS AFFILIATES WERE THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR THERETO) ONLY (A) TO THE COMPANY, THE GUARANTOR OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE U.S. SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO 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 ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT, SUBJECT IN EACH OF THE FOREGOING CASES TO ANY REQUIREMENT OR LAW THAT THE DISPOSITION OF ITS PROPERTY OR THE PROPERTY OF SUCH INVESTOR ACCOUNT OR

ACCOUNTS BE AT ALL TIMES WITHIN ITS OR THEIR CONTROL AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS AND ANY APPLICABLE LOCAL LAWS AND REGULATIONS AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND; PROVIDED, THAT THE COMPANY, THE TRUSTEE AND THE TRANSFER AGENT SHALL HAVE THE RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER (I) PURSUANT TO CLAUSE (D) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM AND (II) IN EACH OF THE FOREGOING CASES, TO REQUIRE THAT A CERTIFICATE OF TRANSFER IN THE FORM APPEARING ON THE REVERSE OF THIS SECURITY IS COMPLETED AND DELIVERED BY THE TRANSFEROR TO THE TRUSTEE.

THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT EITHER (1) NO PORTION OF THE ASSETS USED BY SUCH HOLDER TO ACQUIRE OR HOLD THIS SECURITY CONSTITUTES THE ASSETS OF AN EMPLOYEE BENEFIT PLAN THAT IS SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), OF A PLAN, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER ARRANGEMENT THAT IS SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”) OR PROVISIONS UNDER ANY OTHER FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS OR REGULATIONS THAT ARE SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE (“SIMILAR LAWS”), OR OF AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE “PLAN ASSETS” OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT, (2) THE ACQUISITION AND HOLDING OF THIS SECURITY WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE OR A SIMILAR VIOLATION UNDER ANY APPLICABLE SIMILAR LAWS OR (3) NO ADVICE PROVIDED BY US OR ANY OF OUR AFFILIATES HAS FORMED A PRIMARY BASIS FOR MAKING ANY INVESTMENT OR OTHER DECISION FOR OR ON BEHALF OF SUCH PLAN OR PLAN IN CONNECTION WITH THE NOTES OR THE EXERCISE OF ANY RIGHTS WITH RESPECT TO THIS SECURITY.

Any such Common Stock (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (iii) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the transfer agent for the Common Stock, be exchanged for

a new certificate or certificates for a like aggregate number of shares of Common Stock, which shall not bear the restrictive legend required by this Section 2.05(d)

(e) Any Note or Common Stock issued upon exchange of a Note that is repurchased or owned by any Affiliate of the Company or the Guarantor (or any Person who was an Affiliate of the Company or the Guarantor at any time during the three months immediately preceding) may not be resold by such Affiliate (or such Person, as the case may be) unless registered under the Securities Act or resold pursuant to an exemption from the registration requirements of the Securities Act in a transaction that results in such Note or Common Stock, as the case may be, no longer being a “restricted security” (as defined under Rule 144).

(f) The Company shall cause any Note that is repurchased or owned by it to be surrendered to the Trustee for cancellation in accordance with Section 2.08.

Section 2.06 *Mutilated, Destroyed, Lost or Stolen Notes* . In case any Note shall become mutilated or be destroyed, lost or stolen, the Company in its discretion may execute, and upon its written request the Trustee or an authenticating agent appointed by the Trustee shall authenticate and deliver, a new Note, bearing a registration number not contemporaneously outstanding, in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. In every case the applicant for a substituted Note shall furnish to the Company, to the Guarantor, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless from any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company, to the Guarantor, to the Trustee and, if applicable, to such authenticating agent evidence to their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

The Trustee or such authenticating agent may authenticate any such substituted Note and deliver the same upon the receipt of such security or indemnity as the Trustee, the Company, the Guarantor and, if applicable, such authenticating agent may require. No service charge shall be imposed by the Company, the Guarantor, the Trustee, the Note Registrar, any co-Note Registrar or the Paying Agent upon the issuance of any substitute Note, but the Company may require a Holder to pay a sum sufficient to cover any documentary, stamp or similar issue or transfer tax or other similar governmental charge required by law in connection therewith. In case any Note that has matured or is about to mature or has been surrendered for required repurchase or is about to be exchanged in accordance with Article 15 shall become mutilated or be destroyed, lost or stolen, the Company may, in its sole discretion, instead of issuing a substitute Note, pay or authorize the payment of or exchange or authorize the exchange of the same (without surrender thereof except in the case of a mutilated Note), as the case may be, if the applicant for such payment or exchange shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, evidence satisfactory to the Company, the Trustee and, if applicable, any Paying Agent or Exchange Agent evidence of their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

Every substitute Note issued pursuant to the provisions of this Section 2.06 by virtue of the fact that any Note is destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be found at any time, and shall be entitled to all the benefits of (but shall be subject to all the limitations set forth in) this Indenture equally and proportionately with any and all other Notes duly issued hereunder. To the extent permitted by law, all Notes shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement, payment, redemption, exchange or repurchase of mutilated, destroyed, lost or stolen Notes and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement, payment, redemption, exchange or repurchase of negotiable instruments or other securities without their surrender.

Section 2.07 *Temporary Notes* . Pending the preparation of Physical Notes, the Company may execute and the Trustee or an authenticating agent appointed by the Trustee shall, upon written request of the Company, authenticate and deliver temporary Notes (printed or lithographed). Temporary Notes shall be issuable in any authorized denomination, and substantially in the form of the Physical Notes but with such omissions, insertions and variations as may be appropriate for temporary Notes, all as may be determined by the Company. Every such temporary Note shall be executed by the Company and authenticated by the Trustee or such authenticating agent upon the same conditions and in substantially the same manner, and with the same effect, as the Physical Notes. Without unreasonable delay, the Company shall execute and deliver to the Trustee or such authenticating agent Physical Notes (other than any Global Note) and thereupon any or all temporary Notes (other than any Global Note) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 4.02 and the Trustee or such authenticating agent shall authenticate and deliver in exchange for such temporary Notes an equal aggregate principal amount of Physical Notes. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Physical Notes authenticated and delivered hereunder.

Section 2.08 *Cancellation of Notes Paid, Exchanged, Etc* . The Company shall cause all Notes surrendered for the purpose of payment, repurchase, redemption, registration of transfer of Notes or exchange of Notes for other Notes or in accordance with Article 15, if surrendered to any Person other than the Trustee (including any of the Company's or the Guarantor's agents, Subsidiaries or Affiliates), to be surrendered to the Trustee for cancellation. All Notes delivered to the Trustee shall be canceled promptly by it, and no Notes shall be authenticated in exchange therefor except as expressly permitted by any of the provisions of this Indenture. The Trustee shall dispose of canceled Notes in accordance with its customary procedures and, after such disposition, shall deliver a certificate of such disposition to the Company, at the Company's written request in a Company Order.

Section 2.09 *CUSIP Numbers* . The Company in issuing the Notes may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in all notices issued to Holders as a convenience to such 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 Notes or on such notice and that reliance may be placed only on the other identification numbers

printed on the Notes. The Company shall promptly notify the Trustee in writing of any change in the “CUSIP” numbers.

Section 2.10 *Additional Notes; Repurchases* . The Company may, from time to time, without notice to or the consent of the Holders and notwithstanding Section 2.01, reopen this Indenture and issue additional Notes hereunder with the same terms as the Notes initially issued hereunder (other than differences in the issue price and interest accrued prior to the issue date of such additional Notes) in an unlimited aggregate principal amount; provided that if any such additional Notes are not fungible with the outstanding Notes initially issued hereunder for U.S. federal income tax or securities law purposes, such additional Notes shall have a CUSIP, ISIN and any other identifying numbers which are different from those of the outstanding Notes initially issued hereunder. Prior to the issuance of any such additional Notes, the Company shall deliver to the Trustee a Company Order, an Officers’ Certificate and an Opinion of Counsel, such Officers’ Certificate and Opinion of Counsel to cover such matters, in addition to those required by Section 18.05, as the Trustee shall reasonably request. In addition, the Company may, to the extent permitted by law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company, the Guarantor or any of its other Subsidiaries or through a private or public tender or exchange offer, through counterparties to private agreements or otherwise, including by cash-settled swaps or other derivatives. The Company shall cause any Notes so repurchased (other than Notes repurchased pursuant to cash-settled swaps or other derivatives that are not physically settled) either (x) to be surrendered to the Trustee for cancellation, and they will no longer be considered outstanding under this Indenture upon their repurchase or (y) if such Notes represent beneficial interests in one or more Global Notes, to be exchanged for Physical Notes and, regardless of the format of such Notes, to be subject to the limitations set forth in the following sentence. Notwithstanding anything to the contrary in this Indenture or such repurchased Notes, in no event shall any such repurchased Notes described in clause (y) of the immediately preceding sentence be (i) offered, sold, pledged or otherwise transferred or (ii) exchanged, in each case, whether by the Guarantor or its Subsidiaries or any of its respective agents or affiliates.

ARTICLE 3 **Satisfaction and Discharge**

Section 3.01 *Satisfaction and Discharge* . This Indenture shall upon request of the Company or the Guarantor contained in an Officers’ Certificate cease to be of further effect, and the Trustee, at the expense of the Company or the Guarantor, as applicable, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when (a)(i) all Notes theretofore authenticated and delivered (other than Notes which have been destroyed, lost or stolen and which have been replaced, paid or exchanged as provided in Section 2.06) have been delivered to the Trustee for cancellation; or (ii) the Company or the Guarantor has deposited with the Trustee or delivered to Holders, as applicable, after the Notes have become due and payable, whether on the Maturity Date, any Redemption Date, any Fundamental Change Repurchase Date, upon exchange or otherwise, cash, shares of Common Stock or a combination thereof, as applicable, solely to satisfy the Guarantor’s Exchange Obligation, sufficient to pay all of the outstanding Notes and all other sums due and payable under this Indenture by the Company and the Guarantor; and (b) the Company has delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the

satisfaction and discharge of this Indenture have been complied with. Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company and the Guarantor to the Trustee under Section 8.06 shall survive.

ARTICLE 4

Particular Covenants of the Company and the Guarantor

Section 4.01 *Payment of Principal and Interest* . The Company covenants and agrees that it will cause to be paid the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, each of the Notes at the places, at the respective times and in the manner provided herein and in the Notes.

Section 4.02 *Maintenance of Office or Agency* . The Company will maintain in the continental United States an office or agency where the Notes may be surrendered for registration of transfer of Notes or exchange of Notes for other Notes or for presentation for payment or repurchase (“ **Paying Agent** ”) or for exchange in accordance with Article 15 (“ **Exchange Agent** ”) and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. 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.

The Company may also from time to time designate as co-Note Registrars one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided* that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the continental United States, for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. The terms “ **Paying Agent** ” and “ **Exchange Agent** ” include any such additional or other offices or agencies, as applicable.

The Company hereby initially designates the Trustee as the Paying Agent, Note Registrar, Custodian and Exchange Agent and the Corporate Trust Office as the office or agency in the continental United States, where Notes may be surrendered for registration of transfer of Notes or exchange of Notes for other Notes or for presentation for payment or repurchase or for exchange in accordance with Article 15 and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served; *provided* that, the Corporate Trust Office of the Trustee shall not be an office or agency of the Company or the Guarantor for the purpose of effecting service of legal process on the Company or the Guarantor, as applicable.

Section 4.03 *Appointments to Fill Vacancies in Trustee's Office* . The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 8.09, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 4.04 *Provisions as to Paying Agent* . (a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver

to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 4.04 :

- (i) that it will hold all sums held by it as such agent for the payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, the Notes in trust for the benefit of the Holders of the Notes;
- (ii) that it will give the Trustee prompt notice of any failure by the Company to make any payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, the Notes when the same shall be due and payable; and
- (iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or accrued and unpaid interest on, the Notes, deposit with the Paying Agent a sum sufficient to pay such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) or accrued and unpaid interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of any failure to take such action; *provided* that if such deposit is made on the due date, such deposit must be received by the Paying Agent by 10:00 a.m., New York City time, on such date.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, the Notes, set aside, segregate and hold in trust for the benefit of the Holders of the Notes a sum sufficient to pay such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) and accrued and unpaid interest so becoming due and will promptly notify the Trustee in writing of any failure to take such action and of any failure by the Company to make any payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or accrued and unpaid interest on, the Notes when the same shall become due and payable.

(c) Anything in this Section 4.04 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay, cause to be paid or deliver to the Trustee all sums or amounts held in trust by the Company or any Paying Agent hereunder as required by this Section 4.04, such sums or amounts to be held by the Trustee upon the trusts herein contained and upon such payment or delivery by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability but only with respect to such sums or amounts.

(d) Any money and shares of Common Stock deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, accrued

and unpaid interest on and the consideration due upon exchange of any Note and remaining unclaimed for two years after such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable), interest or consideration due upon exchange has become due and payable shall be paid to the Company on request of the Company contained in an Officers' Certificate, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money and shares of Common Stock, and all liability of the Company as trustee thereof, shall thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in The Borough of Manhattan, The City of New York, notice that such money and shares of Common Stock remain unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money and shares of Common Stock then remaining will be repaid or delivered to the Company.

Section 4.05 *Existence*. Subject to Article 12, each of the Company and the Guarantor shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 4.06 *Rule 144A Information Requirement and Annual Reports*. (a) At any time the Guarantor is not subject to Section 13 or 15(d) of the Exchange Act, the Guarantor will, so long as any of the Notes or shares of Common Stock issuable upon exchange thereof will, at such time, constitute "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, promptly provide to the Trustee and will, upon written request, provide to any Holder, beneficial owner or prospective purchaser of such Notes or any shares of Common Stock issuable upon exchange of such Notes the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or shares of Common Stock pursuant to Rule 144A under the Securities Act. The Guarantor shall take such further action as any Holder or beneficial owner of such Notes or Common Stock may reasonably request to the extent from time to time required to enable such Holder or beneficial owner to sell such Notes or shares of Common Stock in accordance with Rule 144A under the Securities Act, as such rule may be amended from time to time.

(b) The Guarantor shall comply with Section 314(a) of the Trust Indenture Act.

(c) Delivery of the reports and documents pursuant to subsections (a) and (b) above 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 Guarantor's compliance with any of its covenants hereunder (as to which the Trustee is entitled to conclusively rely on an Officer's Certificate).

(d) If, at any time during the six-month period beginning on, and including, the date that is six months after the last date of original issuance of the Notes offered by the Offering Memorandum, the Guarantor fails to timely file any document or report that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (after

giving effect to all applicable grace periods thereunder and other than reports on Form 8-K), or such Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's or the Guarantor's Affiliates or Holders that were the Company's or the Guarantor's Affiliates at any time during the three months immediately preceding (as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes), the Company shall pay Additional Interest on such Notes. Such Additional Interest shall accrue on such Notes at the rate of 0.50% per annum of the principal amount of such Notes outstanding for each day during such period for which the Guarantor's failure to file has occurred and is continuing or such Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's or the Guarantor's Affiliates (or Holders that were the Company's or the Guarantor's Affiliates at any time during the three months immediately preceding). As used in this Section 4.06(d), documents or reports that the Guarantor is required to "file" with the Commission pursuant to Section 13 or 15(d) of the Exchange Act do not include documents or reports that the Guarantor furnishes to the Commission pursuant to Section 13 or 15(d) of the Exchange Act.

(e) If, and for so long as, the restrictive legend on the Notes specified in Section 2.05(c) has not been removed, the Notes are assigned a restricted CUSIP or the Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's or the Guarantor's Affiliates or Holders that were the Company's or the Guarantor's Affiliates at any time during the three months immediately preceding as of the 375th day after the last date of original issuance of the Notes offered by the Offering Memorandum, the Company shall pay Additional Interest on such Notes at a rate equal to 0.50% per annum of the principal amount of such Notes outstanding until the restrictive legend on such Notes has been removed in accordance with Section 2.05(c), the Notes are assigned an unrestricted CUSIP and the Notes are freely tradable pursuant to Rule 144 by Holders other than the Company's or the Guarantor's Affiliates (or Holders that were the Company's or the Guarantor's Affiliates at any time during the three months immediately preceding).

(f) Additional Interest will be payable in arrears on each Interest Payment Date following accrual in the same manner as regular interest on the Notes.

(g) Reserved.

(h) If Additional Interest is payable by the Company pursuant to Section 4.06(d) or Section 4.06(e), the Company shall deliver to the Trustee an Officers' Certificate to that effect stating (i) the amount of such Additional Interest that is payable and (ii) the date on which such Additional Interest is payable. Unless and until a Responsible Officer of the Trustee receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such Additional Interest is payable. If the Company has paid Additional Interest directly to the Persons entitled to it, the Company shall deliver to the Trustee an Officers' Certificate setting forth the particulars of such payment.

Section 4.07 Stay, Extension and Usury Laws . Each of the Company and the Guarantor covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law that would prohibit or forgive the Company or the Guarantor from paying all or any portion of the principal of or interest on the Notes as contemplated herein, wherever

enacted, now or at any time hereafter in force, or that may affect the covenants or the performance of this Indenture; and each of the Company and the Guarantor (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 4.08 *Compliance Certificate; Statements as to Defaults* . 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 on December 31, 2016) an Officers' Certificate stating (1) that a review has been conducted of the activities of the Company, its Subsidiaries and of the Guarantor and their respective performance under this Indenture and (2) that the Company and the Guarantor have fulfilled all obligations under this Indenture (such compliance to be determined without regard to any period of grace or requirement of notice provided under this Indenture) or specifying any Event of Default and the nature thereof.

In addition, the Company shall deliver to the Trustee, as soon as possible, and in any event within 30 days after the occurrence of any Event of Default or Default, an Officers' Certificate setting forth the details of such Event of Default or Default, its status and the action that the Company is taking or proposing to take in respect thereof.

Section 4.09 *Further Instruments and Acts* . Upon request of the Trustee, the Company will 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 4.10 *Additional Amounts* . (a) All payments made by the Company, the Guarantor or on the Company's or the Guarantor's behalf under or with respect to the Notes or the Guarantee (including deliveries of ERPSs, Common Stock, Reference Property and payment of cash for any fractional share upon exchange) shall 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, additions to tax and other liabilities related thereto) (collectively, " **Taxes** ") unless the withholding or deduction of such Taxes is then required by law. If any deduction or withholding for, or on account of, any Taxes imposed or levied by or on behalf of (1) any jurisdiction in which the Company or the Guarantor is organized, resident or doing business for Tax purposes or any department or political subdivision thereof or therein or (2) any jurisdiction from or through which payment is made by the Company, the Guarantor or the Trustee or any department or political subdivision thereof or therein (each, a " **Tax Jurisdiction** ") will at any time be required to be made from any payments made under or with respect to the Notes, including payments of cash or deliveries of ERPS or Common Stock or other Reference Property, the Company or the Guarantor, as applicable, shall pay such additional amounts (the " **Additional Amounts** ") as may be necessary in order that the net amounts received in respect of such payments by each Holder after such withholding or deduction (including any such deduction or withholding in respect of Additional Amounts) will equal the respective amounts that would have been received in respect of such payments in the absence of such withholding or deduction; provided, however, that no Additional Amounts shall be payable with respect to:

(i) any Taxes, to the extent such Taxes would not have been imposed but for the existence of any present or former connection between the Holder or the beneficial owner of the Notes and the relevant Tax Jurisdiction (other than any connection arising solely from the acquisition, ownership, holding or disposition of the Notes, the enforcement of rights under the Notes and/or the receipt of any payments in respect of the Notes);

(ii) any Taxes, to the extent such Taxes would not have been imposed but for the failure of the Holder or the beneficial owner of the Notes to comply with any certification, identification, information, documentation, or other reporting requirements, including an application for relief under an applicable double Tax treaty, whether required by statute, treaty, regulation or administrative practice of a Tax Jurisdiction, as a precondition to exemption from, or reduction in the rate of deduction or withholding of, Taxes imposed by the Tax Jurisdiction (including, without limitation, a certification that the Holder or beneficial owner of the Notes is not resident in the Tax Jurisdiction or is a resident of an applicable Tax treaty jurisdiction), but in each case, only to the extent the Holder or the beneficial owner of the Notes is legally eligible to provide such certification or documentation; *provided, however*, that in the event that any such requirements are imposed as a result of an amendment to, or change in, any laws, Tax treaties, regulations or rulings (or any official administrative or judicial interpretation thereof) after the Issue Date, this clause (ii) will apply only if the Company notifies the Trustee, at least 30 days before any such withholding or deduction would be payable, that Holders or beneficial owners of the Notes must comply with such certification, identification, information, documentation or other reporting requirements;

(iii) any Taxes, to the extent such Taxes were imposed as a result of the presentation of a Note for payment (where presentation is required) more than 30 days after the relevant payment is first made available for payment to the Holder of such Note (except to the extent that such Holder would have been entitled to Additional Amounts had the Note been presented on the last day of such 30 day period);

(iv) any estate, inheritance, gift, transfer, personal property or similar Tax;

(v) any Taxes payable otherwise than by deduction or withholding from payments made under or with respect to the Notes; or

(vi) any combination of the above items.

The Company or the Guarantor, as applicable, also shall not pay any Additional Amounts with respect of any payment of cash or delivery of Common Stock or other Reference Property to any Holder if the Holder is a fiduciary, partnership or Person other than the sole beneficial owner of that payment to the extent that such payment would under the laws of the relevant Tax Jurisdiction, for Tax purposes, be required to be included in the income of a beneficiary or settlor with respect to the fiduciary, a partner or member of that partnership or a beneficial owner, in each case, who would not have been entitled to such Additional Amounts had that beneficiary, settlor, partner, member or beneficial owner been the Holder thereof.

In addition to the foregoing, the Company shall also pay and indemnify the Holder for any present or future stamp, stamp duty, stamp duty reserve tax, issue, registration, transfer, court or documentary taxes, or any other excise or property taxes, charges or similar levies (including penalties, interest, additions to Tax and other liabilities related thereto) that are levied by any Tax Jurisdiction on the execution, delivery, issuance, or registration of any of the Notes, the Guarantee, this Indenture or any other document or instrument referred to therein, or the receipt of any payments with respect to, or enforcement of, the Notes.

(b) If the Company or the Guarantor becomes aware that the Company or the Guarantor will be obligated to pay Additional Amounts with respect to any payment under or with respect to the Notes or the Guarantee, the Company shall deliver to the Trustee on a date that is at least 30 days prior to the date of that payment (unless the obligation to pay Additional Amounts arises after the 30th day prior to that payment date, in which case the Company shall notify the Trustee promptly thereafter) notice stating the fact that Additional Amounts will be payable and the amount estimated to be so payable. The notice must also set forth any other information reasonably necessary to enable the Trustee to pay Additional Amounts to Holders of the Notes on the relevant payment date. The Company shall provide the Trustee with documentation reasonably satisfactory to the Trustee evidencing the payment of Additional Amounts.

(c) The Company or the Guarantor, as appropriate, shall timely make all withholdings and deductions required by law and shall remit the full amount deducted or withheld to the relevant Tax authority in accordance with applicable law. The Company shall furnish to the Trustee (or to a Holder of the Notes upon request), within a reasonable time after the date the payment of any Taxes so deducted or withheld is made, certified copies of Tax receipts evidencing payment by the Company or the Guarantor, as appropriate, or if receipts are not reasonably available, other evidence of payment reasonably satisfactory to the Trustee.

(d) Whenever in this Indenture there is mentioned, in any context, the delivery of Common Stock, ERPS or other Reference Property (together with payment of cash for any fractional shares), payment of amounts based upon the principal amount of the Notes or of principal, interest, Redemption Price, Fundamental Change Redemption Price or of any other amount payable under, or with respect to, any of the Notes such mention shall be deemed to include the payment of Additional Amounts, if applicable.

(e) The obligations under this Section 4.10 shall survive any termination or discharge of the Indenture and shall apply, *mutatis mutandis*, to any jurisdiction in which any successor Person to the Company or the Guarantor is organized, resident or doing business for Tax purposes or any jurisdiction from or through which such Person or its paying agent makes any payment on the Notes and, in each case, any department or political subdivision thereof or therein.

ARTICLE 5

Lists of Holders and Reports by the Company and the Trustee

Section 5.01 *Lists of Holders*. The Company and the Guarantor covenant and agree that they will furnish or cause to be furnished to the Trustee, semi-annually, not more than 15

days after each January 15 and July 15 in each year beginning with July 15, 2017, and at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request (or such lesser time as the Trustee may reasonably request in order to enable it to timely provide any notice to be provided by it hereunder), a list in such form as the Trustee may reasonably require of the names and addresses of the Holders as of a date not more than 15 days (or such other date as the Trustee may reasonably request in order to so provide any such notices) prior to the time such information is furnished, except that no such list need be furnished so long as the Trustee is acting as Note Registrar.

Section 5.02 *Preservation and Disclosure of Lists* . The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the Holders contained in the most recent list furnished to it as provided in Section 5.01 or maintained by the Trustee in its capacity as Note Registrar, if so acting. The Trustee may destroy any list furnished to it as provided in Section 5.01 upon receipt of a new list so furnished.

ARTICLE 6

Covenants

Section 6.01 *Limitation on Liens* .(a) The Guarantor shall not, and shall not permit any of its Subsidiaries to, incur, issue or assume any Indebtedness for borrowed money secured by any Lien upon any Principal Property or any shares of stock or Indebtedness of any Subsidiary that owns or leases a Principal Property (whether such Principal Property, shares of stock or Indebtedness is now owned or hereafter acquired) without making effective provision whereby the Notes (together with, if the Guarantor so determines, any other Indebtedness or other obligation of the Guarantor or any Subsidiary) shall be secured equally and ratably with (or, at the option of the Guarantor, prior to) the Indebtedness so secured by a Lien on the same assets of the Guarantor or such Subsidiary, as the case may be, for so long as such Indebtedness is so secured. The foregoing restrictions shall not, however, apply to Indebtedness secured by Permitted Liens.

(b) Notwithstanding the foregoing, the Guarantor and its Subsidiaries may, without securing the Notes, incur, issue or assume Indebtedness that would otherwise be subject to the foregoing restrictions in an aggregate principal amount that, together with all other such Indebtedness of the Guarantor and its Subsidiaries that would otherwise be subject to the foregoing restrictions (not including Indebtedness permitted to be secured under the definition of Permitted Liens) and the aggregate amount of Attributable Indebtedness deemed outstanding with respect to Sale/Leaseback Transactions (other than Sale/Leaseback Transactions in connection with which the Company or the Guarantor has voluntarily retired any of the Notes, any Pari Passu Indebtedness or any Funded Indebtedness pursuant to Section 6.02(b)(iii)(x)) does not at any one time exceed 15% of Consolidated Net Tangible Assets.

(c) For purposes of this Section 6.01, if at the time any Indebtedness is incurred, issued or assumed, such Indebtedness is unsecured but is later secured by a Lien, such Indebtedness shall be deemed to be incurred at the time that such Indebtedness is so secured by a Lien.

Section 6.02 *Limitation on Sale Leaseback Transactions* (a) So long as the Notes are outstanding, the Guarantor shall not, and shall not permit any of its Subsidiaries to, sell or transfer (other than to the Guarantor or a Wholly Owned Subsidiary thereof) any Principal Property, whether owned at the Issue Date or thereafter acquired, which has been in full operation for more than 120 days prior to such sale or transfer, with the intention of entering into a lease of such Principal Property (except for a lease for a term, including any renewal thereof, of not more than three years), if after giving effect thereto the Attributable Indebtedness in respect of all such sale and leaseback transactions involving Principal Properties shall be in excess of 15% of Consolidated Net Tangible Assets.

(b) Notwithstanding the foregoing, the Guarantor or any of its Subsidiaries may sell any Principal Property and lease it back if the net proceeds of such sale are at least equal to the fair value of such property as determined by the Guarantor's Board of Directors and:

(i) the Guarantor or such Subsidiary would be entitled to incur Indebtedness in a principal amount equal to the Attributable Indebtedness with respect to such Sale/Leaseback Transaction secured by a Lien on the property subject to such Sale/Leaseback Transaction pursuant to Section 6.01 without equally and ratably securing the Notes pursuant to Section 6.01;

(ii) after the Issue Date and within a period commencing nine months prior to the consummation of such Sale/Leaseback Transaction and ending nine months after the consummation thereof, the Guarantor or such Subsidiary shall have expended for property used or to be used in the ordinary course of its business and that of its Subsidiaries an amount equal to all or a portion of the net proceeds of such Sale/Leaseback Transaction and the Guarantor shall have elected to designate such amount as a credit against such Sale/Leaseback Transaction (with any such amount not being so designated to be applied as set forth in clause (iii) below or as otherwise permitted); or

(iii) the Guarantor, during the nine-month period after the effective date of such Sale/Leaseback Transaction, shall have applied to either (x) the voluntary defeasance or retirement of any Notes, any Pari Passu Indebtedness or any Funded Indebtedness or (y) the acquisition of one or more Principal Properties at fair value, an amount equal to the greater of the net proceeds of the sale or transfer of the property leased in such Sale/Leaseback Transaction and the fair value, as determined by the Guarantor's Board of Directors, of such property as of the time of entering into such Sale/Leaseback Transaction (in either case adjusted to reflect the remaining term of the lease and any amount expended by the Guarantor as set forth in clause (ii) above), less an amount equal to the sum of the principal amount of Notes, Pari Passu Indebtedness and Funded Indebtedness voluntarily defeased or retired by the Guarantor plus any amount expended to acquire any Principal Properties at fair value, within such nine month period and not designated as a credit against any other Sale/Leaseback Transaction entered into by the Guarantor or any of its Subsidiaries during such period.

Section 6.03 *Further Limitations on the Company and Related Matters* .

(a) The Guarantor shall own directly 100% of the Common Equity of the Company.

(b) The Guarantor shall cause the Company to elect to be treated as a disregarded entity effective as of the Issue Date, and neither the Company nor the Guarantor shall take any action that is inconsistent with the Company's being treated as a disregarded entity for U.S. federal income tax purposes.

Section 6.04 *ERPS Covenants*. The Company shall, and the Guarantor shall cause the Company to, keep available at all times, free of preemptive rights, the full number of ERPSs issuable upon exchange of the Notes.

(b) The Company shall not, and the Guarantor shall cause the Company not to, (i) alter its share capital or amend its Articles so as to prevent, hinder or impair the Holders' right to exchange their Notes for cash, Common Stock or a combination thereof or (ii) amend its Articles such that the Company may issue ERPS other than upon exchange of the Notes pursuant to the terms of this Indenture.

(c) The Guarantor hereby undertakes to and covenants with the Trustee that:

(i) in the event of the Company failing to comply with its obligations pursuant to the settlement provisions of Section 15.02, the Guarantor will cause the Company to comply with such obligations; and

(ii) so long as any Note remains outstanding, the Guarantor will perform all of its obligations under the Deed Poll.

ARTICLE 7
Defaults and Remedies

Section 7.01 *Events of Default* . Each of the following events shall be an “ **Event of Default** ” with respect to the Notes:

(a) the Company or the Guarantor defaults in the payment of interest on any Note when the same becomes due and payable and the Default continues for a period of 30 days;

(b) the Company or the Guarantor defaults in the payment of the principal of any Note when the same becomes due and payable at maturity, upon redemption or otherwise;

(c) the Company or the Guarantor fails to comply with their respective obligations to exchange the Notes and any ERPSs, as applicable, in accordance with this Indenture upon exercise of a Holder's exchange right;

(d) the Company fails to give a notice of a Fundamental Change as set forth in Section 16.02(c), a notice of a Make-Whole Fundamental Change as set forth in Section 15.03(b) or a notice of a Corporate Event as set forth in Section 15.01(b)(ii), in each case when due and such failure continues for a period of five Business Days;

(e) the Company and the Guarantor fail to comply with any of their other respective agreements in the Notes or in this Indenture, which shall not have been remedied within the specified period after written notice, as provided in Section 7.02(b) below;

(f) the Company or the Guarantor pursuant to or within the meaning of any Bankruptcy Law shall:

(i) commence a voluntary case;

(ii) consent to the entry of an order for relief against the Company or the Guarantor, as applicable, in an involuntary case;

(iii) consent to the appointment of a Bankruptcy Custodian of the Company or the Guarantor for all or substantially all of its property; or

(iv) make a general assignment for the benefit of creditors;

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

(i) is for relief against the Company or the Guarantor in an involuntary case;

(ii) appoints a Bankruptcy Custodian of the Company or the Guarantor or substantially all of the Company's or the Guarantor's property;

or

(iii) orders the liquidation of the Company or the Guarantor, and the order or decree remains unstayed and in effect for 60 days; and

(h) the Guarantee ceases to be in full force and effect or is declared null and void in a judicial proceeding.

Section 7.02 *Acceleration; Rescission and Annulment* .

(a) If any Event of Default (other than an Event of Default specified in Section 7.01(f) or Section 7.01(g)) with respect to the Notes occurs and is continuing, either the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all of the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders). Notwithstanding the foregoing, if an Event of Default specified in Section 7.01(f) or Section 7.01(g) above occurs with respect to the Company or the Guarantor, all outstanding Notes shall become due and payable without further action or notice.

(b) Notwithstanding the foregoing, a Default under Section 7.01(e) shall not be an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in principal amount of the then outstanding Notes notify the Company and the Trustee, of the Default, and the Company fails to cure the Default within 90 days after receipt of the notice. The

notice must specify the Default, demand that it be remedied and state that the notice is a "Notice of Default."

