
**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): January 13, 2025

F&G Annuities & Life, Inc.

(Exact Name of Registrant as Specified in its Charter)

001-41490

(Commission File Number)

Delaware

(State or Other Jurisdiction of
Incorporation)

85-2487422

(IRS Employer Identification No.)

801 Grand Avenue, Suite 2600

Des Moines, Iowa 50309

(Address of Principal Executive Offices)

(866) 846-4660

(Registrant's Telephone Number, Including Area Code)

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Trading Symbol</u>	<u>Name of Each Exchange on Which Registered</u>
F&G Common Stock, \$0.001 par value	FG	New York Stock Exchange
7.950% Senior Notes due 2053	FGN	New York Stock Exchange
7.300% Junior Subordinated Notes due 2065	FGSN	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.

7.300% Junior Subordinated Notes due 2065

On January 13, 2025, F&G Annuities & Life, Inc., a Delaware corporation (“F&G”), completed the public offering (the “Notes Offering”) of \$375 million aggregate principal amount of its 7.300% Junior Subordinated Notes due 2065 (the “Notes”). The Notes were registered pursuant to F&G’s registration statement on Form S-3ASR (File No. 333-282432) (the “Registration Statement”) filed with the Securities and Exchange Commission (the “SEC”) on October 1, 2024 and were offered to the public pursuant to the prospectus supplement, dated January 6, 2025, to the prospectus, dated October 1, 2024, which forms a part of the Registration Statement.

F&G intends to use the net proceeds from the offering of the Notes for general corporate purposes, including the repurchase, redemption or repayment at maturity of outstanding indebtedness.

In connection with the offering of the Notes, F&G entered into an underwriting agreement, dated January 6, 2025 (the “Underwriting Agreement”), among F&G and Wells Fargo Securities, LLC, BofA Securities, Inc., J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC and RBC Capital Markets, LLC, as representatives of the several underwriters named therein. A copy of the Underwriting Agreement was filed with the SEC as Exhibit 1.1 to F&G’s Current Report on Form 8-K filed on January 7, 2025 and is incorporated by reference herein.

Indenture

The Notes were issued pursuant to an indenture, dated as of January 13, 2025 (the “Base Indenture”), between F&G and Citibank, N.A., as trustee (the “Trustee”), as supplemented by a First Supplemental Indenture, dated as of January 13, 2025 (the “Supplemental Indenture” and, together with the Base Indenture, the “Indenture”), between F&G and the Trustee. The Notes are the junior, unsecured, subordinated obligations of F&G. The Notes will bear interest at a rate equal to 7.300% per year, payable quarterly in arrears on January 15, April 15, July 15 and October 15 of each year, beginning on April 15, 2025. The Notes will mature on January 15, 2065, unless earlier repurchased or redeemed.

So long as no Event of Default, as defined in the Indenture, has occurred and is continuing, F&G will have the right to defer the interest payable on the Notes for one or more periods of up to five consecutive years. F&G cannot defer interest payments beyond the maturity date of the Notes, any earlier accelerated maturity date arising from an Event of Default or any other earlier redemption in full of the Notes. During any such optional interest deferral periods, interest will continue to accrue on the Notes at a rate of 7.300% per annum, compounded on each subsequent interest payment date, until paid. There is no limit on the number of such optional interest deferral periods that may occur.

At any time on or after January 15, 2030, F&G will have the right to redeem the Notes at its option, in whole or in part, at a redemption price equal to 100% of the principal amount of the Notes being redeemed, plus accrued and unpaid interest thereon to, but not including, the redemption date.

Upon a Tax Event, as defined in the Indenture, with respect to the Notes, F&G will have the right to redeem the Notes at its option, in whole but not in part at a redemption price equal to 100% of the principal amount of the Notes being redeemed, plus accrued and unpaid interest thereon to, but not including, the redemption date.

Upon a Regulatory Capital Event, as defined in the Indenture, with respect to the Notes, F&G will have the right to redeem the Notes at its option, in whole but not in part at a redemption price equal to 100% of the principal amount of the Notes being redeemed, plus accrued and unpaid interest thereon to, but not including, the redemption date.

Upon a Rating Agency Event, as defined in the Indenture, with respect to the Notes, F&G will have the right to redeem the Notes at its option, in whole but not in part at a redemption price equal to 102% of the principal amount of the Notes being redeemed, plus accrued and unpaid interest thereon to, but not including, the redemption date.

The foregoing summaries of the Indenture and the Notes in this Item 1.01 do not purport to be complete and are qualified in their entirety by reference to the full and complete texts of the Base Indenture, the Supplemental Indenture and the Notes, respectively, copies of which are attached hereto as Exhibit 4.1, Exhibit 4.2 and Exhibit 4.3, respectively, and incorporated by reference herein.

Forward-Looking Statements

This report contains forward-looking statements as that term is defined in the Private Securities Litigation Reform Act of 1995. Forward-looking statements include statements that are not related to present facts or current conditions or that are not historical facts, as well as statements that address activities, events, or developments that F&G anticipates will or may occur in the future, including, but not limited to, such things as the anticipated timing and closing of the Notes Offering and other such matters. You can identify forward-looking statements by words such as “believe,” “expect,” “anticipate,” “intend,” “plan,” “estimate,” “predict,” “project,” “seek,” “outlook,” “future,” “will,” “would,” “should,” “could,” “may,” “can have,” “likely” and similar terms. Forward-looking statements include statements based on management’s current expectations and assumptions about future events. Forward-looking statements are subject to known and unknown risks and uncertainties, many of which are beyond F&G’s control, that could cause actual results to differ materially from those in or implied by the forward-looking statements. Factors that may cause such differences include the risks and uncertainties described in F&G’s Annual Report on Form 10-K for the year ended December 31, 2023, as amended, F&G’s Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2024, June 30, 2024 and September 30, 2024 and the other reports and filings F&G makes with the SEC. These forward-looking statements speak only as of the date of this report. F&G disclaims any obligation to update or revise any forward-looking statement, whether as a result of new information, future developments, changes in assumptions or otherwise.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit	Description
4.1	Indenture, dated as of January 13, 2025, between F&G Annuities & Life, Inc. and Citibank, N.A., as trustee.
4.2	First Supplemental Indenture relating to F&G Annuities & Life, Inc.’s 7.300% junior subordinated notes due 2065, dated as of January 13, 2025, between F&G Annuities & Life, Inc. and Citibank, N.A., as trustee.
4.3	Form of F&G Annuities & Life, Inc.’s 7.300% junior subordinated notes due 2065 (included in Exhibit 4.2).
5.1	Opinion of Skadden, Arps, Slate, Meagher & Flom LLP.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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.

F&G Annuities & Life, Inc.

Date: January 13, 2025

By: /s/ Michael L. Gravelle

Name: Michael L. Gravelle

Title: Executive Vice President, General Counsel and Corporate Secretary

INDENTURE

between

F&G ANNUITIES & LIFE, INC.

and

CITIBANK, N.A., *as Trustee*

Dated as of January 13, 2025

CROSS REFERENCE SHEET

Provisions of Trust Indenture Act of 1939 and certain sections of this Indenture:

<u>Section of the Act</u>	<u>Section of Indenture</u>
310(a)(1) and (2)	6.9
310(a)(3) and (4)	Inapplicable
310(b)	6.8 and 6.10
311(a) and (b)	6.13
312(a)	4.1(a) and 4.1(b)
312(b)	4.1(c)
312(c)	4.1(d)
313(a)	4.3
313(b)(1)	Inapplicable
313(b)(2)	4.3
313(c)	4.3
313(d)	4.3
314(a)(1), (2) and (3)	4.2
314(a)(4)	3.9
314(b)	Inapplicable
314(c)(1) and (2)	10.5
314(c)(3)	Inapplicable
314(d)	Inapplicable
314(e)	11.5
315(a), (c) and (d)	6.1
315(b)	5.11
315(e)	5.12
316(a)(1)(A)	5.9
316(a)(1)(B)	5.10
316(a)(2)	Inapplicable
316(a) (last sentence)	7.4
316(b)	5.7
316(c)	7.6
317(a)	5.2
317(b)	3.4(a) and (b)
318(a)	10.7

This cross reference sheet shall not, for any purpose, be deemed to be a part of the Indenture.

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THIS INDENTURE, dated as of January 13, 2025, between F&G ANNUITIES & LIFE, INC., a Delaware corporation (including any successor, and as more fully defined in Section 1.1 hereof, the “**Company**”) and CITIBANK, N.A., a national banking association, as trustee (including any successor in such capacity, and as more fully defined in Section 1.1 hereof, the “**Trustee**”),

WITNESSETH:

WHEREAS, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of the Company’s unsecured debentures, notes or other evidences of indebtedness (as more fully defined in Section 1.1, the “**Securities**”) to be issued in one or more Series up to such principal amount or amounts as may from time to time be authorized in accordance with the terms of this Indenture; and

WHEREAS, all things necessary to make this Indenture a valid indenture and agreement of each party according to its terms have been done by each such party.

NOW THEREFORE, in consideration of the premises and the purchases of the Securities by the Holders thereof, the Company and the Trustee mutually covenant and agree for the equal and proportionate benefit of the respective Holders from time to time of the Securities as follows:

ARTICLE 1
DEFINITIONS

SECTION 1.1 *Certain Terms Defined.* The following terms (except as otherwise expressly provided or unless the context otherwise clearly requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.1. All accounting terms used herein and not expressly defined shall have the meanings assigned to such terms in accordance with generally accepted accounting principles, and the term “**GAAP**” or “**generally accepted accounting principles**” means such accounting principles as are generally accepted at the time of any computation. The words “**herein**,” “**hereof**” and “**hereunder**” and other words of similar import refer to this Indenture as a whole, as supplemented and amended from time to time, and not to any particular Article, Section or other subdivision. The terms defined in this Article 1 include the plural as well as the singular.

“**Additional Amounts**” has the meaning specified in Section 3.7 hereof.

“**Applicable Procedures**” means, with respect to any payment, transfer, redemption or exchange of or for beneficial interests in any Global Certificate, or any other transaction involving a Global Certificate, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transaction, payment, transfer, redemption or exchange.

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

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

“**Board of Directors**” means either the Board of Directors of the Company or any committee of such Board of Directors duly authorized to act hereunder.

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

“**Business Day**” means, except as may otherwise be provided in connection with the establishment of the Securities of any Series pursuant to Section 2.3 hereof, with respect to any Place of Payment or any other particular location referred to in this Indenture or in the Securities, any day, other than a Saturday or Sunday or other day on which banking institutions are authorized or required by law, regulation or executive order to close in New York, New York or that Place of Payment.

“**Capital Stock**” of any Person means any and all share capital, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including preferred stock, but excluding any debt securities convertible into such equity.

“**Clearstream**” means Clearstream Banking, *société anonyme* (and any successor thereto).

“**close of business**” has the meaning specified in Section 2.12(b)(i) hereof.

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

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

“**Company**” means F&G Annuities & Life, Inc., a Delaware corporation, and, subject to Article 9 hereof, its successors and assigns.

“**conflicting interest**” has the meaning specified in Section 6.8 hereof.

“**Conversion Date**” has the meaning specified in Section 2.12(d) hereof.

“**Conversion Event**” means the cessation of use of a Foreign Currency both by the government of the country that issued such Currency and for the settlement of transactions by a central bank or other public institutions of or within the international banking community.

“**Corporate Trust Office**” means the designated office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be principally administered, which office is located, as of the date hereof, at 388 Greenwich Street, 4th Floor, New York, New York 10013, Attention: William Keenan, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the designated corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

“**covenant defeasance**” has the meaning specified in Section 10.1(b)(i) hereof.

“**Covered Subsidiary**” means any Subsidiary of the Company, the total assets of which constitute at least 10% of the total assets of the Company and its consolidated Subsidiaries (including that Subsidiary), based on the most recent quarterly (including fiscal year-end) balance sheet of the Subsidiary and on the most recent quarterly (including fiscal year-end) consolidated balance sheet of the Company.

“**Credit Agreement**” means that certain Amended and Restated Credit Agreement, dated as of February 16, 2024, among the Issuer, the guarantors from time to time party thereto and the banks and other financial institutions from time to time parties thereto as agents and lenders, and any related notes, guarantees, collateral documents, instruments and agreements executed in connection therewith, and in each case as it may be further amended, restated, modified, renewed, refunded, replaced or refinanced from time to time.

“**Currency**” means any currency or currencies, including, without limitation, the Euro, issued by the government of one or more countries or by any reorganized confederation or association of such governments.

“**Currency Determination Agent**” means an entity, from time to time selected by the Company for the purposes of Section 2.12 hereof.

“**Currency Election Form**” has the meaning specified in Section 2.12(b)(i) hereof.

“**Currency Option**” has the meaning specified in Section 2.12(b)(i) hereof.

“**Custodian**” means, with respect to the Securities of a Series represented by one or more Global Certificates, the Person specified pursuant to Section 2.3(b)(xii) hereof as Custodian with respect to the Securities of such Series, and any and all successors thereto appointed as custodian hereunder and having become such pursuant to the applicable provisions of this Indenture.

“**default**” has the meaning specified in Section 5.11 hereof.

“**defaulted interest**” has the meaning specified in Section 2.7 hereof.

“**Definitive Certificate**” means any Security Certificate that is not a Global Certificate and is authenticated, executed and delivered in accordance with Article 2 hereof.

“**Depository**” means, with respect to the Securities of any Series or Tranche issuable or issued in whole or in part in the form of one or more Global Certificates, the person designated as Depository for such Global Certificates by the Company pursuant to Section 2.3(b)(xii) hereof until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, “Depository” shall mean or include each person who is then a Depository for such Global Certificates, and if at any time there is more than one person designated as Depository for Global Certificates of a particular Series or Tranche, “Depository,” as used with respect to the Securities of such Series or Tranche, means the Depository with respect to the particular Global Certificate or Global Certificates; *provided*, that if no Depository is named with respect to a Series or Tranche of Securities represented by one or more Global Certificates, the Depository shall be DTC.

“**Dollar**” or “**\$**” means the coin or currency of the United States which as of the time of payment is legal tender for the payment of public and private debts.

“**Dollar Equivalent of the Foreign Currency**” has the meaning specified in Section 2.12(f) hereof.

“**DTC**” means The Depository Trust Company (and any successor thereto).

“**Euro**” means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the treaty establishing the European Community.

“**Euroclear**” means Euroclear Bank S.A./N.V., as operator of the Euroclear system (and any successor thereto).

“**Event of Default**” means any event or condition specified as such in Section 5.1 hereof.

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

“**Exchange Rate Officer’s Certificate**” means a certificate setting forth (a) the applicable Market Exchange Rate or the applicable quotation and (b) the Dollar or Foreign Currency amounts payable on the basis of such Market Exchange Rate or quotation in respect of the principal of and interest on the applicable Series of Securities, signed by the treasurer or any assistant treasurer of the Company, and delivered to the Paying Agent and Registrar with a copy to the Trustee.

“**Foreign Currency**” means any Currency, including, without limitation, the Euro, issued by the government of one or more countries, other than the United States, or by any recognized confederation or association of such governments.

“**Global Certificate**” means any Security Certificate representing all or a portion of Securities of a Series, registered in the name of the Depository or its nominee, and issued in accordance with Article 2 hereof.

“**Global Certificate Legend**” means the legend set forth in Section 2.8(f) hereof, which is required to be placed on all Global Certificates representing Securities of a Series issued under this Indenture.

“**Government Obligations**” means securities which are (a) direct obligations of the government which issued the Currency in which the Securities of a particular Series are denominated or (b) obligations of a Person controlled or supervised by, or acting as an agency or instrumentality of, the government which issued the Currency in which the Securities of such Series are denominated, the payment of which obligations is unconditionally guaranteed by such government, and which, in either case, are full faith and credit obligations of such government, are denominated in the Currency in which the Securities of such Series are denominated and are not callable or redeemable at the option of the issuer thereof.

“**Holder**” or “**Holder of Securities**” or other similar terms mean the Registered Holder of a Security.

“**Indenture**” means this instrument as originally executed and delivered or, if amended or supplemented as herein provided, as so amended or supplemented or both, and shall include the forms and terms of particular Series of Securities established as contemplated hereunder.

“**Indirect Participant**” means a Person who holds a beneficial interest in a Security of a Series represented by a Global Certificate through a Participant.

“**Interest**,” when used with respect to non-interest bearing Securities of a Series, means interest payable at maturity, when used with respect to interest bearing Securities, means interest payable on each interest payment date and, when used with respect to a Security which provides for the payment of Additional Amounts pursuant to Section 3.7 hereof or otherwise, includes such Additional Amounts.

“**legal defeasance**” has the meaning specified in Section 10.1(c)(i) hereof.

“**Letter of Representations**” has the meaning specified in Section 2.1(c)(vi) hereof.

“**Lien**” has the meaning specified in Section 3.5 hereof.

“**Market Exchange Rate**” has the meaning specified in Section 2.12(g) hereof.

“**Officer**” means the chairman and vice chairman of the Board of Directors, the president, any vice president, the treasurer, the secretary or any assistant secretary or assistant treasurer of the Company.

“**Officer’s Certificate**” means a certificate signed by an Officer and delivered to the Trustee. Each such Officer’s Certificate shall include the statements provided for in Section 12.5 hereof, if and to the extent required hereby.

“**Opinion of Counsel**” means an opinion in writing (including electronic format) signed by legal counsel who may be an employee of or counsel to the Company and who is satisfactory

to the Trustee. Each such opinion shall include the statements provided for in Section 12.5 hereof, if and to the extent required hereby.

“**Original Issue Discount Security**” means any Security of a Series which provides for an amount less than the stated principal amount thereof to be due and payable upon declaration of acceleration of the maturity thereof pursuant to Section 5.1 hereof.

“**Outstanding**,” when used with reference to Securities, shall mean, subject to the provisions of Sections 7.4 and 12.17 hereof, as of any particular time, all Securities represented by Security Certificates authenticated and delivered by the Trustee under this Indenture, except:

(a) Securities represented by Security Certificates theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(b) Securities, or portions thereof, for the payment or redemption of which moneys in the necessary amount and in the specified currency shall have been deposited in trust with the Trustee or with any paying agent (other than the Company) or shall have been set aside, segregated and held in trust by the Company for the holders of beneficial interests in such Securities (if the Company shall act as its own paying agent), *provided*, that if such Securities, or portions thereof, are to be redeemed prior to the maturity thereof, irrevocable notice of such redemption shall have been given as herein provided, or provision satisfactory to the Trustee shall have been made for giving such notice; and

(c) Securities represented by Security Certificates in substitution for which other Security Certificates shall have been authenticated and delivered, or which shall have been paid, pursuant to the terms of Section 2.9 hereof (except with respect to any such Security as to which proof satisfactory to the Trustee and the Company is presented that such Security is held by a person in whose hands such Security is a valid and binding obligation of the Company).

“**Participant**” means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively, and, with respect to DTC, shall include Euroclear and Clearstream.

“**Paying Agent**” means any Person (which may include the Company) authorized by the Company to pay the principal of or interest, if any, on any Security on behalf of the Company.

“**Permitted Lien**” means (i) Liens on the Capital Stock of a Covered Subsidiary to secure indebtedness incurred to finance the purchase price of such Capital Stock; (ii) Liens on the Capital Stock of a Covered Subsidiary existing at the time such Person becomes a Covered Subsidiary (including, without limitation, by merger into or consolidation with the Company or a Covered Subsidiary), *provided*, that any such Lien is not incurred in anticipation of such Person becoming a Covered Subsidiary; (iii) Liens on the Capital Stock of a Covered Subsidiary to secure indebtedness to the Company or a Covered Subsidiary, *provided*, that such indebtedness is owned or held by the Company or a Covered Subsidiary; and (iv) extensions, renewals, refinancings or replacements of any Lien referred to in the foregoing clauses (i), (ii) and (iii); *provided, however*, that any Liens permitted by any of the foregoing clauses (i) and (ii) shall not

extend to or cover any additional Capital Stock of a Covered Subsidiary, other than the property that previously secured such Lien.

“**Person**” means any individual, firm, limited liability company, corporation, partnership, association, joint venture, tribunal, trust, government or political subdivision or agency or instrumentality thereof, or any other entity or organization and includes a “person” as used in Section 13(d)(3) of the Exchange Act.

“**Place of Payment**” has the meaning specified in Section 3.2 hereof.

“**Principal**” whenever used with reference to the Securities or any Security or any portion thereof, shall be deemed to include “and premium, if any.”

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

“**record date**” has the meaning specified in Section 2.7 hereof.

“**Registered Holder**,” when used with respect to a Security means the person in whose name such Security is registered in the Securities Register.

“**Registrar**” has the meaning specified in Section 2.8(h)(i) hereof.

“**Responsible Officer**,” when used with respect to the Trustee, shall mean any officer within the corporate trust department (or any successor group) of the Trustee including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer or assistant officer of the Trustee customarily performing 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 officer’s knowledge of and familiarity with the particular subject, and who shall have direct responsibility for the administration of this Indenture.

“**Securities Register**” has the meaning specified in Section 2.8(h)(i) hereof.

“**Security**” or “**Securities**” has the meaning stated in the first recital of this Indenture, or, as the case may be, Securities represented by Security Certificates that have been authenticated and delivered under this Indenture.

“**Security Certificates**” means Global Certificates and Definitive Certificates.

“**Senior Indebtedness**” means the principal of and premium, if any, and interest on the following, whether outstanding on the date hereof or thereafter incurred, created or assumed: (i) indebtedness of the Company for money borrowed by the Company (other than the Securities), (ii) all of the Company’s obligations evidenced by notes, debentures, bonds or other similar instruments (other than obligations relating to the Securities), including obligations incurred in connection with the acquisition of property, assets or businesses and including all other debt securities issued by the Company to any trust or a trustee of such trust, or to a partnership or

other affiliate that acts as a financing vehicle for the Company, in connection with the issuance of securities by such vehicles; (iii) all of the Company's obligations issued or assumed as the deferred purchase price of property or services, including all obligations under master lease transactions pursuant to which the Company or any of its Subsidiaries have agreed to be treated as owner of the subject property for U.S. federal income tax purposes (but excluding trade accounts payable or accrued liabilities arising in the ordinary course of business); (iv) all of the Company's payment obligations under interest rate swap or similar agreements or foreign currency hedge, exchange or similar agreements at the time of determination, including any such obligations the Company incurred solely to act as a hedge against increases in interest rates that may occur under the terms of other outstanding variable or floating rate indebtedness of the Company; (v) all obligations of the types referred to in the preceding clauses (i) through (iv) of another Person and all dividends of another Person the payment of which, in either case, the Company has assumed or guaranteed or for which the Company is responsible or liable, directly or indirectly, jointly or severally, as obligor, guarantor or otherwise; (vi) all compensation, reimbursement and indemnification obligations of the Company to the Trustee pursuant to this Indenture; and (vii) all amendments, modifications, renewals, extensions, refinancings, replacements and refundings of any of the above types of indebtedness, unless, in the case of any particular indebtedness, renewal, extension, refinancing, replacement or refunding, under the express provisions of the instrument creating or evidencing the same or the assumption or guarantee of the same, or pursuant to which the same is outstanding, such indebtedness or such renewal, renewal, extension, refinancing, replacement or refunding thereof is not superior in right of payment to the Securities. Notwithstanding anything to the contrary in the foregoing, (x) Senior Indebtedness shall not include (a) any indebtedness that specifically by its terms provides that it will rank junior to and not equally with or prior to the Securities in right of payment upon the Company's dissolution, winding-up, liquidation, reorganization or similar events, (b) any indebtedness that specifically by its terms provides that it will rank equally with and not prior to the Securities in right of payment upon the Company's dissolution, winding-up, liquidation, reorganization or similar events and (c) obligations of the Company owed to its Subsidiaries, and (y) the securing of any indebtedness otherwise constituting indebtedness of the type described in the preceding clauses (x)(a) and (x)(b) shall not be deemed to prevent such indebtedness from constituting indebtedness of the type described in such clauses (x)(a) and (x)(b).

“Series” or **“Series of Securities”** means a series of Securities, which may be comprised of one or more Tranches. Subject to Section 2.3(c) hereof, the Securities of a Series shall be identical.

“Subsidiary” means any corporation or other entity which is consolidated in the Company's accounts and any corporation or other entity of which at least a majority of the outstanding Capital Stock having, by the terms thereof, ordinary voting power to elect a majority of the board of directors (or equivalent body) of such corporation or such other entity (irrespective of whether or not at the time Capital Stock of any other class or classes of such corporation or such other entity shall have or may have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by the Company, or by one or more Subsidiaries, or by the Company and one or more Subsidiaries.

“**Tranche**” means a group of Securities which (a) are of the same Series and (b) are substantially identical to any previously issued Tranche or Tranches of such Series except for, as applicable, the issue date, the offering price and the amount and date of the first payment of interest specified in the applicable Board Resolution, Officer’s Certificate or supplemental indenture.

“**Trust Indenture Act**” means the Trust Indenture Act of 1939, as amended.

“**Trustee**” means the Person identified as “Trustee” in the first paragraph of this Indenture and, subject to the provisions of Article 6 hereof, any successor trustee.

“**United States**” means the United States of America (including the states and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.

“**Valuation Date**” has the meaning specified in Section 2.12(c) hereof.

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

ARTICLE 2 SECURITIES

SECTION 2.1 *Forms Generally.*

(a) The Security Certificates representing Securities of each Series shall be substantially in such form (not inconsistent with this Indenture) as shall be established by or pursuant to a Board Resolution, an Officer’s Certificate or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture (the provisions of which shall be appropriate to reflect the terms of each Series of Securities, including the Currency or denomination, which may be Dollars or any Foreign Currency) and may have imprinted or otherwise reproduced thereon such legend or legends, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto, or with any rules of any securities exchange or to conform to general usage, all as may be determined by the Officer executing such Security Certificates as evidenced by such Officer’s execution of the Securities Certificates. Definitive Certificates shall be printed, lithographed, engraved or produced in any manner in accordance with this Indenture, all as determined by the Officer executing such Definitive Certificates as evidenced by such Officer’s execution of such Definitive Certificates.

(b) Each Global Certificate shall represent such aggregate principal amount of the outstanding Securities of such Series as shall be specified therein and each shall provide that (together with any other Global Certificate representing Securities of such Series) it shall represent the aggregate principal amount of outstanding Securities of such Series from time to time endorsed thereon and that the aggregate principal amount of outstanding Securities of such

Series represented thereby may, from time to time, be reduced or increased, as appropriate, to reflect exchanges and redemptions and transfers of interests therein. Any endorsement of a Global Certificate to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Securities represented thereby shall be made by the Trustee or the Custodian in connection with any transfer of a beneficial interest therein pursuant to Section 2.8 hereof.