(c) Section 7.02(a) and Section 7.02(b), however, are subject to the conditions that if, at any time after the principal of the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay installments of accrued and unpaid interest upon all Notes and the principal of any and all Notes that shall have become due otherwise than by acceleration (with interest on overdue installments of accrued and unpaid interest to the extent that payment of such interest is enforceable under applicable law, and on such principal at the rate borne by the Notes at such time) and amounts due to the Trustee pursuant to Section 8.06, and if (1) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (2) any and all existing Events of Default under this Indenture, other than the nonpayment of the principal of and accrued and unpaid interest, if any, on Notes that shall have become due solely by such acceleration, shall have been cured or waived pursuant to Section 7.09, then and in every such case (except as provided in the immediately succeeding sentence) the Holders of a majority in aggregate principal amount of the Notes then outstanding, by written notice to the Company and to the Trustee, may waive all Defaults or Events of Default with respect to the Notes and rescind and annul such declaration and its consequences and such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent Default or Event of Default, or shall impair any right consequent thereon. Notwithstanding anything to the contrary herein, no such waiver or rescission and annulment shall extend to or shall affect any Default or Event of Default resulting from (i) the nonpayment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or accrued and unpaid interest on, any Notes, (ii) a failure to repurchase any Notes when required or (iii) a failure to pay or deliver, as the case may be, the consideration due upon exchange of the Notes.

Section 7.03 *Reserved*.

Section 7.04 *Payments of Notes on Default; Suit Therefor*. If an Event of Default described in 0 or Section 7.01(b) shall have occurred, the Company shall, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of the Notes, the whole amount then due and payable on the Notes for principal and interest, if any, with interest on any overdue principal and interest, if any, at the rate borne by the Notes at such time, and, in addition thereto, such further amount as shall be sufficient to cover any amounts due to the Trustee under Section 8.06. If the Company shall fail to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Notes, wherever situated.

In the event there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Notes under any Bankruptcy Law, or

in case a Bankruptcy Custodian shall have been appointed for or taken possession of the Company or such other obligor, the property of the Company or such other obligor, or in the event of any other judicial proceedings relative to the Company or such other obligor upon the Notes, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Notes 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 pursuant to the provisions of this Section 7.04, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and accrued and unpaid interest, if any, in respect of the Notes, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents and to take such other actions as it may deem necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceedings relative to the Company or any other obligor on the Notes, its or their creditors, or its or their property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of any amounts due to the Trustee under Section 8.06; and any Bankruptcy Custodian is hereby authorized by each of the Holders to make such payments to the Trustee, as administrative expenses, and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for reasonable compensation, expenses, advances and disbursements, including agents and counsel fees, and including any other amounts due to the Trustee under Section 8.06, incurred by it up to the date of such distribution. To the extent that such payment of reasonable compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, monies, securities and other property that the Holders of the Notes may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting such Holder 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.

All rights of action and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Trustee without the possession of any of the Notes, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Notes.

In any proceedings brought by the Trustee (and in any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the Holders of the Notes, and it shall not be necessary to make any Holders of the Notes parties to any such proceedings.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of any waiver pursuant to Section 7.09 or any rescission and annulment pursuant to Section 7.02 or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, the Guarantor, the Holders and the Trustee shall, subject to any determination in such proceeding, be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Guarantor, the Holders and the Trustee shall continue as though no such proceeding had been instituted.

Section 7.05 *Application of Monies Collected by Trustee* . Any monies collected by the Trustee pursuant to this Article 7 with respect to the Notes shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such monies, upon presentation of the several Notes, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

First , to the payment of all amounts due the Trustee under Section 8.06 ;

Second , in case the principal of the outstanding Notes shall not have become due and be unpaid, to the payment of interest on, and any cash due upon exchange of, the Notes in default in the order of the date due of the payments of such interest and cash due upon exchange, as the case may be, with interest (to the extent that such interest has been collected by the Trustee) upon such overdue payments at the rate borne by the Notes at such time, such payments to be made ratably to the Persons entitled thereto;

Third , in case the principal of the outstanding Notes shall have become due, by declaration or otherwise, and be unpaid to the payment of the whole amount (including, if applicable, the payment of the Redemption Price and the Fundamental Change Repurchase Price and any cash due upon exchange) then owing and unpaid upon the Notes for principal and interest, if any, with interest on the overdue principal and, to the extent that such interest has been collected by the Trustee, upon overdue installments of interest at the rate borne by the Notes at such time, and in case such monies shall be insufficient to pay in full the whole amounts so due and unpaid upon the Notes, then to the payment of such principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price and the cash due upon exchange) and interest without preference or priority of principal over interest, or of interest over principal or of any installment of interest over any other installment of interest, or of any Note over any other Note, ratably to the aggregate of such principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price and any cash due upon exchange) and accrued and unpaid interest; and

Fourth , to the payment of the remainder, if any, to the Company.

Section 7.06 *Proceedings by Holders* . Except to enforce the right to receive payment of principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price) or interest when due, or the right to receive payment or delivery of the consideration due upon exchange, no Holder of any Note shall have any right by virtue of or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or

at law upon or under or with respect to this Indenture, or for the appointment of a receiver, trustee, liquidator, custodian or other similar official, or for any other remedy hereunder, unless:

- (a) such Holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof, as herein provided;
- (b) Holders of at least 25% in aggregate principal amount of the Notes then outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder;
- (c) such Holders shall have offered to the Trustee such security or indemnity reasonably satisfactory to it against any loss, liability or expense to be incurred therein or thereby;
- (d) the Trustee for 60 days after its receipt of such notice, request and offer of such security or indemnity, shall have neglected or refused to institute any such action, suit or proceeding; and
- (e) no direction that, in the opinion of the Trustee, is inconsistent with such written request shall have been given to the Trustee by the Holders of a majority of the aggregate principal amount of the Notes then outstanding within such 60-day period pursuant to Section 7.09,

it being understood and intended, and being expressly covenanted by the taker and Holder of every Note with every other taker and Holder and the Trustee that no one or more Holders shall have any right in any manner whatever by virtue of or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other Holder, or to obtain or seek to obtain priority over or preference to any other such Holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Holders (except as otherwise provided herein). For the protection and enforcement of this Section 7.06, each and every Holder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Notwithstanding any other provision of this Indenture and any provision of any Note, each Holder shall have the right to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, (y) accrued and unpaid interest, if any, on, and (z) the consideration due upon exchange of, such Note, on or after the respective due dates expressed or provided for in such Note or in this Indenture, or to institute suit for the enforcement of any such payment or delivery, as the case may be.

Section 7.07 *Proceedings by Trustee* . In case of an Event of Default, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as are necessary to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Section 7.08 *Remedies Cumulative and Continuing* . Except as provided in the last paragraph of Section 2.06 , all powers and remedies given by this Article 7 to the Trustee or to the Holders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the Holders of the Notes, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any Holder of any of the Notes to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Default or Event of Default or any acquiescence therein; and, subject to the provisions of Section 7.06 , every power and remedy given by this Article 7 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders.

Section 7.09 *Direction of Proceedings and Waiver of Defaults by Majority of Holders* . The Holders of not less than a majority of the aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 9.04 shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to the Notes; provided, however, that (a) such direction shall not be in conflict with any rule of law or with this Indenture, and (b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. The Trustee may refuse to follow any direction that it determines is unduly prejudicial to the rights of any other Holder or that would involve the Trustee in personal liability. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 9.04 may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default hereunder and its consequences except (i) a continuing Default or Event of Default in the payment of accrued and unpaid interest, if any, on, or the principal (including any Redemption Price and any Fundamental Change Repurchase Price) of, the Notes when due that has not been cured pursuant to the provisions of Section 7.01 , (ii) a failure by the Company or the Guarantor to pay or deliver, as the case may be, the consideration due upon exchange of the Notes or (iii) a default in respect of a covenant or provision hereof which under Article 11 cannot be modified or amended without the consent of each Holder of an outstanding Note affected; *provided , however* , that Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related Default that resulted from such acceleration. Upon any such waiver the Company, the Trustee and the Holders of the Notes shall be restored to their former positions and rights hereunder; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Whenever any Default or Event of Default hereunder shall have been waived as permitted by this Section 7.09 , said Default shall cease to exist, and any Event of Default arising therefrom shall for all purposes of the Notes and this Indenture be deemed to have been cured and to be not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 7.10 *Notice of Defaults* . The Trustee shall, within 90 days after the occurrence and continuance of a Default of which a Responsible Officer has actual knowledge, deliver to all Holders notice of all Defaults known to a Responsible Officer, unless such Defaults shall have been cured or waived before the giving of such notice; provided that, except in the case of a

Default in the payment of the principal of (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable), or accrued and unpaid interest on, any of the Notes or a Default in the payment or delivery of the consideration due upon exchange, the Trustee shall be protected in withholding such notice if and so long as a committee of Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Holders.

Section 7.11 *Undertaking to Pay Costs* . All parties to this Indenture agree, and each Holder of any Note by its acceptance thereof shall be deemed to have agreed, that any court may, in its discretion, require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; provided that the provisions of this Section 7.11 (to the extent permitted by law) shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Notes at the time outstanding determined in accordance with Section 9.04 , or to any suit instituted by any Holder for the enforcement of the payment of the principal of or accrued and unpaid interest, if any, on any Note (including, but not limited to, the Redemption Price and the Fundamental Change Repurchase Price, if applicable) on or after the due date expressed or provided for in such Note or to any suit for the enforcement of the right to exchange any Note, or receive the consideration due upon exchange, in accordance with the provisions of Article 15 .

ARTICLE 8

Concerning the Trustee

Section 8.01 *Duties and Responsibilities of Trustee* . The Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In the event 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 its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs; provided that if an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee indemnity or security reasonably satisfactory to it against any loss, liability or expense that might be incurred by it in compliance with such request or direction.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own grossly negligent action or its own willful misconduct, except that:

- (a) prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default that may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

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

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

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority of the aggregate principal amount of the Notes at the time outstanding determined as provided in Section 9.04 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(d) whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section 8.01;

(e) the Trustee shall not be liable in respect of any payment (as to the correctness of amount, entitlement to receive or any other matters relating to payment) or notice effected by the Company or any Paying Agent or any records maintained by any co-Note Registrar with respect to the Notes;

(f) if any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred; and

(g) in the event that the Trustee is also acting as Custodian, Note Registrar, Paying Agent, Exchange Agent or transfer agent hereunder, the rights and protections afforded to the Trustee pursuant to this Article 8 shall also be afforded to such Custodian, Note Registrar, Paying Agent, Exchange Agent or transfer agent.

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

Section 8.02 *Reliance on Documents, Opinions, Etc.* . Except as provided in Section 8.01 :

- (a) the Trustee may conclusively rely and shall be fully protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, note, coupon or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;
- (b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any Board Resolution may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Guarantor;
- (c) the Trustee may consult with counsel and require an Opinion of Counsel and any advice of such counsel or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;
- (d) 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 or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;
- (e) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, custodian, nominee or attorney appointed by it with due care hereunder; and
- (f) the permissive rights of the Trustee enumerated herein shall not be construed as duties.

In no event shall the Trustee be liable for any consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action. The Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Notes, unless either (1) a Responsible Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to a Responsible Officer of the Trustee by the Company or by any Holder of the Notes.

Section 8.03 *No Responsibility for Recitals, Etc.* . The recitals contained herein and in the Notes (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the Company of any

Notes or the proceeds of any Notes authenticated and delivered by the Trustee in conformity with the provisions of this Indenture.

Section 8.04 *Trustee, Paying Agents, Exchange Agents or Note Registrar May Own Notes* . The Trustee, any Paying Agent, any Exchange Agent or Note Registrar, in its individual or any other capacity, may become the owner or pledgee of Notes with the same rights it would have if it were not the Trustee, Paying Agent, Exchange Agent or Note Registrar.

Section 8.05 *Monies and Shares of Common Stock to Be Held in Trust* . All monies and shares of Common Stock received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money and shares of Common Stock held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money or shares of Common Stock received by it hereunder except as may be agreed from time to time by the Company and the Trustee.

Section 8.06 *Compensation and Expenses of Trustee* . Each of the Company and the Guarantor covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as mutually agreed to in writing between the Trustee and the Company, and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee in accordance with any of the provisions of this Indenture in any capacity thereunder (including the reasonable compensation and the expenses and disbursements of its agents and counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as shall have been caused by its gross negligence or willful misconduct. Each of the Company and the Guarantor, jointly and severally, also covenants to indemnify the Trustee in any capacity under this Indenture and any other document or transaction entered into in connection herewith and its officers, employees, directors or agents and any authenticating agent for, and to hold them harmless against, any loss, claim, damage, liability or expense incurred without gross negligence or willful misconduct on the part of the Trustee, its officers, directors, agents or employees, or such agent or authenticating agent, as the case may be, and arising out of or in connection with the acceptance or administration of this Indenture or in any other capacity hereunder, including the costs and expenses of defending themselves against any claim of liability in the premises. The obligations of the Company and the Guarantor under this Section 8.06 to compensate or indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall be secured by a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by the Trustee, except, subject to the effect of Section 7.05, funds held in trust herewith for the benefit of the Holders of particular Notes. The Trustee's right to receive payment of any amounts due under this Section 8.06 shall not be subordinate to any other liability or indebtedness of the Company and the Guarantor. The obligation of the Company and the Guarantor under this Section 8.06 shall survive the satisfaction and discharge of this Indenture and the earlier resignation or removal of the Trustee. Neither the Company nor the Guarantor need pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The indemnification provided in this Section 8.06 shall extend to the officers, directors, agents and employees of the Trustee.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee and its agents and any authenticating agent incur expenses or render services after an Event of Default specified in Section 7.01(f) or Section 7.01(g) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any bankruptcy, insolvency or similar laws.

Section 8.07 *Officers' Certificate as Evidence* . Except as otherwise provided in Section 8.01 , whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Officers' Certificate, in the absence of gross negligence or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 8.08 *Eligibility of Trustee* . There shall at all times be a Trustee hereunder which shall be a Person that is eligible pursuant to the Trust Indenture Act (as if the Trust Indenture Act were applicable hereto) to act as such and has a combined capital and surplus of at least \$50,000,000. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section 8.08 , the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article 8 .

Section 8.09 *Resignation or Removal of Trustee* . (a) The Trustee may at any time resign by giving written notice of such resignation to the Company and by delivering notice thereof to the Holders. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors of the Company, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 60 days after the giving of such notice of resignation to the Holders, the resigning Trustee may, upon ten Business Days' notice to the Company and the Holders, petition any court of competent jurisdiction for the appointment of a successor trustee, or any Holder who has been a bona fide holder of a Note or Notes for at least six months (or since the date of this Indenture) may, subject to the provisions of Section 7.11 , on behalf of himself or herself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

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

(i) the Trustee shall cease to be eligible in accordance with the provisions of Section 8.08 and shall fail to resign after written request therefor by the Company or by any such Holder, or

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

then, in either case, the Company may by a Board Resolution remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors of the Company, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 7.11, any Holder who has been a bona fide holder of a Note or Notes for at least six months (or since the date of this Indenture) may, on behalf of himself or herself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, as determined in accordance with Section 9.04, may at any time remove the Trustee by notifying the Trustee and the Company in writing not less than 30 days prior to the effective date of such removal, and nominate a successor trustee that shall be deemed appointed as successor trustee unless within ten days after notice to the Company of such nomination the Company objects thereto, in which case the Trustee so removed or any Holder, upon the terms and conditions and otherwise as in Section 8.09(a) provided, may petition any court of competent jurisdiction for an appointment of a successor trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 8.09 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 8.10.

Section 8.10 *Acceptance by Successor Trustee*. Any successor trustee appointed as provided in Section 8.09 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the trustee ceasing to act shall, upon payment of any amounts then due it pursuant to the provisions of Section 8.06, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by such trustee as such, except for funds held in trust for the benefit of Holders of particular Notes, to secure any amounts then due it pursuant to the provisions of Section 8.06.

No successor trustee shall accept appointment as provided in this Section 8.10 unless at the time of such acceptance such successor trustee shall be eligible under the provisions of Section 8.08.

Upon acceptance of appointment by a successor trustee as provided in this Section 8.10, each of the Company and the successor trustee, at the written direction and at the expense of the Company shall deliver or cause to be delivered notice of the succession of such trustee hereunder to the Holders. If the Company fails to deliver such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be delivered at the expense of the Company.

Section 8.11 *Succession by Merger, Etc.* Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee (including the administration of this Indenture), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided that in the case of any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee such corporation or other entity shall be eligible under the provisions of Section 8.08.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee or authenticating agent appointed by such predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee or an authenticating agent appointed by such successor trustee may authenticate such Notes either in the name of any predecessor trustee hereunder or in the name of the successor trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Trustee shall have; *provided, however*, that the right to adopt the certificate of authentication of any predecessor trustee or to authenticate Notes in the name of any predecessor trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 8.12 *Trustee's Application for Instructions from the Company*. Any application by the Trustee for written instructions from the Company (other than with regard to any action proposed to be taken or omitted to be taken by the Trustee that affects the rights of the Holders of the Notes under this Indenture) may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable to the Company for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three Business Days after the date any officer that the Company has indicated to the Trustee should receive such application actually receives such application, unless any such officer shall have consented in writing to any earlier date), unless, prior to taking any such action (or the effective date in the case of any omission), the Trustee shall have received

written instructions in accordance with this Indenture in response to such application specifying the action to be taken or omitted.

ARTICLE 9 Concerning the Holders

Section 9.01 *Action by Holders* . Whenever in this Indenture it is provided that the Holders of a specified percentage of the aggregate principal amount of the Notes may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action, the Holders of such specified percentage have joined therein may be evidenced by (a) any instrument or any number of instruments of similar tenor executed by Holders in person or by agent or proxy appointed in writing, (b) the record of the Holders voting in favor thereof at any meeting of Holders duly called and held in accordance with the provisions of Article 10, or (c) a combination of such instrument or instruments and any such record of such a meeting of Holders.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver or to take any other action under this Indenture. The right of any Holder to participate in any action or consent required or sought pursuant to any provision of this Indenture (and the obligation of the Company to obtain any such consent otherwise required from such Holder) may be subject to the requirement that such Holder shall have been the Holder of record of any Notes with respect to which such action or consent is required or sought as of the record date identified by the Company in a notice furnished to Holders in accordance with the terms of this Indenture.

If a record date is fixed, then notwithstanding the provisions of the immediately succeeding paragraph, those Persons who were Holders at such record date (or their duly designated agents or proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date unless consents from Holders of the principal amount of Notes required hereunder for such amendment or waiver to be effective shall have also been given and not revoked within such 90-day period.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder or subsequent Holder may revoke the consent as to his or her Note or portion of a Note if the Trustee receives written notice of revocation before a date and time therefor identified by the Company in a notice furnished to such Holder in accordance with the terms of this Indenture or, if no such date and time shall be identified, the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it is of the type described in any of clauses (a) through (l) of Section 11.02 hereof. In such

case, the amendment, supplement or waiver shall bind each Holder who has consented to it and every subsequent Holder that evidences the same debt as the consenting Holder's Note.

Section 9.02 *Proof of Execution by Holders* . Subject to the provisions of Section 8.01, Section 8.02 and Section 10.05, proof of the execution of any instrument by a Holder or its agent or proxy shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Notes shall be proved by the Note Register or by a certificate of the Note Registrar. The record of any Holders' meeting shall be proved in the manner provided in Section 10.06.

Section 9.03 *Who Are Deemed Absolute Owners* . The Company, the Trustee, any authenticating agent, any Paying Agent, any Exchange Agent and any Note Registrar may deem the Person in whose name a Note shall be registered upon the Note Register to be, and may treat it as, the absolute owner of such Note (whether or not such Note shall be overdue and notwithstanding any notation of ownership or other writing thereon made by any Person other than the Company or any Note Registrar) for the purpose of receiving payment of or on account of the principal (including any Redemption Price and any Fundamental Change Repurchase Price) of and (subject to Section 2.03) accrued and unpaid interest on such Note, for exchange of such Note and for all other purposes; and neither the Company nor the Trustee nor any Paying Agent nor any Exchange Agent nor any Note Registrar shall be affected by any notice to the contrary. All such payments or deliveries so made to any Holder for the time being, or upon its order, shall be valid, and, to the extent of the sums or shares of Common Stock so paid or delivered, effectual to satisfy and discharge the liability for monies payable or shares deliverable upon any such Note. Notwithstanding anything to the contrary in this Indenture or the Notes, with respect to any Global Note, nothing in this Indenture shall prevent the Company, the Guarantor, the Trustee or any agent of the Company, the Guarantor or the Trustee from giving effect to any written certification, proxy or other authorization furnished by any Depository, as a Holder, with respect to such Global Notes or impair, as between such Depository and owners of beneficial interests in such Global Note, the operation of customary practices governing the exercise of the rights of such Depository (or its nominee) as Holder of such Global Note.

Section 9.04 *Company-Owned Notes Disregarded* . In determining whether the Holders of the requisite aggregate principal amount of Notes have concurred in any direction, consent, waiver or other action under this Indenture, Notes that are owned by the Company, by the Guarantor, by any Subsidiary of the Company or the Guarantor or by any Affiliate of the Company, the Guarantor or any Subsidiary of the Company or the Guarantor shall be disregarded and deemed not to be outstanding for the purpose of any such determination; provided that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action only Notes that a Responsible Officer knows are so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as outstanding for the purposes of this Section 9.04 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to so act with respect to such Notes and that the pledgee is not the Company, the Guarantor, a Subsidiary of the Company or the Guarantor, or an Affiliate of the Company, the Guarantor or any Subsidiary of the Company or the Guarantor. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officers' Certificate listing and identifying all

Notes, if any, known by the Company or the Guarantor to be owned or held by or for the account of any of the above described Persons; and, subject to Section 8.01, the Trustee shall be entitled to accept such Officers' Certificate as conclusive evidence of the facts therein set forth and of the fact that all Notes not listed therein are outstanding for the purpose of any such determination.

ARTICLE 10 **Holders' Meetings**

Section 10.01 *Purpose of Meetings* . A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article 10 for any of the following purposes:

- (a) to give any notice to the Company or to the Trustee or to give any directions to the Trustee permitted under this Indenture, or to consent to the waiving of any Default or Event of Default hereunder (in each case, as permitted under this Indenture) and its consequences, or to take any other action authorized to be taken by Holders pursuant to any of the provisions of Article 7;
- (b) to remove the Trustee and nominate a successor trustee pursuant to the provisions of Article 8;
- (c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 11.02; or
- (d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Notes under any other provision of this Indenture or under applicable law.

Section 10.02 *Call of Meetings by Trustee* . The Trustee may at any time call a meeting of Holders to take any action specified in Section 10.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of the Holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting and the establishment of any record date pursuant to Section 9.01, shall be delivered to Holders of such Notes. Such notice shall also be delivered to the Company. Such notices shall be delivered not less than 20 nor more than 90 days prior to the date fixed for the meeting.

Any meeting of Holders shall be valid without notice if the Holders of all Notes then outstanding are present in person or by proxy or if notice is waived before or after the meeting by the Holders of all Notes then outstanding, and if the Company and the Trustee are either present by duly authorized representatives or have, before or after the meeting, waived notice.

Section 10.03 *Call of Meetings by Company or Holders* . In case at any time the Company, pursuant to a Board Resolution, or the Holders of at least 25% of the aggregate principal amount of the Notes then outstanding, shall have requested the Trustee to call a meeting of Holders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have delivered the notice of such meeting within 20 days after receipt of such request, then the Company or such Holders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 10.01, by delivering notice thereof as provided in Section 10.02 .

Section 10.04 *Qualifications for Voting* . To be entitled to vote at any meeting of Holders a Person shall (a) be a Holder of one or more Notes on the record date pertaining to such meeting or (b) be a Person appointed by an instrument in writing as proxy by a Holder of one or more Notes on the record date pertaining to such meeting. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 10.05 *Regulations* . Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders, in regard to proof of the holding of Notes and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders as provided in Section 10.03, in which case the Company or the Holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Holders of a majority in aggregate principal amount of the Notes represented at the meeting and entitled to vote at the meeting.

Subject to the provisions of Section 9.04, at any meeting of Holders each Holder or proxyholder shall be entitled to one vote for each \$1,000 principal amount of Notes held or represented by him or her; *provided, however*, that no vote shall be cast or counted at any meeting in respect of any Note challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Notes held by it or instruments in writing as aforesaid duly designating it as the proxy to vote on behalf of other Holders. Any meeting of Holders duly called pursuant to the provisions of Section 10.02 or Section 10.03 may be adjourned from time to time by the Holders of a majority of the aggregate principal amount of Notes represented at the meeting, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

Section 10.06 *Voting* . The vote upon any resolution submitted to any meeting of Holders shall be by written ballot on which shall be subscribed the signatures of the Holders or of their representatives by proxy and the outstanding aggregate principal amount of the Notes held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was delivered as provided in Section 10.02. The record shall show the aggregate principal amount of the Notes voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the

Company and the other to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 10.07 *No Delay of Rights by Meeting* . Nothing contained in this Article 10 shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Holders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders under any of the provisions of this Indenture or of the Notes.

ARTICLE 11 **Supplemental Indentures**

Section 11.01 *Supplemental Indentures Without Consent of Holders* . The Company and the Guarantor, when authorized by the resolutions of the applicable Board of Directors and the Trustee, at the Company's expense, may from time to time and at any time enter into an indenture or indentures supplemental hereto, and in connection therewith the Guarantor may amend or supplement the Deed Poll, for one or more of the following purposes:

- (a) to cure any ambiguity, defect or inconsistency;
- (b) to provide for uncertified Notes in addition to or in place of Physical Notes or to alter the provisions of Section 2.02 of this Indenture (including the related definitions) in a manner that does not adversely affect any Holder in any material respect;
- (c) to provide for the assumption of the Company's or Guarantor's obligations to the Holders under this Indenture by a Successor Company pursuant to Article 12;
- (d) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights hereunder of any such Holder in any material respect or to surrender any right or power conferred upon the Company or the Guarantor;
- (e) to evidence and provide the acceptance of the appointment of a successor Trustee pursuant to Sections 8.09 and 8.10 of this Indenture;
- (f) to add an additional guarantor to the Notes;
- (g) to increase the Exchange Rate;
- (h) to provide for the issuance of additional Notes;
- (i) to elect one or more or eliminate any of the Settlement Methods (other than Cash Settlement) or elect a Specified Dollar Amount for all exchanges;

(j) in connection with any Share Exchange Event, to provide that the Notes are exchangeable into Reference Property, subject to the provisions of Section 15.02, and make such related changes to the terms of the Notes to the extent expressly required by Section 15.07; or

(k) to conform the provisions of this Indenture or the Notes to the “Description of Notes” section of the Offering Memorandum.

Upon the request of the Company accompanied by a Board Resolution of the Company’s Board of Directors and the Guarantor’s Board of Directors authorizing the execution of any such supplemental indenture, and upon receipt by the Trustee of the documents described in Section 8.02 of this Indenture, the Trustee shall join with the Company and the Guarantor in the execution of any such supplemental indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section 11.01 may be executed by the Company, the Guarantor and the Trustee without the consent of the Holders of any of the Notes at the time outstanding, notwithstanding any of the provisions of Section 11.02.

Section 11.02 *Supplemental Indentures with Consent of Holders* . With the consent (evidenced as provided in Article 9) of the Holders of at least a majority of the aggregate principal amount of the Notes then outstanding (determined in accordance with Article 9 and including, without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, Notes, regardless of whether the solicitation of consents and such repurchase is made from, or such tender or exchange offer is made to, all or any number of Holders of then outstanding notes), the Company and the Guarantor, when authorized by the resolutions of their respective Board of Directors, and the Trustee, at the Company’s expense, may from time to time and at any time enter into an indenture or indentures supplemental hereto, and in connection therewith the Guarantor may amend or supplement the Deed Poll, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture, any supplemental indenture or the Deed Poll, as applicable, or of modifying in any manner the rights of the Holders hereunder or thereunder; provided, however, that, without the consent of each Holder of an outstanding Note affected, no such supplemental indenture shall:

- (a) reduce the principal amount of the then outstanding Notes whose Holders must consent to an amendment, supplement or waiver;
- (b) reduce the principal of or change the fixed maturity of any Notes;
- (c) reduce the rate of or change the time for payment of interest on any Note;
- (d) make any change that adversely affects the exchange rights or Fundamental Change repurchase rights of the Notes;

(e) waive a Default or Event of Default in the payment or delivery, as the case may be, of (i) the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if any) of, (ii) interest on or (iii) any consideration due upon exchange of, the Notes

(except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

- (f) make any Note payable in money other than that stated in the Note;
- (g) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or premium, if any, on the Notes;
- (h) alter any of the provisions in Article 17 with respect to a redemption of the Notes or otherwise waive a redemption payment with respect to any Note;
- (i) waive payment of the Fundamental Change Repurchase Price;
- (j) cause the Notes or the Guarantee to become subordinated in right of payment to any other Indebtedness of the Company or the Guarantor, as applicable;
- (k) make any change in the foregoing amendment and waiver provisions; or
- (l) release the Guarantor from its obligations under the Guarantee, this Indenture or the Deed Poll, except as permitted pursuant to the provisions in Article 12.

Upon the request of the Company accompanied by a Board Resolution from the Company's Board of Directors and the Guarantor's Board of Directors authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 8.02 of this Indenture, the Trustee shall join with the Company and the Guarantor in the execution of such supplemental indenture unless such supplemental indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Holders under this Section 11.02 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 11.02 becomes effective, the Company shall send to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver, unless a current report on Form 8-K (or any successor form thereto) is timely filed by the Guarantor describing the amendment, supplement or waiver. Any failure by the Company to send such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture or waiver.

Section 11.03 *Effect of Supplemental Indentures*. Upon the execution of any supplemental indenture pursuant to the provisions of this Article 11, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitation of rights, obligations, duties and immunities under this Indenture of the Trustee, the

Company, the Guarantor and the Holders shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 11.04 *Notation on Notes* . Notes authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article 11 may, at the Company's expense, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Board of Directors of the Company, to any modification of this Indenture contained in any such supplemental indenture may, at the Company's expense, be prepared and executed by the Company, authenticated by the Trustee (or an authenticating agent duly appointed by the Trustee pursuant to Section 18.10) and delivered in exchange for the Notes then outstanding, upon surrender of such Notes then outstanding.

Section 11.05 *Evidence of Compliance of Supplemental Indenture to Be Furnished Trustee* . In addition to the documents required by Section 18.05, the Trustee shall receive an Officers' Certificate and an Opinion of Counsel stating that any supplemental indenture executed pursuant hereto complies with the requirements of this Article 11 and is permitted or authorized by this Indenture.

ARTICLE 12

Consolidation, Merger, Sale, Conveyance and Lease

Section 12.01 *Company and Guarantor May Consolidate, Etc. on Certain Terms* .

(a) Subject to the provisions of Section 12.02, neither the Company nor the Guarantor shall, directly or indirectly, in any transaction or series of related transactions: (1) consolidate, merge or combine with another Person (whether or not the Company or the Guarantor, as applicable, is the surviving Person); (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of its and its Subsidiaries' properties or assets taken as a whole, or (3) assign any of its obligations under the Notes and this Indenture, in one or more related transactions, to another Person, unless:

(i) either: (A) the Company or the Guarantor, as applicable, is the surviving or continuing Person; or (B) the Person formed by, surviving or continuing by any such consolidation, merger or combination (if other than the Company or the Guarantor, as applicable) or the Person to which such sale, assignment, transfer, conveyance, or other disposition (the "**Successor Company**") shall have been made is an entity, validly organized and existing in good standing (to the extent the concept of good standing is applicable) under the laws of any state of the United States, the District of Columbia, the Cayman Islands, Bermuda, Switzerland, the United Kingdom, the Kingdom of the Netherlands, the Grand Duchy of Luxembourg, Ireland, or any other member country of the European Union;

(ii) the Successor Company assumes all the obligations of the Company and the Guarantor under the Notes, this Indenture and the Deed Poll, as applicable, and with respect to the obligation to pay Additional Amounts, the jurisdiction in which such Successor Company is organized, resident, or doing business for Tax purposes or any department or political subdivision thereof or therein and any jurisdiction from or through which payments are made by or on behalf of such Successor Company or any department or political subdivision thereof shall be treated as a Tax Jurisdiction;

(iii) in the case of the Company, any Successor Company (other than the Guarantor) is a Wholly Owned Subsidiary of the Guarantor which is a disregarded entity for U.S. federal income tax purposes;

(iv) immediately after such transaction no Default or Event of Default exists; and

(v) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such merger, consolidation, combination or sale, assignment, transfer, conveyance or other disposition of such properties or assets or assignment of the Company's and the Guarantor's obligations under the Notes and this Indenture and such supplemental indenture, if any, comply with this Indenture.

(b) Neither the Company nor the Guarantor shall, directly or indirectly, lease all or substantially all of its properties or assets in one or more related transactions, to any other Person.

(c) Notwithstanding the foregoing, this Section 12.01 shall not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Guarantor and any of its Wholly Owned Subsidiaries.