(c)

(i) This Section 2.1(c) shall apply only to Securities represented by Global Certificates. Participants and Indirect Participants shall have no rights under this Indenture or with respect to any Global Certificate held on their behalf by the Depository or by the Custodian, and the Depository (or its nominee) shall be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner of the Securities represented by such Global Certificate for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Participants or Indirect Participants, the Applicable Procedures or the operation of customary practices of the Depository governing the exercise of the rights of a holder of a beneficial interest in any Global Certificate.

(ii) Except as provided in Section 2.8(a) hereof, all of the Securities of any Series represented by a Global Certificate or Global Certificates shall be registered in the Securities Register in the name of Cede & Co., as nominee of the Depository; *provided*, that if the Depository shall request that the Securities of such Series represented by such Global Certificate or Global Certificates be registered in the name of a different nominee, the Trustee shall exchange all or any portion of the Securities of such Series represented by such Global Certificate or Global Certificates for an equal aggregate principal amount of Securities of such Series represented by a Global Certificate or Global Certificates registered in the name of such different nominee. No Person other than the Depository or its nominee shall be entitled to receive from the Company or the Trustee either a Global Certificate or any other evidence of ownership of the Securities of such Series, or any right to receive any payment in respect thereof, unless the Depository or its nominee shall transfer ownership of record of all or any portion of the Securities of such Series on the Securities Register as provided in Section 2.8(a) hereof or otherwise in accordance with the Global Certificate Legend.

(iii) So long as any Securities of a Series are registered in the name of the Depository or any nominee thereof, all payments of the principal or redemption price of, or interest on, such Securities shall be made to the Depository or its nominee in accordance with any Letter of Representations, as applicable, on the dates provided for such payments in accordance with the terms of this Indenture. Each such payment to the Depository or its nominee shall be valid and effective to fully discharge all liability of the Company and the Trustee with respect to such payment of the principal or redemption

price of, or interest on, the Securities of such Series to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Securities of any Series outstanding, the Trustee shall not require surrender by the Depositary or its nominee of the Global Certificates representing Securities of such Series so redeemed, but the Depositary (or its nominee) or the Custodian, if applicable, may retain each such Global Certificate and make an appropriate notation on each such Global Certificate (or on the books and records of the Trustee, Custodian and/or Registrar in accordance with the procedures of the Depositary) as to the amount of such partial redemption; *provided*, that the Depositary (or its nominee) shall deliver, or cause to be delivered, to the Trustee, a written confirmation of such partial redemption and thereafter the records maintained by the Trustee shall be conclusive as to the amount of the Securities of such Series which have been redeemed.

(iv) The Company and the Trustee may treat the Depositary (or its nominee) as the sole and exclusive Holder and owner of the Securities of any Series registered in its name (or the name of its nominee) for the purposes of payment of the principal or redemption price of, or interest on, the Securities of such Series, selecting the Securities of such Series or portions thereof to be redeemed, giving any notice permitted or required to be given to Holders under this Indenture, registering the transfer of Securities of any Series, obtaining any consent or other action to be taken by Holders and for all other purposes whatsoever; and neither the Company nor the Trustee shall be affected by any notice to the contrary. Neither the Company nor the Trustee shall have any responsibility or obligation to any Participant or Indirect Participant, any person claiming a beneficial ownership interest in the Securities of such Series under or through the Depositary or any Participant or Indirect Participant, or any other person which is not shown on the Securities Register as being a Holder, with respect to (A) the Securities of such Series, (B) the accuracy of any records maintained by the Depositary or any Participant or Indirect Participant, (C) the payment by the Depositary or any Participant or Indirect Participant of any amount in respect of the principal or redemption price of, or interest on, the Securities of such Series, (D) any notice which is permitted or required to be given to Holders under this Indenture, (E) the selection by the Depositary or any Participant or Indirect Participant of any Person to receive payment in the event of a partial redemption of the Securities of such Series or (F) any consent given or other action taken by the Depositary as Holder.

(v) So long as the Securities of any Series or any portion thereof are registered in the name of the Depositary or any nominee thereof, all notices required or permitted to be given to the Holders of such Securities under this Indenture shall be given to the Depositary at its address shown in the Securities Register (or in any other manner in accordance with the procedures of the Depositary) or as provided in any Letter of Representations, as applicable.

(vi) If so required by the Applicable Procedures at or prior to settlement for the Securities of any Series subject to this Section 2.1(c), the Company shall execute, or

signify their approval of, a letter of representations (the “**Letter of Representations**”) applicable to the Securities of such Series.

(d) The provisions of the “Operating Procedures of the Euroclear System” and “Terms and Conditions Governing Use of Euroclear” and the “General Terms and Conditions of Clearstream” and “Customer Handbook” of Clearstream, or any successor publications, shall be applicable to transfers of beneficial interests in Global Certificates that are held by Participants through Euroclear or Clearstream.

(e) The Company shall exchange Global Certificates representing Securities of any Series for Definitive Certificates of such Series only if: (i) at any time the Depository notifies the Company that it is unwilling or unable to continue to act as Depository for the Global Certificates of such Series or if at any time the Depository shall no longer be eligible to act as such because it ceases to be a clearing agency registered under the Exchange Act, and, in either case, the Company shall not have appointed a successor Depository within 90 days after the Company receives such notice; (ii) an Event of Default with respect to the Securities of such Series has occurred and is continuing; or (iii) the Company, in its sole discretion and subject to the procedures of the Depository, notifies the Trustee in writing that it elects to cause the issuance of Definitive Certificates under this Indenture.

(f) Upon the occurrence of any of the events set forth in clauses (i), (ii) or (iii) of paragraph (e) of this Section 2.1, the Company shall execute, and, upon receipt of an order in accordance with Section 2.4 hereof, the Trustee shall authenticate and deliver, Definitive Certificates that the Company has delivered to the Trustee representing Securities of such Series, in authorized denominations, in an aggregate principal amount equal to the principal amount of such Holder’s Global Certificates representing Securities of such Series in exchange for such Global Certificates.

(g) Upon the exchange of a Global Certificate representing Securities of a Series for Definitive Certificates representing Securities of such Series, Securities represented by such Global Certificates shall be canceled by the Trustee. Securities represented by Definitive Certificates of a Series issued in exchange for a Global Certificate of such Series pursuant to this Section 2.1 shall be registered in such names and in such authorized denominations as the Depository, pursuant to instructions from its Participants or its Applicable Procedures, shall instruct the Trustee in writing. The Trustee or such agent shall deliver such Definitive Certificates to or as directed in writing by the Persons in whose names such Securities represented by the Definitive Certificates are so registered or to the Depository.

SECTION 2.2 *Form of Trustee's Certificate of Authentication.* The Trustee's certificate of authentication on all Security Certificates shall be in substantially the following form:

This is one of the Security Certificates representing Securities of the Series designated herein and referred to in the within-mentioned Indenture.

Date: CITIBANK, N.A., as Trustee

By _____
Authorized Signatory

SECTION 2.3 *Amount Unlimited; Issuable in Series.*

(a) The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

(b) The Securities may be issued in one or more Series. There shall be set forth in (i) a Board Resolution, (ii) an Officer's Certificate or (iii) one or more indentures supplemental hereto, prior to the issuance of Securities of any Series,

(i) the title of the Securities of such Series (which title shall distinguish the Securities of such Series from all other Securities);

(ii) any limit upon the aggregate principal amount of the Securities of such Series that may be issued under this Indenture (except for Securities represented by Security Certificates authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of such Series pursuant to Sections 2.8, 2.9, 2.11 or 13.3 hereof);

(iii) if other than 100% of their principal amount, the percentage of their principal amount at which the Securities of such Series will be offered;

(iv) the date or dates on which the principal of the Securities of such Series is payable;

(v) the rate or rates, which may be fixed or variable, at which the Securities of such Series shall bear interest, if any, the date or dates from which such interest shall

accrue, the interest payment dates on which such interest shall be payable and the record dates for the determination of Holders to whom interest and principal is payable;

(vi) the place or places where the principal and interest on Securities of such Series shall be payable (if other than as provided in Section 3.2 hereof);

(vii) the price or prices at which, the period or periods within which and the terms and conditions upon which Securities of such Series may be redeemed, in whole or in part, at the option of the Company;

(viii) if other than the principal amount thereof, the portion of the principal amount of Securities of such Series which shall be payable upon declaration of acceleration of the maturity pursuant to Section 5.1 hereof or provable in bankruptcy pursuant to Section 5.2 hereof;

(ix) the obligation, if any, of the Company to redeem, purchase or repay Securities of such Series at the option of a Holder thereof and the price or prices in the currency in which the Securities of such Series are payable, at which and the period or periods within which and the terms and conditions upon which Securities of such Series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

(x) if other than denominations of \$2,000 and any integral multiple of \$1,000 in excess thereof, the denominations, which may be in Dollars or any Foreign Currency, in which Securities of such Series shall be issuable;

(xi) the form of the Security Certificates representing the Securities of such Series, including such legends as required by this Indenture, by law or as the Company deems necessary or appropriate;

(xii) whether the Securities of such Series shall be initially represented by one or more Global Certificates and, if so, if different than the terms set forth in this Indenture, whether and on what terms the Global Certificates shall be exchangeable for Definitive Certificates representing Securities of such Series and the name of any Custodian and/or Depository for such Global Certificates;

(xiii) the Currency or Currencies in which payments of interest or principal and other amounts are payable with respect to the Securities of such Series are to be denominated, payable, redeemable or repurchasable, as the case may be and specifically state when such Series of Securities allows for the Holders of such Series to elect the Currency for their principal and interest payments thereon, pursuant to Section 2.12 hereof; *provided*, that Holders of Securities denominated in Dollars shall not have such option to elect the Currency of their principal and interest payments thereon;

(xiv) if applicable, the name of the Currency Determination Agent, Paying Agent and Registrar, when such Series allows for the Registered Holders thereof to elect

the Currency for their principal and interest payments thereon pursuant to Section 2.12 hereof;

(xv) if the principal of, or any premium or interest on, or any Additional Amounts with respect to any of such Securities of such Series are to be payable, at the election of the Company or a Registered Holder thereof or otherwise, in Dollars, or in a Foreign Currency other than that in which such Securities are stated to be payable, the date or dates on which, the period or periods within which and the other terms and conditions upon which such election may be made, and the time and manner of determining the exchange rate between the Currency in which such Securities are stated to be payable and the Currency in which such Securities or any of them are to be paid pursuant to such election, and any deletions from or modifications of or additions to the terms of this Indenture to provide for or to facilitate the issuance of Securities denominated or payable, at the election of the Company or a Registered Holder thereof or otherwise, in a Foreign Currency;

(xvi) if applicable, under what circumstances the Securities of such Series shall be convertible into Securities of any other Series;

(xvii) if other than the Trustee, any trustees, authenticating or paying agents, registrars or any other agents with respect to the Securities of such Series;

(xviii) if the Securities of such Series do not bear interest, the applicable dates for purposes of Section 4.1(a) hereof;

(xix) any deletions from or modifications or additions to the Events of Default or covenants of the Company with respect to Securities of such Series, whether or not such Events of Default or covenants are consistent with the Events of Default or covenants set forth herein;

(xx) whether, under what circumstances and the Currency in which, the Company will pay Additional Amounts as contemplated by Section 3.7 hereof on the Securities of such Series to any Holder in respect of any tax, assessment or governmental charge and, if so, whether the Company will have the option to redeem such Securities in the event such Additional Amounts become payable (and the terms of any such option); and

(xxi) any other terms or conditions upon which the Securities of such Series are to be issued (which terms shall not be inconsistent with the provisions of this Indenture).

(c) The Securities of a Series may be comprised of one or more Tranches which may be issued on different dates; *provided*, however, that all Tranches of a Series of Securities shall be substantially identical to any previously issued Tranches of such Series of Securities, except for, as applicable, the issue date, the offering price and the amount and date of the first payment of interest specified in the applicable Board Resolution, Officer's Certificate or supplemental indenture.

SECTION 2.4 *Authentication and Delivery of Security Certificates.* At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Security Certificates representing Securities of any Series executed by the Company to the Trustee for authentication, and the Trustee shall thereupon authenticate and deliver such Security Certificates to or upon the written order of the Company, signed by an Officer without any further action by the Company. In authenticating such Security Certificates and accepting the additional responsibilities under this Indenture in relation to the Securities represented by such Security Certificates, the Trustee shall be entitled to receive and (subject to Section 6.1 and Section 6.2 hereof) shall be fully protected in relying upon:

(a) an executed Board Resolution, Officer's Certificate or supplemental indenture setting forth the form and terms of the Securities of such Series as required pursuant to Sections 2.1 and 2.3 hereof, respectively;

(b) an Officer's Certificate, complying with Section 12.5 hereof, stating that all conditions precedent provided for in this Indenture relating to the issuance of such Securities have been, or will have been upon compliance with such procedures as may be specified therein, complied with; and

(c) an Opinion of Counsel stating that:

(i) such Securities have been authorized by all requisite corporate action on the part of the Company;

(ii) such Security Certificates have been duly executed by the Company; and

(iii) such Security Certificates, when duly authenticated by the Trustee and issued and delivered by the Company against payment therefor in accordance with the terms of the applicable purchase agreement and this Indenture (including any amendments or supplements thereto), will constitute valid and binding obligations of the Company, entitled to the benefits of this Indenture and enforceable against the Company in accordance with their terms under the laws of the State of New York, subject to any bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, preference and other similar laws affecting creditors' rights generally and to general principles of equity (regardless of whether enforcement is sought in equity or law) and other customary qualifications and exceptions.

If all the Securities of any Series are not to be issued at one time, the Company shall deliver to the Trustee an Officer's Certificate on the date of each issuance of Securities of such Series.

The Trustee shall have the right to decline to authenticate and deliver any Security Certificate under this Section 2.4 if the Trustee, being advised by counsel, determines that such action may not lawfully be taken by the Company or if the Trustee in good faith determines that such action would expose the Trustee to personal liability to existing Holders.

SECTION 2.5 *Execution of Security Certificates.* The Security Certificates shall be signed on behalf of the Company by an Officer, which may, but need not, be attested. Such signature may be the manual or facsimile or other electronic (in “.pdf” format) signatures of the present or any future such Officer. Typographical and other minor errors or defects in any such signature shall not affect the validity or enforceability of any Security represented by such Security Certificate that has been duly authenticated and delivered by the Trustee.

SECTION 2.6 *Certificate of Authentication.* Only Securities represented by such Security Certificates as shall bear thereon a certificate of authentication substantially in the form hereinbefore recited, executed by the Trustee by the manual or facsimile or other electronic (in “.pdf” format) signature of one of its authorized signatories, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate of authentication by the Trustee upon any Security Certificate executed by the Company shall be conclusive evidence that the Security Certificate so authenticated has been duly authenticated and delivered hereunder and that the Holder of the Securities represented thereby is entitled to the benefits of this Indenture.

SECTION 2.7 *Denomination and Date of Securities; Payments of Interest.*

The Securities shall be issuable in denominations as shall be specified as contemplated by Section 2.3 hereof. In the absence of any such specification with respect to the Securities of any Series, the Securities of such Series shall be issuable in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof, which may be in Dollars or any Foreign Currency, and interest shall be computed, except as may be otherwise provided in the applicable Board Resolution, Officer’s Certificate or supplemental indenture establishing the relevant Series, on the basis of a 360-day year of twelve 30-day months. The Security Certificate shall be numbered, lettered or otherwise distinguished in such manner or in accordance with such plan as the Officer of the Company executing the same may determine with the approval of the Trustee as evidenced by the execution and authentication thereof.

Each Security Certificate shall be dated the date of its authentication, and the Securities represented thereby shall bear interest from such date and shall be payable on the dates, in each case, which shall be specified as contemplated by Section 2.3 hereof.

Interest on any Security which is payable, and is punctually paid or duly provided for, on any interest payment date shall be paid to the person in whose name that Security (or one or more predecessor Securities) is registered at the close of business on the regular record date for the payment of such interest.

The term “**record date**” as used with respect to any interest payment date (except for a date for payment of defaulted interest) shall mean the date specified as such in the terms of the Securities of any particular Series, or, if no such date is so specified, if such interest payment date is the first day of a calendar month, the close of business on the fifteenth day of the next preceding calendar month or, if such interest payment date is the fifteenth day of a calendar month, the close of business on the first day of such calendar month, whether or not such record date is a Business Day.

Any interest on any Security of any Series which is payable, but is not punctually paid or duly provided for, on any interest payment date (called “**defaulted interest**” for the purpose of this Section 2.7) shall forthwith cease to be payable to the Registered Holder on the relevant record date by virtue of having been such Holder; and such defaulted interest may be paid by the Company, at its election, in each case as provided in paragraph (a) or paragraph (b) of this Section 2.7 as follows:

(a) The Company may elect to make payment of any defaulted interest to the persons in whose names any such Securities (or their respective predecessor Securities) are registered at the close of business on a special record date for the payment of such defaulted interest, which shall be fixed by the Company in the following manner. At least 15 days prior to the special record date, the Company shall notify the Trustee and Paying Agent in writing of the amount of defaulted interest proposed to be paid on each Security of such Series, the special record date thereof and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money in the appropriate Currency to be paid, and equal to the aggregate amount proposed to be paid in respect of such defaulted interest 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 interest as provided in this paragraph (a). The Company shall fix a special record date for the payment of such defaulted interest in respect of Securities of such Series, which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Trustee shall promptly and at the sole expense of the Company, cause notice of the proposed payment of such defaulted interest and the special record date thereof to be delivered by electronic means or mailed, first class postage prepaid, to each Registered Holder at such Registered Holder’s address as it appears in the Securities Register, not less than 10 days prior to such special record date. Notice of the proposed payment of such defaulted interest and the special record date therefor having been so delivered by electronic means or mailed, such defaulted interest in respect of Securities of such Series shall be paid to the person in whose names such Securities (or their respective predecessor Securities) are registered at the close of business on such special record date and such defaulted interest shall no longer be payable pursuant to paragraph (b) of this Section 2.7.

(b) The Company may make payment of any defaulted interest on the Securities of any Series in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of such Series may be listed, and upon such notice as may be required by such exchange, after written notice given by the Company to the Trustee of the proposed payment pursuant to this clause.

Subject to the foregoing provisions of this Section 2.7, each Security delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Security shall carry the rights to accrued and unpaid interest which were carried by such other Security.

SECTION 2.8 *Registration, Transfer and Exchange.*

(a) Transfer and Exchange of Global Certificates. A Global Certificate may not be transferred as a whole except by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary or by the Depositary or

any such nominee to a successor Depository or a nominee of such successor Depository. Upon the occurrence of any of the events set forth in Section 2.1(e) hereof and subject to the other conditions set forth in this Section 2.8, Definitive Certificates shall be issued in exchange for Global Certificates in denominations of \$2,000 or integral multiples of \$1,000 in excess thereof (or such other denominations set forth in the Global Certificates) and in such names as the Depository shall instruct the Trustee in writing. Global Certificates also may be exchanged or replaced, in whole or in part, as provided in Sections 2.9 and 2.11 hereof. Except as provided above, every Security Certificate authenticated and delivered in exchange for, or in lieu of, a Global Certificate or any portion thereof, pursuant to this Section 2.8 or Sections 2.9 or 2.11 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Certificate. A Global Certificate may not be exchanged for another Security Certificate other than as provided in this Section 2.8(a), and beneficial interests in a Global Certificate may not be transferred and exchanged other than as provided in Section 2.8(b) or (c) hereof.

(b) *Transfer and Exchange of Beneficial Interests in the Global Certificates.* The transfer and exchange of beneficial interests in the Global Certificates shall be effected through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. The transferor of a beneficial interest in a Global Certificate must deliver to the Registrar either (A)(1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Certificate in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B)(1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Certificate in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Certificate shall be registered to effect the transfer or exchange referred to in clause (B)(1) above. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Certificates contained in this Indenture and the Securities, the Trustee shall adjust the principal amount of the relevant Global Certificate(s) pursuant to Section 2.8(g) hereof.

(c) *Transfer and Exchange of Beneficial Interests in Global Certificates for Definitive Certificates.* If any holder of a beneficial interest in a Global Certificate proposes to exchange such beneficial interest for a Definitive Certificate or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Certificate, then, if the exchange or transfer complies with the requirements of Section 2.8(b) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Certificate to be reduced accordingly pursuant to Section 2.8(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions referred to below in this paragraph a Definitive Certificate in the applicable principal amount. Any Definitive Certificate issued in exchange for a beneficial interest pursuant to this Section 2.8(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from or through the Depository

and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Certificates to the Persons in whose names such Securities are so registered.

(d) *Transfer and Exchange of Definitive Certificates for Beneficial Interests in the Global Certificates.* A holder of a Definitive Certificate may exchange such Definitive Certificate for a beneficial interest in a Global Certificate or may transfer such Definitive Certificates to a Person who takes delivery thereof in the form of a beneficial interest in a Global Certificate at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Definitive Certificate and increase or cause to be increased the aggregate principal amount of one of the Global Certificates.

(e) *Transfer and Exchange of Definitive Certificates for Definitive Certificates.* Upon request by a holder of Definitive Certificates and such holder's compliance with the provisions of this Section 2.8(e), the Registrar shall register the transfer or exchange of Definitive Certificates pursuant to the instructions from the holder thereof. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Certificates to be so transferred or exchanged, duly endorsed or accompanied by a written instruction of transfer or exchange in form satisfactory to the Registrar duly executed by such Holder.

(f) *Global Certificate Legend.* The following legend shall appear on the face of all Global Certificates issued under this Indenture.

“UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO CEDE & CO., ITS NOMINEE OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE (AS DEFINED HEREIN).”

(g) *Cancellation and/or Adjustment of Global Certificates.* At such time as all beneficial interests in a Security represented by a particular Global Certificate have been exchanged for beneficial interests in Securities represented by Definitive Certificates or

Securities represented by a particular Global Certificate have been redeemed, repurchased or canceled in whole and not in part, each such Global Certificate shall be returned to or retained and canceled by the Trustee in accordance with Section 2.10 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Certificate is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Certificate or for Securities represented by Definitive Certificates, the aggregate principal amount of Securities represented by such Global Certificate shall be reduced accordingly and an endorsement shall be made on such Global Certificate by the Trustee or by the Depository at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in Securities represented by another Global Certificate, the aggregate principal amount of Securities represented by such other Global Certificate shall be increased accordingly and an endorsement shall be made on such Global Certificate by the Trustee or by the Depository at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) With respect to the Securities of each Series, the Company shall cause to be kept a register (each such register being herein sometimes referred to as the “**Securities Register**”) at an office or agency for such Series in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of the Securities of such Series and of transfers of the Securities of such Series. Such office or agency shall be the “**Registrar**” for that Series of Securities. Unless otherwise specified in or pursuant to this Indenture or the terms of Securities of a Series, the Trustee shall be the initial Registrar for each Series of Securities. The Company shall have the right to remove and replace from time to time the Registrar for any Series of Securities; *provided*, that no such removal or replacement shall be effective until a successor Registrar with respect to such Series of Securities shall have been appointed by the Company and shall have accepted such appointment by the Company. In the event that the Trustee shall not be or shall cease to be Registrar with respect to a Series of Securities, it shall have the right to examine the Securities Register for such Series at all reasonable times. There shall be only one Securities Register for each Series of Securities.

(ii) Upon surrender of any Definitive Certificate for registration of transfer of any Securities of a Series represented thereby at any office or agency for such Series, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Definitive Certificates representing Securities of the same Series denominated as authorized in or pursuant to this Indenture, of a like aggregate principal amount bearing a number not contemporaneously outstanding and containing identical terms and provisions.

(iii) At the option of the Holder, Securities of any Series represented by a Definitive Certificate may be exchanged for other Securities of the same Series represented by a Definitive Certificate containing identical terms and provisions, in any

authorized denominations, and representing Securities of a like aggregate principal amount, upon surrender of Definitive Certificates representing Securities to be exchanged at any office or agency for such Series. Whenever any Definitive Certificates are so surrendered for exchange of Securities represented thereby, the Company shall execute, and the Trustee shall authenticate and deliver, the Definitive Certificates which the Holder making the exchange is entitled to receive.

(iv) Every Security Certificate presented or surrendered for registration of transfer or for exchange or redemption of Securities represented thereby shall be duly endorsed or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar for such Security duly executed by the Holder thereof or such Holder's attorney duly authorized in writing.

(v) The Company may not charge a service charge to a holder of a beneficial interest in Securities represented by a Global Certificate or to a Holder of Securities represented by a Definitive Certificate for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.11, 8.5 and 13.3 hereof).

(vi) All Securities represented by Certificates issued upon any registration of transfer or exchange of Securities represented by other Security Certificates shall be the valid and binding obligations of the Company, evidencing the same debt as the Securities represented by Global Certificates surrendered upon such registration of transfer or exchange and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Securities duly issued hereunder.

(vii) Neither the Registrar nor the Company shall be required (A) to issue, to register the transfer of or to exchange any Securities during a period beginning at the opening of business 15 days before the day of any selection of Securities for redemption under Article 13 hereof and ending at the close of business on the date of selection, (B) to register the transfer of or to exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part or (C) to register the transfer of or to exchange a Security between a record date (including a regular record date) and the next succeeding interest payment date.

(viii) Prior to due presentment of any Security Certificate for the registration of transfer of any Security represented thereby, the Company, the Trustee and any agent of the Company or the Trustee may deem and treat the Person in whose name any such Security is registered upon the Securities Register for such Series as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing on the Security Certificate representing such Security) for the purpose of receiving payment of principal of and interest on such Security and for all other purposes, in each case regardless of any notice to the contrary.

(ix) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.8 to effect a registration of transfer or exchange must be in writing and may be submitted by facsimile or other electronic means.

(x) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restriction on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Security (including transfers between or among Participants or Indirect Participants or beneficial owners of interests in any Global Certificate) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof. Each Holder of a Security agrees to indemnify the Company and the Trustee against any liability that may result from the transfer, exchange or assignment of such Holder's Security in violation of any provision of this Indenture or the securities laws of the United States or any state or other jurisdiction. Neither the Trustee nor any agent shall have any responsibility or liability for any actions taken or not taken by the Depositary, Registrar or Custodian.

SECTION 2.9 *Mutilated, Defaced, Destroyed, Lost and Stolen Security Certificates.* In case any Security Certificates shall become mutilated or defaced or be destroyed, lost or stolen, the Company in its discretion may execute, and upon the written request of any Officer of the Company, the Trustee shall authenticate and deliver, a new Security Certificate bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Security Certificate, or in lieu of and substitution for the Security Certificate so destroyed, lost or stolen. In every case, the applicant for a substitute Security Certificate shall furnish to the Company and to the Trustee and to any agent of the Company or the Trustee such security or indemnity that is satisfactory to them to indemnify and defend and to save each of them harmless and, in every case of destruction, loss or theft, evidence to their satisfaction of the destruction, loss or theft of such Security Certificate and of the ownership of the Securities represented thereby.

Upon the issuance of any substitute Security Certificate, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith. In case a Security Certificate represents any Security which has matured or is about to mature or has been called for redemption in full shall become mutilated or defaced or be destroyed, lost or stolen, the Company may, instead of issuing a substitute Security Certificate, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated or defaced Security Certificate) if the applicant for such payment shall furnish to the Company and to the Trustee and any agent of the Company or the Trustee such security or indemnity that is satisfactory to them to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company and the Trustee and any

agent of the Company or the Trustee evidence to their satisfaction of the destruction, loss or theft of such Security Certificate and of the ownership of the Securities represented thereby.

Every substitute Security of any Series issued pursuant to the provisions of this Section 2.9, by virtue of the fact that the Security Certificate representing any such Security has been mutilated, defaced, destroyed, lost or stolen, shall constitute an additional contractual obligation of the Company, whether or not the Security represented by the mutilated, defaced, destroyed, lost or stolen Security Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of (but shall be subject to all the limitations of rights set forth in) this Indenture, equally and proportionately with any and all other Securities of such Series duly issued hereunder. All Securities shall be held and owned upon the express condition that, to the extent permitted by the law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, defaced, destroyed, lost or stolen Security Certificates representing any such Securities 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 or payment of negotiable instruments or other securities without their surrender.

SECTION 2.10 *Cancellation of Security Certificates.* All Security Certificates surrendered for payment, redemption, registration of transfer or exchange of the Securities represented thereby, or for credit against any payment in respect of a sinking or analogous fund, shall, if surrendered to the Company or any agent of the Company or the Trustee, be delivered to the Trustee for cancellation or, if surrendered to the Trustee, shall be canceled by it; and no Security Certificates shall be executed, authenticated and delivered in lieu thereof, except as expressly permitted by this Indenture. The Trustee shall dispose of canceled Security Certificates in accordance with its customary procedures. If the Company shall acquire any of the Securities so surrendered, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the Security Certificates representing such Securities are delivered to the Trustee for cancellation.

SECTION 2.11 *Temporary Security Certificates.* Pending the preparation of Definitive Certificates for any Series, the Company may execute and the Trustee shall authenticate and deliver temporary Security Certificates representing Securities for such Series (printed, lithographed, typewritten or otherwise reproduced, in each case in form satisfactory to the Trustee). Temporary Securities of any Series may be issued in any authorized denomination, and substantially in the form of the Definitive Certificates of such Series, but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Company. Temporary Security Certificates representing Securities may contain such reference to any provisions of this Indenture as may be appropriate. Every temporary Security Certificate shall be executed by the Company and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the Definitive Certificates. Without unreasonable delay the Company shall execute and shall furnish Definitive Certificates of such Series and thereupon temporary Security Certificates of such Series may be surrendered in exchange therefor without charge at each office or agency to be maintained by the Company for that purpose pursuant to Section 3.2 hereof, and the Trustee shall authenticate and deliver in exchange for such temporary Security Certificates of such

Series a like aggregate principal amount of Definitive Certificates of the same Series of authorized denominations. Until so exchanged, the temporary Security Certificates of any Series shall be entitled to the same benefits under this Indenture as Definitive Certificates of such Series.

SECTION 2.12 *Currency and Manner of Payments in Respect of Securities.*

(a) With respect to Securities of any Series with respect to which the Registered Holders of Security Certificates representing such Securities have not made the election provided for in paragraph (b) of this Section 2.12, the following payment provisions shall apply:

(i) Except as provided in subparagraph (a)(ii) or in paragraph (e) of this Section 2.12 or in the Securities of any particular Series, or subject to the Applicable Procedures for any Global Certificate, payment of the principal of any Security shall be made on the payment date against surrender of the Security Certificate representing such Security, and payments of principal and interest on any Security shall be made at the Place of Payment by mailing a check or wiring funds in the Currency in which the Securities were issued to the Person entitled thereto at the address of or in accordance with the wire instructions on file of such Person appearing on the Securities Register.

(ii) Payment of the principal of and interest on such Security may also, subject to applicable laws and regulations, be made at such other place or places as may be designated by the Company by any appropriate method.

(b) With respect to Securities of any Series, the following payment provisions shall apply, except as otherwise provided in paragraphs (d) and (e) of this Section 2.12:

(i) The Board of Directors may provide with respect to any Series of such Securities that Registered Holders shall have the option to receive payments of principal of and interest on such Security in any of the Currencies which may be designated for such election in such Security (the “**Currency Option**”) by delivering to the Paying Agent and Registrar with a copy to the Trustee a written election, to be in the form and substance similar to the exhibit that will be attached to such Board Resolution, Officer’s Certificate or supplemental indenture pertaining to the issuance of such Series of Securities (the “**Currency Election Form**”), not later than 5:00 pm New York City time (the “**close of business**”) on the record date immediately preceding the applicable payment date, which shall include the wire instructions for such Registered Holder. Such election will remain in effect for such Registered Holder until changed by the Registered Holder by delivering a new Currency Election Form to the Paying Agent and Registrar with a copy to the Trustee (but any such change must be made not later than the close of business on the record date immediately preceding the next payment date to be effective for the payment to be made on such payment date and no such change may be made with respect to payments to be made on any Security with respect to which notice of redemption has been given by the Company pursuant to Article 13 hereof). Any Registered Holder of any such Security who shall not have delivered any such election to the Paying Agent or Registrar with a copy to the Trustee not later than the close of

business on the applicable record date will be paid the amount due on the applicable payment date in the relevant Currency as provided in paragraph (a) of this Section 2.12. Payment of principal shall be made on the payment date against surrender of Security Certificates representing such Securities. Payment of principal and interest shall be made at the Place of Payment by mailing a check or wiring funds in the applicable Currency to the Person entitled thereto at the address of or in accordance with the wire instructions on file of such Person appearing on the Securities Register.

(ii) Payment of the principal of and interest on such Security may also, subject to applicable laws and regulations, be made at such other place or places as may be designated by the Company by any appropriate method.

(c) With regard to each Series that allows for the Currency Option, not later than the fourth Business Day after the record date for each payment date, the Paying Agent and Registrar will deliver to the Company, with a copy to the Trustee, a written notice specifying (i) the aggregate principal amount of and Currency in which such Securities are denominated for the Registered Holders who submitted timely Currency Election Forms, along with their elected Currency choice, and (ii) the aggregate principal amount of and Currency in which such Securities are denominated for the remaining Registered Holders. The Company shall then deliver to the Paying Agent and Registrar not later than 3:00 p.m., New York City time, on the second Business Day preceding each payment date (A) the required funds in the appropriate Currency or Currencies and (B) a written order that will specify (x) the applicable Exchange Rate Officer's Certificate and (y) the required amounts of any principal of and interest on the applicable Foreign Currency denominated Securities and any Additional Amounts, in each case, that are due to, and listed separately for, each Registered Holder who was listed on the written notice referred to in the first sentence of this paragraph (c). The Dollar or Foreign Currency amount receivable by Registered Holders who have elected payment in another Currency as provided in paragraph (b) of this Section 2.12 shall be determined by the Company on the basis of the applicable Market Exchange Rate in effect on the second Business Day (the "**Valuation Date**") prior to such payment date and set forth in the applicable Exchange Rate Officer's Certificate.

(d) If a Conversion Event occurs with respect to a Foreign Currency in which any of the Securities are denominated or payable, then, with respect to each date for the payment of principal of and interest on the applicable Foreign Currency denominated Securities occurring after the last date on which the Foreign Currency was so used (the "**Conversion Date**"), the Dollar shall be the currency of payment for use on each such payment date. The Dollar amount to be paid by the Company to the Paying Agent and by the Paying Agent to the applicable Registered Holders with respect to such payment date shall be, in the case of a Foreign Currency, the Dollar Equivalent of the Foreign Currency, as determined by the Currency Determination Agent in the manner provided in paragraph (g) of this Section 2.12.

(e) If the Registered Holder elects payment in a specified Currency as provided for by paragraph (b) of this Section 2.12 and a Conversion Event occurs with respect to such elected Currency, such Registered Holder shall receive payment in the Currency in which payment

would have been made in the absence of such election; and if a Conversion Event occurs with respect to the Currency in which payment would have been made in the absence of such election, such Registered Holder shall receive payment in Dollars.

(f) The “**Dollar Equivalent of the Foreign Currency**” shall be determined by the Currency Determination Agent as of each Valuation Date and shall be obtained by converting the specified Foreign Currency into Dollars at the Market Exchange Rate on the Conversion Date.

(g) For purposes of this Section 2.12 the following term shall have the following meaning:

“**Market Exchange Rate**” shall mean, for any Currency, the noon Dollar buying rate for that Currency for cable transfers quoted in New York City on the Valuation Date, as certified for customs purposes by the Federal Reserve Bank of New York. If such rates are not available for any reason with respect to one or more Currencies for which an exchange rate is required, the Currency Determination Agent shall use, in its sole discretion and without liability on its part, such quotation of the Federal Reserve Bank of New York as of the most recent available date, or quotations from one or more major banks in New York City or in the country of issue of the Currency in question, or such other quotations as the Currency Determination Agent shall deem appropriate. Unless otherwise specified by the Currency Determination Agent, if there is more than one market for dealing in any Currency by reason of foreign exchange regulations or otherwise, the market to be used in respect of such Currency shall be that upon which a nonresident issuer of securities designated in such Currency would purchase such Currency in order to make payments in respect of such securities.

All decisions and determinations of the Currency Determination Agent regarding the Dollar Equivalent of the Foreign Currency and the Market Exchange Rate as specified in this Section 2.12 shall be in its sole discretion and shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Company, the Paying Agent, the Registrar and the Trustee for the relevant Series of Securities and all applicable Holders.

In the event that a Conversion Event has occurred with respect to a Foreign Currency, the Company, after learning thereof, will promptly give notice thereof to the Paying Agent, the Registrar and the Trustee (and the Trustee will promptly thereafter give such same notice in the manner provided in Section 12.4 hereof to the affected Holders) specifying the Conversion Date.

SECTION 2.13 *CUSIP Numbers.* The Paying Agent, the Registrar and the Trustee shall each be fully justified and protected in relying on and acting upon the information so received by it from the Company and the Currency Determination Agent and shall not otherwise have any duty or obligation to determine such information independently. The Company, in issuing the Securities, may use “CUSIP” numbers or “ISINs” (if then generally in use), and the Trustee shall indicate any “CUSIP” number or “ISIN” of the Securities in notices of redemption as a convenience to Holders; *provided*, that any such notice may state that no representation is made as to the correctness of such numbers, either as printed on the applicable Security Certificates or as contained in any notice of redemption, and that reliance may be placed only on

the other identification numbers printed on the applicable Security Certificates, and any such redemption shall not be affected by any defect in or omission of such numbers, and *provided, further*, that the Paying Agent, the Registrar and the Trustee shall have no liability for any defect in the “CUSIP” numbers or “ISINs” as they appear on any Security Certificate, notice or elsewhere. The Company will promptly notify the Trustee in writing of any change in the “CUSIP” numbers or “ISINs”.

SECTION 2.14 *Global Certificates*. If Securities of or within a Series are represented in whole or in part by one or more Global Certificates, any such Global Certificate may provide that it shall represent the aggregate amount of Outstanding Securities from time to time endorsed thereon and may also provide that the aggregate amount of Outstanding Securities represented thereby may, from time to time, be reduced or increased to reflect exchanges and transfers of such Securities. Any endorsement of a Global Certificate representing a Security in global form to reflect the amount, or any increase or decrease in the amount, or changes in the rights of Holders, of Outstanding Securities represented thereby, shall be made in such manner and by such Person or Persons as shall be specified therein or in the written order of the Company to be delivered to the Trustee pursuant to Section 2.4 hereof. Subject to the provisions of Section 2.4 hereof, the Trustee shall deliver and redeliver any Global Certificate in the manner and upon instructions given by the Person or Persons specified therein or in the applicable written order of the Company. Any instructions by the Company with respect to endorsement, delivery or redelivery of a Global Certificate shall be in writing but need not comply with Section 12.5 hereof and need not be accompanied by an Opinion of Counsel.

Notwithstanding the provisions of Section 3.1 hereof, unless otherwise specified as contemplated by Section 2.4 hereof, payment of principal of and interest on any Security represented by a Global Certificate shall be made to the Person or Persons specified in such Global Certificate.

ARTICLE 3 COVENANTS OF THE COMPANY

SECTION 3.1 *Payment of Principal and Interest*. The Company covenants and agrees for the benefit of each Series of Securities that it will duly and punctually pay or cause to be paid (in the Currency in which the Securities of such Series are payable, except as otherwise provided pursuant to Section 2.3 hereof for the Securities of such Series and except as provided in Sections 2.12(b), (d) and (e) hereof) the principal of, and interest on, each of the Securities of such Series in accordance with the terms of the Securities of such Series and this Indenture.

SECTION 3.2 *Offices for Payment, etc*. So long as any of the Securities remain Outstanding, the Company will maintain an office or agency for each Series (a) where Security Certificates may be presented for payment of principal of and interest, if any, on the Securities represented thereby (a “**Place of Payment**”), (b) where Security Certificates may be presented for registration of transfer and for exchange of the Securities represented thereby as provided in this Indenture and (c) where notices and demands to or upon the Company in respect of the Securities or of this Indenture may be served. The Company will give to the Trustee written notice of the location of any such office or agency and of any change of location thereof. In case

the Company shall fail to so designate or maintain any such office or agency or shall fail to give such notice of the location or of any change in the location thereof, presentations and demands may be made and notices may be served at the Corporate Trust Office. Unless otherwise specified pursuant to Section 2.3 hereof, the Trustee is appointed Paying Agent and Registrar.

SECTION 3.3 *Appointment to Fill a Vacancy in Office of Trustee.* The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint a Trustee in the manner provided in Section 6.10 hereof, so that there shall at all times be a Trustee with respect to each Series of Securities hereunder.

SECTION 3.4 *Paying Agents.* Whenever the Company shall appoint a Paying Agent other than the Trustee with respect to the Securities of any Series, it will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree, subject to the provisions of this Section, that:

(a) it will hold all sums received by it as such Paying Agent for the payment of the principal of or interest on the Securities of such Series (whether such sums have been paid to it by the Company or by any other obligor on the Securities of such Series) in trust for the benefit of the applicable Holders or of the Trustee, and upon the occurrence of an Event of Default with respect to such Series, pay over all such sums received by it to the Trustee,

(b) it will give the Trustee notice of any failure by the Company (or by any other obligor on the Securities of such Series) to make any payment of the principal of or interest on the Securities of such Series when the same shall be due and payable, and

(c) it will give the Registrar notice of any change of address of any Holder of which it is aware.

The Company will, on or prior to each due date of the principal of or interest on the Securities of such Series, deposit with the Paying Agent a sum sufficient to pay such principal or interest so becoming due, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of any failure to take such action.

If the Company shall act as Paying Agent with respect to the Securities of any Series, it will, on or before each due date of the principal of or interest on the Securities of such Series, set aside, segregate and hold in trust for the benefit of the applicable Holders a sum sufficient to pay such principal or interest so becoming due. The Company will promptly notify the Trustee of any failure to take such action.

Anything in this Section 3.4 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge with respect to one or more or all Series of Securities hereunder, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust for any such Series by the Company or any Paying Agent hereunder, as required by this Section, such sums to be held in trust by the Trustee.

Anything in this Section 3.4 to the contrary notwithstanding, any agreement to hold sums in trust as provided in this Section is subject to the provisions of Sections 10.3 and 10.4 hereof.

(d) The Company shall be responsible for making calculations called for under the Securities, including, without limitation, the determination of any redemption price, premium or Additional Amounts or other amounts payable on the Securities. The Company will provide its calculations to the Trustee and, absent manifest error, the Trustee is entitled to rely conclusively on the accuracy of the Company's calculations without independent verification.

SECTION 3.5 *Limitation on Liens on Capital Stock of Covered Subsidiaries.* As long as any Securities are Outstanding, the Company will not, and will not permit any Subsidiary to, directly or indirectly, create, assume, incur, guarantee or otherwise permit to exist any indebtedness for borrowed money that is secured, directly or indirectly, by any mortgage, pledge, lien, security interest or other encumbrance (a "**Lien**"), other than a Permitted Lien, on any shares of Capital Stock of any Covered Subsidiary (whether such shares of Capital Stock are owned as of the date of this Indenture or hereafter acquired), unless the Securities are secured equally and ratably with such indebtedness for as long as such indebtedness is so secured; *provided*, that the foregoing shall not prohibit or limit any Lien required by law, any regulation or order of any governmental or insurance regulatory authority.

SECTION 3.6 *Limitation on Disposition of Capital Stock of Covered Subsidiaries.*

(a) As long as any Securities are Outstanding and except in a transaction otherwise governed by this Indenture, the Company will not, and will not permit any of its Subsidiaries to, directly or indirectly, issue, sell, assign, transfer or otherwise dispose of any shares of, securities convertible into, or warrants, rights or options to subscribe for or purchase shares of, Capital Stock (other than preferred stock having no voting rights of any kind) of any Covered Subsidiary.

(b) Notwithstanding the foregoing, Section 3.6(a) hereof shall not apply to such issuance, sale, assignment, transfer or other disposition: (i) subject to Article 9 hereof, that is for at least fair market value (as determined by the Board of Directors acting in good faith); (ii) to the Company, any parent of the Company or any of its directly or indirectly wholly owned Subsidiaries; or (iii) if required by law or any regulation or order of any court of competent jurisdiction or governmental or insurance regulatory authority.

(c) Notwithstanding the foregoing, the Company may also merge or consolidate any of its Subsidiaries into or with another of the Company's direct or indirect Subsidiaries.

SECTION 3.7 *Additional Amounts.* If the terms of Securities of a Series provide for the payment of additional amounts to any Holder in respect of any tax, assessment or governmental charge ("**Additional Amounts**"), the Company will pay to such Holder thereto such Additional Amounts as may be so provided by Section 2.3 hereof. Whenever in this Indenture or any Security of any series there is mentioned, in any context, the payment of the principal of or interest on, or in respect of, any Security of a Series or the net proceeds received on the sale or exchange of a Security of a Series, such mention shall be deemed to include mention of the

payment of Additional Amounts only if provided for by the terms of such Series established pursuant to Section 2.3 hereof to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof pursuant to such terms, and express mention of the payment of Additional Amounts (if applicable) in any provisions hereof shall not be construed as excluding Additional Amounts in those provisions hereof where such express mention is not made.

SECTION 3.8 *Calculation of Original Issue Discount.* With respect to Original Issue Discount Securities, the Company shall calculate and, if reportable, file with the Trustee promptly at the end of each calendar year (a) a written notice specifying the amount of original issue discount (including daily rates and accrual periods) accrued on Outstanding Securities as of the end of such year and (b) such other specific information relating to such original issue discount as may then be relevant under the Code, as amended from time to time.

SECTION 3.9 *Compliance Certificate.* The Company will deliver to the Trustee for each Series of Securities, on or before a date not more than four months after the end of each of its fiscal years ending after the date hereof during which any Securities are Outstanding, a written statement, signed by its principal executive officer, principal financial officer, corporate treasurer or principal accounting officer, stating whether or not the signer is in compliance with all covenants and conditions under this Indenture or knows of any default by the Company in the performance or fulfillment of any covenant, agreement or condition contained in this Indenture and, if so, specifying each such default of which the signer has knowledge and the nature and status thereof. For purposes of this Section 3.9, such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture.

SECTION 3.10 *Notice of Default.* When any default has occurred and is continuing under this Indenture, or if the Trustee or the holder of any other evidence of indebtedness of the Company or any Subsidiary gives any notice or takes any action with respect to a claimed default, the Company will promptly (which shall be within 30 days following the date on which the Company becomes aware of such default, receives notice of such default or becomes aware of such action, as applicable) send to the Trustee an Officer's Certificate specifying such event, its status and, if applicable, what action the Company is taking or proposes to take with respect thereto.

SECTION 3.11 *Company Existence.* Subject to Article 9 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its company existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with their respective organizational documents (as the same may be amended from time to time); *provided*, that the Company shall not be required to preserve the corporate, partnership or other existence of its Subsidiaries, if the Company in good faith shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole. Notwithstanding anything in this Section 3.11, this Indenture or the Securities to the contrary, if the Company shall determine in the future to undertake a redomestication by conversion from a Delaware corporation to a corporation duly organized under the laws of a different jurisdiction in the United States pursuant to the Delaware

General Corporation Law and any other relevant statute of such other jurisdiction, upon consummation of such redomestication by conversion, all references to the Company or F&G Annuities & Life, Inc. shall thereafter refer to F&G Annuities & Life, Inc., as incorporated in such other jurisdiction, which shall have continued in full force and effect the corporate existence of F&G Annuities & Life, Inc., the Delaware corporation, in accordance with such statute of such other jurisdiction and the Company shall thereafter continue to be obligated under this Indenture and the Securities.

ARTICLE 4
HOLDERS' LISTS AND REPORTS BY THE
COMPANY AND THE TRUSTEE

SECTION 4.1 *Company to Furnish Trustee Information as to Names and Addresses of Holders; Preservation of Information; Communications to Holders.*

(a) If the Trustee is not the Registrar for any series of Securities, the Company covenants and agrees that, as long as any such Securities are Outstanding, it will furnish or cause to be furnished to the Trustee a list in such form as the Trustee may reasonably require of the names and addresses of the Holders of such Series:

(i) semi-annually and not more than 5 days after each record date for the payment of interest on such Securities, as specified herein, as of such record date and on dates to be determined pursuant to Section 2.3 hereof for non-interest bearing Securities in each year, and

(ii) at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request, such list to be as of a date not more than 15 days prior to the time such information is furnished.

(b) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of the Holders of each Series contained in the most recent list furnished to the Trustee as provided in Section 4.1(a) hereof and the names and addresses of the Holders of each Series received by the Trustee in its capacity as Registrar. The Trustee may dispose of any list furnished to it as provided in Section 4.1(a) hereof upon receipt of a new list so furnished.

(c) The rights of the Holders of each Series to communicate with other Holders of such Series with respect to their rights under this Indenture or under the Securities, and the corresponding rights and privileges of the Trustee, shall be as provided by the Trust Indenture Act.

(d) Every Holder of Securities, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the Trust Indenture Act.

SECTION 4.2 *Reports by the Company.* As long as any Securities are Outstanding, the Company covenants to:

(a) furnish to the Trustee, within 30 days after the Company has filed the same with the Commission through its Electronic Data Gathering, Analysis and Retrieval System (or any successor system) (“**EDGAR**”), the reports required by Section 314(a)(1) of the Trust Indenture Act, specifically, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company is required to file with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act; or, if the Company is not required to file information, documents or reports pursuant to either of such Sections, then to furnish to the Trustee and file with the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Exchange Act, in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(b) furnish to the Trustee and file with the Commission through EDGAR, in accordance with the rules and regulations prescribed from time to time by the Commission and as required by Section 314(a)(2) of the Trust Indenture Act, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants hereunder, as may be required from time to time by such rules and regulations; and

(c) furnish to the Holders, within 30 days after the furnishing thereof with the Trustee, as required by Section 314(a)(3) of the Trust Indenture Act and in the manner and to the extent provided in Section 313(c) thereof, such summaries of any information, documents and reports required to be filed by the Company pursuant to Sections 4.2(a) and (b) hereof, as may be required by the rules and regulations prescribed from time to time by the Commission.

Delivery of any reports, information and documents to the Trustee hereunder is for informational purposes only and the Trustee’s receipt of any such reports, information and documents shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company’s compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer’s Certificates). The Trustee shall have no duty to review or make independent investigation with respect to any reports, information or documents delivered to the Trustee pursuant to this Section 4.2 and shall hold the same solely as repository. In addition, the Trustee shall have no obligation whatsoever to determine whether or not such reports, information or documents have been filed with the Commission through EDGAR, *provided*, that the Company shall promptly notify the Trustee in writing whenever it shall have so filed such reports, information or documents.

SECTION 4.3 *Reports by the Trustee.*

Within 60 days after August 15th of each year commencing with the first August 15th following the first issuance of Securities pursuant to Section 2.3 hereof, if required by

Section 313(a) of the Trust Indenture Act, the Trustee shall transmit a brief report dated as of such August 15th with respect to any of the events specified in Section 313(a) of the Trust Indenture Act which may have occurred since the later of the immediately preceding August 15th and the date of this Indenture.

The Trustee shall transmit the reports required by Section 313(b) of the Trust Indenture Act, as applicable, at the times specified therein.

Reports pursuant to this Section 4.3 shall be transmitted in the manner and to the Persons required by Section 313(c) of the Trust Indenture Act. A copy of each such report shall, at the time of such transmission to the Holders, be furnished to the Company and be filed by the Trustee with each stock exchange, if any, upon which the Securities of any Series are listed and also with the Commission. The Company agrees to notify the Trustee when and as the Securities of such Series become admitted to trading on any national securities exchange.