Section 12.02 *Successor Corporation to Be Substituted*. In case of any such consolidation, merger, combination, sale, conveyance, transfer, assignment or lease and upon the assumption by the Successor Company, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of and accrued and unpaid interest on all of the Notes, the due and punctual delivery or payment, as the case may be, of any consideration due upon exchange of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture and the Deed Poll to be performed by the Company and the Guarantor, as applicable, such Successor Company (if not the Company or the Guarantor, as applicable) shall succeed to and, except in the case of a lease of all or substantially all of the Company's or the Guarantor's properties and assets, shall be substituted for the Company or the Guarantor, as applicable, with the same effect as if it had been named herein as the party of the first part. Such Successor Company thereupon may cause to be signed, and may issue either in its own name or in the name of the Company or the Guarantor, as applicable, any or all of the Notes issuable hereunder and the related Guarantee which theretofore shall not have been signed by the Company or the Guarantor, as applicable, and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company or the Guarantor, as applicable, and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that previously shall have been signed and delivered by

the Officers of the Company or the Guarantor, as applicable, to the Trustee for authentication, and any Notes or the related Guarantee, as applicable, that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued, and the related Guarantee, as applicable, shall in all respects have the same legal rank and benefit under this Indenture as the Notes and the related Guarantee, as applicable, theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued and the related Guarantee has been executed, as applicable, at the date of the execution hereof. In the event of any such consolidation, merger, sale, conveyance or transfer (but not in the case of a lease), upon compliance with this [Article 12](#) the Person named as the “Company” or the “Guarantor” in the first paragraph of this Indenture (or any successor that shall thereafter have become such in the manner prescribed in this [Article 12](#)) may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes or the Guarantee, as applicable, and from its obligations under this Indenture, the Notes, the Guarantee or the Deed Poll, as applicable. In case of any such consolidation, merger, sale, conveyance, transfer or lease, such changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued or the Guarantee thereafter to be executed as may be appropriate.

ARTICLE 13

Immunity of Incorporators, Stockholders, Officers and Directors

Section 13.01 *Indenture and Notes Solely Corporate Obligations* . No recourse for the payment of the principal of or accrued and unpaid interest on any Note, nor for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company or the Guarantor in this Indenture or in any supplemental indenture or in any Note or any Guarantee, nor because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, officer or director or Subsidiary, as such, past, present or future, of the Company or the Guarantor, of any Affiliate of the Company or the Guarantor, or of any successor Person, either directly or through the Company or the Guarantor (as the case may be) or any successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issue of the Notes.

ARTICLE 14

Guarantee

Section 14.01 *Guarantee* . By its execution hereof, the Guarantor acknowledges and agrees that it receives substantial benefits from the Company and that the Guarantor is providing its guarantee (the “**Guarantee**”) for good and valuable consideration, including, without limitation, such substantial benefits. Accordingly, subject to the provisions of this [Article 14](#), the Guarantor hereby fully and unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and its successors and assigns that: (i) the principal of (including the Redemption Price and Fundamental Change Repurchase Price, as the case may be, pursuant to [Article 16](#) or [Article 17](#), as applicable), premium, if any, interest and Additional Interest, if any, on the Notes and any cash and shares of Common Stock or combination thereof, if any, due upon

exchange of the Notes in accordance with Article 15 and the Articles, in each case, shall be duly and punctually paid or delivered in full (as the case may be) when due, whether at the Maturity Date, upon acceleration, upon redemption, upon repurchase in connection with a Fundamental Change or otherwise or upon exchange, and interest on overdue principal, premium, if any, Additional Interest, if any, and (to the extent permitted by law) interest on any interest, if any, on the Notes and all other obligations of the Company to the Holders or the Trustee hereunder or under the Notes (including fees, expenses or other) shall be promptly paid in full or performed, all in accordance with the terms hereof; (ii) the Company shall deliver ERPSs in connection with exchanges of the Notes in accordance with the Articles and this Indenture; and (iii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at the Maturity Date, by acceleration, call for redemption, upon repurchase in connection with a Fundamental Change or exchange, subject, however, in the case of clauses (i), (ii) and (iii) above, to the limitations set forth in Section 14.03 hereof (collectively, the “**Guarantee Obligations**”).

Subject to the provisions of this Article 14, the Guarantor hereby agrees that its Guarantee hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any thereof, the entry of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of the Guarantor. The Guarantor hereby waives and relinquishes: (a) any right to require the Trustee, the Holders or the Company (each, a “**Benefited Party**”) to proceed against the Company or any other Person or to proceed against or exhaust any security held by a Benefited Party at any time or to pursue any other remedy in any secured party’s power before proceeding against the Guarantor; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other Person or Persons or the failure of a Benefited Party to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other Person or Persons; (c) demand, protest and notice of any kind (except as expressly required by this Indenture), including but not limited to notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of the Guarantor, the Company, any Benefited Party, any creditor of the Guarantor or the Company or on the part of any other Person whomsoever in connection with any obligations the performance of which are hereby guaranteed; (d) any defense based upon an election of remedies by a Benefited Party, including but not limited to an election to proceed against the Guarantor for reimbursement; (e) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (f) any defense arising because of a Benefited Party’s election, in any proceeding instituted under the Bankruptcy Law, of the application of Section 1111(b)(2) of the Bankruptcy Code; and (g) any defense based on any borrowing or grant of a security interest under Section 364 of the Bankruptcy Code. The Guarantor hereby covenants that, except as otherwise provided therein, the Guarantee shall not be discharged except by payment or delivery in full (as the case may be) of all Guarantee Obligations, including the principal, premium, if any, and interest on the Notes, the cash and any shares of Common Stock due upon exchange of the Notes and all other costs provided for under this Indenture or as provided in Article 8.

If any Holder or the Trustee is required by any court or otherwise to return to either the Company or the Guarantor, or any trustee or similar official acting in relation to either the Company or the Guarantor, any amount paid by the Company or the Guarantor to the Trustee or such Holder, the Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. The Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guarantee Obligations hereby until payment in full of all such obligations guaranteed hereby. The Guarantor agrees that, as between it, on the one hand, and the Holders of Notes and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 7 hereof for the purposes hereof, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guarantee Obligations, and (y) in the event of any acceleration of such obligations as provided in Article 7 hereof, such Guarantee Obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purpose of the Guarantee.

Section 14.02 *Execution and Delivery of Guarantee* . To evidence the Guarantee set forth in Section 14.01 hereof, the Guarantor agrees that a notation of the Guarantee substantially in the form included in the Form of Note attached hereto as Exhibit A shall be endorsed on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of the Guarantor by an Officer of the Guarantor.

The Guarantor agrees that the Guarantee set forth in this Article 14 shall remain in full force and effect and apply to all the Notes notwithstanding any failure to endorse on each Note a notation of the Guarantee.

If an Officer whose facsimile signature is on a Note or a notation of Guarantee no longer holds that office at the time the Trustee authenticates the Note on which the Guarantee is endorsed, the Guarantee shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee set forth in this Indenture on behalf of the Guarantor.

Section 14.03 *Limitation of Guarantor's Liability; Certain Bankruptcy Events* . (a) The Guarantor, and by its acceptance hereof each Holder, hereby confirms that it is the intention of all such parties that the Guarantee Obligations of the Guarantor pursuant to its Guarantee not constitute a fraudulent transfer or conveyance for purposes of any Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law. To effectuate the foregoing intention, the Holders and the Guarantor hereby irrevocably agree that the Guarantee Obligations of the Guarantor under this Article 14 shall be limited to the maximum amount as shall, after giving effect to all other contingent and fixed liabilities of the Guarantor, result in the Guarantee Obligations of the Guarantor under the Guarantee not constituting a fraudulent transfer or conveyance.

(b) The Guarantor hereby covenants and agrees, to the fullest extent that it may do so under applicable law, that in the event of the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Company, the Guarantor shall not file (or join in any filing of), or otherwise seek to participate in the filing of, any motion or request seeking to stay or to prohibit (even temporarily) execution on the Guarantee and hereby waives and agrees not to take the benefit of

any such stay of execution, whether under Section 362 or 105 of the Bankruptcy Code or otherwise.

Section 14.04 *Application of Certain Terms and Provisions to the Guarantor*. (a) For purposes of any provision of this Indenture which provides for the delivery by the Guarantor of an Officers' Certificate and/or an Opinion of Counsel, the definitions of such terms in Section 1.01 hereof shall apply to the Guarantor as if references therein to the Company were references to the Guarantor.

(b) Any request, direction, order or demand which by any provision of this Indenture is to be made by the Guarantor shall be sufficient if evidenced as described in Section 18.03 hereof as if references therein to the Company were references to the Guarantor.

(c) Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders of Notes to or on the Guarantor may be given or served as described in Section 18.03 hereof as if references therein to the Company were references to the Guarantor.

(d) Upon any demand, request or application by the Guarantor to the Trustee to take any action under this Indenture, the Guarantor shall furnish to the Trustee such certificates and opinions as are required in Section 18.05 hereof as if all references therein to the Company were references to the Guarantor.

ARTICLE 15 Exchange of Notes

Section 15.01 *Exchange Privilege*.

(a) Subject to and upon compliance with the provisions of this Article 15, each Holder of a Note shall have the right, at such Holder's option, to exchange all or any portion (if the portion to be exchanged is \$1,000 principal amount or an integral multiple thereof) of such Note (i) subject to satisfaction of the conditions described in Section 15.01(b), at any time prior to the close of business on the Business Day immediately preceding July 31, 2023 under the circumstances and during the periods set forth in Section 15.01(b), and (ii) regardless of the conditions described in Section 15.01(b), at any time on or after July 31, 2023 and prior to the close of business on the Business Day immediately preceding the Maturity Date, in each case, for one fully paid ERPS (with a paid-up value of \$1,000) per \$1,000 principal amount of Notes, which ERPS shall immediately be exchanged at an initial exchange rate of 71.3343 shares of Common Stock (subject to adjustment as provided in this Article 15, the "**Exchange Rate**") per ERPS (subject to, and in accordance with, the settlement provisions of Section 15.02) (the "**Exchange Obligation**").

(b) (i) Prior to the close of business on the Business Day immediately preceding July 31, 2023, a Holder may surrender all or any portion of its Notes for exchange at any time during the five Business Day period immediately after any five consecutive Trading Day period (the "**Measurement Period**") in which the Trading Price per \$1,000 principal amount of Notes, as determined following a request by a Holder of Notes in accordance with this subsection (b)(i), for each Trading Day of the Measurement Period was less than 98% of the product of the Last

Reported Sale Price of the Common Stock on each such Trading Day and the Exchange Rate on each such Trading Day. The Trading Prices shall be determined by the Bid Solicitation Agent pursuant to this subsection (b)(i) and the definition of Trading Price set forth in this Indenture. The Company shall provide written notice to the Bid Solicitation Agent (if other than the Company) of the three independent nationally recognized securities dealers selected by the Company pursuant to the definition of Trading Price, along with appropriate contact information for each. The Bid Solicitation Agent (if other than the Company) shall have no obligation to determine the Trading Price per \$1,000 principal amount of Notes unless the Company has requested such determination, and the Company shall have no obligation to make such request (or, if the Company is acting as Bid Solicitation Agent, the Company shall have no obligation to determine the Trading Price per \$1,000 principal amount of Notes) unless a Holder provides the Company with written notice that includes reasonable evidence that the Trading Price per \$1,000 principal amount of Notes on any Trading Day would be less than 98% of the product of the Last Reported Sale Price of the Common Stock on such Trading Day and the Exchange Rate on such Trading Day, at which time the Company shall instruct the Bid Solicitation Agent (if other than the Company) to determine, or if the Company is acting as Bid Solicitation Agent, the Company shall determine, the Trading Price per \$1,000 principal amount of Notes beginning on the next Trading Day and on each successive Trading Day until the Trading Price per \$1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the Common Stock and the Exchange Rate. If (x) the Company is not acting as Bid Solicitation Agent, and the Company does not, when the Company is required to, instruct the Bid Solicitation Agent to obtain bids, or the Company gives such instruction to the Bid Solicitation Agent, and the Bid Solicitation Agent fails to make such determination, or (y) the Company is acting as Bid Solicitation Agent and the Company fails to make such determination when obligated as provided in the preceding sentence, then, in either case, the Trading Price per \$1,000 principal amount of Notes shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the Common Stock and the Exchange Rate on each Trading Day of such failure. If the Trading Price condition set forth above has been met, the Company shall so notify the Holders, the Trustee and the Exchange Agent (if other than the Trustee). If, at any time after the Trading Price condition set forth above has been met, the Trading Price per \$1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the Common Stock and the Exchange Rate for such date, the Company shall so notify the Holders of the Notes, the Trustee and the Exchange Agent (if other than the Trustee).

(ii) If, prior to the close of business on the Business Day immediately preceding July 31, 2023, the Guarantor elects to:

(A) issue to all or substantially all holders of Common Stock any rights, options or warrants entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of the Common Stock at a price per share that is less than the average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance; or

(B) distribute to all or substantially all holders of the Common Stock the Guarantor's assets, securities (other than the Common Stock) or rights to

purchase securities of the Guarantor, which distribution has a per share value, as reasonably determined by the Guarantor's Board of Directors, exceeding 10% of the Last Reported Sale Price of the Common Stock on the Trading Day preceding the date of announcement for such distribution,

then, in either case, the Company shall notify all Holders of the Notes, the Trustee and the Exchange Agent (if other than the Trustee) at least 50 Scheduled Trading Days prior to the Ex-Dividend Date for such issuance or distribution. Once the Company has given such notice, a Holder may surrender all or any portion of its Notes for exchange at any time until the earlier of (1) the close of business on the Business Day immediately preceding the Ex-Dividend Date for such issuance or distribution and (2) the Company's and the Guarantor's announcement that such issuance or distribution will not take place, in each case, even if the Notes are not otherwise exchangeable at such time. Holders may not exercise the exchange right set forth in this Section 15.01(b)(ii) if such Holder will participate (as a result of holding the Notes, and at the same time and on the same terms as holders of Common Stock participate) in any of the transactions described in this Section 15.01(b)(ii), as if such Holders held a number of shares of Common Stock equal to the Exchange Rate, multiplied by the principal amount of Notes held by such Holders divided by \$1,000 without having to exchange their Notes.

(iii) If a transaction or event that constitutes a Fundamental Change or a Make-Whole Fundamental Change occurs prior to the close of business on the Business Day immediately preceding July 31, 2023, regardless of whether a Holder has the right to require the Company to repurchase the Notes pursuant to Section 16.02, or if the Guarantor is a party to a Share Exchange Event that occurs prior to the close of business on the Business Day immediately preceding July 31, 2023 (each such Fundamental Change, Make-Whole Fundamental Change or Share Exchange Event, a “**Corporate Event**”), all or any portion of a Holder's Notes may be surrendered for exchange at any time from or after the date that is 50 Scheduled Trading Days prior to the anticipated effective date of the Corporate Event (or, if later, the earlier of (x) the Business Day after the Company gives notice of such Corporate Event and (y) the actual effective date of such Corporate Event) until 35 Trading Days after the actual effective date of such Corporate Event or, if such Corporate Event also constitutes a Fundamental Change, until the related Fundamental Change Repurchase Date. The Company shall notify Holders, the Trustee and the Exchange Agent (if other than the Trustee) (x) as promptly as practicable following the date the Guarantor publicly announces such Corporate Event but in no event less than 50 Scheduled Trading Days prior to the anticipated effective date of such Corporate Event or (y) if the Company does not have knowledge of such Corporate Event at least 50 Scheduled Trading Days prior to the anticipated effective date of such Corporate Event, within one Business Day of the date upon which the Company receives notice, or otherwise becomes aware, of such Corporate Event, but in no event later than the actual effective date of such Corporate Event.

(iv) Prior to the close of business on the Business Day immediately preceding July 31, 2023, a Holder may surrender all or any portion of its Notes for exchange at any time during any calendar quarter commencing after the calendar quarter ending on March 31, 2017 (and only during such calendar quarter), if the Last Reported Sale Price of the

Common Stock for at least 20 Trading Days (whether or not consecutive) during the period of 30 consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding calendar quarter is greater than or equal to 130% of the Exchange Price on each of such 20 Trading Days. The Company shall determine at the beginning of each calendar quarter commencing after March 31, 2017 whether the Notes may be surrendered for exchange in accordance with this clause (iv) and if so, shall notify the Holders, the Trustee and the Exchange Agent (if other than the Trustee) if the Notes become exchangeable in accordance with this clause (iv).

(v) If the Company calls the Notes for redemption pursuant to Article 17 then a Holder may surrender all or any portion of its Notes for exchange at any time prior to the close of business on the Business Day immediately preceding the Redemption Date, even if the Notes are not otherwise exchangeable at such time. After that time, the right to exchange such Notes on account of the Company's delivery of a Redemption Notice shall expire, unless the Company defaults in the payment of the Redemption Price, in which case a Holder of Notes may exchange all or any portion of its Notes until the Business Day immediately preceding the date on which the Redemption Price has been paid or duly provided for.

Section 15.02 *Exchange Procedure; Settlement Upon Exchange* .

(a) Subject to this Section 15.02, Section 15.03(b) and Section 15.07(a), upon exchange of any Note, the Company shall deliver, in respect of each \$1,000 principal amount of Notes being exchanged, one fully paid ERPS, with each such ERPS being allotted at a price equal to a paid-up value of \$1,000. Pursuant to the terms set forth in the Articles and the Deed Poll, upon issuance, the Company shall procure that each ERPS shall, on and as of the relevant Exchange Date, be immediately transferred from the exchanging Holder to the Guarantor, without any further action on the part of, and without any cost or expense to, the exchanging Holder or the Trustee. In exchange for each ERPS, the Guarantor shall pay or deliver, as the case may be, to the exchanging Holder (or in the case of delivery of Common Stock to such Holder's nominee or nominees as named in a Notice of Exchange (as defined below)), in respect of each \$1,000 paid-up value of ERPSs being exchanged, cash (" **Cash Settlement** "), shares of Common Stock, together with cash, if applicable, in lieu of delivering any fractional share of Common Stock in accordance with subsection (j) of this Section 15.02 (" **Physical Settlement** ") or a combination of cash and shares of Common Stock, together with cash, if applicable, in lieu of delivering any fractional share of Common Stock in accordance with Section 15.02(j) (" **Combination Settlement** "), at its election, as set forth in this Section 15.02. All reference in this Indenture to the exchange of Notes will be deemed to include both the conversion of the Notes into the applicable number of ERPSs and the immediate transfer of such ERPSs to the Guarantor on the relevant Exchange Date in exchange for cash, Common Stock or a combination thereof. The procedures governing the transfer and exchange of each issued and allotted ERPS shall be governed by the Articles and the Deed Poll.

(i) All exchanges for which the relevant Exchange Date occurs on or after July 31, 2023, and all exchanges for which the relevant Exchange Date occurs after the Company's issuance of a Redemption Notice with respect to the Notes and prior to the related Redemption Date, shall be settled using the same Settlement Method.

(ii) Except for any exchanges for which the relevant Exchange Date occurs after the Company's issuance of a Redemption Notice with respect to the Notes but prior to the related Redemption Date, and any exchanges for which the relevant Exchange Date occurs on or after July 31, 2023, the Guarantor shall use the same Settlement Method for all exchanges of Notes with the same Exchange Date, but the Guarantor shall not have any obligation to use the same Settlement Method with respect to exchanges with different Exchange Dates. For the avoidance of doubt, the Guarantor may choose for Notes exchanged on one Exchange Date to settle exchanges in Physical Settlement, and choose for Notes exchanged on another Exchange Date Cash Settlement or Combination Settlement.

(iii) If, in respect of any Exchange Date (or the period described in the third immediately succeeding set of parentheses, as the case may be), the Guarantor elects to deliver a notice (the "**Settlement Notice**") of the relevant Settlement Method in respect of such Exchange Date (or such period, as the case may be), the Guarantor, through the Trustee, shall deliver such Settlement Notice to exchanging Holders no later than the close of business on the Trading Day immediately following the relevant Exchange Date (or, in the case of any exchanges for which the relevant Exchange Date occurs (x) after the date of issuance of a Redemption Notice with respect to the Notes and prior to the related Redemption Date, in such Redemption Notice or (y) on or after July 31, 2023, no later than July 30, 2023). If the Guarantor does not elect a Settlement Method prior to the deadline set forth in the first sentence of this clause (iii), the Guarantor shall no longer have the right to elect Cash Settlement or Physical Settlement and the Guarantor shall be deemed to have elected Combination Settlement in respect of its Exchange Obligation, and the Specified Dollar Amount per \$1,000 principal amount of Notes shall be equal to \$1,000. Such Settlement Notice shall specify the relevant Settlement Method and in the case of an election of Combination Settlement, the relevant Settlement Notice shall indicate the Specified Dollar Amount per \$1,000 principal amount of Notes. If the Guarantor delivers a Settlement Notice electing Combination Settlement in respect of its Exchange Obligation but does not indicate prior to the deadline set forth in the first sentence of this clause (iii) a Specified Dollar Amount per \$1,000 principal amount of Notes in such Settlement Notice, the Specified Dollar Amount per \$1,000 principal amount of Notes shall be deemed to be \$1,000.

(iv) The cash, shares of Common Stock or combination of cash and shares of Common Stock in respect of any exchange of Notes (the "**Settlement Amount**") shall be computed as follows:

(A) if the Guarantor elects to satisfy its Exchange Obligation in respect of such exchange by Physical Settlement, the Guarantor shall deliver to the exchanging Holder in respect of each \$1,000 principal amount of Notes being exchanged a number of shares of Common Stock equal to the Exchange Rate in effect on the Exchange Date;

(B) if the Guarantor elects to satisfy its Exchange Obligation in respect of such exchange by Cash Settlement, the Guarantor shall pay to the exchanging Holder in respect of each \$1,000 principal amount of Notes being exchanged cash

in an amount equal to the sum of the Daily Exchange Values for each of the 40 consecutive Trading Days during the related Observation Period; and

(C) if the Guarantor elects (or is deemed to have elected) to satisfy its Exchange Obligation in respect of such exchange by Combination Settlement, the Guarantor shall pay or deliver, as the case may be, in respect of each \$1,000 principal amount of Notes being exchanged, a Settlement Amount equal to the sum of the Daily Settlement Amounts for each of the 40 consecutive Trading Days during the related Observation Period.

(v) The Daily Settlement Amounts (if applicable) and the Daily Exchange Values (if applicable) shall be determined by the Guarantor promptly following the last day of the Observation Period. Promptly after such determination of the Daily Settlement Amounts or the Daily Exchange Values, as the case may be, and the amount of cash payable in lieu of delivering any fractional share of Common Stock, the Guarantor shall notify the Trustee and the Exchange Agent (if other than the Trustee) of the Daily Settlement Amounts or the Daily Exchange Values, as the case may be, and the amount of cash payable in lieu of delivering fractional shares of Common Stock. The Trustee and the Exchange Agent (if other than the Trustee) shall have no responsibility for any such determination.

(b) Subject to Section 15.02(e), before any Holder of a Note shall be entitled to exchange a Note as set forth above, such Holder shall (i) in the case of a Global Note, comply with the procedures of the Depositary in effect at that time and, if required, pay funds equal to interest payable on the next Interest Payment Date to which such Holder is not entitled as set forth in Section 15.02(h) and (ii) in the case of a Physical Note (1) complete, manually sign and deliver an irrevocable notice to the Exchange Agent as set forth in the Form of Notice of Exchange (or a facsimile thereof) (a “ **Notice of Exchange** ”) at the office of the Exchange Agent and state in writing therein the principal amount of Notes to be exchanged and the name or names (with addresses) in which such Holder wishes the certificate or certificates for any shares of Common Stock to be delivered upon settlement of the Exchange Obligation to be registered, (2) surrender such Notes, duly endorsed to the Company or in blank (and accompanied by appropriate endorsement and transfer documents), at the office of the Exchange Agent, (3) if required, furnish appropriate endorsements and transfer documents and (4) if required, pay funds equal to interest payable on the next Interest Payment Date to which such Holder is not entitled as set forth in Section 15.02(h). The Trustee (and if different, the Exchange Agent) shall notify the Company of any Exchange pursuant to this Article 15 on the Exchange Date for such exchange. No Notice of Exchange with respect to any Notes may be surrendered by a Holder thereof if such Holder has also delivered a Fundamental Change Repurchase Notice to the Company in respect of such Notes and has not validly withdrawn such Fundamental Change Repurchase Notice in accordance with Section 16.03.

If more than one Note shall be surrendered for exchange at one time by the same Holder, the Exchange Obligation with respect to such Notes shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted thereby) so surrendered.

(c) A Note shall be deemed to have been exchanged at the close of business on the date (the “**Exchange Date**”) that the Holder has complied with the requirements set forth in subsection (b) above. Except as set forth in Section 15.03(b) and Section 15.07(a), the Guarantor shall pay or deliver, as the case may be, the consideration due in respect of the Exchange Obligation on the third Business Day immediately following the relevant Exchange Date, if the Guarantor elects Physical Settlement, or on the third Business Day immediately following the last Trading Day of the Observation Period, in the case of any other Settlement Method. If any shares of Common Stock are due to an exchanging Holder, the Guarantor shall issue or cause to be issued, and deliver (if applicable) to the Exchange Agent or to such Holder, or such Holder’s nominee or nominees, the full number of shares of Common Stock to which such Holder shall be entitled, in certificate form or in book-entry format, in satisfaction of the Guarantor’s Exchange Obligation.

(d) In case any Note shall be surrendered for partial exchange, the Company shall execute and the Trustee shall authenticate and deliver to or upon the written order of the Holder of the Note so surrendered a new Note or Notes in authorized denominations in an aggregate principal amount equal to the unexchanged portion of the surrendered Note, without payment of any service charge by the exchanging Holder but, if required by the Company or Trustee, with payment of a sum sufficient to cover any documentary, stamp, stamp duty, stamp duty reserve tax or similar issue or transfer tax or similar governmental charge required by law or that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange being different from the name of the Holder of the old Notes surrendered for such exchange.

(e) If a Holder submits a Note for exchange, the Company shall pay any documentary, stamp, stamp duty, stamp duty reserve tax or similar issue or transfer tax due on the issue of any ERPS upon exchange, and the Guarantor shall pay any documentary, stamp, stamp duty, stamp duty reserve tax or similar issue or transfer tax due upon the exchange of such ERPS and the issuance of shares of Common Stock upon exchange of such ERPS, unless, in each case, the tax is due because the Holder requests such shares to be issued in a name other than the Holder’s name or the name of a Person on behalf of that Holder, in which case the Holder shall pay that tax. The Exchange Agent may refuse to deliver or refuse to instruct the Transfer Agent to deliver the shares of Common Stock being issued in a name other than the Holder’s name, or the name of a Person holding on behalf of that Holder, until the Trustee receives a sum sufficient to pay any tax that is due by such Holder in accordance with the immediately preceding sentence.

(f) Except as provided in Section 15.04, no adjustment shall be made for dividends on any shares of Common Stock issued upon the exchange of any Note as provided in this Article 14.

(g) Upon the exchange of an interest in a Global Note, the Trustee, or the Custodian at the direction of the Trustee, shall make a notation on such Global Note as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any exchange of Notes effected through any Exchange Agent other than the Trustee.

(h) Upon exchange, a Holder shall not receive any separate cash payment for accrued and unpaid interest, if any, except as set forth below. The Guarantor’s settlement of the full

Exchange Obligation shall be deemed to satisfy in full the Company's obligation to pay the principal amount of the Note and accrued and unpaid interest, if any, to, but not including, the relevant Exchange Date. As a result, accrued and unpaid interest, if any, to, but not including, the relevant Exchange Date shall be deemed to be paid in full rather than cancelled, extinguished or forfeited. Upon an exchange of Notes into a combination of cash and shares of Common Stock, accrued and unpaid interest, if any, will be deemed to be paid first out of the cash paid upon such exchange. Notwithstanding the foregoing, if Notes are exchanged after the close of business on a Regular Record Date, Holders of such Notes as of the close of business on such Regular Record Date will receive the full amount of interest payable on such Notes on the corresponding Interest Payment Date notwithstanding the exchange. Notes surrendered for exchange during the period from the close of business on any Regular Record Date to the open of business on the immediately following Interest Payment Date must be accompanied by funds equal to the amount of interest payable on the Notes so exchanged; *provided* that no such payment shall be required (1) for exchanges following the Regular Record Date immediately preceding the Maturity Date; (2) if the Company has specified a Redemption Date that is after a Regular Record Date and on or prior to the Business Day immediately following the corresponding Interest Payment Date and the relevant Exchange Date occurs after such Regular Record Date and on or prior to such Business Day; (3) if the Company has specified a Fundamental Change Repurchase Date that is after a Regular Record Date and on or prior to the Business Day immediately following the corresponding Interest Payment Date and the relevant Exchange Date occurs after such Regular Record Date and on or prior to such Business Day; or (4) to the extent of any Defaulted Amounts, if any Defaulted Amounts exists at the time of exchange with respect to such Note. Therefore, for the avoidance of doubt, all Holders of record on the Regular Record Date immediately preceding the Maturity Date shall receive the full interest payment due on the Maturity Date in cash regardless of whether their Notes have been exchanged following such Regular Record Date.

(i) The Person in whose name any shares of Common Stock shall be issuable upon exchange shall be treated as a stockholder of record of such shares for purposes of any dividends or distribution payable on the shares of Common Stock as of the close of business on the relevant Exchange Date (if the Guarantor elects to satisfy the related Exchange Obligation by Physical Settlement) or the last Trading Day of the relevant Observation Period (if the Guarantor elects to satisfy the related Exchange Obligation by Combination Settlement), as the case may be. Upon an exchange of Notes, such Person shall no longer be a Holder of such Notes surrendered for exchange.

(j) The Guarantor shall not issue any fractional share of Common Stock upon exchange of the Notes and shall instead pay cash in lieu of delivering any fractional share of Common Stock issuable upon exchange based on the Daily VWAP for the relevant Exchange Date (in the case of Physical Settlement) or based on the Daily VWAP for the last Trading Day of the relevant Observation Period (in the case of Combination Settlement).

(k) Notwithstanding anything herein to the contrary, a Holder's exchange right is not exercisable in respect of any specific ERPS or share of Common Stock and no specific ERPS or share of Common Stock has been or will be set aside to secure or satisfy the obligations of the Company or the Guarantor in respect of the delivery of ERPSs or shares of Common Stock.

Section 15.03 *Increased Exchange Rate Applicable to Certain Notes Surrendered in Connection with Make-Whole Fundamental Changes* .(a) If the Effective Date of a Make-Whole Fundamental Change occurs prior to the Maturity Date and a Holder elects to exchange its Notes in connection with such Make-Whole Fundamental Change, the Guarantor shall, under the circumstances described in this Section 15.03, increase the Exchange Rate for the Notes so surrendered for exchange by a number of additional shares of Common Stock (the “ **Additional Shares** ”), as described in this Section 15.03. An exchange of Notes shall be deemed for these purposes to be “in connection with” such Make-Whole Fundamental Change if the relevant Notice of Exchange is received by the Exchange Agent from, and including, the Effective Date of the Make-Whole Fundamental Change up to, and including, the Business Day immediately prior to the related Fundamental Change Repurchase Date (or, in the case of a Make-Whole Fundamental Change that would have been a Fundamental Change but for the proviso in clause (b) of the definition thereof, the 35th Trading Day immediately following the Effective Date of such Make-Whole Fundamental Change) (such period, the “ **Make-Whole Fundamental Change Period** ”).

(b) Upon surrender of Notes for exchange in connection with a Make-Whole Fundamental Change pursuant to Section 15.01(b)(iii), the Guarantor shall, at its option, satisfy the related Exchange Obligation by Physical Settlement, Cash Settlement or Combination Settlement in accordance with Section 15.02; *provided, however*, that if, at the effective time of a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, the Reference Property following such Make-Whole Fundamental Change is composed entirely of cash, for any exchange of Notes following the Effective Date of such Make-Whole Fundamental Change, the Exchange Obligation shall be calculated based solely on the Stock Price for the transaction and shall be deemed to be an amount of cash per \$1,000 principal amount of exchanged Notes equal to the Exchange Rate (including any adjustment for Additional Shares), *multiplied by* such Stock Price. In such event, the Exchange Obligation shall be determined and paid to Holders in cash on the third Business Day following the Exchange Date. The Company and the Guarantor shall notify the Holders of Notes of the Effective Date of any Make-Whole Fundamental Change and issue a press release announcing such Effective Date no later than five Business Days after such Effective Date.

(c) The number of Additional Shares, if any, by which the Exchange Rate shall be increased shall be determined by reference to the table below, based on the date on which the Make-Whole Fundamental Change occurs or becomes effective (the “ **Effective Date** ”) and the price paid (or deemed to be paid) per share of the Common Stock in the Make-Whole Fundamental Change (the “ **Stock Price** ”). If the holders of the Common Stock receive in exchange for their Common Stock only cash in a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Last Reported Sale Prices of the Common Stock over the five Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date of the Make-Whole Fundamental Change. The Board of Directors of the Guarantor shall make appropriate adjustments to the Stock Price, in its good faith determination, to account for any adjustment to the Exchange Rate that becomes effective, or any event requiring an adjustment to the Exchange Rate where the Ex-Dividend Date, Effective Date (as such term is used in Section 15.04) or expiration date of the event occurs during such five consecutive Trading Day period.