ARTICLE 5
REMEDIES OF THE TRUSTEE AND HOLDERS
ON EVENT OF DEFAULT

SECTION 5.1 *Event of Default Defined; Acceleration of Maturity; Waiver of Default.* In case one or more of the following Events of Default (unless it is either inapplicable to a particular Series or it is specifically deleted from or modified in the instrument establishing such Series and the form of Security for such Series) shall have occurred and be continuing with respect to any Series of Securities:

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

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

(c) failure on the part of the Company duly to observe or perform any other of the covenants or agreements on the part of the Company contained in the Securities of such Series or in this Indenture and relating to such Series for a period of 90 days after the date on which written notice specifying such failure and requiring the Company to remedy the same and stating that such notice is a “**notice of default**” hereunder shall have been given by registered or certified mail to the Company by the Trustee for the Securities of such Series, or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Securities of such Series at the time Outstanding; or

(d) a default under the Company’s outstanding indebtedness (other than Securities of such Series) in the payment by the Company, when due, of an aggregate principal amount of such indebtedness exceeding \$75,000,000, or default under any such indebtedness (other than Securities of such Series) in an aggregate principal amount exceeding \$75,000,000 becoming or

being declared due and payable prior to the date on which it would otherwise have become due and payable, in each case without such acceleration having been rescinded or annulled, or without such indebtedness having been paid in full, or without there having been deposited into trust a sum of money sufficient to pay in full such indebtedness, within ten days after the date on which written notice specifying such default or breach and stating that such notice is a “**notice of default**” hereunder shall have been given by registered or certified mail to the Company by the Trustee for the Securities of such Series, or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Securities of such Series at the time Outstanding; or

(e) (i) the Company, pursuant to or within the meaning of any Bankruptcy Law, (A) commences a voluntary case or proceeding, (B) consents to the entry of an order for relief against it in an involuntary case or proceeding or to the commencement of any bankruptcy or insolvency case or proceeding against it, (C) consents to the appointment of a Receiver of it or for its properties and assets substantially as an entirety; (D) makes a general assignment for the benefit of creditors; or (ii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (A) is for relief against the Company in an involuntary case, (B) appoints a Receiver of the Company or for its properties and assets substantially as an entirety, (C) orders the winding up or liquidation of the Company, (D) adjudges the Company bankrupt or insolvent or (E) approves as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or with respect to the Company, and any such order or decree described in this clause (e)(ii) remains unstayed and in effect for 90 days; *provided, however*, that any rights and remedies in this Indenture arising under this Section 5.1(e) shall not be enforceable if a resolution or order for the winding up the Company with a view to a transaction in accordance with Section 9.1 hereof has been issued and such successor Person shall, as a part of such transaction, comply with the requirements of Section 9.1 hereof within 90 days of the date of such resolution or order; or

(f) any other Event of Default provided in the applicable Board Resolution, Officer’s Certificate or supplemental indenture pursuant to Section 2.1 and Section 2.3 hereof with respect to Outstanding Securities of such Series;

then, and in each and every such case (other than an Event of Default under clause (e) above), so long as such Event of Default with respect to such Series shall not have been remedied or waived, unless the principal of all Securities of such Series shall have already become due and payable, either the Trustee for such Series or the Holders of not less than 25% in aggregate principal amount of the Securities of such Series then Outstanding hereunder, by notice in writing to the Company (and to the Trustee if given by such Holders), may declare the principal (or, in the case of Original Issue Discount Securities, such principal amount as may be determined in accordance with the terms thereof) of all the Securities of such Series to be due and payable immediately, and upon any such declaration of acceleration, the same shall become and shall be immediately due and payable, anything in this Indenture or in the terms of Securities of such Series contained to the contrary notwithstanding. With respect to an Event of Default described under clause (e) above, the principal of all Securities of such Series shall become

immediately due and payable without any declaration of acceleration or other act by the Trustee or the Holders.

The provisions of the immediately preceding paragraph are subject, in each case, to the condition that if, at any time after the principal of the Securities of such Series (or, in the case of Original Issue Discount Securities, such principal amount as may be determined in accordance with the terms thereof) shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay, (A) in the Currency in which the Securities of such Series are payable (except as otherwise provided pursuant to Section 2.3 hereof for the Securities of such Series and except as provided in Sections 2.12(b), (d) and (e) hereof), all matured installments of interest, if any, upon all the Securities of such Series and the principal of any and all Securities of such Series which shall have become due otherwise than by such acceleration (with interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, upon overdue installments of interest, at the rate borne by the Securities of such Series (or, in the case of Original Issue Discount Securities, at the yield to maturity) to the date of such payment or deposit) and (B) such amount in Dollars as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel and all other fees, expenses and liabilities incurred, and all advances made, by the Trustee, its agents, attorneys and counsel. Upon such payment or deposit with the Trustee by the Company, any and all defaults under this Indenture, other than the non-payment of the principal of Securities of such Series which shall have become due by such acceleration, shall have been remedied. The Holders of at least a majority in aggregate principal amount of the Securities of such Series then Outstanding, by written notice to the Company and to the Trustee for the Securities of such Series, may waive all defaults and rescind and annul such declaration of acceleration and its consequences (except for the non-payment of the principal of Securities of such Series which shall have become due by acceleration, which shall require the consent of the Holders of each Security of such Series then Outstanding), but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or shall impair any right consequent thereon.

SECTION 5.2 *Collection of Indebtedness by Trustee; Trustee May Prove Debt.* The Company covenants that (a) in case default shall be made in the payment of any installment of interest on any of the Securities of any Series when such interest shall have become due and payable, and such default shall have continued for a period of 30 days, or (b) in case default shall be made in the payment of all or any part of the principal of any of the Securities of any Series when the same shall have become due and payable hereunder, whether upon maturity of the Securities of such Series or upon any redemption or by declaration of acceleration or otherwise, then the Company will pay to the Trustee for the Securities of such Series for the benefit of the Holders of the Securities of such Series the whole amount that is then due and payable on all Securities of such Series for principal of or interest on such Securities, as the case may be (with interest to the date of such payment upon the overdue principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest at the same rate as the rate of interest specified in the Securities of such Series (or, in the case of Original Issue Discount Securities, at the yield to maturity)); and in addition thereto, such further amount

as shall be sufficient to cover the fees, costs and expenses of collection, including reasonable compensation to the Trustee and each predecessor Trustee, their respective agents, attorneys and counsel, and any fees, expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee.

The Company shall pay the principal of and interest on the Securities of any Series to the Persons entitled thereto, whether or not the principal of and interest on the Securities of such Series are overdue.

In case the Company shall fail forthwith to pay such amounts, the Trustee for the Securities of such Series, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon such Securities and collect in the manner provided by law out of the property of the Company or other obligor upon such Securities, wherever situated, the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings relative to the Company or any other obligor upon the Securities under the Bankruptcy Law, or in case a Receiver shall have been appointed for or taken possession of the Company or its property or such other obligor, or in case of any other comparable judicial proceedings relative to the Company or other obligor under the Securities of any Series, if any, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of any Securities shall then be due and payable as therein expressed or by declaration or otherwise, shall be entitled and empowered, by intervention in such proceedings or otherwise:

(a) to file and prove a claim or claims for the whole amount of principal (or, if the Securities of such Series are Original Issue Discount Securities, such portion of the principal amount as may be due and payable with respect to the Securities of such Series pursuant to a declaration in accordance with Section 5.1 hereof) and interest owing and unpaid in respect of the Securities of any Series, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all fees, expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee) and of the Holders allowed in any judicial proceedings relative to the Company or other obligor upon all Securities of any Series, or to the creditors or property of the Company or such other obligor,

(b) unless prohibited by applicable law and regulations, to vote on behalf of the Holders of Securities of any Series in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or Person performing similar functions in comparable proceedings, and

(c) to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Holders and

of the Trustee on their behalf; and any trustee, Receiver, custodian or other similar official is hereby authorized by each of the Holders to make payments to the Trustee for the Securities of such Series, and, in the event that such Trustee shall consent to the making of payments directly to the Holders, to pay to such Trustee such amounts as shall be sufficient to cover reasonable compensation to such Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other fees, expenses and liabilities incurred, and all advances made, by such Trustee and each predecessor Trustee and all other amounts due to such Trustee or any predecessor Trustee hereunder.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of any Series 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, except as set forth in Section 5.2(b).

All rights of action and of asserting claims under this Indenture, or under any of the Securities, may be enforced by the Trustee for the Securities of such Series without the possession of any of the Security Certificates representing the Securities of such Series or the production thereof at any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment, subject to the payment of the fees, expenses, disbursements and compensation of the Trustee, each predecessor Trustee and their respective agents and attorneys, shall be for the ratable benefit of the Holders in respect of which such action was taken.

In any proceedings brought by the Trustee for the Securities of such Series (and 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 Securities in respect to which such action was taken, and it shall not be necessary to make any applicable Holders parties to any such proceedings.

SECTION 5.3 *Application of Proceeds.* Any moneys collected by the Trustee for the Securities of a Series pursuant to this Article 5 in respect of the Securities of such Series shall be applied in the following order on the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal or interest, upon presentation of each Security Certificate representing the Securities in respect of which moneys have been collected and stamping (or otherwise noting) thereon the payment, or executing, authenticating and delivering one or more Security Certificates representing a reduced principal amount of Securities of such Series in exchange for the presented Security Certificates if Securities represented by such Security Certificate(s) are only partially paid, or upon surrender thereof if Securities represented by such Security Certificate(s) are fully paid:

First: To the payment of all costs and expenses applicable to such Series in respect of which moneys have been collected, including reasonable compensation to the Trustee (acting in any capacity hereunder) and each predecessor Trustee and their respective agents and attorneys and of all fees, expenses and liabilities incurred, and all

advances made, by the Trustee and each predecessor Trustee and all other amounts due to the Trustee or any predecessor Trustee hereunder;

Second: In case the principal of the Securities of such Series in respect of which moneys have been collected shall not have become and be then due and payable, to the payment of interest on the Securities of such Series in default in the order of the maturity of the installments of such interest, with interest (to the extent that payment of such interest is permissible by law and that such interest has been collected by the Trustee) upon the overdue installments of interest at the same rate as the rate of interest specified in such Securities (or, in the case of Original Issue Discount Securities, at the yield to maturity), such payments to be made ratably to the persons entitled thereto, without discrimination or preference;

Third: In case the principal of the Securities of such Series in respect of which moneys have been collected shall have become and shall be then due and payable, to the payment of the whole amount then owing and unpaid upon all the Securities of such Series for principal and interest, with interest upon the overdue principal, and (to the extent that payment of such interest is permissible by law and that such interest has been collected by the Trustee) upon overdue installments of interest at the same rate as the rate of interest specified in the Security Certificates representing the Securities of such Series (or, in the case of Original Issue Discount Securities, at the yield to maturity); and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Securities of such Series, then to the payment of such principal 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 Security of such Series over any other Security of such Series, ratably to the aggregate of such principal and accrued and unpaid interest; and

Fourth: To the payment of the remainder, if any, to the Company or any other Person lawfully entitled thereto.

SECTION 5.4 *Suits for Enforcement.* In case an Event of Default has occurred, has not been waived and is continuing, 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 the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or 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 5.5 *Restoration of Rights on Abandonment of Proceedings.* In case the Trustee for the Securities of any Series shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Company and the Trustee shall be restored, respectively, to their former positions and rights hereunder, and all rights, remedies and powers of the Company, the Trustee and the Holders shall continue as though no such proceedings had been taken.

SECTION 5.6 *Limitations on Suits by Holders.* No Holder of any Series shall have any right by virtue or by availing of any provision of this Indenture to institute any action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Indenture, the Securities or for the appointment of a trustee, Receiver, custodian or other similar official or for any other remedy hereunder, unless such Holder previously shall have given to the Trustee written notice of default and of the continuance thereof, and unless the Holders of not less than 25% in aggregate principal amount of the Securities of such Series then Outstanding shall have made written request upon the Trustee to institute such action or proceedings in its own name as trustee hereunder, and shall have offered to the Trustee such security or indemnity as it may require against the losses, expenses and liabilities to be incurred therein or thereby, and the Trustee, for 60 days after its receipt of such notice, request and offer of security or indemnity, shall have failed to institute any such action or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 5.9 hereof; it being understood and intended, and being expressly covenanted by the taker and Holder of every Security with every other taker and Holder of a Security and the Trustee, that no one or more Holders of any Series shall have any right in any manner whatsoever, by virtue or by availing of any provision of this Indenture, to affect, disturb or prejudice the rights of any other such 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 (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not the rights of any other such Holder have been unduly prejudiced), except in the manner herein provided and for the equal, ratable and common benefit of all Holders of the applicable Series. For the protection and enforcement of the provisions of this Section 5.6, each Holder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

SECTION 5.7 *Unconditional Right of Holders to Institute Certain Suits.* Notwithstanding any provision in this Indenture and any term of any Security, the right of any Holder to receive payment of the principal of and interest on such Security at the respective rates, in the respective amount and in the Currency prescribed in the Security Certificates representing such Securities on or after the respective due dates expressed therein, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 5.8 *Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default.* Except as provided in Section 5.6 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder or otherwise shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Trustee or of any Holder to exercise any right or power accruing upon any Event of Default occurring and continuing as forth in this Indenture shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein and, subject to Section 5.6 hereof, every power and remedy given by

this Indenture 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 the Holders.

SECTION 5.9 *Control by Holders.* The Holders of a majority in aggregate principal amount of the Securities of each Series affected (with each Series treated as a separate class) at the time Outstanding 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 Securities of such Series by this Indenture; *provided*, that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture; *provided, further*, that (subject to the provisions of Section 6.1 and Section 6.2 hereof) the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, shall determine that the action or proceeding so directed may not lawfully be taken, if the Trustee in good faith by Responsible Officers of the Trustee shall determine that the action or proceedings so directed would involve the Trustee in personal liability or if the Trustee in good faith shall so determine that the actions or forbearances specified in or pursuant to such direction would be unduly prejudicial to the interests of Holders of all Series so affected not joining in the giving of such direction, it being understood that (subject to Section 6.1 and Section 6.2 hereof) the Trustee shall have no duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders. In the event the Trustee receives inconsistent or conflicting directions from Holders pursuant to this Section 5.9 from two or more groups of Holders, each representing less than a majority in aggregate principal amount of the Securities of each Series affected at the time Outstanding, the Trustee, in its sole discretion, may determine what action or proceeding, if any, to take. The Trustee shall be fully indemnified for refraining from acting in the absence of such direction or directions by Holders.

Nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction or directions by Holders.

SECTION 5.10 *Waiver of Past Defaults.* Prior to the declaration of the acceleration of the maturity of the Securities of any Series as provided in Section 5.1 hereof, the Holders of a majority in aggregate principal amount of the Securities of such Series at the time Outstanding may, on behalf of the Holders of all the Securities of such Series, waive any past default hereunder or its consequences, except a default in the payment of the principal of or interest on any of the Securities of such Series (unless the condition specified in the last paragraph of Section 5.1 hereof has been fully satisfied). Upon any such waiver, such default shall cease to exist and be deemed to have been cured and not to have occurred, and any Event of Default arising therefrom shall be deemed to have been cured and not to have occurred for every purpose of this Indenture, and the Company, the Trustee and the Holders of such Series shall be restored to their former positions and rights hereunder; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 5.11 *Trustee to Give Notice of Default, But May Withhold in Certain Circumstances.* The Trustee shall transmit to the Holders of any Series of Securities notice, in the manner and to the extent provided in Section 12.4 hereof, of all defaults with respect to such

Series of which the Trustee has notice (as provided in Section 6.2(h) hereof), such notice to the Holders to be transmitted by the Trustee within the later of 90 days after the occurrence thereof or 60 days after such default is actually known to a Responsible Officer, unless such defaults shall have been cured before the giving of such notice or unless such Holders have already transmitted notice to the Trustee of such defaults (the term “**default**” or “**defaults**” for the purposes of this Section 5.11 being hereby defined to mean any event or condition which is, or with notice or lapse of time or both would become, an Event of Default); *provided*, that except in the case of default in the payment of the principal of or interest on any of the Securities of such Series, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of such Series.

SECTION 5.12 *Right of Court to Require Filing of Undertaking to Pay Costs.* All parties to this Indenture agree, and each Holder of any Security, by such Holder’s 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 5.12 shall not apply to any suit instituted by the Trustee, any suit instituted by any Holder or group of Holders of any Series of Securities holding in the aggregate more than 10% in aggregate principal amount of the Securities of such Series (or, in the case of any suit relating to or arising under Section 5.1(d) hereof (if the suit relates to Securities of more than one but less than all Series), 10% in aggregate principal amount of Securities Outstanding affected thereby, or in the case of any suit relating to or arising under Section 5.1(d) (if the suit under Section 5.1(d) relates to all the Securities then Outstanding), 5.1(e) or 5.1(f) hereof, 10% in aggregate principal amount of all Securities Outstanding) or any suit instituted by any Holder for the enforcement of the payment of the principal of or interest on any Security on or after the due date expressed in the Security Certificate representing such Security.

ARTICLE 6 CONCERNING THE TRUSTEE

SECTION 6.1 *Duties and Responsibilities of the Trustee; During Default; Prior to Default.* With respect to the Holders of any Series issued hereunder, the Trustee, prior to the occurrence of an Event of Default with respect to the Securities of such Series and after the curing or waiving of all Events of Default which may have occurred with respect to such Series, shall undertake to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default with respect to the Securities of a Series has occurred (which has not been cured or waived) of which a Responsible Officer has actual knowledge, 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.

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

(a) prior to the occurrence of an Event of Default with respect to the Securities of any Series and after the curing or waiving of all such Events of Default with respect to such Series which may have occurred:

(i) the duties and obligations of the Trustee with respect to the Securities of any Series 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) the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; and in the case of any such statements, certificates or opinions that, by any provision hereof, are specifically required to be furnished to the Trustee, the Trustee shall be under no duty to examine the same to determine whether or not they conform, on their face, to the requirements of this Indenture, nor shall the Trustee have any obligation to verify, confirm or investigate the accuracy of the mathematical calculations or other facts contained or stated therein; and

(b) the Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in aggregate principal amount of the Securities of each Series affected at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of such Series.

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 under this Indenture. The Trustee will be under no obligations to exercise any of its rights or powers under this Indenture as the request or direction of any Holder unless such Holder has offered to Trustee security or indemnity satisfactory to it against any loss, expense or liability.

Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the requirements of this Section 6.1.

SECTION 6.2 *Certain Rights of the Trustee.*

(a) The Trustee may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, Officer's Certificate or any other certificate, statement,

instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, coupon, security, other evidence of indebtedness or other paper or document (whether or not in its original or facsimile or other electronic form) believed by it 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 described herein shall be sufficiently evidenced by an Officer's Certificate or an Opinion of Counsel or both (unless other evidence in respect thereof is specifically prescribed herein).

(c) The Trustee may consult with counsel of its selection and any advice or Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted to be taken by it hereunder in accordance with such advice or Opinion of Counsel.

(d) The Trustee shall be under no obligation to exercise any of the trusts, rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders pursuant to the provisions of this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against the losses, expenses, costs and liabilities which might be incurred in connection with such exercise.

(e) The Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture.

(f) Prior to the occurrence of any Event of Default hereunder and after the curing or waiving of all Events of Default which may have occurred, 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, approval, appraisal, bond, debenture, note, coupon, security, evidence of indebtedness or other paper or document unless requested in writing to do so by the Holders of not less than a majority in aggregate principal amount of the Securities of each of the Series affected then Outstanding; *provided*, that if the payment within a reasonable time to the Trustee of the losses, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee (with the advice of counsel), not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require security or indemnity satisfactory to it against such losses, expenses or liabilities as a condition to proceeding, and the reasonable expenses of every such investigation shall be paid by the Company or, if paid by the Trustee or any predecessor Trustee, shall be repaid by the Company upon demand, and the Trustee shall incur no liability or additional liability of any kind by reason of such investigation.

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys not regularly in its employ and the Trustee shall not be responsible for any acts, omissions, misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder.

(h) The Trustee shall not be deemed to have notice of any default or Event of Default with respect to the Securities of any Series unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of such Event of Default is received by the Trustee from the Company or the Holders of at least 25% of the aggregate principal amount of such Series of Securities at the Corporate Trust Office and such notice references the Securities of such Series and this Indenture.

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be compensated, reimbursed and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act on behalf of the Trustee hereunder.

(j) The Trustee shall not be liable or responsible for any action or inaction of DTC, Euroclear, Clearstream, the Depository or any other clearinghouse or depository.

(k) The Trustee shall not be liable or responsible for any action or inaction of any Paying Agent, co-Trustee or Registrar (unless the Trustee is acting in such capacities, as applicable, subject to the terms hereof).

(l) The Trustee may accept as conclusive evidence of any fact or the correctness of any calculation and shall be fully protected in relying upon an Officer's Certificate provided to it by the Company containing any such calculation.

(m) The Trustee shall have no obligation to undertake any calculation hereunder or have any liability for any calculation performed in connection herewith or the transactions contemplated hereunder.

(n) The Trustee shall not be required to give any note, bond or surety in respect of the performance of its powers and duties hereunder.

(o) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as duties.

(p) In no event shall the Trustee be responsible or liable for any special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, without limitation, loss of profit), irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

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

(r) The Holders will make their own decisions regarding actions relevant to the Securities and will not rely on the Trustee with respect to such decisions.

(s) It shall not be the duty of the Trustee to see that any duties or obligations imposed herein upon the Company or other persons are performed, and the Trustee shall not be liable or responsible for the failure of the Company or such other persons to perform any act required of them by this Indenture.

SECTION 6.3 *Trustee Not Responsible for Recitals, Disposition of Securities or Application of Proceeds Thereof.* The recitals contained herein and in the Security Certificates from time to time representing the Securities, except the Trustee's certificate of authentication, shall be taken as the statements of the Company, and the Trustee nor any of its agents 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 Securities. The Trustee represents that it is duly authorized to execute and deliver this Indenture and perform its obligations hereunder. The Trustee shall not be accountable for the use or application by the Company of any of the Securities or of the proceeds thereof. The Trustee shall have no responsibility or liability with respect to any information, statement or recital in the offering memorandum, prospectus, prospectus supplement or other disclosure material prepared or distributed with respect to any of the Securities.

SECTION 6.4 *Trustee and Agents May Hold Securities; Collections, etc.* The entity that is acting as Trustee, any Paying Agent, Registrar or any agent of the Company or the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities with the same rights it would have if it were not the Trustee or such agent and, subject to Sections 6.8 and 6.13 hereof, if operative, may otherwise deal with the Company and receive, collect, hold and retain collections from the Company with the same rights it would have if it were not the Trustee or such agent.

SECTION 6.5 *Moneys Held by Trustee.* Subject to the provisions of Section 10.4 hereof, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by mandatory provisions of law. The Trustee shall not have any liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company.

SECTION 6.6 *Compensation and Indemnification of Trustee and Its Prior Claim.* The Company covenants and agrees to pay to the Trustee (acting in any capacity hereunder) from time to time, and the Trustee shall be entitled to, such compensation as shall be agreed to from time to time in writing between the Company and the Trustee in Dollars (which shall not be limited by any provision of law with respect to the compensation of a trustee of an express trust) and the Company covenants and agrees to pay or reimburse the Trustee and each predecessor Trustee upon its request in Dollars for all reasonable expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Indenture (including the reasonable compensation, fees, expenses and disbursements of its counsel and of all agents and other persons not regularly in its employ), except any such expense, disbursement or advance as may arise from its negligence or willful misconduct. The Company also covenants to indemnify the Trustee (acting in any capacity hereunder) and each predecessor Trustee and

their respective agents for, and to hold them harmless against, any and all loss, liability, damage, claim or expense, including taxes (other than taxes based upon, measured by or determined by the income of the Trustee), except those incurred through the Trustee's own negligence or willful misconduct (as adjudicated by a court of competent jurisdiction in a final, non-appealable judgment), arising out of or in connection with the acceptance or administration of this Indenture or the trust or trusts hereunder and its duties hereunder, including the costs and expenses of enforcing the provisions of this Indenture (including this Section 6.6), defending itself against or investigating any claim (whether asserted by the Company, a Holder or any other Person) of liability in the premises and in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Company shall pay the fees and expenses of such separate counsel. The obligations of the Company under this Section 6.6 to compensate and indemnify the Trustee and each predecessor Trustee and to pay or reimburse the Trustee and each predecessor Trustee for reasonable expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee. Such additional indebtedness shall be a senior claim to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Securities, and the Securities are hereby subordinated to such senior claim and such claim shall survive the resignation or removal of the Trustee.

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 5.1(e) hereof, the expenses (including the fees, charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any applicable federal or state bankruptcy, insolvency or other similar law.

SECTION 6.7 *Right of Trustee to Rely on Officer's Certificate, etc.* Subject to Sections 6.1 and 6.2 hereof, whenever, in the administration of the trusts of this Indenture, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof specifically prescribed herein) 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 Officer's Certificate complying with Section 12.5 hereof delivered to the Trustee, and such Officer's 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 or under the provisions of this Indenture upon the faith thereof.

SECTION 6.8 *Disqualification of Trustee; Conflicting Interests.* If the Trustee for the Securities of any Series has or shall acquire any "**conflicting interest**," as defined in the Trust Indenture Act, it shall, within 90 days after ascertaining that it has such conflicting interest, and if the default (as defined in the Trust Indenture Act) to which such conflicting interest relates has not been cured or waived or otherwise eliminated before the end of such 90-day period, the Trustee shall either eliminate such conflicting interest or resign in the manner and with the effect specified in the Trust Indenture Act and this Indenture.

SECTION 6.9 *Persons Eligible for Appointment as Trustee.* The Trustee for each Series of Securities hereunder shall at all times be an organization or entity organized and doing business under the laws of the United States having a combined capital and surplus of at least \$50,000,000, and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by federal, state or District of Columbia authority. If such organization or entity publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 6.9, the combined capital and surplus of such organization or entity shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 6.9, the Trustee shall resign immediately in the manner and with the effect specified in Section 6.10 hereof.

SECTION 6.10 *Resignation and Removal; Appointment of Successor Trustee.*

(a) The Trustee, or any trustee or trustees hereafter appointed, may at any time resign with respect to one or more or all Series of Securities by giving written notice of resignation to the Company. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee or trustees with respect to each applicable Series by written instrument in duplicate, executed by authority of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee or trustees, and shall give notice in the manner and to the extent provided in Section 12.4 hereof to the Holders of the applicable Series with respect to which the Trustee has resigned at their last addresses as they shall appear in the Securities Register. If no successor trustee shall have been so appointed with respect to any Series and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning trustee may petition, at the sole expense of the Company, any court of competent jurisdiction for the appointment of a successor trustee, or any Holder who has been a *bona fide* Holder of the applicable Series for at least six months may, subject to the provisions of Section 5.12 hereof, on behalf of such Holder 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 fail to comply with the provisions of Section 6.8 hereof with respect to any Series of Securities after written request therefor by the Company or by any Holder who has been a *bona fide* Holder or Securities of such Series for at least six months unless the Trustee's duty to resign is stayed in accordance with the provisions of Section 310(b) of the Trust Indenture Act; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 6.9 hereof and shall fail to resign after written request therefor by the Company or by any Holder; or

(iii) the Trustee shall become incapable of acting with respect to any Series of the Securities, shall be adjudged a bankrupt or insolvent, a receiver or liquidator 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 any such case, the Company may, upon 30 days prior written notice to the Trustee, remove the Trustee with respect to the applicable Series of Securities and appoint a successor trustee for such Series 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, and, upon such removal, shall give notice in the manner and to the extent provided in Section 12.4 hereof to the Holders of the applicable Series with respect to which the Trustee has been removed at their last addresses as they shall appear in the Securities Register, or, subject to the provisions of Section 5.12 hereof, any Holder who has been a *bona fide* Holder of such Series for at least six months may on behalf of such Holder and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee with respect to such Series. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Securities of each Series at the time Outstanding may, at any time upon 30 days prior written notice to the Company and to the Trustee, remove the Trustee with respect to Securities of such Series and such Holders shall provide promptly to the Company the evidence provided for in Section 7.1 hereof of the action in that regard taken by the Holders. In such an event and upon receipt of such evidence, the Company will appoint a successor trustee with respect to the Securities of such Series by delivering to the Trustee so removed, and to the successor trustee so appointed, such evidence received from the Holders.