(d) The Stock Prices set forth in the column headings of the table below shall be adjusted as of any date on which the Exchange Rate of the Notes is otherwise adjusted. 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 Exchange Rate immediately prior to such adjustment giving rise to the Stock Price adjustment and the denominator of which is the Exchange Rate as so adjusted. The number of Additional Shares set forth in the table below shall be adjusted in the same manner and at the same time as the Exchange Rate as set forth in Section 15.04.

(e) The following table sets forth the number of Additional Shares of Common Stock by which the Exchange Rate shall be increased per \$1,000 principal amount of Notes pursuant to this Section 15.03 for each Stock Price and Effective Date set forth below:

Effective Date	Stock Price											
	\$10.58	\$11.00	\$12.00	\$13.00	\$14.02	\$15.00	\$17.50	\$20.00	\$25.00	\$30.00	\$50.00	\$100.00
December 12, 2016	23.1837	21.8073	18.9850	16.6754	14.7240	13.1493	10.0937	7.9625	5.2480	3.6393	1.0228	0.0000
January 31, 2018	23.1837	21.5145	18.5742	16.1862	14.1840	12.5813	9.5086	7.4030	4.7788	3.2623	0.8784	0.0000
January 31, 2019	23.1837	21.2727	18.1717	15.6754	13.6034	11.9600	8.8583	6.7800	4.2620	2.8543	0.7296	0.0000
January 31, 2020	23.1837	21.0500	17.7267	15.0831	12.9151	11.2167	8.0771	6.0375	3.6632	2.3953	0.5792	0.0000
January 31, 2021	23.1837	20.7691	17.1383	14.2931	11.9964	10.2293	7.0600	5.0945	2.9404	1.8667	0.4288	0.0000
January 31, 2022	23.1837	20.3045	16.2250	13.0915	10.6255	8.7793	5.6331	3.8325	2.0532	1.2617	0.2804	0.0000
January 31, 2023	23.1837	19.5409	14.6658	11.0377	8.3153	6.3960	3.4851	2.1085	1.0188	0.6207	0.1416	0.0000
January 31, 2024	23.1837	19.1527	11.9075	5.5885	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact Stock Prices and Effective Dates may not be set forth in the table above, in which case:

(i) if the Stock Price is between two Stock Prices in the table above or the 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 Prices and the earlier and later Effective Dates, as applicable, based on a 365-day year;

(ii) if the Stock Price is greater than \$100.00 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above pursuant to subsection (d) above), no Additional Shares shall be added to the Exchange Rate; and

(iii) if the Stock Price is less than \$10.58 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above pursuant to subsection (d) above), no Additional Shares shall be added to the Exchange Rate.

Notwithstanding the foregoing, in no event shall the Exchange Rate per \$1,000 principal amount of Notes exceed 94.5180 shares of Common Stock, subject to adjustment in the same manner as the Exchange Rate pursuant to Section 15.04.

(f) Nothing in this Section 15.03 shall prevent an adjustment to the Exchange Rate pursuant to Section 15.04 in respect of a Make-Whole Fundamental Change.

(g) For the avoidance of doubt, if a Holder exchanges its Notes prior to the Effective Date of a Make-Whole Fundamental Change, then, whether or not such Make-Whole Fundamental Change occurs, the Holder shall not be entitled to an increased Exchange Rate in connection with such Make-Whole Fundamental Change.

Section 15.04 *Adjustment of Exchange Rate*. The Exchange Rate shall be adjusted from time to time by the Guarantor if any of the following events occurs, except that the Guarantor shall not make any adjustments to the Exchange Rate if Holders of the Notes have the right to participate (other than in the case of (x) a share split or share combination or (y) a tender or exchange offer), at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Notes, in any of the transactions described in this Section 15.04, without having to exchange their Notes, as if they held a number of shares of Common Stock equal to the Exchange Rate in effect immediately prior to the effective time for such adjustment, multiplied by the principal amount (expressed in thousands) of Notes held by such Holder.

(a) If the Guarantor exclusively issues shares of Common Stock as a dividend or distribution on shares of the Common Stock, or if the Guarantor effects a share split or share combination, the Exchange Rate shall be adjusted based on the following formula:

$$ER' = ER_0 \times \frac{OS'}{OS_0}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date of such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split or share combination, as applicable;

ER' = the Exchange Rate in effect immediately after the open of business on such Ex-Dividend Date or Effective Date, as applicable;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the open of business on such Ex-Dividend Date or Effective Date, as applicable; and

OS' = the number of shares of Common Stock that would be outstanding immediately prior to the open of business on such Ex-Dividend Date or the Effective Date after giving effect to such dividend, distribution, share split or share combination.

Any adjustment made under this Section 15.04(a) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately after the open of business on the Effective Date for such share split or share combination, as applicable. If any dividend or distribution of the type described in this Section 15.04(a) is declared but not so paid or made, the Exchange Rate shall be immediately readjusted, effective as of the date the Guarantor's Board of Directors determines not to pay such dividend or distribution, to the Exchange Rate that would then be in effect if such dividend or distribution had not been declared.

(b) If the Guarantor issues to all or substantially all holders of the Common Stock any rights, options or warrants (other than in connection with a shareholder rights plan) entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of the Common Stock at a price per share that is less than the average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, the Exchange Rate shall be increased based on the following formula:

$$ER' = ER_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

ER₀ = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such issuance;

ER' = the Exchange Rate in effect immediately after the open of business on such Ex-Dividend Date;

OS₀ = the number of shares of Common Stock outstanding immediately prior to the open of business on such Ex-Dividend Date;

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

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants, *divided by* the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of the issuance of such rights, options or warrants.

Any increase made under this Section 15.04(b) shall be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the open of business on the Ex-Dividend Date for such issuance. To the extent that shares of the Common Stock are not delivered after the expiration of such rights, options or warrants, the Exchange Rate shall be decreased to be the Exchange Rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so issued, the Exchange Rate shall be decreased to the Exchange Rate that would then be in effect if such Ex-Dividend Date for such issuance had not occurred.

For purposes of this Section 15.04(b) and for the purpose of Section 15.01(b)(ii)(A), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the Common Stock at less than such average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken

into account any consideration received by the Guarantor for such rights, options or warrants and any amount payable on exercise or exchange thereof, the value of such consideration, if other than cash, to be determined by the Guarantor's Board of Directors.

(c) If the Guarantor distributes shares of its Capital Stock, evidences of its indebtedness, other assets or property of the Guarantor or rights, options or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of the Common Stock, excluding (i) dividends, distributions or issuances as to which an adjustment was effected pursuant to Section 15.04(a) or Section 15.04(b), (ii) dividends or distributions paid exclusively in cash as to which an adjustment was effected pursuant to Section 15.04(d), and (iii) Spin-Offs as to which the provisions set forth below in this Section 15.04(c) shall apply (any of such shares of Capital Stock, evidences of indebtedness, other assets or property or rights, options or warrants to acquire Capital Stock or other securities, the "**Distributed Property**"), then the Exchange Rate shall be increased based on the following formula:

$$ER' = ER_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

ER₀ = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

ER' = the Exchange Rate in effect immediately after the open of business on such Ex-Dividend Date;

SP₀ = the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined by the Guarantor's Board of Directors) of the Distributed Property with respect to each outstanding share of the Common Stock on the Ex-Dividend Date for such distribution.

Any increase made under the portion of this Section 15.04(c) above shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Exchange Rate shall be decreased to the Exchange Rate that would then be in effect if such distribution had not been declared. Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP₀" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, in respect of each \$1,000 principal amount thereof, at the same time and upon the same terms as holders of the Common Stock receive the Distributed Property, the amount and kind of Distributed Property such Holder would have received if such Holder owned a number of shares of Common Stock equal to the Exchange Rate in effect on the Ex-Dividend Date for the distribution.

With respect to an adjustment pursuant to this Section 15.04(c) where there has been a payment of a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit

of the Guarantor, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange (a “**Spin-Off**”), the Exchange Rate shall be increased based on the following formula:

$$ER' = ER_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

ER₀ = the Exchange Rate in effect immediately prior to the end of the Valuation Period;

ER' = the Exchange Rate in effect immediately after the end of the Valuation Period;

FMV₀ = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock (determined by reference to the definition of Last Reported Sale Price as set forth in Section 1.01 as if references therein to Common Stock were to such Capital Stock or similar equity interest) over the first 10 consecutive Trading Day period after, and including, the Ex-Dividend Date of the Spin-Off (the “**Valuation Period**”); and

MP₀ = the average of the Last Reported Sale Prices of the Common Stock over the Valuation Period.

The increase to the Exchange Rate under the preceding paragraph shall occur at the close of business on the last Trading Day of the Valuation Period; *provided that* (x) in respect of any exchange of Notes for which Physical Settlement is applicable, if the relevant Exchange Date occurs during the Valuation Period, references to “10” in the preceding paragraph shall be deemed to be replaced with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date of such Spin-Off to, and including, the Exchange Date in determining the Exchange Rate and (y) in respect of any exchange of Notes for which Cash Settlement or Combination Settlement is applicable, for any Trading Day that falls within the relevant Observation Period for such exchange and within the Valuation Period, references to “10” in the preceding paragraph shall be deemed to be replaced with such lesser number of Trading Days as have elapsed between the Ex-Dividend Date of such Spin-Off and such Trading Day in determining the Exchange Rate as of such Trading Day. If the Ex-Dividend Date of the Spin-Off is after the 10th Trading Day immediately preceding, and including, the end of any Observation Period in respect of an exchange of Notes, references to “10” or “10th” in the preceding paragraph and this paragraph shall be deemed to be replaced, solely in respect of that exchange of Notes, with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date for the Spin-Off to, and including, the last Trading Day of such Observation Period.

For purposes of this Section 15.04(c) (and subject in all respect to Section 15.11), rights, options or warrants distributed by the Guarantor to all holders of the Common Stock entitling them to subscribe for or purchase shares of the Guarantor’s Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the

occurrence of a specified event or events (“ **Trigger Event** ”): (i) are deemed to be transferred with such shares of the Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this Section 15.04(c) (and no adjustment to the Exchange Rate under this Section 15.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Exchange Rate shall be made under this Section 15.04(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights, options 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 Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Exchange Rate under this Section 15.04(c) was made, (1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Exchange Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Exchange Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Exchange Rate shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 15.04(a), Section 15.04(b) and this Section 15.04(c), if any dividend or distribution to which this Section 15.04(c) is applicable also includes one or both of:

- (A) a dividend or distribution of shares of Common Stock to which Section 15.04(a) is applicable (the “ **Clause A Distribution** ”); or
- (B) a dividend or distribution of rights, options or warrants to which Section 15.04(b) is applicable (the “ **Clause B Distribution** ”),

then, in either case, (1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 15.04(c) is applicable (the “ **Clause C Distribution** ”) and any Exchange Rate adjustment required by this Section 15.04(c) with respect to such Clause C Distribution shall then be made, and (2) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Exchange Rate adjustment required by Section 15.04(a) and Section 15.04(b) with respect thereto shall then be made, except that, if determined by the Guarantor (1) the “Ex-Dividend Date” of the Clause A Distribution and the Clause B

Distribution shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (II) any shares of Common Stock included in the Clause A Distribution or Clause B Distribution shall be deemed not to be “outstanding immediately prior to the open of business on such Ex-Dividend Date or Effective Date” within the meaning of Section 15.04(a) or “outstanding immediately prior to the open of business on such Ex-Dividend Date” within the meaning of Section 15.04(b).

(d) If any cash dividend or distribution is made to all or substantially all holders of the Common Stock, other than a regular, quarterly cash dividend that does not exceed \$0.01 per share (the “**Initial Dividend Threshold**”), the Exchange Rate shall be adjusted based on the following formula:

$$ER' = ER_0 \times \frac{SP_0 - T}{SP_0 - C}$$

where,

ER₀ = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution;

ER' = the Exchange Rate in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution;

SP₀ = the Last Reported Sale Price of the Common Stock on the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution;

T = the Initial Dividend Threshold; *provided* that if the dividend or distribution is not a regular quarterly cash dividend, the Initial Dividend Threshold shall be deemed to be zero; and

C = the amount in cash per share the Guarantor distributes to all or substantially all holders of the Common Stock.

The Initial Dividend Threshold shall be subject to adjustment in a manner inversely proportional to adjustments to the Exchange Rate; *provided* that no adjustment shall be made to the Initial Dividend Threshold for any adjustment to the Exchange Rate pursuant to this Section 15.04(d).

Any increase pursuant to this Section 15.04(d) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution. If such dividend or distribution is not so paid, the Exchange Rate shall be decreased, effective as of the date the Guarantor's Board of Directors determines not to make or pay such dividend or distribution, to be the Exchange Rate that would then be in effect if such dividend or distribution had not been declared. Notwithstanding the foregoing, if “C” (as defined above) is equal to or greater than “SP₀” (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, for each \$1,000 principal amount of Notes, at the same time and upon the same terms as holders of shares of the Common Stock, the amount of cash that such Holder would have received if

such Holder owned a number of shares of Common Stock equal to the Exchange Rate on the Ex-Dividend Date for such cash dividend or distribution.

(e) If the Guarantor or any of its Subsidiaries make a payment in respect of a tender offer (which for the avoidance of doubt shall not include any open market buybacks or purchases that are not tender offers) or exchange offer for the Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the average of the Daily VWAP of the Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Exchange Rate shall be increased based on the following formula:

$$ER' = ER_0 \times \frac{AC + (SP' \times OS')}{OS_0 \times SP'}$$

where,

ER₀ = the Exchange Rate in effect immediately prior to the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

ER' = the Exchange Rate in effect immediately after the close of business on the 10th Trading Day immediately following, and including, 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 by the Guarantor's Board of Directors) paid or payable for shares of Common Stock purchased or exchanged in such tender or exchange offer;

OS₀ = the number of shares of Common Stock outstanding immediately prior to the date such tender or exchange offer expires (prior to giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in 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 of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP' = the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires.

The increase to the Exchange Rate under this Section 15.04(e) shall occur at the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires; *provided* that (x) in respect of any exchange of Notes for which Physical Settlement is applicable, if the relevant Exchange Date occurs during the 10 Trading Days immediately following, and including, the Trading Day next succeeding the expiration date of any tender or exchange offer, references to "10" or "10th" in the preceding paragraph shall be deemed replaced with such lesser number of Trading Days as

have elapsed between the date that such tender or exchange offer expires and the Exchange Date in determining the Exchange Rate and (y) in respect of any exchange of Notes for which Cash Settlement or Combination Settlement is applicable, for any Trading Day that falls within the relevant Observation Period for such exchange and within the 10 Trading Days immediately following, and including, the Trading Day next succeeding the expiration date of any tender or exchange offer, references to “10” or “10th” in the preceding paragraph shall be deemed replaced with such lesser number of Trading Days as have elapsed between the expiration date of such tender or exchange offer and such Trading Day in determining the Exchange Rate as of such Trading Day. In addition, if the Trading Day next succeeding the date such tender or exchange offer expires is after the 10th Trading Day immediately preceding, and including, the end of any Observation Period in respect of an exchange of Notes, references to “10” or “10th” in the preceding paragraph and this paragraph shall be deemed to be replaced, solely in respect of that exchange of Notes, with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the date such tender or exchange offer expires to, and including, the last Trading Day of such Observation Period. For the avoidance of doubt, for purposes of this subsection (e), the term “tender offer” is used as such term is used in the Exchange Act and the term “exchange offer” means an exchange offer that constitutes a tender offer.

(f) Notwithstanding this Section 15.04 or any other provision of this Indenture or the Notes, if an Exchange Rate adjustment becomes effective on any Ex-Dividend Date, and a Holder that has exchanged its Notes on or after such Ex-Dividend Date and on or prior to the related Record Date would be treated as the record holder of the shares of Common Stock as of the related Exchange Date as described under Section 15.02(i) based on an adjusted Exchange Rate for such Ex-Dividend Date, then, notwithstanding the Exchange Rate adjustment provisions in this Section 15.04, the Exchange Rate adjustment relating to such Ex-Dividend Date shall not be made for such exchanging Holder. Instead, such Holder shall be treated as if such Holder were the record owner of the shares of Common Stock on an unadjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

(g) Except as stated herein, the Guarantor shall not adjust the Exchange Rate for the issuance of shares of the Common Stock or any securities convertible into or exchangeable for shares of the Common Stock or the right to purchase shares of the Common Stock or such convertible or exchangeable securities.

(h) In addition to those adjustments required by clauses (a), (b), (c), (d) and (e) of this Section 15.04, and to the extent permitted by applicable law and subject to the applicable rules of any exchange on which any of the Guarantor’s securities are then listed, the Guarantor from time to time may increase the Exchange Rate by any amount for a period of at least 20 Business Days if the Guarantor’s Board of Directors determines that such increase would be in the Guarantor’s best interest. In addition, to the extent permitted by applicable law and subject to the applicable rules of any exchange on which any of the Guarantor’s securities are then listed, the Guarantor may (but is not required to) increase the Exchange Rate to avoid or diminish any income tax to holders of Common Stock or rights to purchase Common Stock in connection with a dividend or distribution of shares of Common Stock (or rights to acquire shares of Common Stock) or similar event. Whenever the Exchange Rate is increased pursuant to either of the preceding two sentences, the Company shall deliver to the Holder of each Note a notice of the increase at least

15 days prior to the date the increased Exchange Rate takes effect, and such notice shall state the increased Exchange Rate and the period during which it will be in effect.

(i) Notwithstanding anything to the contrary in this Article 15, the Exchange Rate shall not be adjusted:

(i) unless the adjustment would result in a change in the Exchange Rate of at least 1%; *provided, however*, that any adjustment which by reason of the foregoing is not required to be made shall be carried forward and taken into account in any future adjustment and such carried forward adjustment shall be made, regardless of whether the aggregate adjustment is less than 1%, (i) in the case of any Note which Physical Settlement applies, on the Exchange Date for such Notes and (ii) in the case of any Note which Cash Settlement or Combination Settlement applies, on each Trading Day of each applicable Observation Period;

(ii) 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 the Guarantor's securities and the investment of additional optional amounts in shares of Common Stock under any such plan;

(iii) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit, compensation or stock purchase plan or program of or assumed by the Guarantor or any of the Guarantor's Subsidiaries;

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

(v) upon the repurchase of any shares of Common Stock pursuant to an open-market share repurchase program or other buyback transaction that is not a tender offer or exchange offer of the nature described in Section 15.04(e);

(vi) solely for a change in the nominal value of the Common Stock; or

(vii) for accrued and unpaid interest, if any.

(j) All calculations and other determinations under this Article 15 shall be made by the Guarantor and shall be made to the nearest one-ten thousandth (1/10,000th) of a share.

(k) Whenever the Exchange Rate is adjusted as herein provided, the Guarantor shall promptly deliver to the Trustee (and the Exchange Agent if not the Trustee) an Officers' Certificate setting forth the Exchange 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 Officers' Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Exchange Rate and may assume without inquiry that the last Exchange Rate of which it has knowledge is still in effect. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(l) For purposes of this Section 15.04, the number of shares of Common Stock at any time outstanding shall not include shares of Common Stock held in the treasury of the Guarantor so long as the Guarantor does not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Guarantor, but shall include shares of Common Stock issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

Section 15.05 *Adjustments of Prices* . Whenever any provision of this Indenture requires the Guarantor to calculate the Last Reported Sale Prices, the Daily VWAPs, the Daily Exchange Values or the Daily Settlement Amounts over a span of multiple days (including, without limitation, an Observation Period and the period for determining the Stock Price for purposes of a Make-Whole Fundamental Change), the Guarantor’s Board of Directors shall make appropriate adjustments to each to account for any adjustment to the Exchange Rate that becomes effective, or any event requiring an adjustment to the Exchange Rate where the Ex-Dividend Date, Effective Date or expiration date, as the case may be, of the event occurs, at any time during the period when the Last Reported Sale Prices, the Daily VWAPs, the Daily Exchange Values or the Daily Settlement Amounts are to be calculated.

Section 15.06 *Reserved*

Section 15.07 *Effect of Recapitalizations, Reclassifications and Changes of the Common Stock* .

(a) In the case of:

(i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a change in par value, or a subdivision or combination),

(ii) any consolidation, merger or combination involving the Guarantor,

(iii) any sale, lease or other transfer to a third party of the consolidated assets of the Guarantor and the Guarantor’s Subsidiaries substantially as an entirety or

(iv) any statutory share exchange,

in each case, as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a “ **Share Exchange Event** ”), then, at and after the effective time of such Share Exchange Event, the right to exchange each \$1,000 principal amount of Notes shall be changed into a right to exchange such principal amount of Notes into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock equal to the Exchange Rate immediately prior to such Share Exchange Event would have owned or been entitled to receive (the “ **Reference Property** ,” with each “ **unit of Reference Property** ” meaning the kind and amount of Reference Property that a holder of one share of Common Stock is entitled to receive) upon such Share Exchange Event and, prior to or at the effective time of such Share Exchange Event, the Company or the successor or purchasing Person, as the case may be, and the Guarantor shall execute with the Trustee a supplemental indenture permitted under Section 11.01(j) providing for

such change in the right to exchange each \$1,000 principal amount of Notes; *provided, however*, that at and after the effective time of the Share Exchange Event (A) the Guarantor shall continue to have the right to determine the form of consideration to be paid or delivered, as the case may be, upon exchange of Notes in accordance with Section 15.02 and (B) (I) any amount payable in cash upon exchange of the Notes in accordance with Section 15.02 shall continue to be payable in cash, (II) any shares of Common Stock that the Guarantor would have been required to deliver upon exchange of the Notes in accordance with Section 15.02 shall instead be deliverable in the amount and type of Reference Property that a holder of that number of shares of Common Stock would have been entitled to receive in such Share Exchange Event and (III) the Daily VWAP shall be calculated based on the value of a unit of Reference Property that a holder of one share of Common Stock would have received in such Share Exchange Event.

If the Share Exchange Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of shareholder election), then (i) the Reference Property into which the Notes will be exchangeable or used to calculate the Daily VWAP, as the case may be, shall be deemed to be (x) the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election or (y) if no holders of Common Stock affirmatively make such an election, the types and amounts of consideration actually received by the holders of Common Stock, and (ii) the unit of Reference Property for purposes of the immediately preceding paragraph shall refer to the consideration referred to in clause (i) attributable to one share of Common Stock. If the holders of the Common Stock receive only cash in such Share Exchange Event, then for all exchanges for which the relevant Exchange Date occurs after the effective date of such Share Exchange Event (A) the consideration due upon exchange of each \$1,000 principal amount of Notes shall be solely cash in an amount equal to the Exchange Rate in effect on the effective date of such Share Exchange Event (as may be increased by any Additional Shares pursuant to Section 15.03), *multiplied by* the price paid per share of Common Stock in such Share Exchange Event and (B) the Guarantor shall satisfy the Exchange Obligation by paying cash to exchanging Holders on the third Business Day immediately following the relevant Exchange Date. The Guarantor shall notify Holders, the Trustee and the Exchange Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

To the extent that the Notes become exchangeable into the right to receive cash pursuant to this Section 15.07, interest will not accrue on such cash.

Such supplemental indenture described in the second immediately preceding paragraph shall provide for anti-dilution and other adjustments that shall be as nearly equivalent as is possible to the adjustments provided for in this Article 15. If, in the case of any Share Exchange Event, the Reference Property includes shares of stock, securities or other property or assets (including cash or any combination thereof) of a Person other than the Guarantor or the successor or purchasing Person, as the case may be, in such Share Exchange Event, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Guarantor's Board of Directors shall reasonably consider necessary by reason of the foregoing, including the provisions providing for the purchase rights set forth in Article 16.

(b) When the Company and the Guarantor executes a supplemental indenture pursuant to subsection (a) of this Section 15.07, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of cash, securities or property or asset that will comprise a unit of Reference Property after any such Share Exchange Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with, and shall promptly deliver notice thereof to all Holders. The Company shall cause notice of the execution of such supplemental indenture to be delivered to each Holder within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

(c) Neither the Company nor the Guarantor shall become a party to any Share Exchange Event unless its terms are consistent with this Section 15.07. None of the foregoing provisions shall affect the right of a holder of Notes to exchange its Notes into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, as set forth in Section 15.01 and Section 15.02 prior to the effective date of such Share Exchange Event.

(d) The above provisions of this Section 15.07 shall similarly apply to successive Share Exchange Events.

(e) In connection with any Share Exchange Event, the Initial Dividend Threshold shall be subject to adjustment as described in clause (i), clause (ii) or clause (iii) below, as the case may be.

(i) In the case of a Share Exchange Event in which the Reference Property (determined, as appropriate, pursuant to subsection (a) above and excluding any dissenters' appraisal rights) is composed entirely of shares of Common Equity (the "**Merger Common Stock**"), the Initial Dividend Threshold at and after the effective time of such Share Exchange Event will be equal to (x) the Initial Dividend Threshold immediately prior to the effective time of such Share Exchange Event, *divided by* (y) the number of shares of Merger Common Stock that a holder of one share of Common Stock would receive in such Share Exchange Event (such quotient rounded up to the nearest cent).

(ii) In the case of a Share Exchange Event in which the Reference Property (determined, as appropriate, pursuant to subsection (a) above and excluding any dissenters' appraisal rights) is composed in part of shares of Merger Common Stock, the Initial Dividend Threshold at and after the effective time of such Share Exchange Event will be equal to (x) the Initial Dividend Threshold immediately prior to the effective time of such Share Exchange Event, *multiplied by* (y) the Merger Valuation Percentage for such Share Exchange Event (such product rounded up to the nearest cent).

(iii) For the avoidance of doubt, in the case of a Share Exchange Event in which the Reference Property (determined, as appropriate, pursuant to subsection (a) above and excluding any dissenters' appraisal rights) is composed entirely of consideration other than shares of Common Equity, the Initial Dividend Threshold at and after the effective time of such Share Exchange Event will be equal to zero.

(a) The Guarantor covenants that all shares of Common Stock issued upon exchange of Notes will be fully paid and non-assessable by the Guarantor and free from all taxes, liens and charges with respect to the issue thereof.

(b) The Guarantor covenants that, if any shares of Common Stock to be provided for the purpose of exchange of Notes hereunder require registration with or approval of any governmental authority under any federal or state law before such shares of Common Stock may be validly issued upon exchange, the Guarantor will, to the extent then permitted by the rules and interpretations of the Commission, secure such registration or approval, as the case may be.

(c) The Guarantor further covenants that if at any time the Common Stock shall be listed on any national securities exchange or automated quotation system the Guarantor will list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, any Common Stock issuable upon exchange of the Notes.

Section 15.09 *Responsibility of Trustee* . The Trustee and any other Exchange Agent shall not at any time be under any duty or responsibility to any Holder to determine the Exchange Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Exchange 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 Exchange 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, property or cash that may at any time be issued or delivered upon the exchange of any Note; and the Trustee and any other Exchange Agent make no representations with respect thereto. Neither the Trustee nor any Exchange Agent shall be responsible for any failure of the Company or Guarantor 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 Note for the purpose of Exchange or to comply with any of the duties, responsibilities or covenants of the Company or Guarantor contained in this Article 15. Without limiting the generality of the foregoing, neither the Trustee nor any Exchange Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 15.07 relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the exchange of their Notes after any event referred to in such Section 15.07 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 8.01, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officers' Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto. Neither the Trustee nor the Exchange Agent shall be responsible for determining whether any event contemplated by Section 15.01(b) has occurred that makes the Notes eligible for exchange or no longer eligible therefor until the Company has delivered to the Trustee and the Exchange Agent the notices referred to in Section 15.01(b) with respect to the commencement or termination of such exchange rights, on which notices the Trustee and the Exchange Agent may conclusively rely, and the Company agrees to deliver such

notices to the Trustee and the Exchange Agent immediately after the occurrence of any such event or at such other times as shall be provided for in Section 15.01(b).

Section 15.10 *Notice to Holders Prior to Certain Actions* . In case of any:

- (a) action by the Guarantor or one of its Subsidiaries that would require an adjustment in the Exchange Rate pursuant to Section 15.04 or Section 15.11;
- (b) Share Exchange Event; or
- (c) voluntary or involuntary dissolution, liquidation or winding-up of the Guarantor or any of its Subsidiaries;

then, in each case (unless notice of such event is otherwise required pursuant to another provision of this Indenture), the Company or the Guarantor shall cause to be filed with the Trustee and the Exchange Agent (if other than the Trustee) and to be delivered to each Holder, as promptly as possible but in any event at least 20 days prior to the applicable date hereinafter specified, a notice stating (i) the date on which a record is to be taken for the purpose of such action by the Guarantor or one of its Subsidiaries or, if a record is not to be taken, the date as of which the holders of Common Stock of record are to be determined for the purposes of such action by the Guarantor or one of its Subsidiaries, or (ii) the date on which such Share Exchange Event, 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 Share Exchange Event, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such action by the Guarantor or one of its Subsidiaries, Share Exchange Event, dissolution, liquidation or winding-up.

Section 15.11 *Stockholder Rights Plans* . If the Guarantor has a stockholder rights plan in effect upon exchange of the Notes, each share of Common Stock, if any, issued upon such exchange shall be entitled to receive the appropriate number of rights, if any, and the certificates representing the Common Stock issued upon such exchange shall bear such legends, if any, in each case as may be provided by the terms of any such stockholder rights plan, as the same may be amended from time to time. However, if, prior to any exchange of Notes, the rights have separated from the shares of Common Stock in accordance with the provisions of the applicable stockholder rights plan, the Exchange Rate shall be adjusted at the time of separation as if the Guarantor distributed to all or substantially all holders of the Common Stock Distributed Property as provided in Section 15.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights. For the avoidance of doubt, no adjustment shall be made to the Exchange Rate in connection with a dividend or distribution in respect of a stockholder rights plan except as set forth in this Section 15.11.

Section 15.12 *Limit of Issuance of Shares of Common Stock Upon Exchange* . Notwithstanding anything to the contrary in this Indenture, unless and until the Guarantor obtains, in accordance with the listing standards of The New York Stock Exchange, the shareholder approval to issue upon exchange of the Notes more than 19.9995% of the number of shares of

Common Stock outstanding as of December 6, 2016, the number of shares of Common Stock, if any, deliverable upon exchange of the Notes shall not exceed the Exchange Share Cap.

In addition, under UK law, the Guarantor must have an existing or obtain new shareholder authority to allot shares of Common Stock. The number of shares of Common Stock, if any, deliverable upon exchange of the Notes may not exceed the number of shares of Common Stock authorized by the Guarantor's shareholders to be issued and allotted by the Guarantor's Board of Directors, and not previously used by the Guarantor's Board of Directors, at the time of the exchange (the "**Allotment Share Cap**").

If the number of shares of Common Stock deliverable to settle an exchange of Notes would exceed the Exchange Share Cap or the Allotment Share Cap, the Guarantor shall pay cash in lieu of delivering any shares of Common Stock in excess of the Exchange Share Cap or the Allotment Share Cap, as applicable, equal to the number of such excess shares multiplied by the average of the Daily VWAP on each Trading Day of the Observation Period that applies to such exchange (or, if the Guarantor has selected Physical Settlement, the Observation Period that would have applied had the Guarantor selected Combination Settlement).

ARTICLE 16

Repurchase of Notes Upon a Fundamental Change

Section 16.01 *Intentionally Omitted*.

Section 16.02 *Repurchase at Option of Holders Upon a Fundamental Change*.

(a) If a Fundamental Change occurs at any time, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes, or any portion of the principal amount thereof that is equal to \$1,000 or an integral multiple of \$1,000, on the date (the "**Fundamental Change Repurchase Date**") specified by the Company that is not less than 20 calendar days nor more than 35 calendar days following the date of the Fundamental Change Company Notice at a repurchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, thereon to, but excluding, the Fundamental Change Repurchase Date (the "**Fundamental Change Repurchase Price**"), unless the Fundamental Change Repurchase Date falls after a Regular Record Date but on or prior to the Interest Payment Date to which such Regular Record Date relates, in which case the Company shall instead pay the full amount of accrued and unpaid interest to Holders of record as of such Regular Record Date, and the Fundamental Change Repurchase Price shall be equal to 100% of the principal amount of Notes to be repurchased pursuant to this Article 16.

(b) Repurchases of Notes under this Section 16.02 shall be made, at the option of the Holder thereof, upon:

(i) delivery to the Paying Agent by a Holder of a duly completed notice (the "**Fundamental Change Repurchase Notice**") in the form set forth in Attachment 2 to the Form of Note attached hereto as Exhibit A, if the Notes are Physical Notes, or in compliance with the Depository's procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case on or before the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date; and

(ii) delivery of the Notes, if the Notes are Physical Notes, to the Paying Agent at any time after delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements for transfer) at the Corporate Trust Office of the Paying Agent, or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the procedures of the Depository, in each case such delivery being a condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor.

The Fundamental Change Repurchase Notice in respect of any Notes to be repurchased shall state:

- (i) in the case of Physical Notes, the certificate numbers of the Notes to be delivered for repurchase;
- (ii) the portion of the principal amount of Notes to be repurchased, which must be \$1,000 or an integral multiple thereof; and
- (iii) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture;

provided, however, that if the Notes are Global Notes, the Fundamental Change Repurchase Notice must comply with appropriate Depository procedures.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 16.02 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 16.03.

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

(c) On or before the 20th calendar day after the occurrence of the effective date of a Fundamental Change, the Company shall provide to all Holders of Notes and the Trustee and the Paying Agent (in the case of a Paying Agent other than the Trustee) a notice (the “**Fundamental Change Company Notice**”) of the occurrence of the effective date of the Fundamental Change and of the resulting repurchase right at the option of the Holders arising as a result thereof. In the case of Physical Notes, such notice shall be by first class mail or, in the case of Global Notes, such notice shall be delivered in accordance with the applicable procedures of the Depository. Simultaneously with providing such notice, the Company or the Guarantor shall publish a notice containing the information set forth in the Fundamental Change Company Notice in a newspaper of general circulation in The City of New York or publish such information on the Guarantor’s website or through such other public medium as the Guarantor may use at that time. Each Fundamental Change Company Notice shall specify:

- (i) the events causing the Fundamental Change;
- (ii) the date of the Fundamental Change;

- (iii) the last date on which a Holder may exercise the repurchase right pursuant to this Article 16;
- (iv) the Fundamental Change Repurchase Price;
- (v) the Fundamental Change Repurchase Date;
- (vi) the name and address of the Paying Agent and the Exchange Agent, if applicable;
- (vii) if applicable, the Exchange Rate and any adjustments to the Exchange Rate;
- (viii) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be exchanged only if the Holder withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Indenture; and
- (ix) the procedures that Holders must follow to require the Company to repurchase their Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 16.02.

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

(d) Notwithstanding the foregoing, no Notes may be repurchased by the Company on any date at the option of the Holders upon a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes). The Paying Agent will promptly return to the respective Holders thereof any Physical Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes), or any instructions for book-entry transfer of the Notes in compliance with the procedures of the Depository shall be deemed to have been cancelled, and, upon such return or cancellation, as the case may be, the Fundamental Change Repurchase Notice with respect thereto shall be deemed to have been withdrawn.

Section 16.03 *Withdrawal of Fundamental Change Repurchase Notice*. A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Corporate Trust Office of the Paying Agent in accordance with this Section 16.03 at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date, specifying:

- (a) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted,
- (b) if Physical Notes have been issued, the certificate number of the Note in respect of which such notice of withdrawal is being submitted, and
- (c) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amounts of \$1,000 or an integral multiple of \$1,000;

provided, however, that if the Notes are Global Notes, the notice must comply with appropriate procedures of the Depositary.

Section 16.04 *Deposit of Fundamental Change Repurchase Price*.

(a) The Company will deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04) on or prior to 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Fundamental Change Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not withdrawn prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date) will be made on the later of (i) the Fundamental Change Repurchase Date (provided the Holder has satisfied the conditions in Section 16.02) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 16.02 by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Note Register; provided, however, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Repurchase Price.

(b) If by 11:00 a.m. New York City time, on the Fundamental Change Repurchase Date, the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to make payment on all the Notes or portions thereof that are to be repurchased on such Fundamental Change Repurchase Date, then, with respect to the Notes that have been properly surrendered for repurchase and have not been validly withdrawn, (i) such Notes will cease to be outstanding, (ii) interest will cease to accrue on such Notes (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or Paying Agent) and (iii) all other rights of the Holders of such Notes will terminate (other than the right to receive the Fundamental Change Repurchase Price and, if applicable, accrued and unpaid interest).

(c) Upon surrender of a Note that is to be repurchased in part pursuant to Section 16.02, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Note in an authorized denomination equal in principal amount to the unreurchased portion of the Note surrendered.

Section 16.05 *Covenant to Comply with Applicable Laws Upon Repurchase of Notes* . (a) In connection with any repurchase offer pursuant to a Fundamental Change Repurchase Notice, the Company and the Guarantor will, if required:

- (i) comply with the provisions of the tender offer rules under the Exchange Act that may then be applicable; and
- (ii) file a Schedule TO or any other required schedule under the Exchange Act.

in each case, so as to permit the rights and obligations under this Article 16 to be exercised in the time and in the manner specified in this Article 16.

(b) Notwithstanding anything to the contrary in this Indenture, to the extent that, as a result of any change in any federal or state securities laws or other applicable laws or regulations, compliance with this Article 16 would result in a violation of any such federal or state securities law or other applicable laws or regulations, the Company will comply with its obligations to offer to repurchase the Notes upon a Fundamental Change in a manner that also complies with the applicable securities laws and regulations and will not be deemed to have breached its obligations as set forth in this Article 16 by virtue of such conflict.

ARTICLE 17 **Redemption For a Change in Tax Law**

Section 17.01 *Optional Redemption for Changes in the Tax Laws of the Relevant Taxing Jurisdictions* . (a) The Company may redeem the Notes, in whole but not in part, at the Company's option upon giving not less than 45 nor more than 60 Scheduled Trading Days' prior written notice to the Trustee and the Holders of the Notes at a Redemption Price equal to 100% of the aggregate principal amount to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the Redemption Date (unless the Redemption Date falls after a Regular Record Date but on or prior to the immediately succeeding Interest Payment Date, in which case the Company will pay the full amount of accrued and unpaid interest, if any, to the Holder of record as of the close of business on such Regular Record Date, and the Redemption Price will be equal to 100% of the principal amount of the Notes to be redeemed) if on the next date on which any amount would be payable in respect of the Notes, the Company or the Guarantor would be required to pay any Additional Amounts, and the Company cannot avoid any such payment obligation by taking reasonable measures available to the Company as a result of:

- (i) Any amendment to, or change in, the laws, Tax treaties, or any regulation or rulings promulgated thereunder of a relevant Tax Jurisdiction which is announced and becomes effective after December 6, 2016 (or, if the applicable Tax Jurisdiction becomes a Tax Jurisdiction on a date after December 6, 2016 such later date); or
- (ii) Any amendment to, or change in, an official interpretation or application regarding such laws, Tax treaties, regulations or rulings, including by virtue of a holding, judgment or order by a court of competent jurisdiction that is announced and becomes effective after December 6, 2016 (or, if the applicable Tax Jurisdiction becomes a Tax

Jurisdiction on a date after December 6, 2016 or such later date) (any such amendment or change described in clauses (i) or (ii), a “ **Change in Tax Law** ”).

(b) The Company will not give any such notice of redemption (the “ **Redemption Notice** ”) earlier than 90 days prior to the earliest date on which the Company would be obligated to pay Additional Amounts or more than 365 days after the applicable Change in Tax Law takes effect, and, at the time such Redemption Notice is given, the obligation to pay Additional Amounts must remain in effect.

(c) In addition, the Company may not specify a Redemption Date that falls on or after the 42nd Scheduled Trading Day immediately preceding the Maturity Date. The Redemption Date must be a Business Day.

(d) The election of the Company to redeem any Notes shall be evidenced by a Board Resolution from the Company’s Board of Directors.

Section 17.02 *Redemption Notice* .

(a) The Redemption Notice, if delivered in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such Redemption Notice in the manner herein provided or any defect in the Redemption Notice to the Holder of any Note designated for redemption shall not affect the validity of the proceedings for the redemption of any other Note.

(b) Each Redemption Notice shall specify:

(i) the date fixed for redemption (the “ **Redemption Date** ”);

(ii) the Redemption Price;

(iii) the place or places where such Notes are to be surrendered for payment of the Redemption Price;

(iv) that on the Redemption Date, the Redemption Price will become due and payable upon each Note to be redeemed, and that the interest thereon, if any, shall cease to accrue on and after the Redemption Date;

(v) that Holders may surrender all or any portion of their Notes for exchange at any time from the date of the Redemption Notice to the close of business on the Business Day immediately preceding the Redemption Date or, if the Company fails to pay the Redemption Price, such later date on which the Company pays the Redemption Price;

(vi) the procedures an exchanging Holder must follow to exchange its Notes and, if the Guarantor chooses to elect a Settlement Method for any such exchange, the relevant Settlement Method;

(vii) that Holders have the right to elect not to have their Notes redeemed by delivering to the Trustee written notice to that effect not later than the 15th calendar day prior to the Redemption Date;

(viii) that Holders who wish to elect not to have their Notes redeemed must satisfy the requirements set forth in this Indenture;

(ix) that, on and after the Redemption Date, Holders who elect not to have their Notes redeemed will not receive any Additional Amounts on any payments with respect to such Notes (whether upon exchange, repurchase, maturity or otherwise, and whether in cash, shares of Common Stock, a combination of cash and shares of Common Stock or otherwise), and all subsequent payments with respect to the Notes will be subject to any Tax required to be withheld or deducted under the laws of the relevant Tax Jurisdiction, *provided* that a Holder complying with the requirements for exchange described under Section 15.02 before the close of business on the Business Day immediately preceding the Redemption Date will be deemed to have validly delivered a notice of its election not to have its Notes redeemed and the Company or Guarantor, as applicable, will pay Additional Amounts with respect to such Holder's exchange of its Notes;

(x) the Exchange Rate; and

(xi) the CUSIP, ISIN or other similar numbers, if any, assigned to such Notes.

A Redemption Notice shall be irrevocable.

Section 17.03 *Payment of Notes Called for Redemption* .

(a) If any Redemption Notice has been given in respect of the Notes in accordance with Section 17.02, the Notes shall become due and payable on the Redemption Date at the place or places stated in the Redemption Notice and at the applicable Redemption Price. On presentation and surrender of the Notes at the place or places stated in the Redemption Notice, the Notes shall be paid and redeemed by the Company at the applicable Redemption Price.

(b) Prior to 10:00 a.m., New York City time, on the Redemption Date, the Company shall deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04) an amount of cash sufficient to pay the Redemption Price of all of the Notes to be redeemed on such Redemption Date. Subject to receipt of funds by the Paying Agent, payment for the Notes to be redeemed shall be made on the Redemption Date for such Notes. The Trustee (or other Paying Agent appointed by the Company) shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Redemption Price.

Section 17.04 *Holders' Right to Avoid Redemption* . Notwithstanding anything to the contrary in this Article 17, if the Company has given a Redemption Notice as described in Section 17.02, each Holder of Notes will have the right to elect that such Holder's Notes will not be subject to the redemption. If a Holder elects that its Notes will not be subject to a redemption,

neither the Guarantor nor the Company will be required to pay Additional Amounts with respect to payments made in respect of such Notes following the Redemption Date, and all subsequent payments in respect of such Notes will be subject to any Tax required to be withheld or deducted under the laws of a relevant Taxing Jurisdiction. The obligation to pay Additional Amounts to any electing Holder for payments made in periods prior to the Redemption Date shall remain subject to the exceptions set forth under Section 4.10. Holders must exercise their option to elect to avoid a redemption by written notice thereof to the Trustee no later than the 15th calendar day prior to the Redemption Date; provided that a Holder complying with the requirements for exchange pursuant to Section 15.02 before the close of business on the Business Day immediately preceding the Redemption Date shall be deemed to have validly delivered a notice of its election not to have its Notes redeemed and the Company or the Guarantor, as applicable, will pay Additional Amounts with respect to such Holder's exchange of its Notes. If no election is made or deemed to have been made, the Holder will have its Notes redeemed without any further action.

Section 17.05 *Restrictions on Redemption*. The Company may not redeem any Notes on any date if the principal amount of the Notes has been accelerated in accordance with the terms of this Indenture, and such acceleration has not been rescinded, on or prior to the Redemption Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Redemption Price with respect to such Notes).

ARTICLE 18

Miscellaneous Provisions

Section 18.01 *Provisions Binding on Company's and Guarantor's Successors*. Subject to Article 12, all the covenants, stipulations, promises and agreements of the Company and the Guarantor contained in this Indenture shall bind their respective successors and assigns whether so expressed or not.

Section 18.02 *Official Acts by Successor Person*. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or Officer of the Company or Guarantor shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation or other entity that shall at the time be the lawful sole successor of the Company or the Guarantor, as applicable.

Section 18.03 *Addresses for Notices, Etc*. Any notice or communication to the Company, the Guarantor or the Trustee shall be sufficiently given if in writing in English and delivered in person or mailed by certified or registered mail (return receipt requested), e-mail in PDF format, facsimile, telecopier or overnight courier guaranteeing next day delivery, addressed as follows:

If to the Company or the Guarantor:

Ensc o plc
6 Chesterfield Gardens
London, England W1J 5BQ
Attention: Chief Financial Officer
Facsimile: 44 0 207 409 0399

If to the Trustee:

Deutsche Bank Trust Company Americas
Trust & Agency Services
60 Wall Street, 16th Floor
Mail Stop: NYC60-1630
New York, New York 10005
Attention: Corporates team - EnSCO Jersey Finance Limited
Facsimile: (732) 578-4635

with a copy to:

Deutsche Bank Trust Company Americas
c/o Deutsche Bank National Trust Company
Trust & Agency Services
100 Plaza One
Mail Stop: JCY03-0699
Jersey City, New Jersey 07311
Attention: Corporates team - EnSCO Jersey Finance Limited
Facsimile: (732) 578-4635

The Company, the Guarantor or the Trustee by notice to the others may designate additional or different addresses for subsequent notices or communications.

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

All notices and communications described above 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 sent, if by e-mail in PDF format; when receipt acknowledged, if faxed or telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight courier guaranteeing next day delivery.

Any notice or communication delivered or to be delivered to a Holder of Physical Notes shall be mailed to it by first class mail, postage prepaid, at its address as it appears on the Note Register and shall be sufficiently given to it if so mailed within the time prescribed. Any notice or communication delivered or to be delivered to a Holder of Global Notes shall be delivered in accordance with the applicable procedures of the Depository and shall be sufficiently given to it if so delivered within the time prescribed.

Failure to mail or deliver a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed or delivered, as the case may be, in the manner provided above, it is duly given, whether or not the addressee receives it.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice to Holders by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Section 18.04 *Governing Law; Jurisdiction* . THIS INDENTURE, THE GUARANTEE AND EACH NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE, THE GUARANTEE AND EACH NOTE, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD APPLY THE LAWS OF ANOTHER JURISDICTION).

By the execution and delivery of this Indenture, each of the Company and the Guarantor hereby appoints ENSCO International Incorporated, a Delaware corporation, as its agent upon which process may be served in any legal action or proceeding by the Trustee or by any Holder arising out of or relating to the Notes or this Indenture (but for that purposes only), which may be instituted in any Federal or State court in the Borough of Manhattan, the City of New York, and each of the Company and the Guarantor hereby irrevocably submits to the non-exclusive jurisdiction of any such court in respect of any such legal action or proceeding. Service of process upon such agent at 5847 San Felipe Street, Suite 3300, Houston, TX 77057, as such address may be changed by written notice given by such agent to the Trustee, together with a written notice of such service mailed or delivered to the Company and the Guarantor addressed as provided by Section 18.03, shall be deemed in every respect effective service of process upon the Company and the Guarantor, as applicable, in any such legal action or proceeding. Each of the Company and the Guarantor reserves the right to appoint another Person selected in its discretion as a successor agent, and upon acceptance of such appointment by such a successor, the appointment of the prior agent shall terminate. Each of the Company and the Guarantor further agrees to take any and all action, including the execution and filing of any and all such documents and instruments, as may be necessary to continue such designation and appointment of such agent or successor in full force and effect until this Indenture has been satisfied or discharged in accordance with Article 3.

Section 18.05 *Evidence of Compliance with Conditions Precedent; Certificates and Opinions of Counsel to Trustee* . Upon any application or demand by the Company to the Trustee

to take any action under any of the provisions of this Indenture, the Company shall, if requested by the Trustee, furnish to the Trustee an Officers' Certificate and Opinion of Counsel stating that such action is permitted by the terms of this Indenture.

Each Officers' Certificate provided for, by or on behalf of the Company in this Indenture and delivered to the Trustee with respect to compliance with this Indenture (other than the Officers' Certificates provided for in Section 4.08) shall include (i) a statement that the person signing such certificate is familiar with the requested action and this Indenture; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statement contained in such certificate is based; (iii) a statement that, in the judgment of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed judgment as to whether or not such action is permitted by this Indenture; and (iv) a statement as to whether or not, in the judgment of such person, such action is permitted by this Indenture.

Notwithstanding anything to the contrary in this Section 18.05, if any provision in this Indenture specifically provides that the Trustee shall or may receive an Opinion of Counsel in connection with any action to be taken by the Trustee or the Company hereunder, the Trustee shall be entitled to, or entitled to request, such Opinion of Counsel.

Section 18.06 *Legal Holidays*. In any case where any Interest Payment Date, any Fundamental Change Repurchase Date or the Maturity Date is not a Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the next succeeding Business Day with the same force and effect as if taken on such date, and no interest shall accrue in respect of the delay.

Section 18.07 *No Security Interest Created*. Nothing in this Indenture or in the Notes, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 18.08 *Benefits of Indenture*. Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the Holders, the parties hereto, any Paying Agent, any Exchange Agent, any authenticating agent, any Note Registrar and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 18.09 *Table of Contents, Headings, Etc*. The table of contents and the titles and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

Section 18.10 *Authenticating Agent*. The Trustee may appoint an authenticating agent that shall be authorized to act on its behalf and subject to its direction in the authentication and delivery of Notes in connection with the original issuance thereof and transfers and exchanges of Notes hereunder, including under Section 2.04, Section 2.05, Section 2.06, Section 2.07, Section 11.04 and Section 16.04 as fully to all intents and purposes as though the authenticating agent had been expressly authorized by this Indenture and those Sections to authenticate and deliver

Notes. For all purposes of this Indenture, the authentication and delivery of Notes by the authenticating agent shall be deemed to be authentication and delivery of such Notes “by the Trustee” and a certificate of authentication executed on behalf of the Trustee by an authenticating agent shall be deemed to satisfy any requirement hereunder or in the Notes for the Trustee’s certificate of authentication. Such authenticating agent shall at all times be a Person eligible to serve as trustee hereunder pursuant to Section 8.08.

Any corporation or other entity into which any authenticating agent may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, consolidation or conversion to which any authenticating agent shall be a party, or any corporation or other entity succeeding to the corporate trust business of any authenticating agent, shall be the successor of the authenticating agent hereunder, if such successor corporation or other entity is otherwise eligible under this Section 18.10, without the execution or filing of any paper or any further act on the part of the parties hereto or the authenticating agent or such successor corporation or other entity.

Any authenticating agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any authenticating agent by giving written notice of termination to such authenticating agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any authenticating agent shall cease to be eligible under this Section, the Trustee may appoint a successor authenticating agent (which may be the Trustee), shall give written notice of such appointment to the Company and shall deliver notice of such appointment to all Holders.

The Company agrees to pay to the authenticating agent from time to time reasonable compensation for its services although the Company may terminate the authenticating agent, if it determines such agent’s fees to be unreasonable.

The provisions of Section 8.02, Section 8.03, Section 8.04, Section 9.03 and this Section 18.10 shall be applicable to any authenticating agent.

If an authenticating agent is appointed pursuant to this Section 18.10, the Notes may have endorsed thereon, in addition to the Trustee’s certificate of authentication, an alternative certificate of authentication in the following form:

as Authenticating Agent, certifies that this is one of the Notes described in the within-named Indenture.

By: _____
Authorized Officer

Section 18.11 *Execution in Counterparts*. This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original

Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 18.12 *Severability* . In the event any provision of this Indenture or in the Notes shall be invalid, illegal or unenforceable, then (to the extent permitted by law) the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

Section 18.13 *Waiver of Jury Trial* . EACH OF THE COMPANY, THE GUARANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE GUARANTEE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 18.14 *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 that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 18.15 *Calculations* . Except as otherwise provided herein, the Guarantor shall be responsible for making all calculations called for under the Notes. These calculations include, but are not limited to, determinations of the Stock Price, the Last Reported Sale Prices of the Common Stock, the Daily VWAPs, the Daily Exchange Values, the Daily Settlement Amounts, accrued interest payable on the Notes, any Additional Interest payable on the Notes, the Fundamental Change Repurchase Price, the Redemption Price and the Exchange Rate of the Notes. The Guarantor shall make all these calculations in good faith and, absent manifest error, the Guarantor's calculations shall be final and binding on Holders of Notes. The Guarantor shall provide a schedule of its calculations to each of the Trustee and the Exchange Agent, and each of the Trustee and Exchange Agent is entitled to rely conclusively upon the accuracy of the Guarantor's calculations without independent verification. The Trustee will forward the Guarantor's calculations to any Holder of Notes upon the request of that Holder at the sole cost and expense of the Guarantor.

Section 18.16 *USA PATRIOT Act* . In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States (“ **Applicable Law** ”), the Trustee is required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustee. Accordingly, each of the parties agree to provide to the Trustee, upon their request from time to time such identifying information and documentation as may be available for such party in order to enable the Trustee to comply with Applicable Law.

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

ENSCO JERSEY FINANCE LIMITED,
as Issuer

By: /s/ Jonathan P. Cross
Name: Jonathan P. Cross
Title: Director

ENSCO PLC, as Guarantor

By: /s/ Melissa Cogle
Name: Melissa Cogle
Title: Vice President - Treasurer

DEUTSCHE BANK TRUST COMPANY
AMERICAS, as Trustee

By DEUTSCHE BANK NATIONAL TRUST COMPANY

By: /s/ Robert S. Peschler
Name: Robert S. Peschler
Title: Vice President

By: /s/ Annie Jaghatspanyan
Name: Annie Jaghatspanyan
Title: Vice President

[FORM OF FACE OF NOTE]

[INCLUDE FOLLOWING LEGEND IF A GLOBAL NOTE]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREUNDER IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. TRANSFERS OF THIS SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR’S NOMINEE AND TRANSFERS OF PORTIONS OF THIS SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.]

[INCLUDE FOLLOWING LEGEND IF A RESTRICTED SECURITY]

[THIS SECURITY AND THE COMMON STOCK ISSUABLE UPON EXCHANGE OF THIS SECURITY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “U.S. SECURITIES ACT”) OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY, THE COMMON STOCK, IF ANY, ISSUABLE UPON EXCHANGE OF THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN OR THEREIN MAY BE OFFERED, 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, THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT. THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT IT IS A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE U.S. SECURITIES ACT (“RULE 144A”)), (2) AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR FOR WHICH IT HAS ACQUIRED SECURITIES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY OR THE COMMON STOCK, IF ANY, ISSUABLE UPON EXCHANGE OF SUCH SECURITY, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS ONE YEAR (OR SUCH SHORTER PERIOD AS IS PRESCRIBED BY RULE 144 UNDER THE SECURITIES ACT AS THEN IN EFFECT OR ANY SUCCESSOR RULE WITHOUT ANY VOLUME OR MANNER OF SALE RESTRICTIONS OR COMPLIANCE BY THE COMPANY WITH ANY CURRENT PUBLIC INFORMATION REQUIREMENTS THEREUNDER) AFTER THE LATER OF THE ISSUE DATE AND THE LAST DATE ON WHICH THE COMPANY OR

ANY OF ITS AFFILIATES WERE THE OWNER OF SUCH SECURITY (OR ANY PREDECESSOR THERETO) ONLY (A) TO THE COMPANY, THE GUARANTOR OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE U.S. SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO 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 ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT, SUBJECT IN EACH OF THE FOREGOING CASES TO ANY REQUIREMENT OR LAW THAT THE DISPOSITION OF ITS PROPERTY OR THE PROPERTY OF SUCH INVESTOR ACCOUNT OR ACCOUNTS BE AT ALL TIMES WITHIN ITS OR THEIR CONTROL AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS AND ANY APPLICABLE LOCAL LAWS AND REGULATIONS AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND; PROVIDED, THAT THE COMPANY, THE TRUSTEE AND THE TRANSFER AGENT SHALL HAVE THE RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER (I) PURSUANT TO CLAUSE (D) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM AND (II) IN EACH OF THE FOREGOING CASES, TO REQUIRE THAT A CERTIFICATE OF TRANSFER IN THE FORM APPEARING ON THE REVERSE OF THIS SECURITY IS COMPLETED AND DELIVERED BY THE TRANSFEROR TO THE TRUSTEE.

THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT EITHER (1) NO PORTION OF THE ASSETS USED BY SUCH HOLDER TO ACQUIRE OR HOLD THIS SECURITY CONSTITUTES THE ASSETS OF AN EMPLOYEE BENEFIT PLAN THAT IS SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), OF A PLAN, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER ARRANGEMENT THAT IS SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") OR PROVISIONS UNDER ANY OTHER FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS OR REGULATIONS THAT ARE SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE ("SIMILAR LAWS"), OR OF AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE "PLAN ASSETS" OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT, (2) THE ACQUISITION AND HOLDING OF THIS SECURITY WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE OR A SIMILAR VIOLATION UNDER ANY APPLICABLE SIMILAR LAWS OR (3) NO ADVICE PROVIDED BY US OR ANY OF OUR AFFILIATES HAS FORMED A PRIMARY BASIS FOR MAKING ANY INVESTMENT OR OTHER DECISION FOR OR ON BEHALF OF SUCH PLAN OR PLAN IN CONNECTION WITH THE NOTES OR THE EXERCISE OF ANY RIGHTS WITH RESPECT TO THIS SECURITY.]

ENSCO JERSEY FINANCE LIMITED

3.00% Exchangeable Senior Note due 2024

No. []

[Initially](1) \$[]

CUSIP No. []

Enco Finance Jersey Limited, a company incorporated under the laws of Jersey (the “**Company**,” which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to [CEDE & CO.](2) [](3), or registered assigns, the principal sum of \$[] [or such greater or lesser amount as set forth in the “Schedule of Transfers and Exchanges of Notes” attached hereto](4), on January 31, 2024, and interest thereon as set forth below.

This Note shall bear interest at the rate of 3.00% per year from December 12, 2016, or from the most recent date to which interest had been paid or provided for to, but excluding, the next scheduled Interest Payment Date until January 31, 2024. Interest is payable semi-annually in arrears on each January 31 and July 31, commencing on July 31, 2017, to Holders of record at the close of business on the preceding January 15 and July 15 (whether or not such day is a Business Day), respectively. Accrued interest on this Note shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of actual days elapsed over a 30-day month. Additional Interest will be payable as set forth in Section 4.06(d) and Section 4.06(e) of the within-mentioned Indenture, and, unless the context otherwise requires, any reference to interest on, or in respect of, any Note therein shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to any of such Section 4.06(d) and Section 4.06(e), and, unless the context otherwise requires, any express mention of the payment of Additional Interest in any provision therein shall not be construed as excluding Additional Interest in those provisions thereof where such express mention is not made. If any Interest Payment Date, any Fundamental Change Repurchase Date or the Maturity Date is not a Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the next succeeding Business Day with the same force and effect as if taken on such date, and no interest shall accrue in respect of the delay.

Any Defaulted Amounts shall accrue interest per annum at the rate borne by the Notes, subject to the enforceability thereof under applicable law, from, and including, the relevant payment date to, but excluding, the date on which such Defaulted Amounts shall have been paid by the Company, at its election, in accordance with Section 2.03(c) of the Indenture.

The Company shall pay the principal of and interest on this Note, if and so long as such Note is a Global Note, in immediately available funds to the Depository or its nominee, as the case may be, as the registered Holder of such Note. As provided in and subject to the provisions

-
- (1) Include if a global note.
 - (2) Include if a global note.
 - (3) Include if a physical note.
 - (4) Include if a global note.

of the Indenture, the Company shall pay the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated the Trustee as its Paying Agent and Note Registrar in respect of the Notes and its Corporate Trust Office, as a place where Notes may be presented for payment or for registration of transfer and exchange.

Reference is made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the Holder of this Note the right to exchange this Note into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, on the terms and subject to the limitations set forth in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD APPLY THE LAWS OF ANOTHER JURISDICTION).

In the case of any conflict between this Note and the Indenture, the provisions of the Indenture shall control and govern to the extent of such conflict.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually or by facsimile by the Trustee or a duly authorized authenticating agent under the Indenture.

[Remainder of page intentionally left blank]

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

ENSCO JERSEY FINANCE LIMITED,
as Issuer

By: _____

Name:

Title:

A- 5

Dated:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Trustee, certifies that this is one of the Notes described in the within-named
Indenture.

By: DEUTSCHE BANK NATIONAL TRUST COMPANY

By: _____
Authorized Officer

[FORM OF REVERSE OF NOTE]

ENSCO FINANCE JERSEY LIMITED
3.00% Exchangeable Senior Note due 2024

This Note is one of a duly authorized issue of Notes of the Company, designated as its 3.00% Exchangeable Senior Notes due 2024 (the “**Notes**”), initially limited to the aggregate principal amount of \$849,500,000, all issued or to be issued under and pursuant to an Indenture dated as of December 12, 2016 (the “**Indenture**”), among the Company, the Guarantor and Deutsche Bank Trust Company Americas (the “**Trustee**”), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company, the Guarantor and the Holders of the Notes. Additional Notes may be issued in an unlimited aggregate principal amount, subject to certain conditions specified in the Indenture. Capitalized terms used in this Note and not defined in this Note shall have the respective meanings set forth in the Indenture.

In case certain Events of Default shall have occurred and be continuing, the principal of, and interest on, all Notes may be declared, by either the Trustee or Holders of at least 25% in aggregate principal amount of Notes then outstanding, and upon said declaration shall become, due and payable, in the manner, with the effect and subject to the conditions and certain exceptions set forth in the Indenture.

Subject to the terms and conditions of the Indenture, the Company will make all payments and deliveries in respect of the Fundamental Change Repurchase Price on the Fundamental Change Repurchase Date, the Redemption Price on any Redemption Date and the principal amount on the Maturity Date, as the case may be, to the Holder who surrenders a Note to a Paying Agent to collect such payments in respect of the Note. The Company will 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.

The Indenture contains provisions permitting the Company, the Guarantor and the Trustee in certain circumstances, without the consent of the Holders of the Notes, and in certain other circumstances, with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, evidenced as in the Indenture provided, to execute supplemental indentures modifying the terms of the Indenture and the Notes as described therein. It is also provided in the Indenture that, subject to certain exceptions, the Holders of a majority in aggregate principal amount of the Notes at the time outstanding may on behalf of the Holders of all of the Notes waive any past Default or Event of Default under the Indenture and its consequences.

Each Holder shall have the right to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, (y) accrued and unpaid interest, if any, on, and (z) the consideration due upon exchange of, this Note at the place, at the respective times, at the rate and in the lawful money or shares of Common Stock, as the case may be, herein prescribed.

The Notes are issuable in registered form without coupons in denominations of \$1,000 principal amount and integral multiples thereof. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations, without payment of any service charge by the exchanging Holder but, if required by the Company or Trustee, with payment of a sum sufficient to cover any documentary, stamp, stamp duty, stamp duty reserve tax or similar issue or transfer tax or similar governmental charge required by law or that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange being different from the name of the Holder of the old Notes surrendered for such exchange.

The Notes are not subject to redemption through the operation of any sinking fund. Under certain circumstances specified in the Indenture, the Notes will be subject to redemption by the Company at the Redemption Price.

Upon the occurrence of a Fundamental Change, the Holder has the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof (in principal amounts of \$1,000 or integral multiples thereof) on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the close of business on the Business Day immediately preceding the Maturity Date, to exchange any Notes or portion thereof that is \$1,000 or an integral multiple thereof, into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, at the Exchange Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture.

ABBREVIATIONS

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

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entireties

JT TEN = joint tenants with right of survivorship and not as tenants in common

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

GUARANTEE

Enesco plc, a public limited company incorporated under the laws of England and Wales, fully and unconditionally guarantees to the Holder of this Security, upon the terms and subject to the conditions and limitations set forth in the Indenture referenced on the reverse hereof, the Guarantee Obligations (as defined in Section 14.01 of the Indenture), which include (i) the due and punctual payment of the principal of (including the Redemption Price and Fundamental Change Repurchase Price, as the case may be, pursuant to Article 16 or Article 17, as applicable, of the Indenture), premium, if any, interest and Additional Interest, if any, on the 3.00% Exchangeable Senior Notes due 2024 (the “**Notes**”) of Enesco Jersey Finance Limited, a company incorporated under the laws of Jersey (the “**Company**”), and any cash, shares of Common Stock or combination thereof, if any, due upon exchange of the Notes in accordance with Article 15 of the Indenture, whether at the Maturity Date, upon acceleration, upon redemption, upon repurchase in connection with a Fundamental Change or otherwise or upon exchange, interest on overdue principal, premium, if any, Additional Interest, if any, and (to the extent permitted by law) interest on any interest, if any, on the Notes and all other obligations of the Company to the Holders or the Trustee under the Indenture or under the Notes (including fees, expenses or other) all in accordance with the terms set forth in Article 14 of the Indenture, (ii) causing the Company to deliver ERPSs in connection with exchanges of the Notes in accordance with the Articles and the Indenture and (iii) in case of any extension of time of payment or renewal of any Notes or any such other obligations, that the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at the Maturity Date, by acceleration, call for redemption, upon repurchase in connection with a Fundamental Change or exchange. The obligations of the Guarantor to the Holders of the Notes and to the Trustee pursuant to this Guarantee and the Indenture are expressly set forth in Article 14 of the Indenture and reference is hereby made to such Indenture for the precise terms of this Guarantee. Capitalized terms used herein have the same meanings given in the Indenture unless otherwise indicated. The Guarantor shall be obligated to pay Additional Amounts with respect to any withholding or deduction imposed on a payment by or on behalf of the Guarantor under or with respect to the Notes or the Guarantee to the extent provided in Section 4.10 of the Indenture.

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

Dated:

ENSCO PLC

By: _____

Name:

Title:

A- 11

SCHEDULE OF TRANSFERS AND EXCHANGES OF NOTES

ENSCO JERSEY FINANCE LIMITED
 3.00% Exchangeable Senior Notes due 2024

The initial principal amount of this Global Note is DOLLARS (\$) . The following increases or decreases in this Global Note have been made:

Date of transfer or exchange	Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Custodian

(5) Include if a global note.