If no successor Trustee shall have been appointed with respect to such Series within 30 days after the mailing of such notice of removal, the Trustee being removed may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such Series.

(d) Any resignation or removal of the Trustee with respect to any Series and any appointment of a successor trustee with respect to such Series pursuant to any of the provisions of this Section 6.10 hereof shall become effective upon acceptance of appointment by the successor trustee as provided in Section 6.11 hereof.

SECTION 6.11 *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 6.10 hereof shall execute 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 with respect to all or any applicable Series shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all rights, powers, duties and obligations with respect to such Series of its predecessor hereunder, with like effect as if originally named as trustee for such Series hereunder; *provided*, that on the written request of the Company or of the successor trustee, upon payment of its charges then unpaid, the Trustee ceasing to act shall, subject to

Section 10.4 hereof, pay over to the successor trustee all moneys at the time held by it hereunder and shall execute and deliver an instrument transferring to such successor trustee all such rights, powers, duties and obligations. 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 prior claim upon all property or funds held or collected by such Trustee to secure any amounts then due it pursuant to the provisions of Section 6.6 hereof. No Trustee ceasing to act shall have any liability or responsibility for the action or inaction of the successor trustee.

If a successor trustee is appointed with respect to the Securities of one or more (but not all) Series, the Company, the predecessor Trustee and each successor trustee with respect to the Securities of any applicable Series shall execute and deliver an indenture supplemental hereto which shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor Trustee with respect to the Securities of any Series as to which the predecessor Trustee is not retiring shall continue to be vested in the predecessor Trustee, and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such trustees as co-trustees of the same trust and that each such trustee shall be trustee of a trust or trusts under separate indentures.

No successor trustee with respect to any Series of Securities shall accept appointment as provided in this Section 6.11 hereof unless, at the time of such acceptance, such successor trustee shall not be disqualified under the provisions of Section 6.8 hereof and shall be eligible under the provisions of Section 6.9 hereof.

Upon acceptance of appointment by any successor trustee as provided in this Section 6.11 hereof, the Company shall give notice in the manner and to the extent provided in Section 12.4 hereof to the Holders of any Series for which such successor trustee is acting as trustee at their last addresses as they shall appear in the Securities Register. If the acceptance of appointment by any successor trustee is substantially contemporaneous with the resignation or removal of the Trustee, then the notice called for by the preceding sentence may be combined with the notice called for by Section 6.10(a) or Section 6.10(b) hereof, as applicable. If the Company fails to mail such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be mailed at the expense of the Company.

SECTION 6.12 *Merger, Conversion, Consolidation or Succession to Business of Trustee.* Any organization or entity into which the Trustee may be merged or converted or with which it may be consolidated, or any organization or entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any organization or entity succeeding to, by transfer or sale, all or substantially all the corporate trust business and assets as a whole or substantially as a whole of the Trustee, shall be and shall become the successor of the Trustee hereunder and shall have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, *provided*, that such organization or entity shall not be disqualified

under the provisions of Section 6.8 hereof and shall be eligible under the provisions of Section 6.9 hereof, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

If, at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Security Certificates representing the Securities of any Series shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee and deliver such Security Certificates so authenticated; and, if, at such time, any of the Security Certificates representing Securities of any Series shall not have been authenticated, any successor to the Trustee may authenticate such Security Certificates in the name of the successor trustee; and in all such cases such certificates shall be entitled to all the benefits of (but shall be subject to all the limitations of rights set forth in) this Indenture, equally and proportionately with any and all other Securities of such Series duly issued hereunder; *provided*, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Securities of any Series in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 6.13 *Preferential Collection of Claims Against the Company.* If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Securities), the Trustee shall be subject to the provisions of the Trust Indenture Act, if such act shall then be applicable to this Indenture, regarding the collection of claims against the Company (or any such other obligor).

ARTICLE 7 CONCERNING THE HOLDERS

SECTION 7.1 *Evidence of Action Taken by Holders.*

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by a specified percentage in principal amount of the Holders of any or all Series may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such specified percentage of Holders in person or by agent duly appointed in writing; and, except as otherwise expressly provided herein, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Company. Proof of execution of any instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Sections 6.1 and 6.2 hereof) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Article 7.

(b) The ownership of Securities of a Series shall be proved by the Securities Register for such Series.

SECTION 7.2 *Proof of Execution of Instruments.* Subject to Sections 6.1 and 6.2 hereof, the execution of any instrument by a Holder or such Holder's agent or proxy may be proved in accordance with such customary rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee.

SECTION 7.3 *Holders to Be Treated as Owners.* The Company, the Trustee and any agent of the Company or the Trustee may deem and treat the Person in whose name any Security shall be registered upon the Securities Register for such Series as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing on the Security Certificate representing such Security) for the purpose of receiving payment of principal of and interest on such Security and for all other purposes, in each case regardless of any notice to the contrary. All such payments so made to any such person, or upon such person's order, shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any such Security.

SECTION 7.4 *Securities Owned by Company Deemed Not Outstanding.* In determining whether the Holders of the requisite aggregate principal amount of Outstanding Securities of any or all Series have concurred in any direction, consent or waiver under this Indenture or whether a quorum is present at a meeting of Holders, Securities that are owned by the Company, any person directly or indirectly controlling or controlled by (or under direct or indirect common control with) the Company or any other obligor on the Securities with respect to which such determination is being made shall, in each case, be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purposes of determining whether the Trustee shall be protected in conclusively relying on any such direction, consent or waiver and of determining the presence of a quorum, only Securities which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes, to the satisfaction of the Trustee, the pledgee's right to act with respect to such Securities and that the pledgee is not the Company, any person directly or indirectly controlling or controlled by (or under direct or indirect common control with) the Company or an obligor on the Securities with respect to which a determination described in the preceding sentence is being made. In case of a dispute as to such right, the advice of counsel shall be full protection in respect of any decision made by the Trustee in accordance with such advice. Upon request of the Trustee, the Company shall promptly furnish to the Trustee an Officer's Certificate listing and identifying all Securities, if any, known by the Company to be owned or held by or for the account of any of the above-described persons; and, subject to Sections 6.1 and 6.2 hereof, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts set forth therein and of the fact that all Securities not listed therein are Outstanding for the purpose of any such determination.

SECTION 7.5 *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.1 hereof, of the taking of any action by the Holders of the percentage in aggregate principal amount of the Securities of any or all Series, as the case may be, specified in this Indenture in connection with such action, any Holder, the name registered upon the Securities Register for such Series of which is shown by the evidence to be included among names of the Holders of which have consented to such action, may, by filing written notice at the Corporate Trust Office and upon proof of holding as provided in this Article 7, revoke such action so far as concerns such Security. Except as aforesaid any such action taken by the Holder shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued upon registration of transfer

thereof or in exchange therefor or substitution thereof, in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, irrespective of whether or not any notation with respect thereto is made upon any such Security. Any action taken by the Holders of the percentage in aggregate principal amount of the Securities of any or all Series, as the case may be, specified in this Indenture in connection with such action shall be conclusively binding upon the Company, the Trustee and the Holders of all the Securities affected by such action.

SECTION 7.6 *Record Date for Determination of Holders Entitled to Vote.* The Company may, in the circumstances permitted by the Trust Indenture Act, if applicable, set a record date for the purpose of determining the Holders entitled to give or take any request, demand, authorization, direction, notice, consent, waiver or other action, or to vote on any action, authorized or permitted to be given or taken by Holders. If not set by the Company prior to the first solicitation of a Holder made by any Person in respect of any such action or, in the case of any such vote, prior to such vote, the record date for any such action or vote shall be the 30th day (or, if later, the date of the most recent list of Holders required to be provided pursuant to Section 4.1(a) hereof) prior to such first solicitation or vote, as the case may be. With regard to any record date, only the Holders on such date (or their duly appointed proxies) shall be entitled to give or take, or vote on, the relevant action.

ARTICLE 8 SUPPLEMENTAL INDENTURES

SECTION 8.1 *Supplemental Indentures Without Consent of Holders.* The Company, when authorized by a Board Resolution and the Trustee for the Securities of an affected Series may, from time to time and at any time, enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act, if such Act shall then be applicable to this Indenture, as in force at the date of the execution thereof), in form satisfactory to such Trustee, and applicable to a particular Series of Securities or all Series of Securities Outstanding or to be Outstanding hereunder for one or more of the following purposes:

(a) to convey, transfer, assign, mortgage or pledge to the Trustee as security for the Securities of one or more Series any property or assets, or to otherwise secure the Securities of any Series;

(b) to evidence the succession of another Person to the Company, or successive successions, and the assumption by the successor Person of the covenants, agreements and obligations of the Company pursuant to Article 9 hereof;

(c) to (i) add to the covenants of the Company such additional covenants, restrictions, conditions or provisions as its Board of Directors and the Trustee shall consider to be for the protection of the Holders of any or all Series and, if such additional covenants, restrictions, conditions or provisions are to be for the benefit of less than all the Series of Securities, stating that such covenants, restrictions, conditions or provisions are being added solely for the benefit of such Series, (ii) make the occurrence (or the occurrence and continuance) of a default in any

such additional covenants, restrictions, conditions or provisions an Event of Default, thereby permitting the enforcement of all or any of the several remedies provided in this Indenture as set forth herein (and if any such additional Event of Default is to be for the benefit of less than all Series of the Securities, stating that such Event of Default is being added solely for the benefit of such Series), and any such supplemental indenture may provide for a particular period of grace after any default in respect of any such additional covenant, restriction, condition or provision (which period may be shorter or longer than that allowed in the case of other defaults hereunder), provide for an immediate enforcement upon any such additional Event of Default, limit the remedies available to the Trustee upon any such additional Event of Default or limit the right of the Holders of a majority in aggregate principal amount of the Securities of such Series to waive any such additional Event of Default, or (iii) otherwise make any change that would provide additional rights or benefits to the Holders of the Securities of any Series;

(d) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture that may be defective or inconsistent with any other provision contained herein or in any supplemental indenture; or to make any other provisions with respect to matters or questions arising under this Indenture or under any supplemental indenture as the Board of Directors may deem necessary or desirable and that shall not materially adversely affect the interests of the Holders;

(e) to establish the terms of Securities of any Series and the form of Security Certificates representing such Securities as permitted by Sections 2.1 and 2.3 hereof;

(f) to provide for uncertificated Securities of any Series;

(g) to maintain the qualification of this Indenture under the Trust Indenture Act;

(h) to evidence and provide for the acceptance of appointment hereunder by a successor trustee with respect to the Securities of one or more Series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than the one Trustee, pursuant to the requirements of Section 6.11 hereof; or

(i) for the issuance of a different Series of Securities; *provided*, that, prior to the issuance of any such different Series, a supplemental indenture may change any provision of this Indenture applicable only to such Series.

For the avoidance of doubt, any amendment described in clause (d) above made solely to conform this Indenture, the Securities of a particular Series to the final offering memorandum or other disclosure document provided to investors in connection with the initial offering of such Securities by the Company will be deemed to not adversely affect the interests of the Holders in any respect to the extent that the Trustee has received an Officer's Certificate stating that any text to be so conformed constitutes an unintended conflict with the corresponding provision in such final offering memorandum or other disclosure document.

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

Any supplemental indenture authorized by the provisions of this Section 8.1 may be executed without the consent of the Holders of any of the Securities at the time Outstanding, notwithstanding any of the provisions of Section 8.2 hereof.

SECTION 8.2 *Supplemental Indentures Requiring Consent of Holders.* With the consent (evidenced as provided in Article 7 hereof) of the Holders of not less than a majority in aggregate principal amount of the Securities at the time Outstanding of all Series affected by such supplemental indenture, the Company, when authorized by a Board Resolution and the Trustee for such Series of Securities may, from time to time and at any time, enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act, if such Act shall then be applicable to this Indenture, as in force at the date of execution thereof) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of each such Series; *provided*, that no such supplemental indenture shall (a) change the final maturity of any Security, reduce the principal amount thereof, reduce the rate or extend the time of payment of interest thereon or reduce any amount payable on redemption thereof, change the Currency in which payments in respect of any Security are made or impair or affect the right of any Holder to institute suit for payment thereof, or (b) reduce the aforesaid percentage of Securities of any Series, the consent of the Holders of which is required for any such supplemental indenture, in each case, without the consent of each Holder so affected.

Upon the request of the Company, accompanied by a copy of a Board Resolution certified by the secretary or an assistant secretary of the Company authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee for the Series of Securities affected thereby of evidence of the consent of Holders as set forth herein and other documents, if any, required by Section 7.1 hereof, the Trustee for such Series of Securities shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects such Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case such 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 8.2 to approve the particular form of any proposed supplemental indenture, and it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section 8.2, the Company shall give notice in the manner and to the extent provided in Section 12.4 hereof to the Holders of each Series affected

thereby at their addresses as they shall appear on the Securities Register, setting forth, in general terms, the substance of such supplemental indenture. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

For the purposes of this Section 8.2 hereof only, if the Securities of any Series are issuable upon the exercise of warrants, each holder of an unexercised and unexpired warrant with respect to such Series shall be deemed to be a Holder of Outstanding Securities of such Series in the amount issuable upon the exercise of such warrant. For such purposes, the ownership of any such warrant shall be determined by the Company in a manner consistent with customary commercial practices. The Trustee for such Series shall be entitled to rely on an Officer's Certificate as to the principal amount of Securities of such Series in respect of which consents shall have been executed by holders of such warrants.

SECTION 8.3 *Effect of Supplemental Indentures.* Upon the execution of any supplemental indenture pursuant to the provisions hereof, this Indenture shall be, and shall be deemed to be, modified and amended in accordance therewith, and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the Holders of each Series affected thereby 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 shall be deemed to be, part of the terms and conditions of this Indenture for any and all purposes.

SECTION 8.4 *Documents to Be Given to Trustee.* The Trustee, subject to the provisions of Sections 6.1 and 6.2 hereof, shall (a) receive an Officer's Certificate and (b) an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture and that such supplemental indenture constitutes the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms under the laws of the State of New York (subject to any bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, preference and other similar laws affecting creditors' rights generally and to general principles of equity (regardless of whether enforcement is sought in equity or law) and other customary qualifications and exceptions), as conclusive evidence that any supplemental indenture executed pursuant to this Article 8 complies with the applicable provisions of this Indenture.

SECTION 8.5 *Notation on Security Certificates Representing Securities in Respect of Supplemental Indentures.* Security Certificates representing Securities of any Series that are authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article 8 may bear, upon the direction of the Company, a notation as to any matter provided for by such supplemental indenture. If the Company shall so determine, at its sole expense, new Security Certificates representing Securities of any Series so modified as to conform, in the opinion of the Company and the Board of Directors, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Company, authenticated by the Trustee and delivered in exchange for the existing Security Certificates representing the Securities of such Series.

ARTICLE 9
CONSOLIDATION, MERGER, SALE OR CONVEYANCE

SECTION 9.1 *Company May Consolidate, etc., on Certain Terms.*

(a) As long as any Securities are Outstanding, the Company may not (x) consolidate with or merge into any other Person, or convey, transfer, sell or lease or otherwise dispose of the Company's properties and assets substantially as an entirety, in one or more related transactions, to any Person or (y) permit any Person to consolidate with or merge into the Company unless:

(i) (A) the Company is the surviving entity or (B) if the Company is not the surviving entity, the Person formed by the consolidation or into which the Company is merged or the Person to which the Company's properties and assets are so conveyed, transferred, sold, assigned or leased, shall be a corporation, partnership, limited liability company, limited liability partnership, trust or other Person organized and existing under the laws of the United States, any State within the United States or the District of Columbia, and shall expressly assume, in the form of a supplemental indenture satisfactory to the Trustee, the payment of all amounts due on the Securities and the performance of all of the Company's other covenants and other obligations under this Indenture;

(ii) immediately after giving effect to such transaction, no Event of Default, and no event that, after notice or lapse of time or both, would become an Event of Default, will have occurred and be continuing; and

(iii) the Company shall have delivered an Officer's Certificate and an Opinion of Counsel to the Trustee, each stating that such transaction complies with Article 9 of this Indenture and the execution of any supplemental indenture required in connection with such transaction is authorized and permitted under this Indenture and all covenants and conditions precedent provided for in this Indenture relating to the execution of such supplemental indenture have been performed, satisfied or otherwise complied with.

(b) This Section 9.1 shall not prohibit (i) the direct or indirect conveyance or transfer of all or any portion of the Capital Stock, assets or liabilities of any of the Company's direct or indirect wholly owned Subsidiaries, as applicable, to the Company or any of its direct or indirect wholly owned Subsidiaries, or (ii) the consolidation or merger of any of the Company's direct or indirect wholly owned Subsidiaries with and into the Company.

SECTION 9.2 *Successor Substituted.* In case of any disposition described in Section 9.1 hereof and following such an assumption by any successor Person, such successor Person shall succeed to and be substituted for the Company with the same effect as if it had been named herein. Such successor Person substituting the Company may cause to be signed any Security Certificates, and may issue, either in its own name or in the name of the Company, prior to such succession, any or all of the Securities issuable hereunder, which, theretofore shall not have been issued by the Company, and execute and deliver all related Security Certificates to the Trustee. Upon satisfaction of the conditions and limitations set forth in this Indenture, any Security

Certificates representing the Securities that have been previously signed and delivered by an Officer of the Company to the Trustee for authentication that the successor Person substituting the Company thereafter signs and delivers to the Trustee for authentication shall be so authenticated by the Trustee. All of the Securities so issued shall, in all respects, have the same legal rank and benefit under this Indenture as the Securities theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Securities had been issued at the date of the execution of the Security Certificates representing such Securities.

In case of any disposition described in Section 9.1 hereof, such changes in form (but not in substance) may be made in the Security Certificates representing the Securities to be issued thereafter as may be appropriate.

In the event of any disposition described in Section 9.1 hereof (other than a conveyance by way of lease), the Company (or other Person that is not the surviving entity as described in this Article 9), shall be discharged from all obligations and covenants under this Indenture and the Securities and may be liquidated and dissolved.

ARTICLE 10
SATISFACTION AND DISCHARGE OF INDENTURE; UNCLAIMED MONEYS

SECTION 10.1 *Satisfaction and Discharge of Indenture.*

(a) *Satisfaction and Discharge.* This Indenture shall be discharged and shall cease to be of further effect with respect as to all Securities Outstanding hereunder (except as to (1) rights of registration of transfer and exchange, (2) the Company's right of optional redemption, (3) substitution of mutilated, defaced, destroyed, lost or stolen Security Certificates, (4) rights of Holders to receive payments of principal thereof and interest thereon upon the original stated due dates therefor (but not upon acceleration), (5) the rights, obligations and immunities of the Trustee hereunder and (6) the rights of the Holders as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them) if:

(i) (A) the Company shall have paid or caused to be paid the principal of and interest on all Securities Outstanding hereunder (other than Securities represented by Security Certificates which have been mutilated, defaced, destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.9 hereof) as and when the same shall have become due and payable, (B) the Company shall have delivered to the Trustee all Security Certificates theretofore authenticated for cancellation of all Securities represented thereby (other than any Security Certificates representing Securities of such Series which have been mutilated, defaced, destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.9 hereof) or (C) all Securities of any Series Outstanding represented by Security Certificates not theretofore delivered to the Trustee for cancellation shall have become due and payable, are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption;

(ii) in the case of clause (i)(C) of this Section 10.1(a), the Company shall have irrevocably deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 6.9 hereof who shall agree to comply with the provisions of this Section 10.1(a) hereof applicable to it) as funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders, (1) an amount of money in the Currency in which the Securities are then specified as payable (other than moneys repaid by the Trustee or any Paying Agent to the Company in accordance with Section 10.4 hereof), (2) Government Obligations (determined on the basis of the Currency in which the Securities are then specified as payable) maturing in accordance with their terms as to principal and interest in such amounts and at such times or (3) a combination thereof, in each case, as to ensure the availability of an amount of cash that is sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness (including all principal and accrued interest, without consideration of any reinvestment of such principal and interest) on such Securities represented by Security Certificates not theretofore delivered to the Trustee for cancellation; and

(iii) the Company shall also pay or cause to be paid all other sums payable hereunder by the Company with respect to such Securities.

Subject to Section 10.5 hereof, the Trustee, on demand of the Company accompanied by an Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Company, shall execute proper instruments acknowledging such satisfaction and discharge; *provided*, that the rights of Holders to receive amounts in respect of principal of and interest on the Securities held by them shall not be delayed longer than required by then applicable mandatory rules or policies of any securities exchange upon which the Securities are listed. The Company agrees to reimburse the Trustee for any reasonable costs or expenses thereafter incurred and to compensate the Trustee for any services thereafter rendered by the Trustee in connection with this Indenture and the Securities of any Series.

(b) Covenant Defeasance.

(i) On and after the date the conditions set forth in clause (ii) below are satisfied (“**covenant defeasance**”), the Company shall be released from its obligations under Sections 3.5 and 3.6, as applicable, and, to the extent specified pursuant to Section 2.3 hereof with respect to the Securities of a particular Series, any other covenant applicable to such Series. For this purpose, such covenant defeasance means that, with respect to such Outstanding Securities, the Company may omit to comply with, and shall have no liability in respect of, any term, condition or limitation set forth in any such Section or such other covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such Section or such other covenant or by reason of reference in any such Section or such other covenant to any other provision herein or in any other document, and such omission to comply shall not constitute an Event of Default under

Section 5.1(c) hereof or otherwise, as the case may be, but, except as specified above, the remainder of this Indenture and such Securities shall be unaffected thereby.

(ii) The following shall be the conditions to application of clause (i) of this Section 10.1(b) to any Outstanding Securities of or within a Series:

(A) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 6.9 hereof who shall agree to comply with the provisions of this Section 10.1(b) hereof applicable to it) as funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Series, (1) an amount of money in the Currency in which such Securities are then specified as payable, (2) Government Obligations (determined on the basis of the Currency in which such Securities are then specified as payable) maturing in accordance with their terms as to principal and interest in such amounts and at such times or (3) a combination thereof, in each case, as to ensure the availability of an amount of cash that is sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness (including all principal and accrued interest, without consideration of any reinvestment of such principal and interest) on such Securities;

(B) such covenant defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture, the Credit Agreement or any other material agreement or instrument to which the Company or any Covered Subsidiary is a party or by which it is bound;

(C) no Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to such Securities shall have occurred and be continuing on the date of such deposit and at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period);

(D) the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of such Outstanding Securities will not recognize income, gain or loss for federal income tax purposes as a result of such covenant defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred;

(E) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent to the covenant defeasance under this Section 10.1(b) have been complied with; and

(F) notwithstanding any other provisions of this Section 10.1(b), such covenant defeasance shall be effected in compliance with any additional or substitute terms, conditions or limitations which may be imposed on the Company in connection therewith pursuant to Section 2.3 hereof.

(c) Legal Defeasance.

(i) On and after the date the conditions set forth in clause (ii) below are satisfied (“**legal defeasance**”), the Company shall be deemed to have been discharged from its obligations with respect to the Securities of any Series and this Indenture with respect to such Series. For this purpose, such legal defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by such Outstanding Securities, which shall thereafter be deemed to be “**Outstanding**” only for the purposes of this Section 10.1 and the other Sections of this Indenture referred to in clauses (A) and (B) below, and to have satisfied all of its other obligations under such Securities and this Indenture insofar as such Securities are concerned (and the Trustee, at the expense of the Company shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (i) the rights of Holders of such Outstanding Securities to receive, solely from the trust fund described in clause (ii)(A) and as more fully set forth in such clause, payments in respect of the principal of and interest, if any, on, and Additional Amounts, if any, with respect to, such Securities when such payments are due, (ii) the obligations of the Company and the Trustee with respect to such Securities under Sections 2.8, 2.9, 3.2 and 3.4 hereof and with respect to the payment of Additional Amounts, if any, on such Securities as contemplated by Section 3.7 hereof (but only to the extent that the Additional Amounts payable with respect to such Securities exceed the amount deposited in respect of such Additional Amounts pursuant to clause (ii)(A)), (iii) the rights, powers, trusts, duties and immunities of the Trustee hereunder and (iv) this Article 10.

(ii) The following shall be the conditions to application of clause (i) above to any Outstanding Securities of or within a Series:

(A) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 6.9 hereof who shall agree to comply with the provisions of this Section 10.1(c) applicable to it) as funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Securities, (1) an amount of money in the Currency in which such Securities are then specified as payable, or (2) Government Obligations (determined on the basis of the Currency in which such Securities are then specified as payable) maturing in accordance with their terms as to principal and interest in such amounts and at such times or (3) a combination thereof, in each case, as to ensure the availability of an amount of cash that is sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness (including

all principal and accrued interest, without consideration of any reinvestment of such principal and interest) on such Securities;

(B) such legal defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture, the Credit Agreement or any other material agreement or instrument to which the Company or any Covered Subsidiary is a party or by which it is bound;

(C) no Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to such Securities shall have occurred and be continuing on the date of such deposit and at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period);

(D) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent to the defeasance under this Section 10.1(c) have been complied with;

(E) the Company shall have delivered to the Trustee an Officer's Certificate as to its solvency and the absence of intent of preferring Holders over other creditors of the Company;

(F) the Company shall have delivered to the Trustee an Opinion of Counsel stating that (1) the Company has received from the Internal Revenue Service a letter ruling, or there has been published by the Internal Revenue Service a Revenue Ruling, or (2) since the date of this Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of such Outstanding Securities will not recognize income, gain or loss for federal income tax purposes as a result of such legal defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such legal defeasance had not occurred; and

(G) notwithstanding any other provisions of this Section 10.1(c), such legal defeasance shall be effected in compliance with any additional or substitute terms, conditions or limitations which may be imposed on the Company in connection therewith pursuant to Section 2.3 hereof.