FORM OF NOTICE OF EXCHANGE

To: ENSCO JERSEY FINANCE LIMITED
DEUTSCHE BANK TRUST COMPANY AMERICAS, as Exchange Agent

The undersigned registered owner of this Note hereby exercises the option to exchange this Note, or the portion hereof (that is \$1,000 principal amount or an integral multiple thereof) below designated, for cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and any shares of Common Stock issuable and deliverable upon such exchange, together with any cash for any fractional share, and any Notes representing any unexchanged principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock or any portion of this Note not exchanged are to be issued in the name of a Person other than the undersigned or the name of a Person on behalf of the undersigned, the undersigned will pay all documentary, stamp, stamp duty, stamp duty reserve tax or similar issue or transfer taxes, if any, in accordance with Section 15.02(d) and Section 15.02(e) of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies this Note. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

Dated: _____

Signature(s)

Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of shares if
to be issued, and Notes if to
be delivered, other than to and in the
name of the registered holder:

(Name)

(Street Address)

(City, State and Zip Code)

Please print name and address

Principal amount to be exchanged (if less than all): \$,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond
with the name as written upon the face of the Note in every particular without
alteration or enlargement or any change whatever.

Social Security or Other Taxpayer
Identification Number

FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE

To: ENSCO JERSEY FINANCE LIMITED
DEUTSCHE BANK TRUST COMPANY AMERICAS, as Exchange Agent

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from or on behalf of EnSCO Jersey Finance Limited (the “**Company**”) as to the occurrence of a Fundamental Change and specifying the Fundamental Change Repurchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Section 16.02 of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is \$1,000 principal amount or an integral multiple thereof) below designated, and (2) if such Fundamental Change Repurchase Date does not fall during the period after a Regular Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest, if any, thereon to, but excluding, such Fundamental Change Repurchase Date. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below:

Dated: _____

Signature(s)

Social Security or Other Taxpayer
Identification Number

Principal amount to be repaid (if less than all): \$ _____,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

FORM OF ASSIGNMENT AND TRANSFER

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ (Please insert social security or Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints _____ attorney to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

- To Ensco Jersey Finance Limited, Ensco plc or a subsidiary thereof; or
- Pursuant to a registration statement that has become or been declared effective under the Securities Act of 1933, as amended (the “**Securities Act**”); or
- To a person it reasonably believes is a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act) to whom notice is given that the transfer is being made in reliance on Rule 144A; or
- Pursuant to any other available exemption from the registration requirements of the Securities Act.

Dated: _____

Signature(s)

Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.

NOTICE: The signature on the assignment must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

Dated 12 December 2016

ENSCO PLC

DEED POLL

relating to

ENSCO JERSEY FINANCE LIMITED
3.00% Exchangeable Senior Notes due 2024

THIS DEED POLL (the “**Deed Poll**”) is executed as a deed on 12 December 2016 in favour of the Issuer (as defined below) and the holders of Preference Shares (as defined below) by **ENSCO PLC** (the “**Guarantor**”), a company incorporated in England and Wales with limited liability with registered number 07023598 and having its head office at 6 Chesterfield Gardens, 3rd Floor, London W1J 5BQ, United Kingdom.

WHEREAS

- (A) The Guarantor, by a resolution of its board of directors passed on 2 December 2016 and resolutions of a committee of its board of directors passed on 6 December 2016, has determined to enter into this Deed Poll for the benefit of the holders from time to time of the Preference Shares which would arise on exchange of all or any of the 3.00% Exchangeable Senior Notes due 2024 of the Issuer (the “**Notes**”) guaranteed by the Guarantor.
- (B) The Guarantor has determined to execute this Deed Poll in connection with the issue from time to time of the Preference Shares and the grant of the Share Exchange Rights (as defined in the Articles of the Issuer (as defined below)) attached thereto.

NOW THIS INSTRUMENT WITNESSETH as follows:

1 INTERPRETATION

In this Deed Poll the following words and expressions shall have the following meanings:

“**Articles of the Issuer**” means the Articles of Association adopted by the Issuer on 6 December 2016 as the same may from time to time be modified;

“**Conditions**” mean the relevant terms and conditions of the Notes as set out in the Indenture, as amended or modified from time to time;

“**Deed Poll**” means this instrument by way of deed poll (as from time to time amended in accordance with the terms hereof) and includes any instrument which is executed in accordance with the provisions hereof (as from time to time amended as aforesaid) and expressed to be supplemental hereto;

“**deliver**” and “**delivery**” in respect of a share, shall include the allotment and issue of a share and/or the transfer of a share;

“**Indenture**” means the indenture dated on or about the date of this deed, between the Issuer, the Guarantor and the Trustee, pursuant to which the Notes were issued;

“**Issuer**” means Ensco Jersey Finance Limited, a company incorporated under the laws of Jersey;

“**Noteholder**” means, in relation to a Note, the person in whose name the Note is registered in accordance with the Indenture;

“**Ordinary Shares**” mean the class A ordinary shares of the Guarantor, currently with par value \$0.10 US dollars;

“**outstanding**” means in relation to the Preference Shares, all Preference Shares issued other than: (A) those Preference Shares which have been redeemed and cancelled pursuant to the Articles of the Issuer; (B) those Preference Shares in respect of which the date for redemption in accordance with the Articles of the Issuer has occurred and the Redemption Monies therefor have been duly paid in the manner provided in the Articles of the Issuer and remain available for payment; and (C) those Preference Shares (if any)

which are for the time being held by any person (including, but not limited to, the Issuer or the Guarantor or any other Subsidiary of the Guarantor) for the benefit of the Issuer or the Guarantor or any other Subsidiary of the Guarantor;

“ **Paid-up Value** ” has the meaning assigned to it in the Articles of the Issuer at the date hereof notwithstanding any subsequent modification of the Articles of the Issuer or order of any court or other authority;

“ **Person** ” has the meaning assigned to it in the Indenture;

“ **Preference Share** ” means an exchangeable redeemable preference share in the capital of the Issuer, with a nominal value of US\$0.0000001, and shall, where the context so admits, include a Preference Share required by the Conditions to have been issued but which shall not have been so issued and references to any amounts payable in respect of a Preference Share shall include amounts required to be paid in respect of a Preference Share required to have been issued pursuant to the Conditions but not so issued;

“ **Preference Shareholder** ” or “ **holder of Preference Shares** ” means, in relation to a Preference Share, the person or persons in whose name or names such Preference Share is registered from time to time (other than the Issuer or the Guarantor or any other Subsidiary of the Guarantor or any person holding such Preference Share for the benefit of any of the foregoing) and shall include, where the context so admits, any Noteholder to whom Preference Shares should have been issued as required by the Conditions and which shall not have been so issued;

“ **Redemption Monies** ” means the aggregate Paid-up Value of the Preference Shares outstanding together with all additional amounts payable in connection with the redemption of the Preference Shares in accordance with the provisions of the Articles of the Issuer;

“ **Share Exchange Right** ” shall have the meaning ascribed to it in the Articles of the Issuer; and

“ **Trustee** ” means Deutsche Bank Trust Company Americas or such other persons for the time being and from time to time the trustee or trustees of the holders of the Notes constituted by the Indenture.

Terms defined in the Indenture or in the Articles of the Issuer shall, unless the context requires otherwise, have the same meanings when used herein.

- 1.1 Unless the context requires otherwise, terms importing the singular number only shall include the plural and vice versa and terms importing persons shall include firms and corporations and terms importing one gender only shall include the other gender.
 - 1.2 References in this Deed Poll to Clauses shall be construed as references to the Clauses of this Deed Poll and any reference to a sub-clause shall be construed as a reference to the relevant sub-clause of the Clause in which such reference appears.
 - 1.3 References in this Deed Poll to any statute or a provision of any statute shall be deemed to include a reference to any statute or the provision of any statute which amends, extends, consolidates, re-enacts or replaces the same, or which has been amended, extended, consolidated, re-enacted or replaced by the same, and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute.
 - 1.4 The headings to Clauses are inserted for convenience only and shall not affect the construction of this Deed Poll.
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1.5 US\$, USD or Dollars denotes the lawful currency of the United States of America.

2 DEED POLL

2.1 The Guarantor hereby fully, unconditionally and irrevocably guarantees and undertakes to the Issuer and to each of the Preference Shareholders to make due and punctual payment (subject as provided below) of all Redemption Monies, all accumulated and unpaid dividends and any other amounts expressed to be payable (including the Paid-Up Value, all accumulated and unpaid dividends and any other amounts owing to a Preference Shareholder in connection with any winding up or liquidation of the Issuer) in respect of the Preference Shares or, if Preference Shares have been issued but such issue was not on the issue date required by the Conditions, which would have been payable on such Preference Shares had the same been issued when so required by the Conditions, on the due date for payment or, if Preference Shares shall not have been issued but were required to be issued under the Conditions, on what would have been the due date for payment had such Preference Shares been so issued, to the extent that the same shall not be paid by the Issuer, regardless of whether, and without reduction because of the failure of the following to be the case, (i) the profits of the Issuer justify the relevant payment of any dividend, (ii) the relevant amounts shall be available for distribution or payment by the Issuer, (iii) payment thereof shall have been declared or approved by or on behalf of the Issuer or by the Issuer in general meeting, (iv) the payment thereof by the Issuer shall be prohibited by law, or (v) where Preference Shares shall not have been issued as aforesaid, the fact that for whatever reason such Preference Shares shall not have been issued.

2.2 This Deed Poll is a continuing guarantee and shall remain in full force and effect notwithstanding the redemption of any of the Preference Shares until all Redemption Monies, dividends and other amounts expressed to be payable in respect of all of the Preference Shares (issued and/or required to be issued and/or which may become required to be issued) shall have been paid in full and there are no longer any Notes outstanding, whereupon it shall cease for all purposes to be of any force or effect.

2.3 The Guarantor shall not in respect of any payment due to be made hereunder be released from its obligations under, or pursuant to, this Deed Poll in any circumstances (notwithstanding anything which, but for this provision, would or might release the Guarantor or would or might affect its liability under or pursuant to this Deed Poll in respect of such payment) except upon the receipt by or for the account of the relevant Preference Shareholders of the full amount of such payment from the Issuer or the Guarantor in the currency, at the place and in the manner provided for in the Conditions, the Indenture, the Articles of the Issuer and/or this Deed Poll.

2.4 If any payment received by any Preference Shareholder pursuant to the provisions of the Articles of the Issuer or this Deed Poll shall, on the subsequent bankruptcy, insolvency, corporate reorganisation or other similar event of or affecting the Issuer or for any other reason under the laws of the State of New York, the laws of Jersey, the United Kingdom or otherwise, be set aside or avoided under any laws relating to bankruptcy, insolvency, corporate reorganisation or other similar events, such payment shall not be considered as having discharged or diminished the liability of the Issuer or the Guarantor and this guarantee and the provisions of this Deed Poll shall continue to apply to such payment as if such payment (to the extent only of any amount so set aside or avoided) had at all times remained owing by the Issuer, and the Guarantor shall indemnify the Preference Shareholders in respect thereof.

2.5 Without prejudice to the generality of the provisions of sub-Clauses 2.1 and 2.3 and Clause 7, the Guarantor shall, as between the Preference Shareholders and itself, be liable as if it were the principal obligor and not merely a surety, and, accordingly, the liability of the Guarantor shall not be discharged, lessened, affected or impaired by any time or indulgence granted to the Issuer by the Preference Shareholders or any of them, by the Issuer losing its separate corporate identity or by any dealings or transactions between the Preference Shareholders or any of them and the Issuer or by reason that any Redemption Monies, dividends or other moneys expressed to be payable under the Articles of the Issuer may not be recoverable from the Issuer by reason of any legal limitation, disability or incapacity on or of the Issuer or by reason of any other fact or circumstance whatsoever which might otherwise constitute a legal or equitable discharge of or defence to or for a guarantor.

2.6 The Guarantor shall be subrogated to all or any rights of the Preference Shareholders against the Issuer in respect of any amounts paid by the Guarantor under this Deed Poll; provided always that the Guarantor shall not be entitled to receive any payments arising out of, or based upon, such right of subrogation or any right of indemnity or other right or remedy against the Issuer (including, in any case, claiming the benefit of any security or, on the liquidation, bankruptcy or winding-up of the Issuer, proving in competition with the Preference Shareholders) at any time after default has been made by the Issuer in the payment of any monies the payment of which is guaranteed by the Guarantor hereunder or in the performance of any obligation of the Issuer the performance of which is guaranteed by the Guarantor hereunder, so long as any monies payable by the Guarantor in respect of such defaulted monies remain unpaid or not duly provided for or such defaulted obligations remain unperformed. If, notwithstanding the foregoing, upon the bankruptcy or winding-up of the Issuer, any payment or distribution of assets of the Issuer of any kind or character, whether in cash, property or securities, shall be received by the Guarantor before payment in full of all Redemption Monies, dividends and any other amounts payable in respect of the Preference Shares issued or required to be issued shall have been made to the Preference Shareholders, such payment or distribution shall be held by the Guarantor on trust for application towards the payment of all amounts as aforesaid (but only to the extent that, without prejudice to the effect of the foregoing proviso, such trust does not constitute or create any such mortgage, charge, pledge, lien, encumbrance or other security interest over any such payment or distribution) and, pending such payment over, shall be held by the Guarantor on trust for the Preference Shareholders (but only to the extent that, without prejudice to the effect of the foregoing proviso, such trust does not constitute or create any such mortgage, charge, pledge, lien, encumbrance or other security interest).

3 OFFER TO EXCHANGE

3.1 The Guarantor hereby offers and undertakes to each Preference Shareholder and the Issuer to pay or deliver cash, fully paid Ordinary Shares or a combination of cash and fully paid Ordinary Shares (at the discretion of the Guarantor), to each Preference Shareholder (or as it directs in the relevant exchange procedures) in accordance with Clause 3.2 below and the Conditions, in exchange for the Preference Shares allotted and issued on exchange of any Note with such payment or delivery being made on the relevant date in accordance with Article 15.02(c) of the Indenture and, in the case of any delivery of Ordinary Shares, with such Person to whom the Ordinary Shares are deliverable being treated as a stockholder of record in accordance with Article 15.02(i) of the Indenture (the “**Exchange Offer**”).

3.2 The Exchange Offer will be deemed accepted by the Preference Shareholder (having exercised its Exchange Right) by complying with the relevant procedures for exchange in accordance with the Conditions. By complying with the relevant procedures for exchange in accordance with the Conditions, the Preference Shareholder shall authorise the Issuer and/or the Guarantor (or any director or any other person or persons appointed by the Issuer or the Guarantor for the purpose) as agent for the Preference Shareholder to take such action and to do such things, to make all such entries in the register of members of the Issuer and/or the Guarantor and to execute all such documents and instruments, in each case whether on behalf of the Preference Shareholder or otherwise (including the execution of a stock transfer form on behalf of the Preference Shareholder) as may be necessary or desirable to transfer each Preference Share issued in connection with an exchange of a Note to the Guarantor and the Guarantor will procure that such Preference Share is transferred to the Guarantor. To the fullest extent permitted by law, the foregoing authority is coupled with an interest, is irrevocable and shall survive, and shall not be affected by, the subsequent death, disability, incapacity, incompetency, termination, bankruptcy, insolvency or dissolution of the Preference Shareholder.

3.3 By way of this Deed Poll, and under the authority given by its shareholders at Resolution 2 of its annual general meeting on 23 May 2016 (the “**Authority**”), the Guarantor makes an offer and agreement that would or might require shares to be allotted after the expiry of the Authority, such that, on exchange of the Preference Shares, the Guarantor’s directors may allot Ordinary Shares after the Authority has expired as if the Authority had not expired. The nominal amount of Ordinary Shares in the Guarantor the subject of this offer and agreement is equal to the full amount of the Authority unused as at the date hereof (being US\$7,653,783.90) less the nominal amount of shares allotted and/or rights to subscribe for or to convert any security into shares granted after the date hereof and prior to the expiry of the Authority (or agreed to be allotted or granted, where such agreement expressly states that it is to reduce the nominal amount of Ordinary Shares the subject of this offer and agreement).

4 STATUS

The obligations of the Guarantor under this Deed Poll constitute senior, unsubordinated, direct, unconditional and unsecured obligations of the Guarantor.

5 EXCHANGE RIGHTS AND SHARE EXCHANGE RIGHTS

The Guarantor undertakes to each Preference Shareholder and the Issuer that it will, in the event of failure of the Issuer to perform the same when due to be performed (i) procure the performance by the Issuer of all obligations to be performed by the Issuer and (ii) procure the enforcement by the Issuer of all the Issuer’s rights, in either case, with respect to the Exchange Rights and Share Exchange Rights, each as set out in the Articles of the Issuer, in accordance with the provisions thereof.

6 PAYMENTS

6.1 Payments made or to be made pursuant to this Deed Poll shall be made to the persons shown on the register of Preference Shareholders maintained by the Issuer at close of business on the seventh London Business Day before the due date for the relevant payment or as may otherwise be provided pursuant to the Indenture.

6.2 Except as provided pursuant to the Indenture, all payments made by the Guarantor pursuant to this Deed Poll shall be made without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within the United Kingdom or the Island of Jersey or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law.

6.3 When making any payment to Preference Shareholders, fractions of one cent will be rounded up to the nearest cent.

7 STAMP DUTIES

The Guarantor will pay all stamp duties, stamp duty reserve tax, capital duties and other similar duties or taxes payable in the United Kingdom or the Island of Jersey in connection with the execution of this Deed Poll.

8 AMENDMENTS AND WAIVERS

8.1 Any amendment to this Deed Poll may be effected only by deed poll, executed by the Guarantor and expressed to be supplemental hereto. While any Notes remain outstanding, this Deed Poll may be amended only in connection with, and as part of, an amendment, supplement or waiver executed in accordance with the applicable provisions of the Indenture.

8.2 A memorandum of every such supplemental deed poll shall be endorsed on this Deed Poll.

9 GENERAL

9.1 The Guarantor hereby acknowledges and covenants that the benefit of the covenants, obligations and conditions on the part of or binding upon it contained in this Deed Poll shall enure to each and every holder of Preference Shares and to the Issuer.

9.2 The Issuer and each holder of Preference Shares shall be entitled severally to enforce the said covenants, obligations and conditions against the Guarantor (in the case of Preference Shareholders, insofar as each Preference Share held by him is concerned), without the need to join any intervening or other holder of Preference Shares or any other person whatsoever, including the Issuer, in the proceedings for such enforcement.

10 NOTICES

10.1 All notices to the holders of Preference Shares hereunder shall be valid if given in accordance with the Articles of the Issuer.

10.2 Any notice or demand to be given to the Guarantor under this Deed Poll shall be given to it at 6 Chesterfield Gardens, 3rd Floor, London W1J 5BQ or such other address as shall have been notified to the holders of Preference Shares for the purpose and shall be marked for the attention of the Company Secretary or such other person as shall have been notified to the holders of Preference Shares for the purpose.

11 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Save as provided in Clause 9, no person shall have any right to enforce any term of this Deed Poll under the Contracts (Rights of Third Parties) Act 1999, with the exception of the Trustee.

12 DEPOSIT OF DEED POLL

This Deed Poll shall be deposited with the Trustee as of the date hereof.

13 GOVERNING LAW

13.1 This Deed Poll and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

13.2 The courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with this Deed Poll (and any non-contractual obligations arising out of or in connection with it) and accordingly any legal action or proceedings arising out of or in connection with this Deed Poll (“**Proceedings**”) may be brought in such courts. The Guarantor irrevocably submits to the jurisdiction of such courts and waives any objections to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is for the benefit of each of the Preference Shareholders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

This instrument by way of deed poll is delivered on the day and year first above written.

Signed as a deed by
ENSCO PLC acting
by a director

/s/ Paul E. Rowsey, III

Signature of director, Paul E. Rowsey, III

in the presence of:

Witness's signature:
Name (print):
Occupation:
Address:

/s/ Morton D. Newman
Morton D. Newman
Attorney at Law

ENSCO PLC
Purchase Agreement

New York, New York
December 6, 2016

To the Representatives named in
Schedule I hereto of the several
Initial Purchasers named in
Schedule II hereto

Ladies and Gentlemen:

Enesco Jersey Finance Limited, a company incorporated under the laws of Jersey (the “Issuer”) and a wholly owned subsidiary of Enesco plc, a public limited company organized under the laws of England and Wales (the “Company”), proposes to issue and sell to the several parties named in Schedule II hereto (the “Initial Purchasers”), for whom you (the “Representatives”) are acting as representatives, \$750,000,000 aggregate principal amount of its 3.00% Exchangeable Senior Notes due 2024 (the “Firm Notes”), as set forth in Schedule I hereto. The Issuer also proposes to grant to the Initial Purchasers an option to purchase up to an additional \$112,500,000 aggregate principal amount of its 3.00% Exchangeable Senior Notes due 2024 (the “Option Notes”) and, together with the Firm Notes, the “Notes”), as set forth in Schedule I hereto. The payment of principal of, premium, if any, and interest on the Notes will be fully and unconditionally guaranteed on a senior unsecured basis (the “Guarantee”) by the Company. The Firm Notes and the Guarantees thereof are herein collectively referred to as the “Firm Securities,” the Option Notes and the Guarantees thereof are herein collectively referred to as the “Option Securities,” and the Notes and the Guarantee thereof are herein collectively referred to as the “Securities.” To the extent there are no additional Initial Purchasers listed on Schedule I other than you, the term Representatives as used herein shall mean you, as Initial Purchasers, and the terms Representatives and Initial Purchasers shall mean either the singular or plural as the context requires. Certain terms used herein are defined in Section 22 hereof.

The Securities are exchangeable at the option of the holders thereof as provided in the Indenture (the “Indenture”), to be dated the Closing Date, between the Issuer, the Company and Deutsche Bank Trust Company Americas, as trustee (the “Trustee”), pursuant to which the Securities are to be issued. Upon exchange of \$1,000 principal amount of Notes, the Issuer will deliver one exchangeable redeemable preference share of the Issuer with a par value of \$0.0000001 and a paid-up value of \$1,000 (an “Exchangeable Preference Share”) to be issued in accordance with the Memorandum and Articles of Association of the Issuer in effect as of the Closing Date (the “Issuer Articles”), which Exchangeable Preference Shares will be guaranteed by the Company pursuant to a Deed Poll by the Company in favor of the Issuer and the holders of Exchangeable Preference Shares to be dated the Closing Date (the “Deed Poll”). Upon issuance, each Exchangeable Preference Share will be immediately transferred, without any action on the part of the exchanging holder, to the Company in consideration for the Company’s

payment or delivery, as the case may be, to the holder thereof of (i) cash, (ii) Class A ordinary shares, par value \$0.10 per share (the “Ordinary Shares”), of the Company or (iii) a combination thereof, at the Company’s election.

The sale of the Securities to the Initial Purchasers will be made without registration of the Securities under the Act in reliance upon exemptions from the registration requirements of the Act.

In connection with the sale of the Securities, the Company has prepared a preliminary offering memorandum, dated December 6, 2016 (as amended or supplemented at the date thereof, including any and all exhibits thereto and any information incorporated by reference therein, the “Preliminary Memorandum”), and a final offering memorandum, dated December 6, 2016 (as amended or supplemented at the Execution Time, including any and all exhibits thereto and any information incorporated by reference therein, the “Final Memorandum”). Each of the Preliminary Memorandum and the Final Memorandum sets forth certain information concerning the Company and the Securities. The Company hereby confirms that it has authorized the use of the Disclosure Package, the Preliminary Memorandum and the Final Memorandum, and any amendment or supplement thereto, in connection with the offer and sale of the Securities by the Initial Purchasers. Unless stated to the contrary, any references herein to the terms “amend”, “amendment” or “supplement” with respect to the Disclosure Package, the Preliminary Memorandum and the Final Memorandum shall be deemed to refer to and include any information filed under the Exchange Act subsequent to the Execution Time that is incorporated by reference therein.

References herein to the “Transaction Documents” shall mean this Agreement, the Indenture, the Securities and the Deed Poll.

1. Representations and Warranties. Each of the Issuer and the Company, jointly and severally, hereby represents and warrants to, and agrees with, each Initial Purchaser as set forth below in this Section 1.

(a) The Preliminary Memorandum, at the date thereof, did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and, at the Execution Time, on the Closing Date and on any Settlement Date, the Final Memorandum did not and will not (and any amendment or supplement thereto, at the date thereof, at the Closing Date and on any Settlement Date will not) contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Issuer and the Company make no representation or warranty as to the information contained in or omitted from the Preliminary Memorandum or the Final Memorandum, or any amendment or supplement thereto, in reliance upon and in conformity with information furnished in writing to the Issuer or the Company by or on behalf of the Initial Purchasers through the Representatives specifically for inclusion therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 23 hereof.

(b) As of the Execution Time, (i) the Disclosure Package, (ii) any Additional Written Information and each electronic road show, when taken together as a whole with the Disclosure Package, and (iii) any other General Solicitation by the Issuer or the Company, their respective Affiliates, or any person acting on its or their behalf, does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from the Disclosure Package based upon and in conformity with written information furnished to the Issuer or the Company by any Initial Purchaser through the Representatives specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 23 hereof.

(c) None of the Issuer, the Company, their respective Affiliates, or any person acting on its or their behalf (other than the Initial Purchasers as to whom no representation is made) has, directly or indirectly, made offers or sales of any security, or solicited offers to buy, any security under circumstances that would require the registration of the Securities under the Act.

(d) None of the Issuer, the Company, their respective Affiliates, or any person acting on its or their behalf (other than the Initial Purchasers as to whom no representation is made) has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) (each, a “General Solicitation”) in connection with any offer or sale of the Securities, other than any General Solicitation in respect of which the Representatives have given their prior written consent; provided that the prior written consent of the Representatives shall be deemed to have been given in respect of the General Solicitation included in Schedule V hereto.

(e) The Securities satisfy the eligibility requirements of Rule 144A(d)(3) under the Act.

(f) No registration under the Act of the Securities, and no qualification of the Indenture under the Trust Indenture Act, is required for the offer, sale and delivery of the Securities to or by the Initial Purchasers in the manner contemplated herein, in the Disclosure Package and the Final Memorandum.

(g) The Issuer and the Company have not paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of the Issuer or the Company (except as contemplated in this Agreement).

(h) The Company is a public limited company duly incorporated and validly existing under the laws of England and Wales. Each of the Subsidiaries has been duly formed or incorporated and is validly existing as a corporation or limited liability company in good standing under the laws of the jurisdiction in which it is chartered or organized. Each of the Company and its Subsidiaries has full corporate or limited liability power and authority to own or lease, as the case may be, and to operate its properties and conduct its business as described in the Disclosure Package and the Final

Memorandum, and, to the extent that such concepts exist in the relevant jurisdiction, is duly qualified to do business as a foreign entity and is in good standing under the laws of each jurisdiction which requires such qualification, except in any case (other than the valid existence of the Company), to the extent as could not reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business. All of the issued shares of the Company have been duly and validly authorized and issued, are fully paid and conform to the description of such shares contained in the Disclosure Package and the Final Memorandum (save for any reference to the Company having any authorized share capital). All of the issued shares of capital stock of each Subsidiary of the Company have been duly and validly authorized and issued, are fully paid and are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, except as would not result in a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole.

(i) The statements in the Preliminary Memorandum and the Final Memorandum under the heading “Description of Notes,” “Description of Class A Ordinary Shares,” “Material U.S. Federal Income Tax Considerations,” “Material U.K. Tax Consequences For Non-U.K. Investors” and “Jersey Tax Considerations,” insofar as such statements summarize legal matters discussed therein, subject to the limitations, conditions and assumptions therein, are accurate and fair summaries of such legal matters.

(j) This Agreement has been duly authorized, executed and delivered by the Issuer and the Company.

(k) Each of the Issuer and the Company has all requisite corporate power and authority to execute, deliver and perform each of its obligations under the Transaction Documents to which it is a party (assuming that, in the case of performance, the Company has shareholder authority for any issuance of Ordinary Shares upon transfer to it of Exchangeable Preference Shares at the time of such issuance).

(l) The Indenture has been duly authorized by each of the Issuer and the Company and, when duly executed and delivered by the Issuer, the Company and the Trustee, will constitute a valid and binding agreement of the Issuer and the Company, enforceable against the Issuer and the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors’ rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law) (the “Enforceability Exceptions”).

(m) The Notes have been duly authorized by the Issuer and, at the Closing Date (or, with respect to any Option Notes, at the applicable Settlement Date), will have been duly executed by the Issuer and, when authenticated and issued in the manner provided for in the Indenture and delivered to the Initial Purchasers against payment

thereof as provided in this Agreement, will constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms, except as the enforcement thereof may be limited by the Enforceability Exceptions, and will be in the form contemplated by, and entitled to the benefits of, the Indenture.

(n) The authorized share capital of the Issuer includes 10,000,000,000,000 Exchangeable Preference Shares which pursuant to the Issuer Articles may only be issued upon exchange of the Securities pursuant to the terms of the Indenture and, when issued by the Issuer upon exchange thereof as provided in the Indenture and the Issuer Articles, will be validly issued and fully paid, and the issuance of such Exchangeable Preference Shares will not be subject to any preemptive or similar rights. As of the Closing Date, the shareholders of the Company have, to the extent such authorization is required, authorized the Company to issue and allot Ordinary Shares up to a nominal value of \$7,853,386 (or 78,533,860 Ordinary Shares) and Ordinary Shares with a nominal value of \$199,602.10 (or 1,996,021 Ordinary Shares) have already been allotted and issued or have been the subject of awards pursuant to such authorization as at the date of this Agreement. When issued by the Company and delivered to holders of the Securities upon delivery of Exchangeable Preference Shares as provided in the Indenture, the Ordinary Shares issued upon exchange of the Exchangeable Preference Shares, if any, will conform to the description of the Ordinary Shares in the Disclosure Package and the Final Memorandum, and the issuance of such Ordinary Shares will not be subject to any preemptive or similar rights.

(o) The Guarantee of the Notes has been duly authorized by the Company; and, when the Notes have been authenticated in the manner provided for in the Indenture and issued and delivered against payment of the purchase price therefor, the Guarantee of the Notes will constitute a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by the Enforceability Exceptions, and will be in the form contemplated by, and entitled to the benefits of, the Indenture.

(p) The Deed Poll has been duly authorized by the Company and, when duly executed and delivered by the Company, will constitute a valid and binding deed poll of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by the Enforceability Exceptions.

(q) The Issuer Articles have been duly authorized by the Issuer, and, at the Closing Date (or, with respect to any Option Securities, at the applicable Settlement Date), will have been duly adopted by the Issuer.

(r) Each of the Issuer and the Company is not and, after giving effect to the offering and sale of the Securities and the receipt and application of the proceeds thereof as described in the Disclosure Package and the Final Memorandum, will not be an “investment company” as defined in the Investment Company Act of 1940, as amended.

(s) No consent, approval, authorization, filing with or order of any court or governmental agency or body is required in connection with the offer, issuance and sale

of the Securities, or the performance by the Company or the Issuer of their respective obligations under the Transaction Documents, except such as may have already been obtained and as may be required under the blue sky laws of any jurisdiction in connection with the purchase and distribution of the Securities by the Initial Purchasers in the manner contemplated herein and in the Disclosure Package and the Final Memorandum.

(t) None of the offer, issuance and sale of the Securities, or the performance by the Company or the Issuer of their respective obligations under the Transaction Documents nor the fulfillment by the Company or the Issuer of the terms of the Transaction Documents will (assuming that, in the case of performance, the Company has shareholder authority for any issuance of Ordinary Shares upon transfer to it of Exchangeable Preference Shares at the time of such issuance) conflict with, result in a breach or violation of, or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its Subsidiaries pursuant to, (i) the charter or by-laws or other organizational documents of the Company, any of its Subsidiaries or the Issuer, (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Company, any of its Subsidiaries or the Issuer is a party or bound or to which its or their property is subject, or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Company, any of its Subsidiaries or the Issuer of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company, any of its Subsidiaries or the Issuer or any of its or their properties, except, in the case of clause (ii) or (iii), as could not reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business.

(u) The consolidated historical financial statements and schedules included or incorporated by reference in the Disclosure Package and the Final Memorandum present fairly the financial condition, results of operations and cash flows of the entities to which they relate on the basis stated therein as of the dates and for the periods indicated, comply as to form with the applicable accounting requirements of the Act and have been prepared in conformity with generally accepted accounting principles applied on a consistent basis throughout the periods involved (except as otherwise noted therein). The selected financial data set forth or incorporated by reference in the Disclosure Package and the Final Memorandum are or will be, as applicable, in all material respects, accurately presented and prepared on a basis consistent with such financial statements and the books and records of the Company, on the basis stated in the Disclosure Package and the Final Memorandum. The interactive data in eXtensible Business Reporting Language incorporated by reference in each of the Preliminary Memorandum and the Final Memorandum fairly present the information called for in all material respects and have been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(v) Except as disclosed in the Disclosure Package and the Final Memorandum, no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its Subsidiaries or its or their

property is pending or, to the knowledge of the Company, threatened that (i) could reasonably be expected to have a material adverse effect on the performance of the Transaction Documents by the Company or the Issuer or the consummation by the Company or the Issuer of any of the transactions contemplated thereby (including, without limitation, the offer, issuance and sale of the Securities) or (ii) could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(w) Each of the Company and each of its Subsidiaries owns or leases all such properties as are necessary in all material respects to the conduct of its operations as presently conducted.

(x) None of the Company, any of its Subsidiaries or the Issuer is in violation or default of (i) any provision of its charter or bylaws or other organizational documents, (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which it is a party or bound or to which its property is subject, or (iii) any statute, law, rule, regulation, judgment, order or decree of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company, the Issuer or such Subsidiary or any of its properties, as applicable, except (with respect to each of clauses (ii) and (iii)) (x) to the extent as could not reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business or (y) as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto).

(y) KPMG LLP, who have delivered their reports with respect to the audited consolidated financial statements and schedules included or incorporated by reference in the Disclosure Package and the Final Memorandum, are independent public accountants with respect to each of the entities to which such financial statements relate, within the meaning of the Act and the applicable published rules and regulations thereunder.

(z) Except as disclosed in the Disclosure Package and the Final Memorandum, there are no stamp duty, stamp duty reserve tax, documentary, issuance, registration, transfer, or other similar taxes, duties, fees or charges (including interest and penalties) (“Transfer Taxes”) under the laws of the United Kingdom, Jersey Federal law or the laws of any state, or any political subdivision thereof, or any taxing authority thereof or therein, payable by or on behalf of the Initial Purchasers, the Company or any Subsidiary in connection with (i) the execution and delivery of the Transaction Documents, (ii) the issuance and sale by the Issuer and the Company of the Securities, as applicable, in the manner set out herein to the Initial Purchasers through the facilities of The Depository Trust Company (“DTC”), (iii) the resale and delivery of the Securities by the Initial Purchasers in the manner contemplated herein to the members of the public, provided that

the Securities sold and delivered to such persons are transferred by book entry through the facilities of DTC, or (iv) the issuance by the Issuer of Exchangeable Preference Shares upon exchange of the Securities, the transfer to the Company of Exchangeable Preference Shares or the issuance by the Company of Ordinary Shares upon transfer to it of Exchangeable Preference Shares (including the delivery of Ordinary Shares to or for the benefit of investors pursuant thereto).

(aa) The Company has filed all tax returns that are required to be filed or has requested extensions thereof (except in any case in which the failure so to file could not reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto)) and has paid all taxes required to be paid by it and any other assessment, fine or penalty levied against it, to the extent that any of the foregoing is due and payable, except for any such assessment, fine or penalty that is currently being contested in good faith or as could not reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto).

(bb) No significant Subsidiary (within the meaning of Regulation S-X under the Exchange Act) of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such Subsidiary's capital stock, from repaying to the Company any loans or advances to such Subsidiary from the Company or from transferring any of such Subsidiary's property or assets to the Company or any other Subsidiary of the Company, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto).

(cc) No labor problem or dispute with the employees of the Company or any of its Subsidiaries exists or, to the knowledge of the Company, is threatened or imminent, and to the knowledge of the Company, there is no existing or imminent labor disturbance by the employees of any of its or its Subsidiaries' principal suppliers, contractors or customers, in each case, that could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto).

(dd) The Company and each of its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all material policies of insurance and fidelity or surety bonds insuring the Company or any of its Subsidiaries or their respective businesses, assets, employees, officers and directors are in full force and effect; the Company and its Subsidiaries are in compliance in all material respects with the terms of such policies and instruments in all material respects; and there

are no material claims by the Company or any of its Subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither the Company nor any such Subsidiary has been refused any insurance coverage sought or applied for; and neither the Company nor any such Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that could not reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto).

(ee) The Company and its Subsidiaries possess all licenses, certificates, permits and other authorizations issued by all applicable authorities necessary to conduct their respective businesses, except as could not reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, and neither the Company nor any such Subsidiary has received any written notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto).

(ff) The Company and each of its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (v) the interactive data in eXtensible Business Reporting Language incorporated by reference in each of the Preliminary Memorandum and the Final Memorandum fairly present the information called for in all material respects and are prepared in accordance with the Commission's rules and guidelines applicable thereto. The Company and its Subsidiaries' internal controls over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) are effective and the Company and its Subsidiaries are not aware of any material weakness in their internal controls over financial reporting.

(gg) The Company and its Subsidiaries maintain "disclosure controls and procedures" (as such term is defined in Rule 13a-15(e) under the Exchange Act); such disclosure controls and procedures are effective.

(hh) Each of the Issuer and the Company has not taken, directly or indirectly, any action designed to or which has constituted or which would have been reasonably expected to cause or result in, under the Exchange Act or otherwise, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(ii) The Company and its Subsidiaries are (i) in compliance with any and all applicable international, foreign, federal, state and local laws and regulations relating to the protection of human health and safety or the environment including those relating to Materials of Environmental Concern (“Environmental Laws”), (ii) have received and are in compliance with all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) have not received notice of any actual or potential liability under any Environmental Law, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or actual or potential liability could not, individually or in the aggregate, reasonably be expected to have a material adverse change in the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto). Except as disclosed in the Disclosure Package and the Final Memorandum, neither the Company nor any of the Subsidiaries has been named as a “potentially responsible party” under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or the Oil Pollution Act of 1990. “Materials of Environmental Concern” means any substance, material, pollutant or contaminant, chemical, waste, compound, or constituent, in any form, including, without limitation, petroleum products, natural gas and natural gas liquids, regulated under any Environmental Law.

(jj) Except as disclosed in the Disclosure Package and the Final Memorandum and except as could not reasonably be expected to have a material adverse effect on the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries, taken as a whole, none of the following events has occurred or exists: (i) a failure to fulfill the obligations, if any, under the minimum funding standards of Section 302 of the United States Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and the regulations and published interpretations thereunder with respect to a Plan, determined without regard to any waiver of such obligations or extension of any amortization period; (ii) an audit or investigation by the Internal Revenue Service, the U.S. Department of Labor, the Pension Benefit Guaranty Corporation or any other federal or state governmental agency or any foreign regulatory agency with respect to the employment or compensation of employees by any of the Company or any of its Subsidiaries; or (iii) any breach of any contractual obligation, or any violation of law or applicable qualification standards, with respect to the employment or compensation of employees by the Company or any of its Subsidiaries. Except as disclosed in the Disclosure Package and the Final Memorandum and except as could not, singly or in the aggregate, have a material adverse effect on the financial condition, earnings, business or properties of the Company and its Subsidiaries, taken as a whole, none of the following events has occurred or is reasonably likely to occur: (i) an increase in the aggregate

amount of contributions required to be made to all Plans in the current fiscal year of the Company and its Subsidiaries compared to the amount of such contributions made in the most recently completed fiscal year of the Company and its Subsidiaries; (ii) an increase in the “accumulated post-retirement benefit obligations” (within the meaning of Statement of Financial Accounting Standards 106) of the Company and its Subsidiaries compared to the amount of such obligations in the most recently completed fiscal year of the Company and its Subsidiaries; (iii) any event or condition giving rise to a liability under Title IV of ERISA; or (iv) the filing of a claim by one or more employees or former employees of the Company or any of its Subsidiaries related to their employment. For purposes of this Section 1(ff), the term “Plan” means a plan (within the meaning of Section 3(3) of ERISA) subject to Title IV of ERISA with respect to which the Company or any of its Subsidiaries may have any liability.

(kk) There is and has been no failure on the part of the Company and any of the Company’s directors or officers, in their capacities as such, (i) to comply with Section 402 (relating to loans) and Sections 302 and 906 (relating to certifications) of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the “Sarbanes-Oxley Act”) or (ii) to comply in all material respects with any of the other provisions of the Sarbanes-Oxley Act.

(ll) Except as disclosed in the Disclosure Package and the Final Memorandum, neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, agent or employee of the Company or any of its Subsidiaries, while acting on behalf of the Company or its Subsidiaries, has taken any action, directly or indirectly, in violation of the Foreign Corrupt Practices Act of 1977 or the U.K. Bribery Act 2010, each as may be amended, or any similar law of any other relevant jurisdiction, or the rules or regulations thereunder; and the Company and its Subsidiaries have instituted and maintain policies and procedures designed to ensure compliance with the Foreign Corrupt Practices Act of 1977 and the U.K. Bribery Act 2010. No part of the proceeds of the offering will be used by the Company or any of its Subsidiaries, directly or indirectly, in violation of the Foreign Corrupt Practices Act of 1977 or the U.K. Bribery Act 2010, each as may be amended, or any similar law of any other relevant jurisdiction, or the rules or regulations thereunder.

(mm) The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “Money Laundering Laws”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(nn) Neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, agent or employee of the Company or any of its Subsidiaries (i) is, or is controlled or 50% or more owned by, an individual or entity that

is currently the subject of any sanctions administered or enforced by the United States (including any administered or enforced by the Office of Foreign Assets Control of the U.S. Treasury Department, the U.S. Department of State, or the Bureau of Industry and Security of the U.S. Department of Commerce), the United Nations Security Council, the European Union, the United Kingdom (including sanctions administered or enforced by Her Majesty's Treasury) (collectively, "Sanctions" and such persons, "Sanctioned Persons" and each such person, a "Sanctioned Person"), (ii) is located, organized or resident in a country or territory that is, or whose government is, the subject of comprehensive Sanctions that broadly prohibit dealings with that country or territory (collectively, "Sanctioned Countries" and each, a "Sanctioned Country") in violation of applicable law (for the avoidance of doubt, the Sanctioned Countries at the date of this Agreement are Cuba, Iran, North Korea, Sudan, Crimea and Syria) or (iii) will use the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities or business of or with a Sanctioned Person or in a Sanctioned Country in any manner that would result in a violation of any Sanctions by any party to this Agreement (including the Initial Purchasers).

(oo) Neither the Company nor any of its Subsidiaries has engaged in any dealings or transactions with or for the benefit of a Sanctioned Person, or with or in a Sanctioned Country, in the preceding 3 years, nor does the Company or any of its Subsidiaries have any plans to have dealings or transactions with or for the benefit of Sanctioned Persons, or with or in Sanctioned Countries, in each case in any manner that would result in a violation of any Sanctions by any party to this Agreement (including the Initial Purchasers).

(pp) Neither the Issuer, the Company nor any of its Subsidiaries nor any of its or their properties or assets has any immunity either from the jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution or otherwise) under the laws of England or Wales.

(qq) The statistical, industry-related and market-related data included in the Disclosure Package and the Final Memorandum are based on or derived from sources which the Company reasonably and in good faith believes are reliable and accurate, and such data agree with the sources from which they are derived.

(rr) There are no relationships or related-party transactions involving the Company or any of the Subsidiaries or any other person which is required by the Act to be disclosed in a registration statement on Form S-1 which have not been disclosed in the Disclosure Package and the Final Memorandum.

(ss) The Issuer is a public limited company incorporated and validly existing under Jersey law and since incorporation, (i) it has been in continuous existence, (ii) it has not traded or carried on any business or activity of any nature, save for any activities required in connection with its incorporation or any activities required in order to give effect to the terms of the Transaction Documents and the transactions contemplated therein, (iii) it has not entered into, and is not party to, any arrangements, agreements or

deeds other than an equity loan agreement between the Issuer and the Company entered into on 2 December 2016 and any arrangements, agreements and deeds in connection with the transactions contemplated by the Transaction Documents or in connection with its incorporation, corporate administration or its opening of any bank account, or (iv) it has not incurred any liabilities other than those incurred in connection with its paid-up share capital, those imposed on the Issuer by virtue of its incorporation, or under the Transaction Documents, the corporate administration agreement (if any) entered into with Mourant Ozannes Corporate Services (Jersey) Limited or in relation to the transactions contemplated by such agreements, general corporate administration costs and the opening of a bank account.

(tt) The Issuer is, and has been from its inaugural board meeting, resident in the United Kingdom and nowhere else for United Kingdom tax purposes.

(uu) No register of shares or securities of the Issuer is located or kept in the United Kingdom by or on behalf of the Issuer.

(vv) Except for any claim, charge (whether legal or equitable and whether fixed or floating), mortgage, security, lien, pledge, option, equity, restriction or power of sale, assignment, hypothecation, retention of title, right of pre-emption, right of first refusal or other third party right or security interest of any kind or an agreement, arrangement or obligation to create any of the foregoing (each an “Encumbrance”) created by the organizational documents of the Issuer, there will be no Encumbrance over or in relation to any Exchangeable Preference Shares as of the date of allotment and issue of such shares.

(ww) The directors of the Issuer shall have due authority to allot the applicable Exchangeable Preference Shares upon any exchange of the Securities pursuant to the terms of the Indenture, and such shares, when allotted and issued in accordance with the Indenture, will have been duly and validly allotted and issued, and the issuance of such Exchangeable Preference Shares, if any, will not be subject to any preemptive or similar rights.

(xx) The Company believes that it was not a passive foreign investment company (“PFIC”) within the meaning of Section 1297 of the Internal Revenue Code of 1986, as amended, for its most recently completed taxable year and it does not expect to be a PFIC for its current taxable year or in the foreseeable future.

In addition, any certificate signed by any officer of the Issuer or the Company and delivered to the Representatives or counsel for the Initial Purchasers in connection with the offering of the Securities shall be deemed a representation and warranty by the Issuer or the Company, as to matters covered thereby, to each Initial Purchaser.

2. Purchase and Sale .

(a) Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Issuer agrees to issue and sell to each Initial Purchaser, and each Initial Purchaser agrees, severally and not jointly, to purchase

from the Issuer, at a purchase price of 97.25% of the principal amount thereof, plus accrued interest, if any, from December 12, 2016 to the Closing Date, the aggregate principal amount of Firm Securities set forth opposite such Initial Purchaser's name in Schedule II hereto.

(b) Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Issuer hereby grants an option to the several Initial Purchasers to purchase, severally and not jointly, up to the aggregate principal amount of Option Securities set forth in Schedule I hereto at the same purchase price as the Initial Purchasers shall pay for the Firm Securities. Said option may be exercised in whole or in part at any time on or before the 30th day after the date of the Final Memorandum upon written notice by the Representatives to the Issuer setting forth the aggregate principal amount of Option Securities as to which the several Initial Purchasers are exercising the option and the applicable Settlement Date. The aggregate principal amount of Option Securities to be purchased by each Initial Purchaser shall be the same percentage of the total aggregate principal amount of Option Securities to be purchased by the several Initial Purchasers as such Initial Purchaser is purchasing of the Firm Securities, subject to such adjustments as you in your absolute discretion shall make to ensure that the Option Securities are not issued in minimum denominations of less than \$1,000 or whole multiples thereof.

3. Delivery and Payment. Delivery of and payment for the Firm Securities shall be made on the date and at the time specified in Schedule I hereto or at such time on such later date not more than three Business Days after the foregoing date as the Representatives shall designate, which date and time may be postponed by agreement between the Representatives and the Company or as provided in Section 9 hereof (such date and time of delivery and payment for the Securities being herein called the "Closing Date"). Delivery of the Firm Securities shall be made to the Representatives for the respective accounts of the several Initial Purchasers against payment by the several Initial Purchasers through the Representatives of the purchase price thereof to or upon the order of the Issuer by wire transfer payable in same-day funds to the account specified by the Issuer. Delivery of the Firm Securities and the Option Securities to the Initial Purchasers pursuant to this Agreement shall be made through the facilities of DTC, unless the Representatives shall otherwise instruct.

If the option provided for in Section 2(b) hereof is exercised with respect to any Option Securities, the Issuer will deliver such Option Securities (at the expense of the Issuer) to the Representatives on the date specified by the Representatives (which shall be within three Business Days after exercise of said option) (any such date, a "Settlement Date") for the respective accounts of the several Initial Purchasers, against payment by the several Initial Purchasers through the Representatives of the purchase price thereof to or upon the order of the Issuer by wire transfer payable in same-day funds to the account specified by the Issuer.

4. Offering by Initial Purchasers.

(a) Each Initial Purchaser acknowledges that the Securities have not been and will not be registered under the Act and may not be offered or sold within the United

States or to, or for the account or benefit of, U.S. persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Act.

(b) Each Initial Purchaser, severally and not jointly, represents and warrants to and agrees with the Company that:

(i) it has not offered or sold, and will not offer or sell, any Securities within the United States or to, or for the account or benefit of, U.S. persons (x) as part of their distribution at any time or (y) otherwise until 40 days after the later of the commencement of the offering and the date of the closing of the offering except in the case of sales to those it reasonably believes to be “qualified institutional buyers” as permitted by Rule 144A under the Act;

(ii) neither it nor any person acting on its behalf has made or will make offers or sales of the Securities in the United States by means of General Solicitation, other than any General Solicitation included in Schedule V hereto;

(iii) in connection with each sale pursuant to Section 4(b)(i), it has taken or will take reasonable steps to ensure that the purchaser of such Securities is aware that such sale may be made in reliance on Rule 144A;

(iv) it has only communicated or caused to be communicated and will only communicate or cause to be communicated in the United Kingdom any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the “FSMA”)) received by it in connection with the issue or sale of any Securities, in circumstances in which Section 21(1) of the FSMA does not apply to the Company;

(v) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Securities in, from or otherwise involving the United Kingdom; and

(vi) in relation to each Member State of the European Economic Area that has implemented the Prospectus Directive (each, a “Relevant Member State”), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “Relevant Implementation Date”), it has not made and will not make an offer to the public of any Securities which are the subject of the offering contemplated by this Agreement in that Relevant Member State, except that it is permitted to have made and may make an offer to the public in that Relevant Member State of any Securities at any time with effect from and including the Relevant Implementation Date under the following exemptions under the Prospectus Directive, if they have been implemented in that Relevant Member State:

(A) to legal entities which are qualified investors as defined in the Prospectus Directive;

- (B) to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive), as permitted under the Prospectus Directive, subject to obtaining the prior consent of the Representatives for any such offer;
- (C) in any other circumstances falling within Article 3(2) of the Prospectus Directive;

provided that no such offer of Securities shall require the Company or any Initial Purchaser to publish a prospectus pursuant to Article 3 of the Prospectus Directive. For the purposes of this provision, the expression an “offer to the public” in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and any Securities to be offered so as to enable an investor to decide to purchase any Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, the expression “Prospectus Directive” means Directive 2003/71/EC (and amendments thereto, including the Directive 2010/73/EU), and includes any relevant implementing measure in each Relevant Member State.

5. Agreements. The Issuer and the Company agree, jointly and severally, with the several Initial Purchasers that:

(a) The Issuer and the Company will furnish to each Initial Purchaser and to counsel for the Initial Purchasers, without charge, during the period referred to in Section 5(c), as many copies of the materials contained in the Disclosure Package and the Final Memorandum and any amendments and supplements thereto as they may reasonably request.

(b) The Issuer and the Company will prepare a final term sheet, containing solely a description of final terms of the Securities and the offering thereof, in the form approved by you and attached as Schedule IV hereto.

(c) The Issuer and the Company will not amend or supplement the Disclosure Package or the Final Memorandum and any information incorporated by reference therein without the prior written consent of the Representatives (not to be unreasonably withheld, conditioned or delayed).

(d) If at any time prior to the completion of the sale of the Securities by the Initial Purchasers (as determined by the Representatives), any event occurs as a result of which the Disclosure Package or the Final Memorandum, as then amended or supplemented, would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made at such time, not misleading, or if it shall be necessary to amend or supplement the Disclosure Package or the Final Memorandum to comply with applicable law, the Company promptly will (i) notify the Representatives of any such

event; (ii) subject to the requirements of Section 5(c), prepare an amendment or supplement that will correct such statement or omission or effect such compliance; and (iii) supply any supplemented or amended Disclosure Package or Final Memorandum to you in such quantities as you may reasonably request.

(e) Without the prior written consent of the Representatives, each of the Issuer and the Company has not given and will not give to any prospective purchaser of the Securities any written information concerning the offering of the Securities other than materials contained in the Disclosure Package, the Final Memorandum or any other offering materials prepared by or with the prior written consent of the Representatives.

(f) The Issuer and the Company will arrange, if necessary, for the qualification of the Securities for sale under the laws of such jurisdictions as the Representatives may designate and will maintain such qualifications in effect so long as required for the distribution of the Securities; provided that in no event shall the Issuer or the Company be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action that would subject it to service of process in suits, other than those arising out of the offering or sale of the Securities, in any jurisdiction where it is not now so subject.

(g) Each of the Issuer and the Company will not, and will not permit any of its Affiliates to, resell any Securities that have been acquired by any of them.

(h) None of the Issuer, the Company, each of their respective Affiliates, or any person acting on its or their behalf (other than the Initial Purchasers as to whom no covenant is made) will, directly or indirectly, make offers or sales of any security, or solicit offers to buy any security, under circumstances that would require the registration of the Securities under the Act.

(i) None of the Issuer, the Company, each of their respective Affiliates, or any person acting on its or their behalf (other than the Initial Purchasers as to whom no covenant is made) will engage in any General Solicitation, other than any General Solicitation in respect of which the Representatives have given their prior written consent; provided that the prior written consent of the Representatives shall be deemed to have been given in respect of the General Solicitation included in Schedule V hereto.

(j) The Issuer and the Company will cooperate with the Representatives and use their best efforts to permit the Securities to be eligible for clearance and settlement through DTC.

(k) Each of the Securities and the Ordinary Shares issuable upon exchange of the Securities, if any, will bear, to the extent applicable, the legend contained in "Transfer Restrictions" in the Preliminary Memorandum and the Final Offering Memorandum for the time period and upon the other terms stated therein.

(l) During the period beginning from the date hereof and continuing to and including the date 60 days after the date of the Final Memorandum, the Issuer and the Company will not (i) offer, sell, contract to sell, pledge, grant any option to purchase,

make any short sale or otherwise transfer or dispose of, directly or indirectly, or file with the Commission a registration statement under the Act relating to, any securities of the Issuer and the Company that are substantially similar to the Securities, including but not limited to any options or warrants to purchase Ordinary Shares or any securities that are convertible into or exchangeable for, or that represent the right to receive, Ordinary Shares or any such substantially similar securities, or publicly disclose the intention to make any such offer, sale, pledge, disposition or filing or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Ordinary Shares or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Ordinary Shares or such other securities, in cash or otherwise, without the prior written consent of the Representatives, except that (A) the Issuer and the Company may issue the Securities, the Issuer may issue Exchangeable Preference Shares upon exchange of the Securities in accordance with the terms of the Indenture, and the Company may issue Ordinary Shares upon transfer of Exchangeable Preference Shares to the Company in accordance with the terms thereof, (B) the Company may grant awards under, and issue and sell Ordinary Shares or securities convertible into or exchangeable for Ordinary Shares pursuant to, any existing long-term incentive plan, employee option plan, stock ownership plan, dividend reinvestment plan or other similar plan in effect as of the date of this Agreement and disclosed in the Disclosure Package and the Final Memorandum, and (C) the Company may issue or deliver Ordinary Shares issuable upon the conversion, vesting or exercise of securities (including long-term incentive plan awards, options and warrants) outstanding as of the date of this Agreement or issued pursuant to clause (B).

(m) The Issuer and the Company will not take, directly or indirectly, any action designed to or that would reasonably be expected to constitute or which would reasonably be expected to cause or result in, under the Exchange Act or otherwise, stabilization or manipulation of the price of any security of the Issuer or the Company to facilitate the sale or resale of the Securities.

(n) The Issuer will reserve and keep available at all times, free of preemptive rights, the full number of Exchangeable Preference Shares issuable upon exchange of the Securities. Any Ordinary Shares, when issued by the Company and delivered to holders of the Securities upon delivery of Exchangeable Preference Shares as provided in the Indenture, will be validly issued, fully paid and free of preemptive and similar rights, and will conform to the description of the Ordinary Shares in the Disclosure Package and Final Memorandum.

(o) Between the date hereof and the Closing Date, the Issuer and the Company will not do or authorize any act or thing that would result in an adjustment of the exchange price with respect to the Securities as set forth in the Final Memorandum.

(p) The Company shall use its commercially reasonable efforts to cause the Securities to be approved for listing on the Channel Islands Securities Exchange (or any other securities exchange upon which the Securities, in the discretion of the Company) prior to the first interest payment date under the Notes.

(q) The Company agrees to pay the costs and expenses relating to the following matters: (i) the preparation, printing or reproduction of the Preliminary Memorandum, the Final Memorandum, the final term sheet with respect to the Securities, the materials included or incorporated by reference in the Disclosure Package and the Final Memorandum, and each amendment or supplement to any of them; (ii) the printing (or reproduction) and delivery (including postage, air freight charges and charges for counting and packaging) of the Preliminary Memorandum, the Final Memorandum, copies of the materials included or incorporated by reference in the Disclosure Package and the Final Memorandum and, and all amendments or supplements to any of them, as may, in each case, be reasonably requested for use in connection with the offering and sale of the Securities; (iii) all costs and expenses related to the transfer and delivery of the Securities to the Initial Purchasers, including any Transfer Taxes, in connection with the original issuance and sale of the Securities to the Initial Purchasers (in the manner described herein) through the facilities of DTC; (iv) the printing (or reproduction) and delivery of the Transaction Documents, any blue sky memorandum and all other agreements or documents printed (or reproduced) and delivered in connection with the offering of the Securities; (v) the listing of the Securities on the Channel Islands Securities Exchange (or any other securities exchange upon which the Securities are listed, in the discretion of the Company); (vi) any registration or qualification of the Securities for offer and sale under the securities or blue sky laws of the several states (including filing fees and the reasonable fees and expenses of counsel for the Initial Purchasers (not to exceed \$10,000 in the aggregate) relating to such registration and qualification) or the provincial securities laws of Canada and preparing and printing a “Blue Sky Survey” or memorandum, and any supplements thereto and advising the Initial Purchasers of such qualifications, registrations and exemptions; (vii) the transportation and other expenses incurred by or on behalf of Company representatives in connection with presentations to prospective purchasers of the Securities; (viii) the fees and expenses of the Company’s accountants and the fees and expenses of counsel (including local and special counsel) for the Company; (ix) the costs and expenses of any transfer agent or registrar; (x) all costs and expenses in connection with performance of the Transaction Documents (other than this Agreement) and consummation of the transactions contemplated thereby, including but not limited to such costs and expenses related to the formation and incorporation of the Issuer; and (xi) all other costs and expenses required in connection with the performance by the Issuer and the Company of each of their respective obligations hereunder or under any of the other Transaction Documents. It is understood, however, that, except as provided in this Section 5(q) or Sections 7 or 8 hereof, the Initial Purchasers will pay all of their own costs and expenses, including the fees and expenses of counsel to the Initial Purchasers and any advertising expenses incurred in connection with the offering and sale of the Securities. For the avoidance of doubt, the Issuer and the Company shall not be liable under this Section 5(p) (x) to the extent that the relevant cost or expense has been recovered under any of the other Transaction Documents or (y) for net income taxes payable by any Initial Purchaser on commissions, initial purchaser discount or any other fees.

(r) The Issuer will execute and file with the U.S. Internal Revenue Service a Form 8832, electing to be treated as a disregarded entity for U.S. federal income tax purposes, with such election to take effect no later than the Closing Date.

(s) The Company will, to the extent necessary to comply with Section 6.03 of the Fourth Amended and Restated Credit Agreement, dated May 7, 2013, by and among the Company and Pride International, Inc., as borrowers, Citibank, N.A., as administrative agent, and the lenders named therein (as amended, modified and supplemented as of the date of this Agreement, the “Credit Agreement”), use the net proceeds of the offer, issuance and sale of the Securities as provided in this Agreement to refinance or replace existing indebtedness of the Company and its subsidiaries pursuant to clause (k) of the definition of “Permitted Debt” in Section 1.01 of the Credit Agreement.

6. Conditions to the Obligations of the Initial Purchasers. The obligations of the Initial Purchasers to purchase the Firm Securities and the Option Securities, as the case may be, on the Closing Date or the applicable Settlement Date, as the case may be, shall be subject to the accuracy of the representations and warranties on the part of the Issuer and the Company contained herein as of the Execution Time and as of the Closing Date or such Settlement Date, as the case may be, to the accuracy of the statements of the Issuer and the Company made in any certificates pursuant to the provisions hereof as of the Closing Date or such Settlement Date, to the performance by the Issuer and the Company of each of their respective obligations hereunder and to the following additional conditions:

(a) The Company shall have requested and caused (i) Baker Botts L.L.P., U.S. counsel for the Company, to have furnished to the Representatives its opinion, dated the Closing Date or such Settlement Date, as the case may be, and addressed to the Initial Purchasers, substantially in the form attached hereto as Annex A, (ii) Slaughter and May, U.K. counsel for the Company, to have furnished to the Representatives its opinion, dated the Closing Date or such Settlement Date, as the case may be, and addressed to the Initial Purchasers, substantially in the form attached hereto as Annex B and (iii) Mourant Ozannes, special Jersey counsel for the Company, to have furnished to the Representatives its opinion, dated the Closing Date or such Settlement Date, as the case may be, and addressed to the Initial Purchasers, substantially in the form attached hereto as Annex C.

(b) The Representatives shall have received from Davis Polk & Wardwell LLP, counsel for the Initial Purchasers, such opinion or opinions, dated the Closing Date or such Settlement Date, as the case may be, and addressed to the Initial Purchasers, with respect to the issuance and sale of the Securities, the Transaction Documents, the Disclosure Package, the Final Memorandum (together with any supplement thereto) and other related matters as the Representatives may reasonably require, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(c) The Issuer and the Company shall have furnished to the Representatives a certificate of the Company, signed by the principal executive or financial officer and the principal accounting officer or another executive officer of the Company, dated the Closing Date or such Settlement Date, as the case may be, to the effect that the signers of such certificate have carefully examined the Disclosure Package and the Final Memorandum and any supplements or amendments thereto, as well as any Additional

Written Information and each electronic road show used in connection with the offering of the Securities, and this Agreement and that:

(i) the representations and warranties of the Issuer and the Company in this Agreement are true and correct on and as of the Closing Date or such Settlement Date with the same effect as if made on the Closing Date or such Settlement Date and the Company has complied with all the agreements set forth herein and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Date or such Settlement Date, in all material respects; and

(ii) since the date of the most recent financial statements included in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto), there has been no material adverse effect on the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its Subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any supplement thereto).

(d) The Company shall have requested and caused KPMG LLP to have furnished to the Representatives, at the Execution Time, at the Closing Date and at each such Settlement Date, comfort letters, dated respectively as of the Execution Time, as of the Closing Date and as of such Settlement Date, in form and substance reasonably satisfactory to the Representatives.

(e) Subsequent to the Execution Time or, if earlier, the dates as of which information is given in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto), there shall not have been (i) any change or decrease specified in the comfort letters referred to in Section 6(d) or (ii) any change, or any development involving a prospective change, in or affecting the condition (financial or otherwise), earnings, business or properties of the Company and its Subsidiaries taken as a whole, whether or not arising from transactions in the ordinary course of business, except as disclosed in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto) the effect of which, in any case referred to in clause (i), or (ii) above, is, in the judgment of the Representatives, so material and adverse as to make it impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated by the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(f) Subsequent to the Execution Time, there shall not have been any decrease in the rating of the Company or any of its debt by any “nationally recognized statistical rating organization” (as defined in Section 3(a)(62) under the Exchange Act) or any notice given of any intended, or except with respect to the Company’s receipt of notice of a negative watch, potential decrease in any such rating or of a possible change in any such rating that does not indicate the direction of the possible change.

(g) Prior to the Execution Time, the Company shall have furnished to the Representatives a letter substantially in the form of Exhibit A hereto from (i) each officer

(as defined in Rule 16a-1(f) of the rules and regulations under the Exchange Act) of the Company and (ii) each director of the Company.

(h) 60,571,200 Number of Ordinary Shares shall have been approved for listing on the New York Stock Exchange, subject only to official notice of issuance and evidence of satisfactory distribution.

(i) As of the Closing Date or any Settlement Date, as the case may be, the Issuer Articles shall have been duly adopted, and each other Transaction Document shall have been executed and delivered by each of the Issuer and the Company (to the extent party thereto).

(j) Prior to the Closing Date or such Settlement Date, as the case may be, the Company shall have furnished to the Representatives such further information, certificates and documents as the Representatives may reasonably request.

If any of the conditions specified in this Section 6 shall not have been fulfilled when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be reasonably satisfactory in form and substance to the Representatives and counsel for the Initial Purchasers, this Agreement and all obligations of the Initial Purchasers hereunder may be canceled at, or at any time prior to, the Closing Date or such Settlement Date, as the case may be, by the Representatives. Notice of such cancellation shall be given to the Company in writing or by telephone or facsimile confirmed in writing.

The documents required to be delivered by this Section 6 shall be delivered at the office of Davis Polk & Wardwell LLP, counsel for the Initial Purchasers, at 450 Lexington Avenue, New York, NY 10017, on the Closing Date or such Settlement Date, as the case may be.

7. Reimbursement of Initial Purchasers' Expenses. If the sale of the Securities provided for herein is not consummated because any condition to the obligations of the Initial Purchasers set forth in Section 6 hereof is not satisfied, because of any termination pursuant to Section 10 hereof or because of any refusal, inability or failure on the part of the Company to perform any agreement herein or comply with any provision hereof other than by reason of a default by any of the Initial Purchasers, the Company will reimburse the Initial Purchasers severally through the Representatives on demand for all reasonable out-of-pocket expenses (including reasonable fees and disbursements of counsel) that shall have been incurred by them in connection with the proposed purchase and sale of the Securities.