SECTION 10.2 *Application by Trustee of Funds Deposited for Payment of Securities.* Subject to Section 10.4 hereof, all moneys deposited with the Trustee pursuant to Section 10.1 hereof shall be held in trust and applied by it to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent), to the Holders of Securities of the particular Series for the payment or redemption of which such moneys have been deposited with the Trustee, of all sums due and to become due thereon for principal and

interest, but such money need not be segregated from other funds except to the extent required by law.

SECTION 10.3 *Repayment of Moneys Held by Paying Agent.* In connection with the satisfaction and discharge of this Indenture with respect to Securities of any Series, all moneys then held by any Paying Agent under the provisions of this Indenture with respect to such Series of Securities shall, upon demand of the Company, be repaid to it or paid to the Trustee and such Paying Agent shall thereafter be released from all further liability with respect to such moneys.

SECTION 10.4 *Return of Unclaimed Moneys Held by Trustee and Paying Agent.* Any moneys deposited with or paid to the Trustee or any Paying Agent for the payment of the principal of or interest on any Security of any Series and not applied but remaining unclaimed for two years after the date upon which such principal or interest shall have become due and payable shall, upon the written request of the Company, and unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be repaid to the Company by the Trustee or such Paying Agent for such Series, and the Holder of such Securities shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Company for any payment that such Holder may be entitled to collect, and all liability of the Trustee or any Paying Agent with respect to such moneys shall thereupon cease.

SECTION 10.5 *Reinstatement of Company's Obligations.* If the Trustee is unable to apply any funds or Government Obligations in accordance with Section 10.1 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application or by reason of the Trustee's inability to convert any such funds or Government Obligations into the Currency required to be paid with respect to the Securities of any Series, the Company's obligations under this Indenture, the Securities of any Series for which such application is prohibited shall be revived and reinstated as if no deposit had occurred pursuant to Section 10.1 hereof until such time as the Trustee is permitted to apply all such funds or Government Obligations in accordance with Section 10.1 hereof or is able to convert all such funds or Government Obligations into such Currency; *provided*, however, that if the Company has made any payment of principal of or interest on any of such Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the funds or Government Obligations held by the Trustee.

SECTION 10.6 *Payments in Foreign Currencies.* Unless otherwise specified in or pursuant to this Indenture or any Security, if, after a deposit referred to in Section 10.1 hereof has been made, (i) the Holder in respect of whose Security such deposit was made is entitled to, and does, elect pursuant to Section 3.1 hereof or the terms of such Security to receive payment in a Currency other than that in which the deposit pursuant to Section 10.1 hereof has been made in respect of such Security, or (ii) a Conversion Event occurs in respect of the Foreign Currency in which the deposit pursuant to Section 10.1 hereof has been made, the indebtedness represented by such Security shall be deemed to have been, and will be, fully discharged and satisfied

through the payment of the principal of, interest, if any, on, and Additional Amounts, if any, with respect to, such Security as the same becomes due out of the proceeds yielded by converting (from time to time as specified below in the case of any such election) the amount or other property deposited in respect of such Security into the Currency in which such Security becomes payable as a result of such election or Conversion Event based on (x) in the case of payments made pursuant to clause (i) above, the applicable market exchange rate for such Currency in effect on the second Business Day prior to each payment date, or (y) with respect to a Conversion Event, the applicable market exchange rate for such Foreign Currency in effect (as nearly as feasible) at the time of the Conversion Event.

SECTION 10.7 *Indemnification Against Taxes.* The Company shall pay and indemnify the Trustee (or other qualifying trustee, collectively for purposes of this Section 10.7 and Section 10.1 hereof, the “Trustee”) against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to Section 10.1 hereof or the principal or interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of such Outstanding Securities.

ARTICLE 11 SUBORDINATION

SECTION 11.1 *Agreement to Subordinate.* The Company covenants and agrees, and each Holder, by accepting any Security, likewise covenants and agrees, that the indebtedness evidenced by the Securities is subordinated in right of payment, to the extent and in the manner provided in this Article 11, to the prior payment in full of all Senior Indebtedness, and that the subordination is for the benefit of, and shall be enforceable directly by, the holders of Senior Indebtedness, without any act or notice of acceptance hereof or reliance hereon.

SECTION 11.2 *Liquidation; Dissolution; Bankruptcy; Etc.* In the event of:

- (a) any insolvency, bankruptcy, receivership, liquidation, reorganization, readjustment, composition or other similar proceeding relating to the Company or its creditors or property;
- (b) any proceeding for the liquidation, dissolution or other winding up of the Company, voluntary or involuntary, whether or not involving insolvency or bankruptcy proceedings;
- (c) any assignment by the Company for the benefit of creditors; or
- (d) any other marshalling of the assets of the Company,

the holders of all Senior Indebtedness shall first be entitled to receive payments in full in cash or other satisfactory consideration of the principal thereof and interest due thereon, or provision shall be made for such payment, before the Holders are entitled to receive any payment on account of the principal of or interest thereon. In any such event, any payment or distribution, whether in cash, securities or other property (other than securities of the Company or any other

corporation provided for by a plan of reorganization or a readjustment, the payment of which is subordinate, at least to the extent provided in this Article 11 with respect to the Securities, to the payment of all Senior Indebtedness at the time outstanding and to any securities issued in respect thereof under any such plan of reorganization or readjustment), which would otherwise (but for the provisions of this Article 11) be payable or deliverable in respect of the Securities (including any such payment or distribution which may be payable or deliverable by reason of the payment of any other indebtedness of the Company being subordinated to the payment of the Securities) shall be paid or delivered directly to the holders of Senior Indebtedness, or to their representative or trustee, in accordance with the priorities then existing among such holders until all Senior Indebtedness shall have been paid in full.

SECTION 11.3 *Default on Senior Indebtedness.* If (i) the Company defaults in the payment of any principal of or interest or premium, if any, on any Senior Indebtedness when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or declaration or otherwise, or (ii) an event of default occurs with respect to any Senior Indebtedness permitting the holders thereof to accelerate the maturity thereof and written notice of such event of default (requesting that payments on the Securities cease) is given to the Company by the holders of Senior Indebtedness, then, unless and until such default in payment or event of default shall have been cured or waived or shall have ceased to exist and any such acceleration shall have been rescinded or annulled, no direct or indirect payment (in cash, property or securities, by set-off or otherwise) shall be made or agreed to be made on account of the Securities or interest thereon or in respect of any repayment, redemption, retirement, purchase or other acquisition of the Securities.

SECTION 11.4 *When Distribution Must be Paid Over.* If a distribution is made to the Trustee or any Holder at a time when a Responsible Officer of the Trustee or such Holder has actual knowledge that, because of this Article 11, such distribution should not have been made to it, the Trustee or such Holder who receives the distribution shall hold it in trust for the benefit of, and, upon written request, shall pay it over to, the holders of Senior Indebtedness, or their agents or representatives or the trustee under the indenture or other agreement, if any, pursuant to which such Senior Indebtedness may have been issued, as their respective interests may appear, or transfer the payments or distributions to the receiver, bankruptcy or liquidating trustee or other person distributing the Company's assets for application to or payment of all principal, premium, if any, and interest then payable with respect to any Senior Indebtedness. With respect to the holders of Senior Indebtedness, the Trustee undertakes to perform only such obligations on the part of the Trustee as are specifically set forth in this Article 11, and no implied covenants or obligations with respect to the holders of Senior Indebtedness shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness, and shall not be liable to any such holders if the Trustee shall pay over or distribute to or on behalf of Holders or the Company or any other person money or assets to which any holders of Senior Indebtedness shall be entitled by virtue of this Article 11, except if such payment is made as a result of the willful misconduct or gross negligence of the Trustee.

SECTION 11.5 *Notice by the Company.* The Company shall promptly notify in writing the Trustee and any Paying Agent of any facts known to the Company that would cause a

payment with respect to the Securities to violate this Article 11, but failure to give such notice shall not affect the subordination of the Securities to the Senior Indebtedness provided in this Article 11.

SECTION 11.6 *Subrogation*. Subject to the payment in full of all Senior Indebtedness, the Holders shall be subrogated equally and ratably to the rights of the holders of Senior Indebtedness to receive payments or distributions of assets of the Company applicable to the Senior Indebtedness until all amounts owing on Securities shall be paid in full, and for the purposes of such subrogation, no payments or distributions to the holders of the Senior Indebtedness by or on behalf of the Company or by or on behalf of the Holders which, by virtue of this Article 11, otherwise would have been made to the Holders shall, as between the Company, its creditors other than holders of Senior Indebtedness and the Holders, be deemed to be payment by the Company to or on account of the Senior Indebtedness, it being understood that the provisions of this Article 11 are and are intended solely for the purpose of defining the relative rights of the Holders, on the one hand, and the holders of the Senior Indebtedness, on the other hand.

If any events of bankruptcy, insolvency or receivership described in this Article 11 occur, after the Company has paid in full all amounts owed on Senior Indebtedness, the Holders, together with the holders of any of the Company's other obligations that rank equally with the Securities, will be entitled to receive from the Company's remaining assets any principal, premium or interest due at that time on the Securities and such other obligations before the Company shall make any payment or other distribution on account of any of the Company's capital stock or obligations ranking junior to the Securities.

SECTION 11.7 *Relative Rights*. This Article 11 defines the relative rights of the Holders and holders of Senior Indebtedness. Nothing in this Indenture shall:

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

(b) affect the relative rights of Holders and creditors of the Company, other than their rights in relation to holders of Senior Indebtedness; or

(c) prevent the Trustee or any Holder from exercising its available remedies upon a default or Event of Default, subject to the rights of holders and owners of Senior Indebtedness to receive distributions and payments otherwise payable to the Holders.

If the Company fails because of this Article 11 to pay the principal of, and premium (if any) on, the Securities when the same shall become due and payable, such failure will nonetheless constitute a default or Event of Default.

SECTION 11.8 *Subordination May Not be Impaired by the Company*. No present or future holder of any Senior Indebtedness shall be prejudiced in the right to enforce subordination of the Securities by any act or failure to act on the part of the Company.

SECTION 11.9 *Distribution*. Upon any payment or distribution of assets of the Company referred to in this Article 11, the Trustee and the Holders shall be entitled to conclusively rely upon any order or decree made by any court of competent jurisdiction or upon any certificate of the liquidating trustee or agent or other person making any distribution to the Trustee or to the Holders for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of the Senior Indebtedness and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 11.

SECTION 11.10 *Rights of Trustee and Paying Agent*. Notwithstanding the provisions of this Article 11 or any other provision of this Indenture, neither the Trustee nor any Paying Agent shall be charged with knowledge of the existence of any facts which would prohibit the making of any payment or distribution to or by the Trustee or such Paying Agent in respect of the Securities, or the taking of any action by the Trustee or such Paying Agent, and the Trustee or such Paying Agent may continue to make payments on the Securities, unless, in the case of the Trustee, and in the case of such Paying Agent as long as the Trustee is such Paying Agent, a Responsible Officer shall have received at the Corporate Trust Office, and in the case of a Paying Agent other than the Trustee, it shall have received, in each case at least two Business Days prior to the date of such payment, written notice of facts from the Company or a holder of Senior Indebtedness that would cause any such payment with respect to the Securities to violate this Article 11 and, prior to the receipt of any such written notice, the Trustee or the Paying Agent, as the case may be, shall be entitled in all respects to assume that no such facts exist. The Trustee or any Paying Agent, as applicable, shall promptly provide a copy of such notice to the Holders. Nothing in Article 11 shall limit the right of the holders of Senior Indebtedness to recover payments as contemplated elsewhere in this Article 11 or impair the claims of, or payments to, the Trustee under or pursuant to Section 6.6 of this Indenture.

The Trustee and any Paying Agent, in its individual or any other capacity, may hold Senior Indebtedness with the same rights it would have if it were not Trustee or Paying Agent, as applicable, subject to Sections 310(b) and 311 of the Trust Indenture Act.

Subject to the provisions of Section 6.1 of this Indenture, the Trustee or the Paying Agent, as the case may be, shall be entitled to conclusively rely on the delivery to it of a written notice by a person representing himself to be a holder of Senior Indebtedness (or a trustee or agent on behalf of such holder) to establish that such notice has been given by a holder of Senior Indebtedness (or a trustee or agent on behalf of any such holder). In the event that the Trustee or the Paying Agent determines in good faith that further evidence is required with respect to the right of any person as a holder of Senior Indebtedness to participate in any payment or distribution pursuant to this Article 11, the Trustee or the Paying Agent may request such person to furnish evidence to the reasonable satisfaction of the Trustee or the Paying Agent as to the amount of Senior Indebtedness held by such person, the extent to which such person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such person under this Article 11, and if such evidence is not furnished, the Trustee or the Paying Agent may defer any payment which it may be required to make for the benefit of such person

pursuant to the terms of this Indenture pending judicial determination as to the rights of such person to receive such payment.

SECTION 11.11 *Authorization to Effect Subordination.* Each Holder, by acceptance thereof, authorizes and directs the Trustee on its behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article 11, and appoints the Trustee as its attorney-in-fact for any and all such purposes.

ARTICLE 12 MISCELLANEOUS PROVISIONS

SECTION 12.1 *Incorporators, Stockholders, Officers and Directors of Company Exempt from Individual Liability.* No recourse under or upon any obligation, covenant or agreement contained in this Indenture, in any Security Certificate or because of any indebtedness evidenced thereby shall be had against any incorporator or against any past, present or future stockholder, officer or director of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the Holders thereof and as part of the consideration for the issue of the Securities.

SECTION 12.2 *Provisions of Indenture for the Sole Benefit of Parties and Holders.* Nothing in this Indenture or in the Securities, expressed or implied, shall give or be construed to give to any Person, firm or corporation, other than the parties hereto, any Paying Agent, their successors hereunder and the Holders, any legal or equitable right, remedy or claim under this Indenture or under any covenant or provision contained herein, all such covenants and provisions being for the sole benefit of the parties hereto, any Paying Agent, their successors and of the Holders of the Securities.

SECTION 12.3 *Assignment; Successors and Assigns of Company Bound by Indenture.* The Company will have the right at all times to assign any of its rights or obligations under this Indenture to a direct or indirect wholly owned Subsidiary of the Company with the prior written consent of the parties hereto; *provided*, that, in the event of any such assignment, the Company will remain liable for all such obligations, subject to Section 9.1 of this Indenture. All the covenants, stipulations, promises and agreements in this Indenture contained by or on behalf of the Company shall bind its successors and assigns, whether so expressed or not.

SECTION 12.4 *Notices and Demands on Company, Trustee and Holders.* 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 Securities to or on the Company may be given or served by being mailed by first-class mail, postage prepaid (except as otherwise specifically provided herein), addressed (until another address of the Company is filed by the Company with the Trustee) to F&G Annuities & Life, Inc., 801 Grand Ave. Suite 2600, Des Moines, Iowa 50309, Attention: Chief Financial Officer. Any notice, direction, request or demand by the Company or any Holder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made at the Corporate Trust Office.

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise expressly provided herein) if given in writing and mailed by first-class mail, postage prepaid to such Holders as their names and addresses appear in the Securities Register within the time prescribed, or in accordance with Applicable Procedures, if the Securities are Global Certificates. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the applicable event requiring notice, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but any such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed to any particular Holder, shall affect the sufficiency of such notice with respect to other Holders, and any notice that is mailed in the manner provided herein shall be conclusively presumed to have been duly given.

In case, by reason of the suspension of or irregularities in regular mail service, it shall be impracticable to mail notice to the Company and the Holders when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be sufficient.

All notices, approvals, consents, requests and any communications under this Indenture must be in writing (*provided*, that any communication sent to the Trustee must be in the form of a document that is signed manually or by way of an electronic signature provided by DocuSign (or such other electronic signature provider as specified in writing to the Trustee by the Company)), in English. The party providing electronic instructions agrees to assume all risks arising out of the use of electronic signatures and electronic methods to submit communications to the Trustee, including, without limitation, the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 12.5 *Officer's Certificates and Opinions of Counsel; Statements to Be Contained Therein.* 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 furnish to the Trustee an Officer's Certificate and Opinion of Counsel stating that all conditions precedent provided for in this Indenture relating to the proposed action have been complied with, except that, in the case of any such application or demand as to which the furnishing of such document is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the Person making such certificate or opinion has read such covenant or condition, (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (c) a statement that, in the opinion of such Person, such Person has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether

or not such covenant or condition has been complied with and (d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

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

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

Any certificate or opinion of any nationally recognized firm of independent public accountants filed with the Trustee shall contain a statement that such firm is independent.

SECTION 12.6 *Payments Due on Saturdays, Sundays and Holidays.* Unless otherwise specified in the Security Certificate(s) representing the Securities of a Series, if the date of maturity of interest on or principal of the Securities of any Series or the date fixed for redemption or repayment of any such Security shall not be a Business Day, then payment of interest or principal need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

SECTION 12.7 *Conflict of Any Provision of Indenture with Trust Indenture Act.* If this Indenture has been qualified under the Trust Indenture Act with respect to a particular Series of Securities, and to the extent that any provision of this Indenture, with respect to such Series of Securities, limits, qualifies or conflicts with another provision included in this Indenture that is required to be included herein by any of Sections 310 to 317, inclusive, of the Trust Indenture Act, such required provision shall control with respect to such Series of Securities. Unless otherwise specified in a Board Resolution, Officer's Certificate or supplemental indenture pursuant to Section 2.3 hereof related to the issuance of a particular Series of Securities, this Indenture will be considered to be qualified under the Trust Indenture Act.

SECTION 12.8 *Governing Law.* This Indenture and the Securities of each Series shall be governed by, and construed in accordance with, the laws of the State of New York,

without regard to its conflict of laws provisions that would result in the application of the laws of any other jurisdiction (other than Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York). To the fullest extent permitted by law, any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated hereby may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case based in the City of New York, and each party to this Indenture will submit to the non-exclusive jurisdiction of such suit, action or proceeding.

SECTION 12.9 *Waiver of Jury Trial.*

EACH OF THE COMPANY AND THE TRUSTEE, AND EACH HOLDER OF A SECURITY BY ITS ACCEPTANCE THEREOF, 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 SECURITIES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

SECTION 12.10 *Force Majeure.*

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, pandemics, epidemics, recognized public emergencies, quarantine restrictions, nuclear or natural catastrophes, acts of God, interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services or other unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility and hacking, cyber-attacks, or other use or infiltration of the Trustee's technological infrastructure exceeding authorized access; it being understood that the Trustee shall use reasonable efforts consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 12.11 *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or any Covered Subsidiary or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 12.12 *Successors.*

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

SECTION 12.13 *Severability.*

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

SECTION 12.14 *USA PATRIOT Act.*

The parties hereto acknowledge that in accordance with the Customer Identification Program (CIP) requirements under the USA PATRIOT Act and its implementing regulations, the Trustee in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties hereto hereby agree that they shall provide the Trustee with such information as it may request including, without limitation, each party's name, physical address, tax identification number and other information that will help the Trustee identify and verify each party's identity such as organizational documents, certificate of good standing, license to do business, or other pertinent identifying information to satisfy the requirements of the USA PATRIOT Act.

SECTION 12.15 *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 and signature pages for all purposes. The words "execution," "signed," "signature" and words of like import in this Indenture shall include images of manually executed signatures transmitted by facsimile, email or other electronic format (including, without limitation, "pdf," "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign and AdobeSign or any other similar platform identified by the Company and reasonably available at no undue burden or expense to the Trustee). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. Without limitation to the foregoing, and anything in this Indenture to the contrary notwithstanding, (a) any Officer's Certificate, written order of the Company, Opinion of Counsel, Security, amendment, notice, direction, certificate of authentication appearing on or attached to any Security, supplemental indenture or other certificate, opinion of counsel, instrument, agreement or other document delivered pursuant to this Indenture may be executed, attested and transmitted by any of the foregoing electronic means and formats and (b) all references in Section 2.4 or elsewhere in this Indenture to the execution, attestation or authentication of any Security or any certificate of authentication appearing on or attached to any Security by means of a manual or facsimile or other electronic

signature shall be deemed to include signatures that are made or transmitted by any of the foregoing electronic means or formats. The Trustee shall have no duty to inquire into or investigate the authenticity or authorization of any such electronic signature and shall be entitled to conclusively rely on any such electronic signature without any liability with respect thereto.

SECTION 12.16 *Effect of Headings.* The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 12.17 *Determination of Principal Amount.* In determining whether the Holders of the requisite principal amount of Outstanding Securities of any Series have given any request, demand, authorization, direction, notice, consent or waiver hereunder, whether a quorum is present at a meeting of Holders of Securities or whether sufficient funds are available for redemption or for any other purpose, the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding for such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the maturity thereof pursuant to Section 5.1 hereof and the principal amount of any Securities denominated in a Foreign Currency that shall be deemed to be Outstanding for such purposes shall be determined by converting the Foreign Currency into Dollars at the Market Exchange Rate as of the date of such determination.

ARTICLE 13 REDEMPTION OF SECURITIES

SECTION 13.1 *Applicability of Article.* The provisions of this Article shall be applicable to the Securities of any Series which are redeemable before their maturity for the retirement of Securities of a Series except as otherwise specified as contemplated by Section 2.3 hereof for Securities of such Series.

SECTION 13.2 *Notice of Redemption; Partial Redemptions.* Notice of redemption to the Holders of any Series to be redeemed as a whole or in part at the option of the Company shall be given by giving notice of such redemption to such Holders as provided in Section 12.4 hereof, not less than 10 days and not more than 60 days prior to the date fixed for redemption. Failure to give notice, or any defect in the notice to the Holder of a Series designated for redemption as a whole or in part, shall not affect the validity of the proceedings for the redemption of any other Security of such Series. Any redemption or notice of redemption may, at the Company's discretion, be subject to satisfaction of one or more conditions precedent, including, without limitation, completion of a corporate transaction that is pending (such as an equity or equity-linked offering, an incurrence of indebtedness or an acquisition or other strategic transaction involving a change of control in the Company). If such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice shall state that, in the Company's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Company in its sole discretion) by the redemption date, or by the redemption date so delayed. The notice of redemption to each such Holder shall identify the Securities to be redeemed (including "CUSIP" numbers or "ISINs"),

specify the date fixed for redemption, the redemption price or, if not ascertainable, the manner of calculation thereof, the Place or Places of Payment, that payment will be made upon presentation and surrender of Security Certificates representing such Securities and the paragraph of the Securities and/or Section of this Indenture pursuant to which the Securities are being redeemed, and any conditions to such redemption. If less than all of the Securities of any Series are to be redeemed, the notice of redemption shall specify the Securities of such Series to be redeemed. In case any Security of a Series is to be redeemed in part, the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of the Security Certificate representing such Security, a new Security Certificate representing the Security or Securities of such Series in principal amount equal to the unredeemed portion thereof will be issued.

The notice of redemption shall include a statement that no representation is made as to the correctness or accuracy of the CUSIP number or ISIN, if any, listed in such notice or printed on the Securities.

The notice of redemption of Securities of any Series to be redeemed at the option of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company; *provided, however*, that the Company has delivered to the Trustee, at least 5 days (or such shorter period acceptable to the Trustee) prior to the date the Trustee is to give notice, an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice provided in this Section 13.2. No later than 9:00 a.m., New York City time, on the redemption date specified in the notice of redemption given as provided in this Section 13.2, the Company will have on deposit with the Trustee or with one or more Paying Agents (or, if the Company is acting as Paying Agent, set aside, segregate and hold in trust as provided in Section 3.4 hereof) an amount of money in the Currency in which the Securities of such Series are payable (except as otherwise specified pursuant to Section 2.3 hereof and except as provided in Sections 2.12(b), (d) and (e) hereof) sufficient (as calculated by the Company) to redeem on the redemption date all the Securities of such Series so called for redemption at the appropriate redemption price, together with accrued interest to the date fixed for redemption. If less than all the Outstanding Securities of a Series are to be redeemed, the Company will deliver to the Trustee at least 60 days prior to the date fixed for redemption an Officer's Certificate stating the aggregate principal amount of Securities to be redeemed.

If less than all the Securities of a Series are to be redeemed, the Securities to be redeemed shall be selected by lot by DTC, in the case of Securities represented by a Global Certificate, or by the Trustee by a method the Trustee deems to be fair and appropriate, in the case of Securities that are not represented by a Global Certificate. Trustee shall not be liable for selection made by it under this Section 13.2. Securities may be redeemed in part in multiples equal to not less than the minimum authorized denomination for Securities of such Series and any other permitted denominations thereof. The Trustee shall promptly notify the Company in writing of the Securities of such Series selected for redemption and, in the case of any Securities of such Series selected for partial redemption, the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of

Securities of any Series shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

SECTION 13.3 *Payment of Securities Called for Redemption.* If notice of redemption has been given as provided in Section 13.2 hereof, except as set forth in Section 13.2 hereof, the Securities or portions of Securities specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after such date (unless the Company shall default in the payment of such Securities at the redemption price, together with interest accrued to said date) interest on the Securities or portions of Securities so called for redemption shall cease to accrue and, except as provided in Sections 6.5 and 10.4 hereof, such Securities shall cease, from and after the date fixed for redemption, to be entitled to any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities, except the right to receive the redemption price thereof and unpaid interest to the date fixed for redemption. On presentation and surrender of Security Certificates representing such Securities at the Place of Payment specified in said notice, said Securities or the specified portions thereof shall be paid and redeemed by the Company at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption; *provided*, that any payment of interest on Securities becoming due on the date fixed for redemption shall be payable to the Holders registered as such on the relevant record date subject to the terms and provisions of Section 2.3 hereof.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid or duly provided for, bear interest from the date fixed for redemption at the rate of interest borne by the Security.

Upon presentation of a Security Certificate representing any Security redeemed in part only, the Company shall execute, and the Trustee shall authenticate and deliver to or on the order of the Holder thereof, at the expense of the Company, a Security Certificate representing a new Security Certificate representing a Security or Securities, of authorized denominations, in principal amount equal to the unredeemed portion of the Security Certificate representing the Security so presented.

SECTION 13.4 *Exclusion of Certain Securities from Eligibility for Selection for Redemption.* Securities shall be excluded from eligibility for selection for redemption if they are identified by registration and certificate number of the Security Certificate representing such Securities in a written statement signed by an Officer of the Company and delivered to the Trustee at least 40 days prior to the last date on which notice of redemption may be given as being owned of record and beneficially by, and not pledged or hypothecated by, either (a) the Company or (b) an entity specifically identified in such written statement directly or indirectly controlling or controlled by or under direct or indirect common control with the Company.

ARTICLE 14
HOLDERS' MEETINGS

SECTION 14.1 *Purposes of Meetings.* A meeting of Holders of any or all Series may be called at any time and from time to time pursuant to the provisions of this Article 14 for any of the following purposes:

(a) to give any notice to the Company or to the Trustee for the Securities of such Series, or to give any directions to the Trustee for such Series, or to consent to the waiving of any default hereunder and its consequences, or to take any other action authorized to be taken by Holders pursuant to any of the provisions of Article 5 hereof;

(b) to remove the Trustee for such Series pursuant to the provisions of Article 6 hereof;

(c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 8.2 hereof; and

(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 Securities of any one or more or all Series, as the case may be, under any provision of this Indenture or under applicable law.

SECTION 14.2 *Call of Meetings by Trustee.* The Trustee for the Securities of any Series may at any time call a meeting of Holders of such Series to take any action specified in Section 14.1 hereof, to be held at such time and at such place in the Borough of Manhattan, the City of New York, or such other location as the Trustee for such Series shall determine. Notice of every meeting of the Holders of any Series, setting forth the time and the place of such meeting and, in general terms, the action proposed to be taken at such meeting, shall be given to Holders of such Series in the manner and to the extent provided in Section 12.4 hereof. Such notice shall be given not less than 20 nor more than 90 days prior to the date fixed for the meeting.

SECTION 14.3 *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 10% in aggregate principal amount of the Outstanding Securities of any or all Series, as the case may be, shall have requested the Trustee for such Series, at the expense of the Company, to call a meeting of Holders of Securities of any or all Series, as the case may be, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee for such Series shall not have given 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 in the Borough of Manhattan, The City of New York or such other location for such meeting and may call such meeting to take any action authorized in Section 14.1 hereof, by giving notice thereof as provided in Section 14.2 hereof.

SECTION 14.4 *Qualifications for Voting.* To be entitled to vote at any meeting of Holders, a Person shall be (a) a Holder of one or more Securities with respect to which such

meeting is being held or (b) a Person appointed by an instrument in writing as proxy by such Holder. 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 for the Securities of the Series with respect to which such meeting is being held and its counsel and any representatives of the Company and its counsel.

SECTION 14.5 *Regulations*. Notwithstanding any other provisions of this Indenture, the Trustee for the Securities of any Series may make such reasonable regulations as it may deem advisable for any meeting of Holders of the Securities of such Series, with respect to proof of the holding of beneficial interests in the Securities of such Series and of the appointment of proxies, and with respect 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 of such Series as provided in Section 14.3 hereof, 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 majority vote of the meeting.

Subject to Section 7.4 hereof, at any meeting, each Holder with respect to which such meeting is being held (or proxy therefor) shall be entitled to one vote for each \$1,000 (or the equivalent in the Currency in which such Securities are denominated, as determined pursuant to Section 12.17 hereof) principal amount (in the case of the Original Issue Discount Securities, such principal amount to be determined as provided in Section 12.17 hereof) of Securities held or represented by such Holder. However, no vote shall be cast or counted at any meeting in respect of any such Security 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 the beneficial interest in the Securities of such Series held by such individual or instruments in writing aforesaid duly designating such individual as the person to vote on behalf of other Holders of such Series. At any meeting of Holders, the presence of Persons holding or representing Securities with respect to which such meeting is being held in an aggregate principal amount sufficient to take action on the business for the transaction of which such meeting was called shall constitute a quorum, but, if less than a quorum is present, the Persons holding or representing a majority in aggregate principal amount of such Securities represented at the meeting may adjourn such meeting with the same effect, for all intents and purposes, as though a quorum had been present. Any meeting of Holders with respect to which a meeting was duly called pursuant to the provisions of Sections 14.2 or 14.3 hereof may be adjourned from time to time by a majority of such Holders present, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 14.6 *Voting.* The vote upon any resolution submitted to any meeting of Holders of Securities with respect to which such meeting is being held shall be by written ballots on which shall be subscribed the signatures of such Holders or of their representatives by proxy and the names of such Holders registered upon the Securities Register for a Series. 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 such 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 such notice was given in the manner and to the extent provided in Section 12.4 hereof. The record shall show the names of the Holders registered upon the Securities Register for a Series 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. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

SECTION 14.7 *No Delay of Rights by Meeting.* Nothing in this Article 14 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 Securities of any Series.

{Signatures appear on next page}

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

F&G ANNUITIES & LIFE, INC., *as the Company*

By: /s/ Wendy J.B. Young
Name: Wendy J.B. Young
Title: Chief Financial Officer

CITIBANK, N.A., *as Trustee*

By: /s/ Peter Lopez
Name: Peter Lopez
Title: Senior Trust Officer

Signature Page to the Indenture

FIRST SUPPLEMENTAL INDENTURE

between

F&G Annuities & Life, Inc.

and

Citibank, N.A., as Trustee

Dated as of January 13, 2025

7.300% Junior Subordinated Notes due 2065

(Supplement to the Original Indenture, dated as of January 13, 2025)

This First Supplemental Indenture, dated as of January 13, 2025 (this “Supplemental Indenture”), is entered into by and between F&G Annuities & Life, Inc., a Delaware corporation (the “Company”), and Citibank, N.A., as trustee (the “Trustee”).

RECITALS:

WHEREAS, the Company and the Trustee are parties to the Indenture, dated as of January 13, 2025 (the “Original Indenture”), which provides for the issuance from time to time of the Company’s unsecured subordinated notes or other evidences of indebtedness (the “Securities”) in one or more series as provided therein;

WHEREAS, Section 8.1 of the Original Indenture permits the Company and the Trustee to enter into an indenture supplemental to the Original Indenture to establish the terms of Securities of any series and the form of Security Certificates representing such Securities without notice to or consent of any Holder of any Securities;

WHEREAS, Section 2.1(a) of the Original Indenture permits the form of the Security Certificates representing Securities of any series to be established pursuant to an indenture supplemental to the Original Indenture; and

WHEREAS, pursuant to Sections 2.1(a), 2.3 and 2.4(a) of the Original Indenture, the Company desires to provide for the establishment of a new series of Securities under the Original Indenture, the form and substance of such series of Securities and the terms, provisions and conditions thereof to be set forth as provided in the Original Indenture and this Supplemental Indenture. All conditions and actions necessary to make this Supplemental Indenture, when executed and delivered, a valid agreement of the Company, in accordance with its terms, have been satisfied or performed.

NOW, THEREFORE, in consideration of the premises and the purchase of the Securities established by this Supplemental Indenture by the Holders thereof, the Company and the Trustee mutually covenant and agree, for the equal and proportionate benefit of all such Holders, as follows:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS
OF GENERAL APPLICATION

Section 1.1 Relation to Original Indenture. This Supplemental Indenture constitutes a part of the Original Indenture (the provisions of which, as modified through this Supplemental Indenture, shall apply to the series of Securities established by this Supplemental Indenture) but, except as expressly provided herein, shall not modify, amend or otherwise affect the Original Indenture insofar as it relates to any other series of Securities or, except as expressly provided herein, modify, amend or otherwise affect in any manner the terms and conditions of the Securities of any other series.

Section 1.2 Definitions. For all purposes of this Supplemental Indenture, the capitalized terms used herein (i) which are defined in Section 1.2(c) have the meanings assigned to such terms therein and (ii) which are defined in the Original Indenture (and which are not defined in Section 1.2(c)) have the meanings assigned to such terms in the Original Indenture. For purposes of this Supplemental Indenture:

- (a) Unless the context otherwise requires, any reference to a Section refers to a Section of this Supplemental Indenture;
- (b) The words “herein,” “hereof” and “hereunder” and words of similar import refer to this Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision hereof; and
- (c) The terms defined in this Section 1.2(c) include the plural as well as the singular.

“Company” means the Person named as the “Company” in the first paragraph of this Supplemental Indenture until a successor Person shall have become such pursuant to the applicable provisions of the Original Indenture, and thereafter “Company” shall mean such successor Person.

“Compound Interest” has the meaning set forth in Section 2.1(e).

“Depository” has the meaning set forth in Section 2.1(b).

“DTC” means The Depository Trust Company (and any successor thereto).

“Events of Default” has the meaning set forth in Section 3.1.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Indebtedness” means the principal of and premium, if any, and interest on the following, whether outstanding on the date hereof or thereafter incurred, created or assumed: (i) indebtedness of the Company for money borrowed by the Company (other than the Notes), (ii) all of the Company’s obligations evidenced by notes, debentures, bonds or other similar instruments (other than obligations relating to the Notes), including obligations incurred in connection with the acquisition of property, assets or businesses and including all other debt securities issued by the Company to any trust or a trustee of such trust, or to a partnership or other affiliate that acts as a financing vehicle for the Company, in connection with the issuance of securities by such vehicles; (iii) all of the Company’s obligations issued or assumed as the deferred purchase price of property or services, including all obligations under master lease transactions pursuant to which the Company or any of its Subsidiaries have agreed to be treated as owner of the subject property for U.S. federal income tax purposes (but excluding trade accounts payable or accrued liabilities arising in the ordinary course of business); (iv) all of the Company’s payment obligations under interest rate swap or similar agreements or foreign currency hedge, exchange or similar agreements at the time of determination, including any such obligations the Company incurred solely to act as a hedge against increases in interest rates that may occur under the terms of other outstanding variable or floating rate indebtedness of the Company; (v) all obligations of the types referred to in the preceding clauses (i) through (iv) of another Person and all dividends of another Person the payment of which, in either case, the Company has assumed or guaranteed or for which the Company is responsible or liable, directly or indirectly, jointly or severally, as obligor, guarantor or otherwise; and (vi) all amendments, modifications, renewals, extensions, refinancings, replacements and refundings of any of the above types of indebtedness.

“Interest Payment Date” has the meaning set forth in Section 2.1(d).

“Junior Indebtedness” means Indebtedness, which specifically by its terms ranks junior to and not equally with or prior to the Notes (and any other Pari Passu Indebtedness) in right of payment upon the Company’s dissolution, winding-up, liquidation, reorganization or similar events; *provided* that, the securing of any Indebtedness otherwise constituting Junior Indebtedness shall not be deemed to prevent such Indebtedness from constituting Junior Indebtedness.

“Maturity Date” has the meaning set forth in Section 2.1(c).

“Notes” has the meaning set forth in Section 2.1(a).

“Optional Deferral Period” means the period commencing on an Interest Payment Date with respect to which the Company elects or is deemed to elect to defer interest pursuant to Section 2.1(e) and ending on the earlier of (i) the fifth anniversary of that Interest Payment Date and (ii) the next Interest Payment Date on which the Company has paid all deferred and unpaid amounts, including Compound Interest, if any, on such deferred amounts, and all other accrued and unpaid interest on the Notes; *provided*, that no Optional Deferral Period shall extend beyond the Maturity Date, any earlier accelerated maturity date arising from an Event of Default or any other earlier redemption in full of the Notes.

“Original Indenture” has the meaning set forth in the Recitals hereto.

“Pari Passu Indebtedness” means Indebtedness, which specifically by its terms ranks equally with and not prior to the Notes in right of payment upon the Company’s dissolution, winding-up, liquidation, reorganization or similar events; *provided* that, the securing of any Indebtedness otherwise constituting Pari Passu Indebtedness shall not be deemed to prevent such Indebtedness from constituting Pari Passu Indebtedness.

“Rating Agency” means, as of any date of determination, any nationally recognized statistical rating organization within the meaning of Section 3(a) (62) of the Exchange Act that publishes a rating for the Company as of such date.

“Rating Agency Event” means that a Rating Agency amends, clarifies or changes the criteria it uses for awarding equity credit to securities such as the Notes, which amendment, clarification, or change results in (i) the shortening of the length of time the Notes are assigned a particular level of equity credit by such Rating Agency as compared to the length of time they would have been assigned that level of equity credit by such Rating Agency or its predecessor on the original issue date of the Notes; or (ii) the lowering of the equity credit (including up to a lesser amount) assigned to the Notes by such Rating Agency as compared to the equity credit that such Rating Agency or its predecessor assigned to the Notes on the original issue date of the Notes.

“Redemption Date,” when used with respect to any Note to be redeemed pursuant to Section 2.2(b), means the date fixed for such redemption pursuant to this Supplemental Indenture.

“Redemption Price,” when used with respect to any Note to be redeemed, means the price at which it is to be redeemed pursuant to this Supplemental Indenture.

“Regular Record Date” has the meaning set forth in Section 2.1(f).

“Regulatory Capital Event” means that the Company becomes subject to capital adequacy supervision by a capital regulator and the capital adequacy guidelines that apply to the Company as a result of being so subject set forth criteria pursuant to which the full principal amount of the Notes would not qualify as capital under such capital adequacy guidelines, as the Company may determine at any time, in its sole discretion.

“Securities” has the meaning set forth in the Recitals hereto.

“Supplemental Indenture” has the meaning set forth in the first paragraph of this Supplemental Indenture.

“Tax Event” means the receipt by the Company of an opinion of counsel, rendered by a law firm of nationally recognized standing that is experienced in such matters, stating that, as a result of any:

- (i) amendment to, or change in (including any promulgation, enactment, execution or modification of), the laws (or any regulations under those laws) of the United States or any political subdivision thereof or therein affecting taxation;
- (ii) official administrative pronouncement (including a private letter ruling, technical advice memorandum or similar pronouncement), judicial decision, administrative action or other official pronouncement interpreting or applying the laws or regulations enumerated in clause (i) above, by any court, governmental agency or regulatory authority; or
- (iii) threatened challenge asserted in writing in connection with an audit of the Company or any of its Subsidiaries, or a threatened challenge asserted in writing against any taxpayer that has raised capital through the issuance of securities that are substantially similar to the Notes,

which amendment or change is enacted or effective or which pronouncement or decision is announced or which challenge is asserted or becomes publicly known on or after the original issue date of the Notes, there is more than

an insubstantial increase in the risk that interest accruable or payable by the Company on the Notes is not, or will not be, deductible by the Company, in whole or in part, for U.S. federal income tax purposes.

ARTICLE II

GENERAL TERMS AND CONDITIONS OF THE NOTES

Section 2.1 Terms of Notes. Pursuant to Sections 2.1(a) and 2.3(b) of the Original Indenture, there is hereby established a series of Securities, the terms of which shall be as follows:

- (a) Designation. The Securities shall be known and designated as the “7.300% Junior Subordinated Notes due 2065” (the “Notes”) of the Company.
- (b) Form and Denominations. The Notes will be issued only in fully registered form without coupons in minimum denominations of \$25 and integral multiples of \$25 in excess thereof. The Notes will initially be issued in the form of one or more Global Certificates substantially in the form set forth in **Annex A** hereto, which Global Certificates shall constitute Global Certificates, with such modifications thereto as may be approved by the Officer executing the same, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee as custodian for DTC (the “Depository”) and registered in the name of Cede & Co., the Depository’s nominee, duly executed by the Company, and, upon receipt of a written order of the Company and other documents required under the Original Indenture, authenticated by the Trustee. In limited circumstances, the Notes may be represented by Definitive Certificates. The Notes will be denominated in Dollars and payments of principal and interest will be made in Dollars.
- (c) Maturity Date. The principal amount of, and all accrued and unpaid interest (including Compound Interest, if any) on, the Notes shall be payable in full on January 15, 2065, or if such day is not a Business Day, the following Business Day (the “Maturity Date”).
- (d) Interest. Subject to applicable law and subject to any Optional Deferral Period, the Notes will bear interest at a rate of 7.300% per year. Interest on the Notes will accrue from and including January 13, 2025 (or the most recent Interest Payment Date to which interest on the Notes has been paid or made available for payment) and will be payable quarterly in arrears on January 15, April 15, July 15 and October 15 of each year, beginning on April 15, 2025 (each such date, an “Interest Payment Date”), and at the Maturity Date. Each interest payment due on an Interest Payment Date or the Maturity Date will include interest accrued from and including the most recent Interest Payment Date to which interest on the Notes has been paid or made available for payment (or, if no interest has been paid, January 13, 2025) to, but excluding, the next Interest Payment Date or the Maturity Date or any Redemption Date, as the case may be, subject to the Company’s right to defer the payment of interest on the Notes in accordance with Section 2.1(e). Interest on the Notes will be computed on the basis of a 360-day year consisting of twelve 30-day months. If any Interest Payment Date falls on a date that is not a Business Day, such payment of interest (or principal in the case of the Maturity Date) will be postponed until the next succeeding Business Day, but no interest or other amount will be paid as a result of any such postponement, and such payment will have the same force and effect as if made on the scheduled Interest Payment Date.
- (e) Interest Deferral. So long as no Event of Default has occurred and is continuing, the Company shall have the right, in its sole discretion, to defer the interest payable on the Notes for one or more Optional Deferral Periods, each of up to five consecutive years, without giving rise to an Event of Default. Whether or not notice pursuant to the next succeeding paragraph is given, if the Company shall fail to pay interest payable on the Notes on any Interest Payment Date, the Company shall be deemed to elect to defer payment of such interest on such Interest Payment Date, unless the Company shall pay such interest in full within five Business Days after any such Interest Payment Date. If the Company shall have paid all deferred interest (including Compound Interest, if any) on the Notes, the Company shall have the right to elect to begin a new Optional Deferral Period pursuant to this Section 2.1(e). During an Optional Deferral Period, interest, the payment of which has been deferred pursuant to this Section 2.1(e), will continue to accrue at the rate set forth in Section 2.1(d), compounded quarterly for each quarterly period of such Optional Deferral Period (“Compound Interest”), to the extent permitted by

applicable law, until paid. No interest otherwise due on the Notes during an Optional Deferral Period will be due and payable on the Notes until the end of such Optional Deferral Period, except upon an acceleration or redemption in full of the Notes during such Optional Deferral Period. On the fifth anniversary of the first Interest Payment Date during any Optional Deferral Period, the Company must pay all accrued and unpaid deferred interest (including Compound Interest, if any), on the Notes, and the Company's failure to pay all such accrued and unpaid deferred interest for a period of 30 days shall constitute an Event of Default. The Company shall pay all accrued and unpaid deferred interest, including Compound Interest, if any, on the Notes in accordance with the provisions of Section 2.7 of the Original Indenture applicable to defaulted interest.

The Company shall provide written notice to the Trustee and the Holders of the Notes of its election to commence or continue any Optional Deferral Period at least one Business Day and not more than sixty Business Days prior to the applicable Interest Payment Date. Notice of the Company's election to commence or continue an Optional Deferral Period shall either be mailed to the registered address of each Holder of the Notes or provided by electronic mail or facsimile, or by such other notice method permitted by the Original Indenture, to the Trustee for transmission to the Depository or its nominee. Notwithstanding the foregoing, the failure of the Company to provide notice in accordance with this Section 2.1(e) of its election to commence or continue any Optional Deferral Period, including any deemed election as provided in this Section 2.1(e), shall not affect the validity of such deferral hereunder and shall not constitute an Event of Default.

(f) To Whom Interest Is Payable. Interest on each Interest Payment Date shall be payable to the Person in whose name the Notes are registered at the close of business on the regular record date for such Interest Payment Date, which regular record date shall be the January 1, April 1, July 1 or October 1 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date (each, a "Regular Record Date"); *provided, however*, that interest due on the Maturity Date or any Redemption Date (in each case, whether or not an Interest Payment Date) will be paid to the Person to whom principal of such Notes is payable (subject to the rights of Holders on the relevant Regular Record Date to receive interest due on any Interest Payment Date preceding the Maturity Date or Redemption Date).

(g) Sinking Fund; Holder Repurchase Right. The Notes shall not be subject to any sinking fund or analogous provision or be redeemable at the option of the Holders.

Section 2.2 Optional Redemption.

- (a) The provisions of Article 13 of the Original Indenture shall apply to the Notes, except to the extent otherwise provided in this Section 2.2.
- (b) The Company may redeem the Notes at its option:
- (i) in whole or in part, at any time and from time to time on and after January 15, 2030, at a Redemption Price equal to 100% of the principal amount of the Notes being redeemed plus accrued and unpaid interest thereon (including Compound Interest, if any) to, but excluding, the Redemption Date;
 - (ii) within 90 days of the occurrence of a Tax Event, in whole but not in part, at a Redemption Price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest thereon (including Compound Interest, if any) to, but excluding, the Redemption Date;
 - (iii) within 90 days of the occurrence of a Regulatory Capital Event, in whole but not in part, at a Redemption Price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest thereon (including Compound Interest, if any) to, but excluding, the Redemption Date; or
 - (iv) within 90 days of the occurrence of a Rating Agency Event, in whole but not in part, at a Redemption Price equal to 102% of the principal amount of the Notes plus accrued and

unpaid interest thereon (including Compound Interest, if any) to, but excluding, the Redemption Date;

provided, that no partial redemption pursuant to Section 2.2(b)(i) shall be effected unless (x) at least \$25,000,000 aggregate principal amount of the Notes (excluding any Notes held by the Company or its affiliates) shall remain Outstanding after giving effect to such redemption and (y) all accrued and unpaid interest, including deferred interest (and Compound Interest, if any), on the Notes shall have been paid in full on all Outstanding Notes for all Interest Payment Dates occurring on or before the Redemption Date.

(c) Notwithstanding Section 2.2(b), installments of interest on the Notes that are due and payable on Interest Payment Dates falling on or prior to a Redemption Date will be payable on the Interest Payment Date to the Holders as of the close of business on the Regular Record Date.

(d) Notice of any redemption (which may be subject to one or more conditions precedent, including, but not limited to, completion of a corporate transaction that is pending (such as an equity or equity-linked offering, an incurrence of indebtedness or an acquisition or other strategic transaction involving a change of control in the Company)) shall be given not less than 10 days and not more than 60 days prior to the Redemption Date, to each Holder of the Notes to be redeemed. Any notice delivered pursuant to this Section 2.2(d) shall either be mailed to the registered address of each Holder of the Notes or provided by electronic mail or facsimile, or by such other notice method permitted by the Original Indenture, to the Trustee for transmission to the Depositary or its nominee. If the redemption or notice of redemption is subject to satisfaction of one or more conditions precedent, the notice of redemption shall state that, in the Company's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Company in its sole discretion) by the Redemption Date or by the Redemption Date so delayed.

(e) The notice of redemption with respect to any redemption pursuant to Article 13 of the Original Indenture need not set forth the Redemption Price, if such Redemption Price is not ascertainable, but only the manner of calculation thereof, as described above.

(f) The Company shall be responsible for making calculations called for under the Notes, including, but not limited to, determination of the Redemption Price, premium, if any, and any Additional Amounts or other amounts payable on the Notes. The Company will provide its calculations to the Trustee, and, absent manifest error, the Trustee is entitled to rely conclusively on the accuracy of the Company's calculations without independent verification. The Trustee shall have no liability for any calculation or any information used in any calculation. The Company's actions and determinations in determining the Redemption Price shall be conclusive and binding for all purposes, absent manifest error.

(g) Unless the Company defaults in payment of the Redemption Price and accrued and unpaid interest, on and after the Redemption Date, interest will cease to accrue on the Notes or portions thereof called for redemption and all rights under the Notes will terminate. No later than 9:00 a.m., New York time, on the Redemption Date, the Company is required to deposit with a Paying Agent or the Trustee (or, if the Company is acting as Paying Agent, set aside, segregate and hold in trust as provided in Section 3.4 of the Original Indenture) an amount of money sufficient to pay the Redemption Price of and accrued and unpaid interest (including Compound Interest, if any) on the Notes to be redeemed on such Redemption Date. If the Company is redeeming less than all the Notes, the Notes to be redeemed shall be selected by lot by DTC, in the case of Notes represented by a Global Certificate, or by the Trustee by a method the Trustee deems to be fair and appropriate, in the case of the Notes that are not represented by a Global Certificate. The Trustee shall not be liable for selection made by it under this Section 2.2(g). The Notes may be redeemed in part in multiples equal to not less than \$25 and integral multiples of \$25 in excess thereof. The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Notes selected for partial redemption, the principal amount thereof to be redeemed.

ARTICLE III

EVENTS OF DEFAULT; ADDITIONAL COVENANT

Section 3.1 Events of Default. The only “Events of Default” with respect to the Notes shall be the following:

(a) default in the payment of any interest in full, including Compound Interest, if any, upon any Note on the fifth anniversary of the first Interest Payment Date during any Optional Deferral Period or on the Maturity Date, and continuance of such default for a period of 30 days;

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

(c) (i) the Company, pursuant to or within the meaning of any Bankruptcy Law, (A) commences a voluntary case or proceeding, (B) consents to the entry of an order for relief against it in an involuntary case or proceeding or to the commencement of any bankruptcy or insolvency case or proceeding against it, (C) consents to the appointment of a Receiver of it or for its properties and assets substantially as an entirety; (D) makes a general assignment for the benefit of creditors; or (ii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (A) is for relief against the Company in an involuntary case, (B) appoints a Receiver of the Company or for its properties and assets substantially as an entirety, (C) orders the winding up or liquidation of the Company, (D) adjudges the Company bankrupt or insolvent or (E) approves as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or with respect to the Company, and any such order or decree described in this clause (c)(ii) remains unstayed and in effect for 90 days; *provided, however*, that any rights and remedies in this Supplemental Indenture arising under this Section 3.1(c) shall not be enforceable if a resolution or order for the winding up the Company with a view to a transaction in accordance with Section 9.1 of the Original Indenture has been issued and such successor Person shall, as a part of such transaction, comply with the requirements of Section 9.1 of the Original Indenture within 90 days of the date of such resolution or order.