8. Indemnification and Contribution.

(a) Each of the Issuer and the Company, jointly and severally, agrees to indemnify and hold harmless each Initial Purchaser, the directors, officers, employees and agents of each Initial Purchaser, each affiliate of any Initial Purchaser within the meaning of Rule 405 under the Act and each person who controls any Initial Purchaser within the meaning of either the Act or the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Act, the Exchange Act or other Federal or state statutory law or regulation, at common law, the laws of England and Wales or Jersey or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof)

arise out of, are based upon or are in connection with any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Memorandum, the Final Memorandum, any Issuer Written Information, any Additional Written Information, any General Solicitation, or any other written information used by or on behalf of the Issuer or the Company in connection with the offer or sale of the Securities or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Issuer and the Company will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Issuer or the Company by or on behalf of any Initial Purchaser through the Representatives specifically for inclusion therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 23 hereof. This indemnity agreement will be in addition to any liability which the Issuer and the Company may otherwise have.

(b) Each Initial Purchaser severally and not jointly agrees to indemnify and hold harmless the Issuer and the Company, each of their respective directors, officers, and each person who controls the Issuer or the Company within the meaning of either the Act or the Exchange Act, to the same extent as the foregoing indemnity in Section 8(a)(i), but only with reference to written information relating to such Initial Purchaser furnished to the Issuer or the Company by or on behalf of such Initial Purchaser through the Representatives specifically for inclusion in the documents referred to in the foregoing indemnity, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 23 hereof. This indemnity agreement will be in addition to any liability which any Initial Purchaser may otherwise have.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party (i) will not relieve it from liability under Section 8(a) or (b), 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 Section 8(a) or (b). The indemnifying party shall be entitled to appoint counsel of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be reasonably satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate

counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest, (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party, (iii) the indemnifying party shall not have employed counsel reasonably satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action or (iv) the indemnifying party shall authorize the indemnified party in writing to employ separate counsel at the expense of the indemnifying party. An indemnifying party will not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding. Subject to the immediately preceding sentence, an indemnifying party shall not be required to indemnify the indemnified party for any amount paid or payable by the indemnified party in the settlement of any proceeding effected without the written consent of the indemnifying party, which consent shall not be unreasonably withheld or delayed.

(d) In the event that the indemnity provided in Section 8(a), (b) or (c) is unavailable to or insufficient to hold harmless an indemnified party for any reason, the Issuer, the Company and the Initial Purchasers severally agree to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending the same) (collectively “Losses”) to which the Issuer and the Company and one or more of the Initial Purchasers may be subject in such proportion as is appropriate to reflect the relative benefits received by the Issuer or the Company on the one hand and by the Initial Purchasers on the other from the offering of the Securities; provided, however, that in no case shall any Initial Purchaser (except as may be provided in any agreement among Initial Purchasers relating to the offering of the Securities) be responsible for any amount in excess of the initial purchaser discount applicable to the Securities purchased by such Initial Purchaser hereunder. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the Issuer, the Company and the Initial Purchasers severally shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Issuer or the Company on the one hand and of the Initial Purchasers on the other in connection with the statements or omissions which resulted in such Losses as well as any other relevant equitable considerations. Benefits received by the Issuer and the Company shall be deemed to be equal to the total net proceeds from the offering (before deducting expenses), and benefits received by the Initial Purchasers shall be deemed to be equal to the total initial purchaser discounts. Relative fault shall be determined by reference to, among other things, (i) whether any untrue or any alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information provided by the Issuer or the Company on the one hand or the Initial Purchasers on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement or omission, and (ii) whether any loss or liability incurred by the Initial Purchasers arose from or was in connection with the Company’s or the Issuer’s performance or failure to perform under the Transaction Documents. The Issuer, the Company and the Initial Purchasers

agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation which does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this Section 8(d), no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 8, each person who controls an Initial Purchaser within the meaning of either the Act or the Exchange Act, each affiliate of any Initial Purchaser within the meaning of Rule 405 under the Act and each director, officer, employee and agent of an Initial Purchaser shall have the same rights to contribution as such Initial Purchaser, and each person who controls the Company within the meaning of either the Act or the Exchange Act, each officer of the Company, and each director of the Company shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this Section 8(d).

9. Default by an Initial Purchaser. If any one or more Initial Purchasers shall fail to purchase and pay for any of the Securities agreed to be purchased by such Initial Purchaser or Initial Purchasers hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Initial Purchasers shall be obligated severally to take up and pay for (in the respective proportions which the aggregate principal amount of Securities set forth opposite their names in Schedule II hereto bears to the aggregate principal amount of Securities set forth opposite the names of all the remaining Initial Purchasers) the Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase; provided, however, that in the event that the aggregate principal amount of Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase shall exceed 10% of the aggregate principal amount of Securities set forth in Schedule II hereto, the remaining Initial Purchasers shall have the right to purchase all, but shall not be under any obligation to purchase any, of the Securities, and if such nondefaulting Initial Purchasers do not purchase all the Securities, this Agreement will terminate without liability to any nondefaulting Initial Purchaser or the Company. In the event of a default by any Initial Purchaser as set forth in this Section 9, the Closing Date or Settlement Date, as the case may be, shall be postponed for such period, not exceeding five Business Days, as the Representatives shall determine in order that the required changes in the Final Memorandum or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Initial Purchaser of its liability, if any, to the Company and any nondefaulting Initial Purchaser for damages occasioned by its default hereunder.

10. Termination. This Agreement shall be subject to termination in the absolute discretion of the Representatives, by notice given to the Company prior to delivery of and payment for the Securities, if at any time prior to such delivery and payment (i) trading in the Company's Ordinary Shares shall have been suspended by the Commission or the New York Stock Exchange or trading in securities generally on the New York Stock Exchange or the NASDAQ Global Market shall have been suspended or limited or minimum prices shall have been established on such exchange, (ii) a banking moratorium shall have been declared either by Federal or New York State authorities or (iii) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war, or other calamity or crisis the effect of which on financial markets is such as to make it, in the judgment of the Representatives, impractical or inadvisable to proceed with the offering or delivery of the

Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

11. Representations and Indemnities to Survive. The respective agreements, representations, warranties, indemnities and other statements of the Issuer, the Company and each of their respective officers and of the Initial Purchasers set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of any Initial Purchaser or the Company or any of the officers, directors, employees, agents or controlling persons referred to in Section 8 hereof, and will survive delivery of and payment for the Securities. The provisions of Sections 7 and 8 hereof shall survive the termination or cancellation of this Agreement.

12. Notices. All communications hereunder will be in writing and effective only on receipt, and, if sent to the Representatives, will be mailed, delivered or telefaxed to (i) Citigroup Global Markets Inc., 388 Greenwich Street, New York, New York 10013 Attention: General Counsel, facsimile number 1-646-291-1469.; and (ii) HSBC Securities (USA) Inc., 452 Fifth Avenue, New York, New York, 10018, Attention: Transaction Management Group (Facsimile Number 1-212-525-0238); or, if sent to the Company, will be mailed, delivered or telefaxed to Jonathan H. Baksht, Chief Financial Officer, 6 Chesterfield Gardens, London W1J5BQ, England, United Kingdom (fax no.: 44 0 207 409 0399) and confirmed to Michael T. McGuinty, Senior Vice President, General Counsel and Secretary, 6 Chesterfield Gardens, London W1J5BQ, England, United Kingdom (fax no.: 44 0 207 409 0399) with a copy to Baker Botts L.L.P., 910 Louisiana Street, Houston, TX 77002, Attention: Tull Florey (fax no.: (713) 229-2779).

13. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers, directors, employees, agents and controlling persons referred to in Section 8 hereof, and no other person will have any right or obligation hereunder.

14. No Fiduciary Duty. The Issuer and the Company hereby acknowledge that (a) the purchase and sale of the Securities pursuant to this Agreement is an arm's-length commercial transaction between the Issuer and the Company, on the one hand, and the Initial Purchasers and any affiliate through which it may be acting, on the other, (b) the Initial Purchasers are acting as principals and not as agents or fiduciaries of the Issuer or the Company and (c) the Issuer's and Company's engagement of the Initial Purchasers in connection with the offering and the process leading up to the offering is as independent contractors and not in any other capacity. Furthermore, each of the Issuer and the Company agrees that it is solely responsible for making its own judgments in connection with the offering (irrespective of whether any of the Initial Purchasers has advised or is currently advising the Company on related or other matters). Each of the Issuer and the Company agrees that it will not claim that the Initial Purchasers have rendered advisory services of any nature or respect, or owe an agency, fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

15. Integration. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Initial Purchasers, or any of them, with respect to the subject matter hereof.

16. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed within the State of New York.

17. Waiver of Jury Trial. The Issuer and the Company hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

18. Submission to Jurisdiction; Service of Process. Each of the Issuer and the Company hereby irrevocably and unconditionally (i) submits, for itself and for its property, to the exclusive jurisdiction of the United States District Court for the Southern District of New York or, if that federal court lacks subject matter jurisdiction, the Commercial Division of the Supreme Court of the State of New York sitting in New York County, and any appellate court from any thereof, in any action or proceeding arising out of or in any way relating to this Agreement or the transactions contemplated hereby, or for recognition or enforcement of any judgment, (ii) agrees that it will not assert any claim, or in any way support any suit, action or proceeding, arising out of or relating to this Agreement or the transactions contemplated hereby, or for recognition or enforcement of any judgment, other than in such courts, (iii) agrees that all suits, claims, actions or proceedings related to this Agreement or the transactions contemplated hereby shall be heard and determined only in such courts, (iv) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum and (v) agrees that a final judgment of such courts shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law. Each of the Issuer and the Company agrees that service of any process, summons, notice or document by registered mail addressed to the Issuer or the Company, respectively, c/o Michael T. McGuinty, Senior Vice President, General Counsel and Secretary, 6 Chesterfield Gardens, London W1J5BQ, England, United Kingdom shall be effective service of process against the Issuer or Company, respectively, for any suit, action or proceeding relating to any dispute related to this Agreement or the transactions contemplated hereby. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable requirements of law. To the extent that either of the Issuer or the Company has or hereafter may acquire any immunity (on the grounds of sovereignty or otherwise) from the jurisdiction of any court or from any legal process with respect to itself or its property, each of the Issuer and the Company irrevocably waives, to the fullest extent permitted by law, such immunity in respect of any such suit, action or proceeding.

19. Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder, or in connection with the transactions contemplated in this document, in dollars into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures, the parties could purchase (and remit in New York City) dollars with such other currency on the business day preceding that on which final judgment is given. Each of the Issuer's and the Company's obligation in respect of any sum due hereunder or in connection with the transactions contemplated in this document shall, notwithstanding any judgment in a currency other than dollars, be discharged only to the extent that on the business day following their receipt of any sum adjudged to be so due in such other currency, the parties may, in accordance with normal banking procedures, purchase (and remit in New York City) dollars with such other currency; if the dollars so purchased and remitted are less than the sum

originally due to the Initial Purchasers or any other indemnified party in dollars, each of the Issuer and the Company agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the relevant payee against such loss, and if the dollars so purchased exceed the sum originally due in dollars, such excess shall be remitted to the Issuer or the Company, respectively.

20. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

21. Headings. The section headings used herein are for convenience only and shall not affect the construction hereof.

22. Definitions. The terms that follow, when used in this Agreement, shall have the meanings indicated.

“Act” shall mean the Securities Act of 1933, as amended and the rules and regulations of the Commission promulgated thereunder.

“Additional Written Information” shall mean any writings used by or on behalf of the Issuer or the Company in connection with the offer or sale of the Securities or supplement thereto, including those identified in Schedules III(a) and (b) hereto.

“Business Day” shall mean any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorized or obligated by law to close in New York City.

“Commission” shall mean the Securities and Exchange Commission.

“Disclosure Package” shall mean (i) the Preliminary Memorandum, as amended or supplemented at the Execution Time, (ii) any Issuer Written Information identified in Schedule III(a) hereto, and (iii) the final term sheet prepared pursuant to Section 5(b) hereto.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

“Execution Time” shall mean the date and time that this Agreement is executed and delivered by the parties hereto.

“Issuer Written Information” shall mean any writings in addition to the Preliminary Memorandum that the parties expressly agree in writing to treat as part of the Disclosure Package, including those identified in Schedule III(a) hereto.

“Regulation D” shall mean Regulation D under the Act.

“Regulation S-X” shall mean Regulation S-X under the Act.

“road show” shall mean a road show as defined in Rule 433.

“ Subsidiary ” shall mean each person in which the Company has a direct or indirect majority equity or voting interest, including without limitation the Issuer.

“ Trust Indenture Act ” shall mean the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission promulgated thereunder.

23. Information Provided by the Initial Purchasers. The Company acknowledges that (i) the statements set forth in the last paragraph of the cover page regarding delivery of the Securities and (ii) under the heading “Plan of Distribution”, (A) the list of Initial Purchasers and their respective participation in the sale of the Securities, (B) the second sentence in the fourth paragraph related to securities dealers discount and (C) the statements set forth in the paragraphs under the heading “Short Positions and Stabilizing Purchasers” in any Preliminary Memorandum and the Final Memorandum constitute the only information furnished in writing by or on behalf of the several Initial Purchasers for inclusion in the Preliminary Memorandum or the Final Memorandum.

[*Signature Pages Follow*]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, whereupon this letter and your acceptance shall represent a binding agreement among the Issuer, the Company and the several Initial Purchasers.

Very truly yours,

ENSCO JERSEY FINANCE LIMITED

By: /s/ Jonathan P. Cross

Name: Jonathan P. Cross

Title: Director

Very truly yours,

ENSCO PLC

/s/ Jonathan Baksht

Name: Jonathan Baksht

Title: Senior Vice President and Chief Financial Officer

The foregoing Agreement is hereby confirmed and accepted as of the date specified in Schedule I hereto.

CITIGROUP GLOBAL MARKETS INC.

By: /s/ Jason Howard
Name: Jason Howard
Title: Director

HSBC SECURITIES (USA) INC.

By: /s/ Diane Kenna
Name: Diane Kenna
Title: Managing Director

For themselves and the other several Initial Purchasers, if any, named in Schedule II to the foregoing Agreement.

SCHEDULE I

Purchase Agreement dated December 6, 2016

Representatives: Citigroup Global Markets Inc. and HSBC Securities (USA) Inc.

Title, Purchase Price and Description of Securities:

Title:	3.00% Exchangeable Senior Notes due 2024
Principal Amount of Firm Securities to be sold by the Issuer:	\$750,000,000
Principal of Option Securities to be sold by the Issuer:	\$112,500,000
Purchase Price:	97.25%

Closing Date, Time and Location:	December 12, 2016 at 9:30 a.m., New York City time, at Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017
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Schedule I- 1

SCHEDULE II

Initial Purchasers	Aggregate Principal Amount of Firm Securities to be Purchased	Maximum Aggregate Principal Amount of Option Securities to be Purchased
Citigroup Global Markets Inc.	\$ 195,000,000	\$ 29,250,000
HSBC Securities (USA) Inc.	172,500,000	25,875,000
BNP Paribas Securities Corp.	127,500,000	19,125,000
Deutsche Bank Securities Inc.	127,500,000	19,125,000
DNB Markets, Inc.	127,500,000	19,125,000
Total	<u>\$ 750,000,000</u>	<u>\$ 112,500,000</u>

Schedule II- 1

SCHEDULE III

(a) Schedule of Issuer Written Information:

1. Final Term Sheet in the form attached Schedule IV hereto.

(b) Schedule of Additional Written Information:

1. Investor Presentation, dated December 2016.

SCHEDULE IV

[Final Term Sheet]



EnSCO Jersey Finance Limited
\$750,000,000 3.00% Exchangeable Senior Notes due 2024
Guaranteed on a senior unsecured basis by EnSCO plc

The information in this pricing term sheet supplements EnSCO Jersey Finance Limited's preliminary offering circular, dated December 6, 2016 (the "Preliminary Offering Circular"), and supersedes the information in the Preliminary Offering Circular to the extent inconsistent with the information in the Preliminary Offering Circular. In all other respects, this pricing term sheet is qualified in its entirety by reference to the Preliminary Offering Circular, including all documents incorporated by reference therein.

The total size of this offering has been increased from \$650,000,000 to \$750,000,000. The net proceeds received from the increase of \$100,000,000 will be used to repurchase or refinance debt of EnSCO plc or its subsidiaries, and for general corporate purpose as set forth under "Use of Proceeds" in the Preliminary Offering Circular. As a result of the increase, total debt and total capitalization as set forth under "Capitalization" in the Preliminary Offering Circular, based on the use of proceeds described therein, will increase by the amount of the increased debt. Other corresponding changes will be made where applicable throughout the Preliminary Offering Circular.

Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Offering Circular. All references to dollar amounts are references to U.S. dollars.

Issuer:	EnSCO Jersey Finance Limited, a company incorporated under the laws of Jersey and a wholly owned subsidiary of EnSCO ("Issuer").
Guarantor:	EnSCO plc, a public limited company incorporated under the laws of England and Wales ("EnSCO").
Notes:	3.00% Exchangeable Senior Notes due 2024 (the "Notes")
Guarantee:	The Notes will be fully and unconditionally guaranteed on a senior unsecured basis by EnSCO (the "Guarantee").
Notes Offered:	\$750,000,000 aggregate principal amount of Notes (plus up to an additional \$112,500,000 principal amount if the initial purchasers exercise their 30-day option to purchase additional Notes).
Denominations:	\$1,000 and integral multiples of \$1,000 in excess thereof.
Maturity:	January 31, 2024, unless earlier repurchased, redeemed or exchanged.
Interest Rate:	3.00% per year. Interest will accrue from the Settlement Date and will be payable semiannually in arrears on January 31 and July 31 of each year, beginning on July 31, 2017.
Interest Record Date:	January 15 and July 15 of each year, immediately preceding any January 31 or July 31 interest payment date, as the case may be.
Trade Date:	December 7, 2016.

Settlement Date:	December 12, 2016.
Class A Ordinary Shares:	Class A ordinary shares of Ensco, par value \$0.10 per share.
Ticker/Exchange for Class A Ordinary Shares:	“ESV”/The New York Stock Exchange (“NYSE”)
NYSE Last Reported Sale Price on December 6, 2016:	\$10.58 per Class A Ordinary Share
Initial Exchange Rate:	71.3343 Class A Ordinary Shares per \$1,000 principal amount of Notes.
Initial Exchange Price:	Approximately \$14.02 per Class A Ordinary Share.
Exchange Premium:	Approximately 32.50% above the NYSE Last Reported Sale Price on December 6, 2016.
No Optional Redemption or Sinking Fund:	The Notes may not be redeemed by the Issuer except in the event of certain tax law changes as described under “Description of Notes—Optional Redemption for Changes in the Tax Laws of the Relevant Taxing Jurisdiction” in the Preliminary Offering Circular. In addition, no sinking fund is provided for the Notes, which means that the Issuer is not required to redeem or retire the Notes periodically.
Tax Redemption:	If certain changes in the law of any relevant Tax Jurisdiction (as defined in “Description of Notes—Additional Amounts” in the Preliminary Offering Circular) become effective that would impose withholding taxes on payments on the Notes, the Issuer may redeem the Notes in whole, but not in part, at a tax redemption price of 100% of the aggregate principal amount thereof, <i>plus</i> accrued and unpaid interest, if any, to, but excluding, the tax redemption date and all Additional Amounts (as defined in “Description of Notes” in the Preliminary Offering Circular), if any, which otherwise would be payable to the date of tax redemption. Upon the Issuer giving notice of a tax redemption, a holder may elect not to have its notes redeemed, in which case the holder would not be entitled to receive any Additional Amounts with respect to its notes after the redemption date. See “Description of Notes—Optional Redemption for Changes in the Tax Laws of the Relevant Taxing Jurisdiction” in the Preliminary Offering Circular.
Additional Amounts:	If any deduction or withholding for, or on account of, any Taxes (as defined in “Description of Notes—Additional Amounts” in the Preliminary Offering Circular) imposed by any Tax Jurisdiction will at any time be required to be made from any payments made under or with respect to the Notes, subject to certain exceptions, the Issuer will pay such Additional Amounts as may be necessary in order that the net amounts received in respect of such payments by each holder after such withholding or deduction (including any such deduction or withholding in respect of Additional Amounts) will equal the respective amounts which would have been received in respect of such payments in the absence of such withholding or deduction. See “Description of Notes—Additional Amounts” in the Preliminary Offering Circular.

Fundamental Change:

If a “fundamental change” (as defined in “Description of Notes—Fundamental Change Permits Holders to Require the Issuer to Repurchase Notes” in the Preliminary Offering Circular) occurs, subject to certain conditions, holders may require the Issuer to repurchase for cash all or any portion of their Notes in principal amounts of \$1,000 or integral multiples of \$1,000 thereof. The fundamental change repurchase price will be equal to 100% of the principal amount of the Notes to be repurchased, *plus* accrued and unpaid interest, if any, to, but excluding, the fundamental change repurchase date. See “Description of Notes—Fundamental Change Permits Holders to Require the Issuer to Repurchase Notes” in the Preliminary Offering Circular.

Use of Proceeds:

The Issuer expects the net proceeds from this offering to be approximately \$728.2 million, or approximately \$837.6 million if the initial purchasers exercise their option to acquire additional Notes in full, in each case after deducting the estimated initial purchaser discount and estimated offering expenses payable by the Issuer. The Issuer and Ensco expect to use the net proceeds of this offering, and any proceeds from the exercise of the initial purchasers’ option to acquire additional notes and to fund the cash portion of the purchase price of the Exchange Offer Notes in the Exchange Offers. If the Exchange Offers are not consummated or the net proceeds from this offering exceed the total cash consideration payable in the Exchange Offers, the Issuer and Ensco intend to use the remaining net proceeds from this offering to repurchase or refinance other debt of Ensco or Ensco’s subsidiaries and for general corporate purposes. See “Use of Proceeds” in the Preliminary Offering Circular.

Concurrent Exchange Offers:

Concurrently with this offering, Ensco is conducting exchange offers (the “Exchange Offers”) for any or all of the entire (i) \$683.1 million outstanding principal amount of the 4.70% Senior Notes due 2021 (the “2021 Notes”) issued by Ensco, (ii) \$438.0 million outstanding principal amount of the 8.50% Senior Notes due 2019 (the “2019 Notes”) issued by Pride International, Inc., a wholly owned subsidiary of Ensco (“Pride”) and (iii) \$680.8 million outstanding principal amount of the 6.875% Senior Notes due 2020 issued by Pride (the “2020 Notes” and, together with the 2021 Notes and the 2019 Notes, the “Exchange Offer Notes”).

Joint Book-Running Managers:

Citigroup Global Markets Inc.
HSBC Securities (USA) Inc.
BNP Paribas Securities Corp.
Deutsche Bank Securities Inc.
DNB Markets, Inc.

CUSIP Number (144A):

29359W AA3

ISIN (144A):

US29359WAA36

Listing:

The Issuer intends to apply for listing of the Notes on the Channel Islands Securities Exchange or another exchange selected by the Issuer. If such listing is obtained, the Issuer will have no obligation to maintain such listing, and the Issuer may delist the Notes and list the Notes on another exchange in its discretion at any time.

**Increase in Exchange Rate upon
Exchange upon a Make-Whole Fundamental
Change:**

The following table sets forth the number of additional shares by which the Exchange Rate will be increased per \$1,000 principal amount of Notes for exchanges in connection with a make-whole fundamental change for each “stock price” and “effective date” set forth below:

Effective Date	Stock Price											
	\$10.58	\$11.00	\$12.00	\$13.00	\$14.02	\$15.00	\$17.50	\$20.00	\$25.00	\$30.00	\$50.00	\$100.00
December 12, 2016	23.1837	21.8073	18.9850	16.6754	14.7240	13.1493	10.0937	7.9625	5.2480	3.6393	1.0228	0.0000
January 31, 2018	23.1837	21.5145	18.5742	16.1862	14.1840	12.5813	9.5086	7.4030	4.7788	3.2623	0.8784	0.0000
January 31, 2019	23.1837	21.2727	18.1717	15.6754	13.6034	11.9600	8.8583	6.7800	4.2620	2.8543	0.7296	0.0000
January 31, 2020	23.1837	21.0500	17.7267	15.0831	12.9151	11.2167	8.0771	6.0375	3.6632	2.3953	0.5792	0.0000
January 31, 2021	23.1837	20.7691	17.1383	14.2931	11.9964	10.2293	7.0600	5.0945	2.9404	1.8667	0.4288	0.0000
January 31, 2022	23.1837	20.3045	16.2250	13.0915	10.6255	8.7793	5.6331	3.8325	2.0532	1.2617	0.2804	0.0000
January 31, 2023	23.1837	19.5409	14.6658	11.0377	8.3153	6.3960	3.4851	2.1085	1.0188	0.6207	0.1416	0.0000
January 31, 2024	23.1837	19.1527	11.9075	5.5885	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact stock prices and effective dates may not be set forth in the table above, in which case:

- If the stock price is between two stock prices in the table or the effective date is between two effective dates in the table, the number of additional shares will be determined by a straight-line interpolation between the number of additional shares set forth for the higher and lower stock prices and the earlier and later effective dates, as applicable, based on a 365-day year.
- If the stock price is greater than \$100.00 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above as described in the Preliminary Offering Circular), no additional shares will be added to the exchange rate.
- If the stock price is less than \$10.58 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above as described in the Preliminary Offering Circular), no additional shares will be added to the exchange rate.

Notwithstanding the foregoing, in no event will the exchange rate per \$1,000 principal amount of Notes exceed 94.5180 Class A Ordinary Shares, subject to adjustment in the same manner as the exchange rate as set forth under “Description of Notes—Exchange Rights—Exchange Rate Adjustments” in the Preliminary Offering Circular. In addition, unless and until Enco obtains, in accordance with the listing standards of the NYSE, shareholder approval to issue upon exchange of the notes more than 19.99% of the number of Class A Ordinary Shares outstanding as of the date of the Preliminary Offering Circular, the number of Class A Ordinary Shares, if any, deliverable upon exchange of the notes will not exceed the exchange share cap (as defined in the Preliminary Offering Circular). See “Description of Notes—Exchange Rights—Exchange Share Limitations” in the Preliminary Offering Circular.

This communication is intended for the sole use of the person to whom it is provided by the sender. This material is confidential and is for your information only and is not intended to be used by anyone other than you. This information does not purport to be a complete description of the Notes or the offering thereof. This communication does not constitute an offer to sell or the solicitation of an offer to buy any Notes in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

The Notes, the Guarantee and the Class A Ordinary Shares, if any, issuable upon exchange of the Notes have not been registered with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “Securities Act”), or any state or foreign securities laws. The Notes, the Guarantee and the Class A Ordinary Shares, if any, issuable upon exchange of the Notes may not be offered or sold in the United States or to any U.S. persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. The Notes are only being offered and will only be issued to “qualified institutional buyers” as defined in Rule 144A under the Securities Act. Please see “Transfer Restrictions” in the Preliminary Offering Circular.

A copy of the Preliminary Offering Circular for the offering of the Notes may be obtained by contacting: Citigroup Global Markets Inc., c/o Broadridge Financial Solutions, 1155 Long Island Avenue, Edgewood, New York 11717, Attn: Prospectus Department; HSBC Securities (USA) Inc., Attn: Prospectus Department, 452 Fifth Avenue, New York, New York, 10018, telephone (877) 429-7459, or email ny.equity.syndicate@us.hsbc.com.

Any legends, disclaimers or other notices that may appear below are not applicable to this communication and should be disregarded. Such legends, disclaimers or other notices have been automatically generated as a result of this communication having been sent via Bloomberg or another system.

Schedule IV- 2

SCHEDULE V

Schedule of Written General Solicitation Materials

1. None.

Schedule V- 1

Exhibit A

Enscopl

Form of Lock-up Agreement

December 6, 2016

Citigroup Global Markets Inc.
HSBC Securities (USA) Inc.

c/o Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

c/o HSBC Securities (USA) Inc.
452 Fifth Avenue
New York, New York, 10018

Re: Enscopl — Lock-Up Agreement

Ladies and Gentlemen:

The undersigned understands that you, as representatives (the “Representatives”), propose to enter into an Purchase Agreement (the “Purchase Agreement”) on behalf of the several Initial Purchasers named in such agreement (collectively, the “Initial Purchasers”), with Enscopl, a public limited company organized under the laws of England and Wales (the “Company”) and Enscopl Jersey Finance Limited, a company organized under the laws of Jersey (the “Issuer”) and a wholly-owned subsidiary of the Company, providing for the offering of the Issuer’s Exchangeable Senior Notes due 2024 (the “Securities”). The Securities are exchangeable at the option of the holders thereof. Upon exchange of \$1,000 principal amount of Notes, the Issuer will deliver one exchangeable redeemable preference share of the Issuer with a par value of \$0.0000001 and a paid-up value of \$1,000 (an “Exchangeable Preference Share”) to be issued in accordance with the Articles and Memorandum of Association of the Issuer in effect as of the Closing Date, which Exchangeable Preference Shares will be guaranteed by the Company pursuant to a Deed Poll by the Company in favor of the holders of Exchangeable Preference Shares to be dated the Closing Date. Upon issuance, each Exchangeable Preference Share will be immediately transferred, without any action on the part of the exchanging holder, to the Company in consideration for the Company’s payment or delivery, as the case may be, to the holder thereof of (i) cash, (ii) Class A ordinary shares, par value \$0.10 per share (the “Shares”), of the Company or (iii) a combination thereof, at the Company’s election.

In consideration of the agreement by the Initial Purchasers to offer and sell the Securities, and of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the undersigned agrees that, during the period specified in the following paragraph (the “Lock-Up Period”), the undersigned will not offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise dispose of any Shares, or any

Exhibit A- 1

options or warrants to purchase any Shares, or any securities convertible into, exchangeable for or that represent the right to receive Shares, whether now owned or hereinafter acquired, owned directly by the undersigned (including holding as a custodian) or with respect to which the undersigned has beneficial ownership within the rules and regulations of the SEC (collectively the “Undersigned’s Shares”). The foregoing restriction is expressly agreed to preclude the undersigned from engaging in any hedging or other transaction which is designed to or which reasonably could be expected to lead to or result in a sale or disposition of the Undersigned’s Shares even if such Shares would be disposed of by someone other than the undersigned. Such prohibited hedging or other transactions would include without limitation any short sale or any purchase, sale or grant of any right (including without limitation any put or call option) with respect to any of the Undersigned’s Shares or with respect to any security that includes, relates to, or derives any significant part of its value from such Shares. In addition, the undersigned agrees that it will not, during the Lock-Up Period, publicly disclose the intention to engage in any of the foregoing transactions, or make any demand for or exercise any right with respect to the registration of any of the Undersigned’s Shares.

The initial Lock-Up Period will commence on the date of this Lock-Up Agreement and continue for 60 days after the public offering date set forth on the Final Memorandum used to sell the Shares (the “Public Offering Date”) pursuant to the Purchase Agreement.

Notwithstanding the foregoing, the undersigned may transfer the Undersigned’s Shares (i) as a *bona fide* gift or gifts, provided that the donee or donees thereof agree to be bound in writing by the restrictions set forth herein and provided further that no public announcement or filing under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) shall be required or voluntarily made in connection with such transfer, (ii) to any member of the immediate family of the undersigned provided that (A) the transferee or transferees agree(s) to be bound in writing by the restrictions set forth herein, (B) any such transfer shall not involve a disposition for value, and (C) no public announcement or filing under the Exchange Act shall be required or voluntarily made in connection with such transfer, (iii) to any trust for the direct or indirect benefit of the undersigned or the immediate family of the undersigned, provided that (A) the trustee of the trust agrees to be bound in writing by the restrictions set forth herein, (B) any such transfer shall not involve a disposition for value, and (C) no public announcement or filing under the Exchange Act shall be required or voluntarily made in connection with such transfer, (iv) to an entity controlled by the undersigned provided that (A) the transferee or transferees agree(s) to be bound in writing by the restrictions set forth herein and (B) no public announcement or filing under the Exchange Act shall be required or voluntarily made in connection with such transfer, (v) pursuant to the laws of testamentary or intestate descent, (vi) to the Company for the primary purpose of paying the exercise price of options or for paying taxes (including estimated taxes) due as a result of the exercise of such options or as a result of the vesting of securities (including long-term incentive plan awards, options and warrants), in each case pursuant to any long-term incentive plan, stock ownership plan or other similar plan in effect as of the date hereof and disclosed in the Disclosure Package and the Final Memorandum; provided that no public announcement or filing under the Exchange Act shall be required or voluntarily made in connection with such transfer other than any required filing under the Exchange Act that indicates by footnote disclosure or otherwise the nature of such transfer or deemed transfer, or (vii) with the prior written consent of the Representatives on behalf of the Initial Purchasers. For purposes of this Lock-Up Agreement, “immediate family” shall mean any relationship by blood,

marriage or adoption, not more remote than first cousin. The undersigned now has, and, except as contemplated by clauses (i) through (vii) above, for the duration of this Lock-Up Agreement will have, good and marketable title to the Undersigned's Shares, free and clear of all liens, encumbrances, and claims whatsoever. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Undersigned's Shares except in compliance with the foregoing restrictions.

The undersigned understands that the Company and the Initial Purchasers are relying upon this Lock-Up Agreement in proceeding toward consummation of the offering. The undersigned further understands that this Lock-Up Agreement is irrevocable and shall be binding upon the undersigned's heirs, legal representatives, successors, and assigns.

Very truly yours,

[Name of Shareholder]