Section 3.2 Additional Covenant with Respect to the Notes. The Company covenants and agrees with each Holder of Notes that, after the commencement of an Optional Deferral Period and until the Company has paid all accrued and unpaid interest on the Notes, the Company shall not, and shall not permit any Subsidiary of the Company to:

(a) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any shares of Capital Stock of the Company other than:

(i) any purchase, redemption or other acquisition of shares of the Company’s Capital Stock in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of employees, officers, agents, directors or consultants or under any dividend reinvestment plan or shareholder purchase plan;

(ii) purchases of shares of the Company’s Capital Stock pursuant to a contractually binding requirement to buy or acquire the Company’s Capital Stock entered into prior to the commencement of such Optional Deferral Period, including under a contractually binding stock repurchase plan;

(iii) as a result of any reclassification of any class or series of the Company’s Capital Stock, or the exchange, redemption or conversion of any class or series of the Company’s Capital Stock for any class or series of the Company’s Capital Stock;

- (iv) any purchase of, or payment of cash in lieu of, fractional interests in shares of the Company's Capital Stock in accordance with the conversion or exchange provisions of such Capital Stock or the security being converted or exchanged;
- (v) acquisitions of the Company's Capital Stock in connection with acquisitions of businesses made by the Company (which acquisitions are made by the Company in connection with the satisfaction of indemnification obligations of the sellers of such businesses);
- (vi) dividends or distributions payable solely in the Company's Capital Stock, or options, warrants or rights to subscribe for or acquire the Company's Capital Stock, or repurchases or redemptions of the Company's Capital Stock made solely from the issuance or exchange of such Capital Stock or stock that ranks equally with or junior to such Capital Stock; or
- (vii) the distribution, declaration, redemption or repurchase of rights in accordance with any shareholders' rights plan or the issuance of rights, stock or other property under any shareholder rights plan, or the redemption or purchase of rights pursuant thereto; or

(b) make any payment of principal of or interest or premium, if any, on or repay, repurchase or redeem any Pari Passu Indebtedness or Junior Indebtedness other than (i) any exchange, redemption or conversion of Indebtedness for any class or series of the Company's Capital Stock, (ii) any payment on Pari Passu Indebtedness necessary to avoid a breach of the instrument governing such Pari Passu Indebtedness; or (iii) any payment, repurchase or redemption in respect of Pari Passu Indebtedness made ratably and in proportion to the respective amount of (x) accrued and unpaid amounts on such Pari Passu Indebtedness, on the one hand, and (y) accrued and unpaid amounts on the Notes, on the other hand.

For the avoidance of doubt, subject to Section 3.6 of the Original Indenture, no terms of the Notes will restrict in any manner the ability of any of the Company's Subsidiaries to pay dividends or make any distributions to the Company or to any of the Company's other Subsidiaries.

ARTICLE IV

MISCELLANEOUS

Section 4.1 Relationship to Existing Original Indenture. This Supplemental Indenture is a supplemental indenture within the meaning of the Original Indenture. The Original Indenture, as supplemented and amended pursuant to this Supplemental Indenture, is in all respects ratified, confirmed and approved and, with respect to the Notes, the Original Indenture, as supplemented and amended through this Supplemental Indenture, shall be read, taken and construed as one and the same instrument.

Section 4.2 Modification of the Existing Original Indenture. Except as expressly modified through this Supplemental Indenture, the provisions of the Original Indenture shall govern the terms and conditions of the Notes.

Section 4.3 Tax Treatment. The Company and, by acceptance of a Note or a beneficial interest therein, each Holder of a Note agree, and any Person acquiring a beneficial interest in a Note will be deemed to have agreed, in each case, that such Person intends that the Notes constitute indebtedness and will treat the Notes as indebtedness for U.S. federal income tax purposes.

Section 4.4 Governing Law. **This Supplemental Indenture and the Notes shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to its conflict of laws provisions that would result in the application of the laws of any other jurisdiction (other than Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York). To the fullest extent permitted by law, any legal suit, action or proceeding arising out of or based upon this Supplemental Indenture or the transactions contemplated hereby may be instituted in the federal courts of the United States of America**

located in the City of New York or the courts of the State of New York in each case based in the City of New York, and each party to this Supplemental Indenture will submit to the non-exclusive jurisdiction of such suit, action or proceeding.

Section 4.5 Counterparts. This Supplemental 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 words “execution,” “signed,” “signature” and words of like import in this Supplemental Indenture shall include images of manually executed signatures transmitted by facsimile, email or other electronic format (including, without limitation, “pdf,” “tif” or “jpg”) and other electronic signatures (including without limitation, DocuSign and AdobeSign or any other similar platform identified by the Company and reasonably available at no undue burden or expense to the Trustee). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. Without limitation to the foregoing, and anything in this Supplemental Indenture or the Original Indenture to the contrary notwithstanding, (a) any Officer’s Certificate, written order of the Company, Opinion of Counsel, Note, amendment, notice, direction, certificate of authentication appearing on or attached to any Note, supplemental indenture or other certificate, opinion of counsel, instrument, agreement or other document delivered pursuant to this Supplemental Indenture may be executed, attested and transmitted by any of the foregoing electronic means and formats and (b) all references in Article 2 of the Original Indenture or in this Supplemental Indenture to the execution, attestation or authentication of any Note or any certificate of authentication appearing on or attached to any Note by means of a manual or facsimile or other electronic signature shall be deemed to include signatures that are made or transmitted by any of the foregoing electronic means or formats. The Trustee shall have no duty to inquire into or investigate the authenticity or authorization of any such electronic signature and shall be entitled to conclusively rely on any such electronic signature without any liability with respect thereto.

Section 4.6 Trustee Not Responsible for Recitals. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture or of the Notes. The Trustee shall not be accountable for the use of or application by the Company of the proceeds of the offering of the Securities. The Trustee represents that it is duly authorized to execute and deliver this Supplemental Indenture and perform its obligations hereunder. The Trustee accepts the amendments of the Original Indenture effected by this Supplemental Indenture, but on the terms and conditions set forth in the Original Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Trustee. Without limiting the generality of the foregoing, the Trustee shall not be responsible in any manner whatsoever for or with respect to any of the recitals or statements contained herein, all of which recitals or statements are made solely by the Company, or for or with respect to (i) the validity or sufficiency of this Supplemental Indenture or any of the terms or provisions hereof, (ii) the proper authorization hereof by the Company by action or otherwise, (iii) the due execution hereof by the Company or (iv) the consequences of any amendment herein provided for, and the Trustee makes no representation with respect to any such matters.

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Annex A

{FORM OF 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 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 NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO CEDE & CO., ITS NOMINEE OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR’S NOMINEE AND TRANSFERS OF PORTIONS OF THIS NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE (AS DEFINED HEREIN).

F&G ANNUITIES & LIFE, INC.

7.300% Junior Subordinated Notes due 2065

No. _____ CUSIP No. _____
\$ _____ ISIN _____

F&G Annuities & Life, Inc., a Delaware corporation (the “Company,” which term includes any successor Person thereto under the Indenture hereinafter referred to), for value received, hereby promises to pay to {Cede & Co.}{_____}, or its registered assigns, the principal sum {of \$ _____ Dollars} {set forth on the Schedule of Increases or Decreases in the Global Certificate attached hereto} (or such lesser or greater amount as shall be outstanding hereunder from time to time in accordance with Sections 2.1 and 2.8 of the Original Indenture hereinafter referred to) on January 15, 2065 (the “Maturity Date”) and to pay interest thereon, subject to applicable law, and subject to any Optional Deferral Period, at a rate of 7.300% per year, accruing from and including January 13, 2025 (or the most recent Interest Payment Date (as defined below) to which interest on the Notes has been paid or made available for payment), payable quarterly in arrears on January 15, April 15, July 15 and October 15 of each year, beginning on April 15, 2025 (each such date, an “Interest Payment Date”), and at the Maturity Date, until the principal hereof is paid or made available for payment.

Each interest payment due on an Interest Payment Date or the Maturity Date will include interest accrued from and including the most recent Interest Payment Date to which interest on the Notes has been paid or made available for payment (or, if no interest has been paid, January 13, 2025) to, but excluding, the next Interest Payment Date or the Maturity Date or any Redemption Date, as the case may be, subject to the Company’s right to defer the payment of interest on the Notes in accordance with the next succeeding paragraph and the Indenture. Interest on the Notes will be computed on the basis of a 360-day year consisting of twelve 30-day months. If any Interest Payment Date falls on a date that is not a Business Day, such payment of interest (or principal in the case of the Maturity Date) will be postponed until the next succeeding Business Day, but no interest or other amount will be paid as a result of any such postponement, and such payment will have the same force and effect as if made on the scheduled Interest Payment Date.

In accordance with the terms of the Indenture, so long as no Event of Default has occurred and is continuing, the Company shall have the right, in its sole discretion, to defer the interest payable on this Note for one or more Optional Deferral Periods, each of up to five consecutive years, without giving rise to an Event of Default. Whether or not notice of the Company’s election to commence or continue any Optional Deferral Period pursuant to Indenture is given, if the Company shall fail to pay interest payable on this Note on any Interest Payment Date, the

Company shall be deemed to elect to defer payment of such interest on such Interest Payment Date, unless the Company shall pay such interest in full within five Business Days after any such Interest Payment Date. If the Company shall have paid all deferred interest (including Compound Interest (as defined below), if any) on this Note, the Company shall have the right to elect to begin a new Optional Deferral Period as provided in the Indenture. During an Optional Deferral Period, interest, the payment of which has been deferred pursuant to this paragraph and the Indenture, will continue to accrue at the rate set forth above, compounded quarterly for each quarterly period of such Optional Deferral Period ("Compound Interest"), to the extent permitted by applicable law, until paid. No interest otherwise due on this Note during an Optional Deferral Period will be due and payable hereon until the end of such Optional Deferral Period, except upon an acceleration or redemption in full of the Notes during such Optional Deferral Period. On the fifth anniversary of the first Interest Payment Date during any Optional Deferral Period, the Company must pay all accrued and unpaid deferred interest (including Compound Interest, if any), on this Note, and the Company's failure to pay all such accrued and unpaid deferred interest for a period of 30 days shall constitute an Event of Default. The Company shall pay all accrued and unpaid deferred interest, including Compound Interest, if any, on this Note in accordance with the provisions of Section 2.7 of the Original Indenture applicable to defaulted interest.

Interest on each Interest Payment Date shall be payable to the Person in whose name this Note is registered at the close of business on the regular record date for such Interest Payment Date, which regular record date shall be the January 1, April 1, July 1 or October 1 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date (each, a "Regular Record Date"); *provided, however*, that interest due on the Maturity Date or any Redemption Date (in each case, whether or not an Interest Payment Date) will be paid to the Person to whom principal of this Note is payable (subject to the rights of Holders on the relevant Regular Record Date to receive interest due on any Interest Payment Date preceding the Maturity Date or Redemption Date).

Payment of the principal of, and interest and premium, if any, on this Note shall be made at the Corporate Trust Office, in such currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; *provided* that, for so long as this Note is in global form represented by this Global Certificate, all payments in respect hereof (including principal, interest and premium, if any) shall be made by wire transfer of immediately available funds to DTC or its nominee, as the case may be, as the registered owner of this Global Certificate. In the event that Definitive Certificates shall have been issued, all payments of principal, interest and premium, if any, shall be made by wire transfer of immediately available funds in accordance with the wire instructions of the registered Holders thereof appearing in the Securities Register or, if no such wire instructions are specified, by mailing a check to the address of each Holder of a Definitive Certificate appearing in the Securities Register.

All terms used in this Note which are defined in the Indenture and not defined herein shall have the meanings ascribed thereto in the Indenture. Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

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

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

F&G Annuities & Life, Inc.,
as the Company

By: _____
Name:
Title:

This is one of the Security Certificates representing Securities of the Series designated herein and referred to in the within-mentioned Indenture.

Date: _____

CITIBANK, N.A., as Trustee

By _____
Authorized Signatory

{FORM OF REVERSE OF NOTE}

This Note is one of a duly authorized issuance of securities of the Company (the “Notes”), issued and to be issued in one or more series under an Indenture, dated as of January 13, 2025 (the “Original Indenture”), between the Company and Citibank, N.A., as Trustee (the “Trustee,” which term includes any successor Trustee under the Indenture), as supplemented by the First Supplemental Indenture, dated as of January 13, 2025 (the “Supplemental Indenture,” and, together with the Original Indenture, the “Indenture”), between the Company and the Trustee. Reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Company, the Trustee and the Holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act. The Notes are subject to all such terms, and Holders are referred to the Indenture and the Trust Indenture Act for a statement of such terms. To the maximum extent permitted by law, in the case of any conflict between the provisions of this Note and the Indenture, the provisions of the Indenture shall control.

This Note is one of the series designated on the face hereof, initially limited in aggregate principal amount to \$_____. The Company may at any time issue additional Securities under the Indenture in unlimited amounts having the same terms as the Notes (except as otherwise provided in the Indenture) so that such additional Securities shall be consolidated with the Notes, including for purposes of voting and redemption; *provided, however*, that the Company shall use a separate CUSIP number for any such additional Securities that (a) are not part of the same issue as the Notes within the meaning of U.S. Treasury Regulations sections 1.1275-1(f) and 1.1275-2(k) and (b) have, for purposes of U.S. federal income taxation, more than a *de minimis* amount of original issue discount as of the date of the issue of such additional Securities. Any such additional Securities shall, together with the outstanding Notes, constitute a single series of Securities under the Indenture.

Optional Redemption

The Company may redeem the Notes at its option:

- (a) in whole or in part, at any time and from time to time on and after January 15, 2030, at a Redemption Price equal to 100% of the principal amount of the Notes being redeemed plus accrued and unpaid interest thereon (including Compound Interest, if any) to, but excluding, the Redemption Date;
- (b) within 90 days of the occurrence of a Notes Tax Event, in whole but not in part, at a Redemption Price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest thereon (including Compound Interest, if any) to, but excluding, the Redemption Date;
- (c) within 90 days of the occurrence of a Regulatory Capital Event, in whole but not in part, at a Redemption Price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest thereon (including Compound Interest, if any) to, but excluding, the Redemption Date; or
- (d) within 90 days of the occurrence of a Rating Agency Event, in whole but not in part, at a Redemption Price equal to 102% of the principal amount of the Notes plus accrued and unpaid interest thereon (including Compound Interest, if any) to, but excluding, the Redemption Date;

provided, that no partial redemption pursuant to clause (a) above shall be effected unless (x) at least \$25,000,000 aggregate principal amount of the Notes (excluding any Notes held by the Company or its affiliates) shall remain Outstanding after giving effect to such redemption and (y) all accrued and unpaid interest, including deferred interest (and Compound Interest, if any), on the Notes shall have been paid in full on all Outstanding Notes for all Interest Payment Dates occurring on or before the Redemption Date.

In the event of redemption of this Note in part only, a new Note or Notes of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof;

provided that the principal amount of any such Note remaining outstanding after a redemption in part shall be \$25 or any integral multiple of \$25 in excess thereof.

Unless the Company defaults in payment of the Redemption Price and accrued and unpaid interest, on and after the Redemption Date, interest will cease to accrue on the Notes or portions thereof called for redemption and all rights hereunder will terminate. No later than 9:00 a.m., New York time, on any Redemption Date, the Company is required to deposit with a Paying Agent or the Trustee (or, if the Company is acting as Paying Agent, set aside, segregate and hold in trust as provided in Section 3.4 of the Original Indenture) an amount of money sufficient to pay the Redemption Price of and accrued and unpaid interest on the Notes to be redeemed on such Redemption Date. If the Company is redeeming less than all the Notes, the Notes to be redeemed shall be selected by lot by DTC, in the case of this Global Certificate, or by the Trustee by a method the Trustee deems to be fair and appropriate, in the case of any Notes that are not represented by a Global Certificate.

General Terms

The Indenture contains provisions for defeasance at any time of the entire indebtedness of this Note and certain restrictive covenants and Events of Default with respect to this Note, in each case upon compliance with certain conditions set forth in the Indenture.

If an Event of Default with respect to the Notes shall occur and be continuing, the principal of the Notes may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture or the Notes of any series may be amended or supplemented, and compliance with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences may be waived, in each case as provided in the Indenture.

The Company and, by acceptance of this Note or a beneficial interest herein, the Holder of this Note agree, and any Person acquiring a beneficial interest in this Note will be deemed to have agreed, in each case, that such Person intends that this Note constitutes indebtedness and will treat this Note as indebtedness for U.S. federal income tax purposes.

The Notes will not be entitled to the benefit of a sinking fund.

As provided in, and subject to the provisions of, the Indenture, the Holder of this Note may institute an action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to the Indenture, this Note, or for the appointment of a trustee, receiver, liquidator, custodian or other similar official or for any other remedy hereunder or under the Indenture only if: (i) such Holder has given to the Trustee written notice of a default and of the continuance thereof; (ii) the Holders of not less than 25% in aggregate principal amount of the Notes then Outstanding have made a written request upon the Trustee to institute such action or proceedings in its own name as trustee under the Indenture; (iii) the Holders of not less than 25% in aggregate principal amount of the Notes then Outstanding have offered to the Trustee such security or indemnity as it may require against the losses, expenses and liabilities to be incurred in connection with such action or proceedings; (iv) the Trustee, for 60 days after its receipt of such notice, request and offer of security or indemnity has failed to institute any such action or proceeding; and (v) the Holders of a majority in aggregate principal amount of the Securities of each series affected (with each series treated as a separate class) at the time Outstanding have not given the Trustee a direction inconsistent with such written request. However, the right of the Holder hereof to receive payment of the principal of and any interest on this Note at the rates, in the amount and in the currency prescribed herein on or after the due dates expressed herein, or to institute suit for the enforcement of any such payment on or after such dates, shall not be impaired or affected without the consent of such Holder. No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligations of the Company, which are absolute and unconditional, to pay the principal of and any interest on this Note at the times, place and rate, and in the currency, prescribed herein.

As provided in the Indenture and subject to certain limitations set forth therein, this Note may be presented or surrendered for registration of transfer or for exchange or redemption at the Place of Payment, duly endorsed, or

accompanied by a written instrument of transfer in form satisfactory to, the Company and the Registrar for this Note, duly executed by the Holder hereof or the Holder's attorney duly authorized in writing. No service charge shall be made to the Holder for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith.

Prior to due presentment of this Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may deem and treat the Person in whose name this Note is registered upon the Securities Register for the Notes as the owner hereof (whether or not this Note shall be overdue and notwithstanding any notation of ownership or other writing hereon) for all purposes, regardless of any notice to the contrary.

The Notes are issuable only in registered form in minimum denominations of \$25 and integral multiples of \$25 in excess thereof.

This Note and the Indenture shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to its conflict of laws provisions that would result in the application of the laws of any other jurisdiction (other than Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York). To the fullest extent permitted by law, any legal suit, action or proceeding arising out of or based upon this Note or the Indenture or the transactions contemplated hereby may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York in each case based in the City of New York, and each party to this Note and the Indenture will submit to the non-exclusive jurisdiction of such suit, action or proceeding.

* * *

SCHEDULE OF INCREASES OR DECREASES IN THE GLOBAL CERTIFICATE

The initial outstanding principal amount of this Global Certificate is \$ _____. The following increases or decreases in this Global Certificate have been made:

Date of Exchange	Amount of decreases in Principal Amount of this Global Certificate	Amount of increases in Principal Amount of this Global Certificate	Principal amount of this Global Certificate following such decreases or increases	Signature of authorized signatory of Trustee
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1/13/2025

F&G Annuities & Life, Inc.
801 Grand Avenue, Suite 2600
Des Moines, Iowa 50309

Re: F&G Annuities & Life, Inc.
Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as special United States counsel to F&G Annuities & Life, Inc., a Delaware corporation (the "Company"), in connection with the public offering of \$375,000,000 aggregate principal amount of the Company's 7.300% Junior Subordinated Notes due 2065 (the "Notes") to be issued under the Indenture, dated as of the date hereof (the "Base Indenture"), between the Company and Citibank, N.A., as trustee (in such capacity, the "Trustee"), as supplemented by the First Supplemental Indenture (the "Supplemental Indenture") and, together with the Base Indenture, the "Indenture") dated as of the date hereof between the Company and the Trustee.

This opinion letter is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933 (the "Securities Act").

In rendering the opinion stated herein, we have examined and relied upon the following:

(a) the registration statement on Form S-3ASR (File No. 333-282432) of the Company relating to debt securities and other securities of the Company filed with the Securities and Exchange Commission (the "Commission") on October 1, 2024 under the Securities Act, allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Securities Act (the "Rules and Regulations"), including the information deemed to be a part

of the registration statement pursuant to Rule 430B of the Rules and Regulations (such registration statement being hereinafter referred to as the “Registration Statement”);

(b) the prospectus, dated October 1, 2024 (the “Base Prospectus”), relating to debt securities and other securities of the Company, in the form filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations;

(c) the preliminary prospectus supplement, dated January 6, 2025 (together with the Base Prospectus, the “Preliminary Prospectus”), relating to the offering of the Securities, in the form filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations;

(d) the prospectus supplement, dated January 6, 2025 (the “Prospectus Supplement” and, together with the Base Prospectus, the “Prospectus”), relating to the offering of the Securities, in the form filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations;

(e) the Statement of Eligibility on Form 305B2, dated January 3, 2025, relating to the Indenture, in the form filed by the Company with the Commission;

(f) an executed copy of the Underwriting Agreement among Wells Fargo Securities, LLC, BofA Securities, Inc., J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC and RBC Capital Markets, LLC, as representatives of the several underwriters named therein (the “Underwriters”), and the Company, relating to the issuance and sale by the Company to the Underwriters of the Notes;

(g) an executed copy of the Base Indenture;

(h) an executed copy of the Supplemental Indenture;

(i) the global certificate evidencing the Securities, executed by the Company and registered in the name of Cede & Co. (the “Note Certificate”), delivered by the Company to the Trustee for authentication and delivery;

(j) an executed copy of a certificate of Michael L. Gravelle, Executive Vice President, General Counsel and Corporate Secretary of the Company, dated the date hereof (the “Secretary’s Certificate”);

(k) a copy of the Company’s Amended and Restated Certificate of Incorporation, certified by the Secretary of State of the State of Delaware, as of January 6, 2025, and certified pursuant to the Secretary’s Certificate;

(l) a copy of the Company's Amended and Restated Bylaws, as in effect on and at all times since, September 27, 2024, and certified pursuant to the Secretary’s Certificate; and

(m) copies of certain resolutions adopted by the Board of Directors of the Company on January 2, 2025 and September 27, 2024, certified pursuant to the Secretary's Certificate.

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinion stated below.

In our examination, we have assumed the genuineness of all signatures, including electronic signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photocopied copies, and the authenticity of the originals of such copies. As to any facts relevant to the opinion stated herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company and others and of public officials, including the facts and conclusions set forth in the Secretary's Certificate and the factual representations and warranties contained in the Underwriting Agreement.

We do not express any opinion with respect to the laws of any jurisdiction other than (i) the laws, of the State of New York and (ii) the General Corporation Law of the State of Delaware (the "DGCL") (all of the foregoing being referred to as "Opined-on Law").

As used herein, "Transaction Documents" means the Underwriting Agreement, the Indenture and the Note Certificate.

Based upon the foregoing and subject to the qualifications and assumptions stated herein, we are of the opinion that the Note Certificate has been duly authorized by all requisite corporate action on the part of the Company and duly executed by the Company under the DGCL, and when duly authenticated by the Trustee and issued and delivered by the Company against payment therefor in accordance with the terms of the Underwriting Agreement and the Indenture, the Note Certificate will constitute the valid and binding obligation of the Company, enforceable against the Company in accordance with their terms under the laws of the State of New York.

The opinion stated herein is subject to the following assumptions and qualifications:

(a) we do not express any opinion with respect to the effect on the opinion stated herein of any bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, preference and other similar laws or governmental orders affecting creditors' rights generally, and the opinion stated herein is limited by such laws and governmental orders and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(b) we do not express any opinion with respect to any law, rule or regulation that is applicable to any party to any of the Transaction Documents or the transactions contemplated thereby solely because such law, rule or regulation is part of a regulatory regime applicable to any such party or any of its affiliates as a result of the specific assets or business operations of such party or such affiliates;

(c) except to the extent expressly stated in the opinion contained herein, we have assumed that each of the Transaction Documents constitutes the valid and binding obligation of each party to such Transaction Document, enforceable against such party in accordance with its terms;

(d) we do not express any opinion with respect to the enforceability of any provision contained in any Transaction Document relating to any indemnification, contribution, non-reliance, exculpation, release, limitation or exclusion of remedies, waiver or other provisions having similar effect that may be contrary to public policy or violative of federal or state securities laws, rules or regulations, or to the extent any such provision purports to, or has the effect of, waiving or altering any statute of limitations;

(e) we do not express any opinion whether the execution or delivery of any Transaction Document by the Company, or the performance by the Company of its obligations under any Transaction Document will constitute a violation of, or a default under, any covenant, restriction or provision with respect to financial ratios or tests or any aspect of the financial condition or results of operations of the Company or any of its subsidiaries;

(f) the opinion stated herein is limited to the agreements and documents specifically identified in the opinion contained herein (the “Specified Documents”) without regard to any agreement or other document referenced in any such Specified Document (including agreements or other documents incorporated by reference or attached or annexed thereto) and without regard to any other agreement or document relating to any such Specified Document that is not a Transaction Document;

(g) subsequent to the effectiveness of the Indenture and immediately prior to the effectiveness of the Supplemental Indenture, the Indenture has not been amended, restated, supplemented or otherwise modified in any way that affects or relates to the Notes;

(h) we do not express any opinion with respect to the enforceability of Section 12.9 of the Indenture to the extent that such section purports to bind the Company to the exclusive jurisdiction of any particular federal court or courts; and

(i) to the extent that any opinion relates to the enforceability of the choice of New York law and choice of New York forum provisions contained in any Transaction Document, the opinion stated herein is subject to the qualification that such enforceability may be subject to, in each case, (i) the exceptions and limitations in New York General Obligations Law sections 5-1401 and 5-1402 and (ii) principles of comity and constitutionality.

In addition, in rendering the foregoing opinion we have also assumed that, at all applicable times:

(j) neither the execution and delivery by the Company of the Transaction Documents nor the performance by the Company of its obligations thereunder, including the issuance and sale of the Notes: (i) constituted or will constitute a violation of, or a default under, any lease, indenture, agreement or other instrument to which the Company or its property is subject (except that we do not make the assumption set forth in this clause (i) with respect to those agreements or instruments expressed to be governed by the laws of the State of New York which are listed in Part II of the Registration Statement or the Company's Annual Report on Form 10-K for the year ended December 31, 2023), (ii) contravened or will contravene any order or decree of any governmental authority to which the Company or its property is subject, or (iv) violated or will violate any law, rule or regulation to which the Company or its property is subject (except that we do not make the assumption set forth in this clause (iii) with respect to the Opined-on Law); and

(k) neither the execution and delivery by the Company of the Transaction Documents nor the performance by the Company of its obligations thereunder, including the issuance and sale of the Notes, required or will require the consent, approval, licensing or authorization of, or any filing, recording or registration with, any governmental authority under any law, rule or regulation of any jurisdiction.

We hereby consent to the reference to our firm under the heading "Legal Matters" in the Preliminary Prospectus and the Prospectus. In giving this consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations. We also hereby consent to the filing of this opinion letter with the Commission as an exhibit to the Company's Current Report on Form 8-K being filed on the date hereof and incorporated by reference into the Registration Statement. This opinion is expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP