
**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): June 18, 2013

TAKE-TWO INTERACTIVE SOFTWARE, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

0-29230
(Commission
File Number)

51-0350842
(IRS Employer
Identification No.)

622 Broadway, New York, New York
(Address of principal executive offices)

10012
(Zip Code)

Registrant's telephone number, including area code (646) 536-2842

(Former name or former address, if changed since last report.)

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

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

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

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

On June 18, 2013, Take-Two Interactive Software, Inc. (the "Company") consummated its previously announced offering of \$250 million aggregate principal amount of its 1.00% Convertible Senior Notes due 2018 (the "Notes"). The underwriters may exercise their option to purchase up to an additional \$37.5 million principal amount of Notes to cover over-allotments on or before the date that is 30 days from June 12, 2013.

The sale of the Notes was made pursuant to the Company's Registration Statement on Form S-3 (Registration No. 333-189246) (the "Registration Statement"), including the prospectus supplement dated June 12, 2013 (the "Prospectus Supplement") to the prospectus contained therein dated June 12, 2013, filed by the Company with the Securities and Exchange Commission, pursuant to Rule 424 under the Securities Act of 1933, as amended (the "Securities Act").

In connection with this offering, the legal opinion as to the legality of the Notes sold is being filed as Exhibit 5.1 to this Current Report on Form 8-K and is incorporated herein and into the Registration Statement by reference.

The offering of the Notes was made pursuant to that certain Indenture, dated as of June 18, 2013 (the "Base Indenture"), as supplemented by that certain Supplemental Indenture, dated as of June 18, 2013 (together with the Base Indenture, the "Indenture"), between the Company and The Bank of New York Mellon, as Trustee.

The Notes are senior unsecured obligations of the Company, ranking equal in right of payment with all of the Company's existing or future unsubordinated indebtedness. The Notes will bear interest at a rate of 1.00% per year, payable semi-annually in arrears on January 1 and July 1 of each year, commencing January 1, 2014. The Notes will mature on July 1, 2018, unless earlier repurchased by the Company or converted pursuant to their terms.

Prior to January 1, 2018, the Notes will be convertible only upon specified events and, thereafter, at any time before the close of business on the business day preceding July 1, 2018, into shares of the Company's common stock, cash or a combination of cash and shares of the Company's common stock. The conversion rate will initially be 46.4727 shares of common stock per \$1,000 principal amount of Notes (which is equivalent to an initial conversion price of approximately \$21.52 per share), subject to adjustment upon certain customary events. If a holder elects to convert its notes in connection with certain fundamental changes, the Company will pay, to the extent described in the Indenture, a make-whole premium by increasing the number of shares deliverable upon the conversion of the Notes. The Company will not have the right to redeem the Notes prior to maturity.

This description of the Indenture is qualified in its entirety by reference to the text of the Base Indenture, the Supplemental Indenture and the Form of Global Note included in the Supplemental Indenture (the "Global Note"), which are filed as Exhibits 4.1, 4.2 and 4.3, respectively, with this Current Report on Form 8-K and are incorporated herein and into the Registration Statement by reference.

Item 9.01. Financial Statements and Exhibits

(d) Exhibits:

- 4.1 Indenture, dated as of June 18, 2013, by and between Take-Two Interactive Software, Inc. and The Bank of New York Mellon, as Trustee.
- 4.2 Supplemental Indenture, dated as of June 18, 2013, between Take-Two Interactive Software, Inc. and The Bank of New York Mellon, as Trustee, to Indenture, dated as of June 18, 2013, between Take-Two Interactive Software, Inc. and The Bank of New York Mellon, as Trustee.
- 4.3 Form of Global Note (included in Exhibit 4.2).
- 5.1 Opinion of Willkie Farr & Gallagher LLP

SIGNATURES

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

TAKE-TWO INTERACTIVE SOFTWARE, INC.
(Registrant)

By: /s/ Lainie Goldstein
Lainie Goldstein
Chief Financial Officer

Date: June 18, 2013

EXHIBIT INDEX

<u>Exhibits</u>	<u>Description</u>
4.1	Indenture, dated as of June 18, 2013, by and between Take-Two Interactive Software, Inc. and The Bank of New York Mellon, as Trustee.
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4.3	Form of Global Note (included in Exhibit 4.2).
5.1	Opinion of Willkie Farr & Gallagher LLP

TAKE-TWO INTERACTIVE SOFTWARE, INC.

ISSUER

TO

THE BANK OF NEW YORK MELLON

TRUSTEE

INDENTURE

DATED AS OF

JUNE 18, 2013

CROSS REFERENCE TABLE

<u>TIA Section</u>	<u>Indenture Section</u>
310(a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	N.A.
(b)	7.08; 7.10
(c)	N.A.
311(a)	7.11
(b)	7.11
(c)	N.A.
312(a)	2.07
(b)	12.04
(c)	12.04
313(a)	7.06
(b)(1)	N.A.
(b)(2)	7.06
(c)	7.06
(d)	7.06
314(a)(1)	4.02
(a)(2)	12.03
(a)(4)	4.04
(b)	N.A.
(c)	2.04; 7.02(b); 8.01
(c)(1)	12.05
(c)(2)	12.05
(c)(3)	12.05
(d)	N.A.
(e)	4.04; 12.05
(f)	4.04
315(a)(1)	6.05; 7.01(b)(1)
(a)(2)	7.01(b)(2)
(b)	7.05; 12.03
(c)	7.01(a)
(d)(1)	7.01(b)
(d)(2)	7.01(c)(2)
(d)(3)	6.05; 7.01(c)(3)
(e)	6.13
316(a)(last sentence)	12.06
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.
(b)	6.08
(c)	9.02; 9.04
317(a)(1)	6.03
(a)(2)	6.10
(b)	2.06
318(a)	1.02; 12.01

N.A. means Not Applicable.

Note: This cross-reference table shall not, for any purpose, be deemed to be a part of the Indenture.

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INDENTURE, dated as of June 18, 2013, between Take-Two Interactive Software, Inc. (the “Company”), a Delaware corporation having its principal office at 622 Broadway, New York, New York 10012, and The Bank of New York Mellon (the “Trustee”), a New York banking corporation, which has its principal corporate trust office at 101 Barclay Street, 8W, New York, New, York 10286. Each party agrees as follows for the benefit of each other party and for the equal and ratable benefit of the Holders of the Company’s debentures, notes or other evidences of unsecured indebtedness to be issued in one or more series (“Securities”):

ARTICLE ONE

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01. Definitions.

“Bankruptcy Law” has the meaning provided in Section 6.01.

“Board Resolution” means a resolution by the Board of Directors or Executive Committee of the Company certified by its Secretary or an Assistant Secretary as being duly adopted and in full force and effect, and delivered to the Trustee.

“Business Day” means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a Legal Holiday.

“Capital Stock” means common or preferred stock entitled to share in the equity or profits of a Corporation.

“Common Stock” means the common stock, par value \$.01 per share, of the Company, as that stock may be reconstituted from time to time.

“Company” means the Person named as such in this Indenture until a successor replaces it and after that means the successor.

“Company Order” means a written request or order signed in the name of the Company by an Officer of the Company and delivered to the Trustee.

“Corporate Trust Office” means the office of the Trustee at which at any particular time its corporate trust business is principally administered (which at the date of this Indenture is at the location set forth in the first paragraph of this Indenture), Attention: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

“Corporation” includes corporations, associations, companies and business trusts.

“Custodian” has the meaning provided in Section 6.01.

“Default” means any event which, upon the giving of notice or passage of time, or both, would be an Event of Default.

“\$” means the lawful currency of the United States.

“Event of Default” has the meaning provided in Section 6.01.

“Fiscal Year” means the period commencing on April 1 of a year and ending on the next March 31 or such other period (not to exceed 12 months or 53 weeks) as the Company may from time to time adopt as its fiscal year.

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

“Indenture” means this Indenture as amended or supplemented from time to time and will include the form and terms of the Securities of each series established as contemplated by Section 2.01.

“Interest Payment Date” means the date on which an installment of interest on the Securities is due and payable.

“Legal Holiday” has the meaning provided in Section 12.08.

“Maturity Date” means the date the principal of Securities is due and payable.

“Officer” means the Chief Executive Officer, the Chief Financial Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer, any Assistant Treasurer, the Secretary, any Assistant Secretary or the Controller of a Person.

“Officers’ Certificate” when used with respect to the Company means a certificate signed by two Officers, and delivered to the Trustee. Each such certificate will comply with Section 314 of the TIA and include the statements described in Section 12.05.

“Opinion of Counsel” means a written opinion from legal counsel who is acceptable to the Trustee. That counsel may be an employee of or counsel to the Company. Each such opinion will include the statements described in Section 12.05 if and to the extent required by that Section.

“Paying Agent” has the meaning provided in Section 2.05.

“Person” means any individual, corporation, partnership, joint venture, joint-stock company, trust, unincorporated organization or government or any government agency or political subdivision.

“Registrar” has the meaning provided in Section 2.05.

“SEC” means the Securities and Exchange Commission.

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

“Securities Act of 1933” means the Securities Act of 1933, as amended.

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

“State” means any state of the United States or the District of Columbia.

“Subsidiary” means a corporation of which a majority of the voting stock is owned by the Company, by a Subsidiary of the Company or by the Company and one or more Subsidiaries of the Company.

“Supplemental Indenture” means an indenture between the Company and the Trustee which supplements this Indenture.

“TIA” means the Trust Indenture Act of 1939, as amended, as in effect on the date of this Indenture, except to the extent that the Trust Indenture Act or any amendment thereto expressly provides for application of the Trust Indenture Act as in effect on another date.

“Trustee” means the Person named as such in this Indenture and, subject to the provisions of Article 7, any successor to that person.

“Trust Officer” means, when used with respect to the Trustee, any officer assigned to the Corporate Trust Division – Corporate Finance Unit (or any successor division or unit) of the Trustee located at the Corporate Trust Office of the Trustee, who shall have direct responsibility for the administration of this Indenture, and for the purposes of Section 7.01(c)(2) and Section 7.05 shall also include any other officer of the Trustee to whom any corporate trust matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“United States” means the United States of America.

“U.S. Government Obligations” means:

- (1) direct obligations of the United States for the payment of which its full faith and credit is pledged; or
- (2) obligations of a person controlled or supervised by and acting as an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States.

SECTION 1.02. Incorporation by Reference of Trust Indenture Act. Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. In addition, the provisions of Sections 310 to and including 317 of the TIA that impose duties on any person are incorporated by reference in, and form a part of, this Indenture. The following TIA terms mean the following when used in this Indenture:

“Commission” means the SEC;

“indenture securities” means the Securities;

“indenture securityholder” means a Holder or Securityholder;

“indenture to be qualified” means this Indenture;

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

“obligor” on the indenture securities means the Company.

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

SECTION 1.03. Rules of Construction. Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in the United States;
- (3) “or” is not exclusive;
- (4) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (5) words importing any gender include the other genders;
- (6) references to “writing” include printing, typing, lithography and other means of reproducing words in a visible form;
- (7) the words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation”; and
- (8) words in the singular include the plural, and in the plural include the singular.

ARTICLE TWO

THE SECURITIES

SECTION 2.01. Form and Dating. (a) The Securities of each series will be substantially in the form established by a Supplemental Indenture relating to the Securities of that series. The Securities may have notations, legends or endorsements required by law, stock exchange rules or usage. The Company will approve the form of the Securities and any notation, legend or endorsement on them. Each Security will be dated the date of its authentication.

(b) The Trustee’s certificate of authentication will be substantially in the form of Exhibit A.

SECTION 2.02. Amount Unlimited; Issuable in Series. The aggregate principal amount of the Securities which may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more series. Prior to the issuance of Securities of a series, the Company and the Trustee will execute a Supplemental Indenture which will set forth as to the Securities of that series, to the extent applicable:

- (1) the title of the Securities;
- (2) any limit upon the aggregate principal amount of Securities which may be issued;

- (3) the date or dates on which the Securities will mature and the amounts to be paid upon maturity of the Securities;
- (4) the rate or rates (which may be fixed or variable) at which the Securities will bear interest, if any, or contingent interest, if any, the dates from which interest will accrue, the dates on which interest will be payable and the record date for the interest payable on any interest payment date;
- (5) the currency or currencies in which principal, premium, if any, and interest, if any, will be payable;
- (6) the place or places where principal of, premium, if any, and interest, if any, on the Securities will be payable;
- (7) any provisions regarding the right of the Company to redeem or repurchase Securities or of holders to require the Company to redeem or repurchase Securities;
- (8) the right, if any, of holders of the Securities to convert them into common stock or other securities of the Company, including any contingent conversion provisions and any provisions intended to prevent dilution of those conversion rights;
- (9) any provisions by which the Company will be required or permitted to make payments to a sinking fund which will be used to redeem Securities or a purchase fund which will be used to purchase Securities;
- (10) any index or formula used to determine the required payments of principal, premium, if any, or interest, if any;
- (11) the percentage of the principal amount of the Securities which is payable if maturity of the Securities is accelerated because of a default;
- (12) any special or modified events of default or covenants with respect to the Securities;
- (13) any other terms of the Securities.

SECTION 2.03. Denominations. Unless otherwise provided in the Supplemental Indenture relating to a series of Securities, the Securities of each series will be issuable in registered form without coupons in denominations of \$1,000 and multiples of \$1,000.

SECTION 2.04. Execution and Authentication. Two Officers will sign the Securities of each series for the Company by manual or facsimile signature. The Securities may, but need not, have the corporate seal of the Company or a facsimile thereof affixed thereto or imprinted thereon. If an Officer whose signature is on a Security no longer holds office at the time the Trustee authenticates the Security, the Security will be valid nonetheless. A Security will not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication

on the Security. The signature will be conclusive evidence that the Security has been authenticated under this Indenture.

SECTION 2.05. Registrar and Paying Agent. The Company will maintain an office or agency where Securities of each series may be presented for conversion, registration of transfer or for exchange (the "Registrar") and an office or agency where Securities of each series may be presented for payment ("Paying Agent"). The Registrar will keep a register of the Securities of each series and of their transfer and exchange. The Company may have one or more co-registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent.

The Company will enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Indenture which will incorporate the terms of the TIA. The agreement will implement the provisions of this Indenture that relate to that agent. The Company will notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee will act as such. The Company or any Subsidiary may act as Paying Agent, Registrar, co-registrar or transfer agent.

The Company initially appoints the Trustee to act as Registrar and Paying Agent in connection with the Securities of each series, except in instances in which the Supplemental Indenture relating to a series of Securities appoints a different Registrar or Paying Agent.

SECTION 2.06. Paying Agent to Hold Money in Trust. Prior to each due date of the principal of, premium, if any, or interest, if any, on any Security, the Company will deposit with the Paying Agent a sum sufficient to pay that principal, premium or interest when due. The Paying Agent will hold in trust for the benefit of the Holders of the Securities of a series, and if the Paying Agent is not the Trustee, in trust for the benefit of the Trustee, all sums held by the Paying Agent for the payment of principal, premium or interest on the Securities of that series and, in the case of a Paying Agent other than the Trustee, the Paying Agent will give the Trustee notice of any default by the Company in making any such payment. If the Company or a Subsidiary acts as Paying Agent, it will segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by the Paying Agent. Upon complying with this Section, the Paying Agent will have no further liability for the money.

SECTION 2.07. Securityholder Lists. The Trustee will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of the Holders of the Securities of each series. If the Trustee is not the Registrar, in accordance with Section 312(a) of the TIA, the Company will furnish to the Trustee in writing at least five Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing within 30 days after the receipt by the Company of any such request all information in the possession or control of the Company or its Paying Agent as to the names and addresses of Holders of the Securities of a series.

SECTION 2.08. Transfer and Exchange. Unless otherwise provided in the Supplemental Indenture relating to Securities of a series, Securities which are issued in registered form will be transferred only upon the surrender of the Securities for registration of transfer. When a Security

is presented to the Registrar or a co-registrar with a request to register a transfer, the Registrar will register the transfer as requested if the requirements of Article 8 of the New York Uniform Commercial Code are met. When Securities are presented to the Registrar or a co-registrar with a request to exchange them for an equal principal amount of Securities of the same series of other denominations, the Registrar will make the exchange as requested if the same requirements are met. To permit registration of transfers and exchanges, the Company will execute and the Trustee will authenticate Securities at the Registrar's or co-registrar's request. The Company will not charge a fee for transfers or exchanges, but the Company may require payment from the applicable Securityholder of a sum sufficient to cover any tax or other governmental charge and any other expenses (including fees and expenses of the Trustee) that may be imposed in connection with any registration of transfer or exchange of the Securities, other than exchanges pursuant to Sections 2.11, 3.09, 9.05 not involving any transfer.

The Company will not be required to make, and the Registrar need not register, transfers or exchanges of (i) Securities selected for redemption (except, in the case of Securities to be redeemed in part, transfers or exchanges of the portion of the Securities not to be redeemed) or (ii) any Securities of a series for a period of 15 days before the first mailing of a notice of the Securities of that series which are to be redeemed.

Prior to the due presentation for registration or transfer of any Security which was issued in registered form, the Company, the Trustee, the Paying Agent, the Registrar or any co-registrar may deem and treat the person in whose name the Security is registered as the absolute owner of the Security for all purposes, and none of the Company, the Trustee, the Paying Agent, the Registrar or any co-registrar will be affected by notice to the contrary.

SECTION 2.09. Replacement Securities. If a mutilated Security which had been issued in registered form is surrendered to the Registrar or if the Holder presents evidence to the satisfaction of the Company and the Trustee that a Security which had been issued in registered form has been lost or destroyed, the Company will issue and the Trustee will authenticate a replacement Security of the same series if the requirements of Section 8-405 of the New York Uniform Commercial Code are met and the Holder satisfies any other reasonable requirements of the Trustee. If required by the Trustee or the Company, the replacement Security will not be issued until the Holder furnishes an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent and the Registrar or any co-registrar from any loss which any of them may suffer if the Security is replaced. The Company may charge the Holder for its expenses in replacing a Security.

Every replacement Security will be an obligation of the Company, even if the replaced Security is subsequently found.

SECTION 2.10. Outstanding Securities. The Securities outstanding at any time will be all the Securities authenticated by the Trustee, except those cancelled by it, those delivered to it for cancellation and those described in this Section as not outstanding. A Security does not cease to be outstanding because the Company or its affiliate holds the Security.

If a Security is replaced pursuant to Section 2.09, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Security is held by

a protected purchaser (in which case the replaced Security will be treated as outstanding to the extent permitted by Section 8-210 of the New York Uniform Commercial Code).

If the Paying Agent (other than the Company or a Subsidiary) segregates and holds in trust, in accordance with this Indenture, on a redemption date or Maturity Date money sufficient to pay all principal, premium, if any, and interest, if any, payable on that date with respect to the Securities to be redeemed or maturing, as the case may be, then on that date those Securities will cease to be outstanding and interest on them will cease to accrue.

SECTION 2.11. Temporary Securities. Until definitive Securities of a series are ready for delivery, the Company may prepare and the Trustee will authenticate temporary Securities of that series. Temporary Securities will be substantially in the form of definitive Securities but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company will prepare and the Trustee will authenticate definitive Securities and deliver them in exchange for temporary Securities.

SECTION 2.12. Cancellation. The Company at any time may deliver Securities of a series to the Trustee for cancellation and the Trustee will reduce accordingly the aggregate amount of the Securities of that series which are outstanding. The Registrar and the Paying Agent will forward to the Trustee any Securities surrendered to them for registration of transfer, exchange, payment, or conversion. The Trustee and no one else will cancel and dispose of all Securities surrendered for registration of transfer, exchange, payment, conversion or cancellation in accordance with its procedures for the disposition of cancelled securities and deliver certificates of such disposition to the Company unless the Company directs the Trustee to deliver the cancelled Securities to the Company. Subject to Section 2.09, the Company may not issue new Securities of a series to replace Securities of the series it has redeemed, paid, converted or delivered to the Trustee for cancellation.

SECTION 2.13. Defaulted Interest. If the Company defaults in a payment of interest on the Securities of a series, it will pay defaulted interest (plus interest on such defaulted interest to the extent lawful) to the persons who are Holders of the Securities of that series on a subsequent special record date, which date will be at least five Business Days prior to the payment date. The Company will fix the special record date and payment date, and, at least 15 days before the special record date, the Company will mail to each Holder of Securities of that series a notice that states the special record date, the payment date and the amount of defaulted interest and any interest on that defaulted interest which is to be paid. Notwithstanding the foregoing, the Company may pay defaulted interest in any other lawful manner.

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

ARTICLE THREE

REDEMPTION

SECTION 3.01. Company's Option to Redeem. The Company will have the option to redeem Securities of a series only to the extent, if any, and only on the terms, set forth in the Supplemental Indenture relating to the Securities of that series. If the Company has the option to redeem Securities of a series, unless otherwise provided in the Supplemental Indenture relating to the series, the terms of the redemption will include those set forth in Sections 3.02 through 3.06.

SECTION 3.02. Notices to Trustee. If the Company elects to redeem Securities of a series, it will notify the Trustee of the redemption date and the principal amount and series of Securities to be redeemed. The Company will give each notice provided for in this Section at least 45 days before the redemption date. If fewer than all the Securities of a series are to be redeemed, the record date for determining which Securities of the series are to be redeemed will be selected by the Company, which will give notice of the record date to the Trustee at least 15 days before the record date.

SECTION 3.03. Selection of Securities to Be Redeemed. If fewer than all the Securities of a series are to be redeemed at the Company's option, the Trustee will select the Securities of that series to be redeemed by lot or, in its sole discretion, pro-rata. The Trustee will make the selection from outstanding Securities of that series not previously called for redemption. The Trustee may select for redemption portions of the principal of Securities that have denominations larger than the minimum denomination in which Securities of the applicable series may be issued. Securities and portions of Securities the Trustee selects will be in amounts equal to the minimum denomination in which Securities of the applicable series may be issued and multiples of that amount. Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption. The Trustee will notify the Company promptly of the Securities or portions of Securities to be redeemed.

SECTION 3.04. Notice of Redemption at the Company's Option. At least 30 days and not more than 60 days before a date set for redemption at the Company's option, the Company will mail a notice of redemption by first-class mail to each Holder of Securities to be redeemed in whole or in part. The notice will identify the principal amount and series of each Security to be redeemed and will state:

- (1) the redemption date;
- (2) the redemption price plus accrued interest, if any;
- (3) the name and address of the Paying Agent;
- (4) that Securities called for redemption in whole or in part must be surrendered to the Paying Agent to collect the redemption price plus accrued interest, if any;

- (5) that, unless the Company defaults in making the redemption payment, interest on Securities (or portions of Securities) called for redemption will cease to accrue on the redemption date and, if applicable, that those Securities (or the portions of then called for redemption) will cease on the redemption date (or such other date as is provided in the Supplemental Indenture relating to the Securities) to be convertible into, or exchangeable for, other securities or assets;
- (6) if applicable, the current conversion or exchange price; and
- (7) the CUSIP, ISIN or other similar numbers, if any, assigned to such Securities.

At the Company's request delivered at least five (5) days prior to the date such notice of redemption is to be given (unless a shorter period shall be acceptable to the Trustee), the Trustee will give the notice of redemption in the Company's name and at the Company's expense. In such event, the Company will provide the Trustee with the information required by clauses (1) through (3), (6) and (7).

SECTION 3.05. Effect of Notice of Redemption. Once notice of redemption is mailed, Securities, or portions of Securities called for redemption will become due and payable on the redemption date and at the redemption price. Upon surrender to the Paying Agent, those Securities will be paid at the redemption price, plus accrued and unpaid interest to the redemption date. On and after the date fixed for redemption (unless the Company defaults in the payment of the redemption price, together with interest accrued to the redemption date) interest on the Securities, or portions of them, which are redeemed will cease to accrue and any right to convert those Securities into, or exchange them for, other securities or assets will terminate and those Securities will cease to be convertible or exchangeable. Failure to give notice or any defect in the notice to any Holder will not affect the validity of the notice to any other Holder.

SECTION 3.06. Deposit of Redemption Price. No later than the Business Day prior to the redemption date specified in a notice of redemption, the Company will deposit with the Paying Agent (or, if the Company or a Subsidiary is the Paying Agent, segregate and hold in trust) money sufficient to redeem on the redemption date all the Securities called for redemption on that redemption date at the appropriate redemption price, together with accrued interest to the redemption date, other than Securities or portions of Securities called for redemption which have been delivered by the Company to the Trustee for cancellation or Securities which have been surrendered for conversion or exchange. If any Securities called for redemption are converted or exchanged, any money deposited with the Paying Agent for redemption of those Securities will be paid to the Company upon its request, or, if the money is held in trust by the Company or a Subsidiary as Paying Agent, the money will be discharged from the trust.

SECTION 3.07. Holder's Right to Require Redemption. Holders of Securities of a series will have the right to require the Company to redeem those Securities only to the extent, and only on the terms, set forth in the Supplemental Indenture relating to the Securities of that series. If Holders of Securities of a series have the right to require the Company to redeem those Securities, unless otherwise provided in the Supplemental Indenture relating to the Securities of that series, the terms of the redemption will include those set forth in Section 3.08.

SECTION 3.08. Procedure for Requiring Redemption. If a Holder has the right to require the Company to redeem Securities, to exercise that right, the Holder must deliver the Securities to the Paying Agent, endorsed for transfer and with the form on the reverse side entitled "Option to Require Redemption" completed. Delivery of Securities to the Paying Agent as provided in this Section will constitute an irrevocable election to cause the specified principal amount of Securities to be redeemed. When Securities are delivered to the Paying Agent as provided in this Section, unless the Company fails to make the payments due as a result of the redemption within 20 days after the Securities are delivered to the Paying Agent as provided in this Section interest on the Securities will cease to accrue and, if the Securities are convertible or exchangeable, the Holder's right to convert or exchange the Securities will terminate.

The Company's determination of all questions regarding the validity, eligibility (including time of receipt) and acceptance of any Security for redemption will be final and binding.

SECTION 3.09. Securities Redeemed in Part. Upon surrender of a Security that is redeemed in part, the Company will execute and the Trustee will authenticate and deliver to the Holder (at the Company's expense) a new Security equal of the same series in principal amount equal to the unredeemed portion of the Security which was surrendered.

ARTICLE FOUR COVENANTS

SECTION 4.01. Payment of Securities. The Company will promptly pay or cause to be paid the principal of, premium, if any, and interest, if any, on each of the Securities of a series at the places and time and in the manner provided in the Securities and in the Supplemental Indenture relating to the series. An installment of principal, premium or interest will be considered paid on the date it is due if the Trustee or Paying Agent holds on that date in accordance with this Indenture or the applicable Supplemental Indenture money designated for and sufficient to pay the installment then due.

The Company will pay or cause to be paid interest on overdue principal at the rate specified in the Securities; it will also pay interest on overdue installments of interest at the same rate (or such other rate as is provided in the applicable Supplemental Indenture), to the extent lawful.

SECTION 4.02. Reporting. The Company will file with the Trustee within 15 days after filing with the SEC, copies of its annual reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act"); *provided, however*, that, to the extent permitted by law, any such document, information and other reports filed and publicly available through the SEC's EDGAR filing system shall be deemed to have been received by the Trustee. The Company also will comply with the other provisions of TIA Section 314(a).

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates). The Trustee shall have no duty to search for or obtain any electronic or other filings that the Company makes with the SEC, regardless of whether such filings are periodic, supplemental or otherwise.

SECTION 4.03. Corporate Existence. Subject to Article 5, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; provided, however, that the Company will not be required to preserve any such right or franchise if the Board of Directors determines that the preservation of the right or franchise is no longer desirable in the conduct of the business of the Company and that its loss will not be disadvantageous in any material respect to the Holders of Securities of any series.

SECTION 4.04. Compliance Certificate. The Company will deliver to the Trustee within 120 days after the end of each Fiscal Year of the Company an Officers' Certificate stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any default by the Company and whether or not the signers know of any default that occurred during the Fiscal Year. If they do, the certificate will describe the default, its status and what action the Company is taking or proposes to take with respect thereto. The Company also will comply with TIA Section 314(a)(4).

SECTION 4.05. Further Instruments and Acts. Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

ARTICLE FIVE SUCCESSOR CORPORATION

SECTION 5.01. Company May Consolidate, etc., Only on Certain Terms. The Company will not consolidate with or merge into any other corporation or convey, transfer or lease its properties and assets substantially as an entirety to any person, unless:

- (1) the corporation formed by the consolidation or into which the Company is merged or the person which acquires by conveyance or transfer, or which leases, the properties and assets of the Company substantially as an entirety will be a corporation organized and existing under the laws of the United States of America, a State of the United States of America or the District of Columbia and expressly assumes, by one or more supplemental indentures, executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of, premium, if any, and interest, if any, on all the Securities of each series and the performance of every covenant

of this Indenture and of all Supplemental Indentures to be performed or observed by the Company;

- (2) with regard to each series of Securities, immediately after giving effect to the transaction, no Event of Default with respect to that series of Securities, and no event which, after notice or lapse of time or both, would become an Event of Default with respect to that series of Securities, will have occurred and be continuing; and
- (3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that the consolidation, merger, conveyance, transfer or lease and the supplemental indenture (or the supplemental indentures together) comply with this Article and that all the conditions precedent relating to the transaction set forth in this Section have been fulfilled.

SECTION 5.02. Successor Corporation Substituted. Upon any event described in Section 5.01, the successor corporation will succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture and all the Supplemental Indentures relating to outstanding series of Securities, and the predecessor corporation will be relieved of all obligations and covenants under this Indenture and each of those Supplemental Indentures.

ARTICLE SIX DEFAULTS AND REMEDIES

SECTION 6.01. Events of Default. An "Event of Default" occurs if:

- (1) The Company defaults in the payment of interest on any Security of any series when it becomes due and payable and the default continues for a period of 30 days (or such other period, which may be no period) as is specified in the Supplemental Indenture relating to the series;
- (2) The Company defaults in the payment of the principal of, or premium, if any, on any Security of any series as and when it becomes due and payable at its stated maturity or upon redemption, acceleration or otherwise and, if provided in the Supplemental Indenture relating to a series, the default continues for a period specified in the Supplemental Indenture;
- (3) The Company fails to comply with any of its other covenants or agreements with regard to Securities of a series or this Indenture (other than a covenant or agreement, a default in whose performance or whose breach is dealt with specifically elsewhere in this Section) and that failure continues for a period of 90 days after the date of the notice specified below;
- (4) the Company, pursuant to any Bankruptcy Law applicable to the Company:
 - (A) commences a voluntary case;

- (B) consents to the entry of an order for relief against it in an involuntary case;
 - (C) consents to the appointment of a Custodian of it or for any substantial part of its property; or
 - (D) makes a general assignment for the benefit of its creditors; or
- (5) a court of competent jurisdiction enters an order or decree under any applicable Bankruptcy Law:
- (A) for relief in an involuntary case;
 - (B) appointing a Custodian of the Company or for any substantial part of its property; or
 - (C) ordering its winding up or liquidation; and the order or decree remains unstayed and in effect for 90 days.

Each of the occurrences described in clauses (1) through (5) will constitute an Event of Default whatever the reason for the occurrence and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

The term "Bankruptcy Law" means Title 11 of the United States Code or any similar United States Federal or State law for the relief of debtors. The term "Custodian" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

A Default under clause (3) of this Section is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in principal amount of the then outstanding Securities of a series with regard to which the Company has failed to comply with a covenant or agreement notify the Company and the Trustee, of the Default and the Company does not cure the Default within 90 days after the giving of the notice. The notice must specify the Default, demand that it be remedied and state that the notice is a "Notice of Default."

A Default under clause (1), (2) or (3) with regard to Securities of a series will not constitute a Default with regard to Securities of any other series except to the extent, if any, provided in the Supplemental Indenture relating to the other series.

The Company will deliver to the Trustee, within 20 days after it occurs, written notice in the form of an Officers' Certificate of any event of which the Company is aware which with the giving of notice and the lapse of time would become an Event of Default under clause (3), its status and what action the Company is taking or proposes to take with respect to it.

SECTION 6.02. Acceleration. If an Event of Default as to the Securities of a series occurs and is continuing, unless the principal of all of the Securities of the series has already become due and payable, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Securities of the series then outstanding by notice to the

Company and the Trustee, may declare the principal of and accrued interest, if any, on all the Securities of the series to be due and payable. Upon such a declaration, that principal and interest will be due and payable immediately. If an Event of Default specified in Section 6.01(4) or (5) occurs, the principal of, premium, if any, and accrued interest, if any, on all the Securities will automatically become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Securityholders. The Holders of a majority in principal amount of the Securities of a series then outstanding, on behalf of the Holders of all the Securities of the series, by notice to the Trustee may rescind an acceleration and its consequences if all existing Events of Default have been cured or waived except nonpayment of principal, premium, if any, or interest, if any, that has become due solely because of acceleration, and if the rescission would not conflict with any judgment or decree. No such rescission will affect any subsequent default or impair any consequent right.

SECTION 6.03. Other Remedies. If an Event of Default as to a series occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, premium, if any, and interest, if any, on the Securities of the series or to enforce the performance of any provision under this Indenture or any applicable Supplemental Indenture.

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

SECTION 6.04. Waiver of Existing Defaults. The Holders of a majority in aggregate principal amount of the Securities of a series then outstanding, on behalf of the Holders of all the Securities of that series, by notice to the Trustee may consent to the waiver of any past Default with regard to Securities of the series and its consequences except (i) a default in the payment of interest or premium, if any, on, or the principal of, Securities of the series, or (ii) a default in respect of a covenant or a provision that under Section 9.02 cannot be modified or amended without the consent of the Holders of all Securities of the series then outstanding. The defaults described in clauses (i) and (ii) in the previous sentence may be waived with the consent of the Holders of all Securities of the series then outstanding. When a Default or Event of Default is waived, it is deemed cured and not continuing, but no waiver will extend to any subsequent or other Default or impair any consequent right.

SECTION 6.05. Control by Majority. The Holders of a majority in principal amount of the Securities of a series then outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee with regard to the Securities of that series or of exercising any trust or power conferred on the Trustee with regard to the Securities of that series. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 7.01, that the Trustee determines is unduly prejudicial to the rights of other Securityholders or that would involve the Trustee in personal liability provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action as a result of a direction given under this Section, the Trustee will be entitled to indemnification satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking that action.

SECTION 6.06. Payments of Securities on Default; Suit Therefor. The Company covenants that upon the occurrence of an Event of Default described in Section 6.01(1) or (2), then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the Securities in all series, the whole amount that will then have become due and payable on all such Securities for principal, premium, if any, and interest, with interest on the overdue principal and premium, if any, and (to the extent that payment of such interest is enforceable under applicable law) on the overdue installments of interest at the rate borne by the Securities in all series; and, in addition, such further amount as will be sufficient to cover the costs and expenses of collection, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and any expenses or liabilities incurred by the Trustee hereunder other than through its gross negligence or willful misconduct. Until such demand by the Trustee, the Company may pay the principal of and premium, if any, and interest on the Securities of all series to the registered Holders, whether or not the Securities in that series are overdue.

SECTION 6.07. Limitation on Suits. A Securityholder may not pursue any remedy with respect to this Indenture unless:

- (1) the Holder gives to the Trustee written notice stating that an Event of Default as to a series is continuing;
- (2) the Holders of at least 25% in principal amount of the Securities of the series then outstanding make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of security or indemnity, and the Event of Default has not been waived; and
- (5) the Trustee has received no contrary direction from the Holders of a majority in principal amount of the Securities of the series then outstanding during such 60-day period.

A Securityholder may not use this Indenture to prejudice the rights of another Holder of the same series of Securities or to obtain a preference or priority over another Holder of the same series of Securities.

SECTION 6.08. Rights of Holders to Receive Payment and to Demand Conversion. Notwithstanding any other provision of this Indenture, the right of any Holder of a Security of any series to receive payment of principal of, premium, if any, and interest, if any, on the Security (and interest on overdue principal and interest on overdue installments of interest, if any, as provided in Section 4.01), on or after the respective due dates expressed in the Security or, in the case of redemption, on or after the redemption date, or in the case of conversion or exchange, to receive the security issuable upon conversion or exchange or to institute suit for the enforcement of any such payment, conversion or exchange on or after the applicable due date, redemption date or conversion or exchange date, as the case may be, against the Company, will not be impaired or affected without the consent of the Holder.

SECTION 6.09. Collection Suit by Trustee. If an Event of Default in payment of principal, premium, if any, or interest, if any, specified in clause (1) or (2) of Section 6.01 occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal, premium, if any, and interest remaining unpaid (together with interest on that unpaid interest to the extent lawful) and the amounts provided for in Section 7.07.

SECTION 6.10. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders of the Securities of any or all series allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07.

SECTION 6.11. Restoration of Positions. If a judicial proceeding by the Trustee or a Securityholder to enforce any right or remedy under this Indenture or any Supplemental Indenture is dismissed or decided favorably to the Company, except as otherwise provided in the judicial proceeding, the Company, the Trustee and the Securityholders will be restored to the positions they would have been in if the judicial proceeding had not been instituted.

SECTION 6.12. Priorities. If the Trustee collects any money pursuant to this Article 6 with respect to Securities of a series, subject to Article 11, or, after an Event of Default set forth in Section 6.01(4) or (5), any money or other property distributable in respect of the Company's obligations under this Indenture, it will pay out the money or property in the following order:

- FIRST: to the Trustee (including any predecessor trustee) for amounts due under Section 7.07;
- SECOND: to Securityholders for amounts due and unpaid on the Securities of the series for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Securities of the series for principal and interest, respectively; and
- THIRD: to the Company.

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

SECTION 6.13. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or any Supplemental Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses (whether incurred before trial, at trial or on appeal or in any bankruptcy, arbitration or other

administrative proceeding), against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.13 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by Holders of in aggregate more than 10% in principal amount of the Securities of a series then outstanding, or to any suit instituted by any Holder for the enforcement of the payment of the principal of, premium, if any, or interest on any Security held by that Holder on or after the due date provided in the Security or to any suit for the enforcement of the right to convert or exchange any Security in accordance with the provisions of a Supplemental Indenture applicable to that Security.

SECTION 6.14. Stay, Extension or Usury Laws. The Company agrees (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim, and will resist any and all efforts to be compelled to take the benefit or advantage of, any stay or extension law or any usury or other law, wherever enacted, now or at any subsequent time in force, which would prohibit or forgive the Company from paying all or any portion of the principal of, premium, if any, and/or interest on any of the Securities as contemplated in this Indenture or a Supplemental Indenture, or which may affect the covenants or performance of this Indenture, and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and agrees that it will not hinder, delay or impede the execution of any power granted to the Trustee in this Indenture or any Supplemental Indenture, but (to the extent that it may lawfully do so) will suffer and permit the execution of any such power as though no such law had been enacted.

SECTION 6.15. Liability of Stockholders, Officers, Directors and Incorporators. No stockholder, officer, director or incorporator, as such, past, present or future, of the Company, or any of its successor corporations, will have any personal liability in respect of the Company's obligations under this Indenture or any Securities by reason of his or its status as such stockholder, officer, director or incorporator; provided, however, that nothing in this Indenture or in the Securities will prevent recourse to and enforcement of the liability of any stockholder or subscriber to Capital Stock which have not been fully paid up.

ARTICLE SEVEN

TRUSTEE

SECTION 7.01. Duties of Trustee.

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

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

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and any Supplemental Indentures and no implied covenants or obligations will be read into this Indenture or any Supplemental 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 in them, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture in the absence of bad faith on the Trustee's part; provided, however, that the Trustee will examine the certificates and opinions to determine whether or not they substantially conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts, statements, opinions or conclusions stated therein).

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

- (1) this paragraph (c) does not limit the effect of paragraphs (b) or (d) of this Section 7.01;
- (2) the Trustee will not be liable for any error of judgment made in good faith by a Trust Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and
- (3) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) The Trustee will not be required to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties under this Indenture or any Supplemental Indenture or in the exercise of any of its rights or powers, if it has reasonable grounds to believe repayment of the funds or adequate indemnity against the risk or liability is not reasonably assured to it.

(e) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this Section 7.01 and to the provisions of the TIA.

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

(g) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree with the Company. Money and U.S. Government Obligations held in trust by the Trustee need not be segregated from other funds or items except to the extent required by law.

SECTION 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely and shall be protected in acting or refraining from acting on any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel which conforms to Section 12.05. The Trustee

will not be liable for any action it takes or omits to take in good faith in reliance on such an Officers' Certificate or Opinion of Counsel.

(c) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(d) The Trustee will not be liable for any action it takes, suffers or omits to take in good faith which it believes to be authorized or within its rights or powers, except conduct which constitutes willful misconduct or gross negligence.

(e) The Trustee may consult with counsel of its selection, and the Trustee will not be liable for any action it takes, suffers or omits in reliance on, and in accordance with, the advice of such counsel or any Opinion of Counsel.

(f) The Trustee will not be required to investigate any facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but if the Trustee decides to investigate any matters or facts, the Trustee or its agents or attorneys will be entitled to examine the books, records and premises of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation and any cost or liability incurred in connection with any such investigation shall be subject to the Company's compensation and indemnification obligations under Section 7.07.

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

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

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

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

(k) The Trustee shall not be deemed to have notice of any Default or Event of Default except any Default or Event of Default occurring pursuant to clause (1) or (2) of Section 6.01 if, at the time of the occurrence of such Default or Event of Default, the Trustee is the Paying Agent, unless a Trust Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by a Trust Officer of the Trustee at the

Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture.

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

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

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

SECTION 7.04. Trustee's Disclaimer. The Trustee (i) is not responsible for and makes no representation as to the validity, sufficiency or adequacy of this Indenture or any Securities, (ii) will not be responsible for and will not make any representation as to the validity, sufficiency or adequacy of any Supplemental Indenture, (iii) will not be accountable for the Company's use of the proceeds from the Securities of any series, and (iv) will not be responsible for any recital or statement of the Company in this Indenture, any Supplemental Indenture or any Securities, other than the Trustee's certificate of authentication, or in any prospectus used in the sale of any of the Securities, other than statements, if any, provided in writing or approved by the Trustee for use in such a prospectus. The Trustee shall not be responsible to make any calculation with respect to any matter under this Indenture.

SECTION 7.05. Notice of Defaults. The Trustee will give to the Holders of the Securities of a series notice of any Default with regard to the Securities of that series known to the Trustee, within 90 days after it occurs; provided, that, except in the case of a Default in the payment of the principal of, or premium, if any, or interest on any Security, the Trustee will be protected in withholding notice of the Default if and so long as a committee of its Trust Officers in good faith determines that the withholding of the notice is in the interests of the Holders of the Securities of the series.

SECTION 7.06. Reports by Trustee. Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, the Trustee will mail to each Securityholder, at the name and address which appears on the registration books of the Company, and to each Securityholder who has, within the two years preceding the mailing, filed that person's name and address with the Trustee for that purpose and each Securityholder whose name and address have been furnished to the Trustee pursuant to Section 2.07, a brief report dated as of that May 15 which complies with TIA Section 313(a). The Trustee also will comply with TIA Section 313(b).

A copy of each report will at the time of its mailing to Securityholders be filed with each stock exchange on which Securities are listed and also with the SEC. The Company will

promptly notify the Trustee when the Securities of any series are listed on any stock exchange and of any delisting of Securities of any series.

SECTION 7.07. Compensation and Indemnity. The Company will pay to the Trustee from time to time such compensation for its services as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Those expenses will include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Company will indemnify the Trustee and its agents against any and all loss, liability or expense (including reasonable attorneys' fees and expenses) incurred by it in connection with the administration of the trust created by this Indenture or any Supplemental Indenture and the performance of its duties under this Indenture or any Supplemental Indenture, including the costs and expenses of defending itself against any claim (whether asserted by the Company, or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, or in connection with enforcing the provisions of this Section. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company of its obligations under this Section. The Company will defend the claim and the Trustee may have separate counsel and the Company will pay the fees and expenses of such counsel. The Company need not pay for any settlement made without its consent. The Company need not reimburse any expense or indemnify against any loss, expense or liability incurred by the Trustee to the extent it is due to the Trustee's own willful misconduct or gross negligence.

To secure the Company's obligation to make payments to the Trustee under this Section 7.07, the Trustee will have a lien prior to the Securities on all money or property held or collected by the Trustee, other than money or property held in trust to pay principal or interest on particular Securities. Those obligations of the Company will survive the satisfaction and discharge of this Indenture, the termination for any reason of this Indenture and the resignation or removal of the Trustee.

When the Trustee incurs expenses or renders services after an Event of Default specified in clause (4) or (5) of Section 6.01 occurs, the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services of the Trustee are intended to constitute expenses of administration under any Bankruptcy Law.

For purposes of this Section 7.07, "Trustee" will include any predecessor Trustee, but the willful misconduct, negligence or bad faith of any Trustee will not affect the rights of any other Trustee under this Section 7.07.

SECTION 7.08. Replacement of Trustee. The Trustee may resign at any time by so notifying the Company. The Holders of a majority in aggregate principal amount of the Securities of all series then outstanding may remove the Trustee by so notifying the Trustee and the Company and may appoint a successor Trustee. The Company may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;

- (2) the Trustee is adjudged bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a receiver or other public officer takes charge of the Trustee or its property; or
- (4) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of Securities of all series then outstanding may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

No removal or appointment of a Trustee will be valid if that removal or appointment would conflict with any law applicable to the Company.

A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that, the retiring Trustee will, provided all sums owing to the retiring Trustee hereunder have been paid and subject to the lien provided for in Section 7.07, transfer all property held by it as a Trustee to the successor Trustee, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture and all Supplemental Indentures. A successor Trustee will mail notice of its succession to each Securityholder.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, at the Company's expense, the Company or the Holders of a majority in aggregate principal amount of Securities of all series then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee.

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

Notwithstanding the replacement of the Trustee pursuant to this Section, the Company's obligations under Section 7.07 will continue for the benefit of the retiring Trustee.

SECTION 7.09. Successor Trustee by Merger, etc. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust assets to, another Person, the resulting, surviving or transferee Person will, without any further act, be the successor Trustee.

If at the time a successor by merger, conversion or consolidation to the Trustee succeeds to the trusts created by this Indenture any of the Securities have been authenticated but not delivered, the successor to the Trustee may adopt the certificate of authentication of the predecessor Trustee, and deliver the Securities which were authenticated by the predecessor Trustee; and if at that time any of the Securities have not been authenticated, the successor to the Trustee may authenticate those Securities either in the name of the predecessor or in its own

name as the successor to the Trustee; and in either case the certificates of authentication will have the full force provided in this Indenture for certificates of authentication.

SECTION 7.10. Eligibility; Disqualification. The Trustee will at all times satisfy the requirements of TIA Section 310(a). The Trustee will at all times have a combined capital and surplus of at least \$50,000,000 as set forth in its most recently published annual report of condition, which will be deemed for this paragraph to be its combined capital and surplus. The Trustee will comply with TIA Section 310(b), including the optional provision permitted by the second sentence of TIA Section 310(b)(9); provided, however, that there shall be excluded from the operation of TIA §310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA §310(b)(1) are met, other than the fact that such indentures are not described herein.

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

ARTICLE EIGHT DISCHARGE OF INDENTURE

SECTION 8.01. Termination of the Company's Obligations. When (i) the Company delivers to the Trustee all outstanding Securities of all series (other than Securities replaced pursuant to Section 2.09) for cancellation or (ii) all outstanding Securities of all series have become due and payable, or are due and payable within one year or are to be called for redemption within one year, under arrangements satisfactory to the Trustee for giving the notice of redemption, and the Company irrevocably deposits in trust with the Trustee (subject to Article Eleven) money or U.S. Government Obligations without reinvestment sufficient to pay the principal, premium, if any, and interest, if any, on the Securities of all series to maturity or redemption, as the case may be, and if, in the case of either (i) or (ii) above the Company also pays or causes to be paid all other sums payable by the Company under this Indenture, then this Indenture will cease to be of further effect.

Notwithstanding the foregoing, the Company's obligations to pay principal, premium, if any, and interest, if any, on the Securities and the Company's obligations in Sections 2.05, 2.06, 2.07, 2.08, 2.09, 7.07, 7.08 and in Article Ten will survive until all the Securities of all series are no longer outstanding. Thereafter, the Company's obligations in Section 7.07 will survive.

Before or after a deposit the Company may make arrangements satisfactory to the Trustee for the redemption of Securities of a series at a future date to the extent the Securities are redeemable in accordance with Article Three and the applicable Supplemental Indenture.

After a deposit pursuant to this Section 8.01 or after all outstanding Securities of all series have been delivered to the Trustee for cancellation, the Trustee upon request from the Company, accompanied by an Officers' Certificate and an Opinion of Counsel which complies with Section 12.05, and at the cost of the Company, will acknowledge in writing the satisfaction and discharge

of the Company's obligations under the Securities of all series and this Indenture except for those surviving obligations specified above.

In order to have money available on payment dates to pay principal, premium, if any, or interest, if any, on the Securities of a series, the U.S. Government Obligations will be payable as to principal, premium, if any, or interest on or before those payment dates in amounts sufficient to provide the necessary money. U.S. Government Obligations used for this purpose may not be callable at the issuer's option.

SECTION 8.02. Application of Trust Money. Subject to Article Eleven and Section 8.03, the Trustee will hold in trust money or U.S. Government Obligations deposited with it pursuant to Section 8.01. It will apply the deposited money and the money from the U.S. Government Obligations through the Paying Agent and in accordance with this Indenture and any applicable Supplemental Indentures to the payment of principal of, premium, if any, and interest, if any, on the Securities with regard to which the money or U.S. Government Obligations were deposited.

SECTION 8.03. Repayment to the Company. The Trustee and the Paying Agent will promptly pay to the Company upon request any excess money or securities held by them at any time. The Trustee and the Paying Agent will pay to the Company upon request any money held by them for the payment of principal, premium or interest that remains unclaimed for two years. After such payment, all liability of the Trustee and the Paying Agent with respect to that money will cease.

SECTION 8.04. Deposited Money and U.S. Government Obligations to Be Held in Trust. The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 8.01 or the principal and 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 outstanding Securities.

ARTICLE NINE

AMENDMENTS, SUPPLEMENTS AND WAIVERS

SECTION 9.01. Without Consent of Holders. The Company and the Trustee may amend or supplement this Indenture or the Securities without notice to or consent of any Securityholder:

- (1) to cure any ambiguity, defect, error or inconsistency;
- (2) to comply with Article 5;
- (3) to establish the form and terms of the Securities of any series as contemplated in Article Two of this Indenture;
- (4) to provide for uncertificated Securities in addition to or in place of certificated Securities; or

- (5) to amend, modify or supplement any of the provisions contained herein or in any supplemental indenture, provided that no such amendment or supplement shall materially adversely affect the rights of any Securityholder, and provided further that any amendment, modification or supplement that conforms this Indenture or any supplemental indenture, as applied to a series of Securities, to the terms described in the prospectus (including any prospectus supplement) pursuant to which such Securities were initially sold shall be deemed not to adversely affect the rights of Securityholders.

After an amendment under this Section becomes effective, the Company will mail to the Securityholders a notice briefly describing the amendment. The failure to give such notice to all Securityholders, or any defect in a notice, will not impair or affect the validity of an amendment under this Section.

SECTION 9.02. With Consent of Holders. The Company and the Trustee may (i) amend or supplement this Indenture or the Securities without notice to any Securityholder but with the written consent of the Holders of a majority in aggregate principal amount of the Securities of all series then outstanding or (ii) supplement this Indenture with regard to a series of Securities, amend or supplement a Supplemental Indenture relating to a series of Securities, or amend the Securities of a series, without notice to any Securityholder but with the written consent of the Holders of a majority in aggregate principal amount of the Securities of that series then outstanding. The Holders of a majority in principal amount of the Securities of all series then outstanding may waive compliance by the Company with any provision of this Indenture or the Securities without notice to any Securityholder. The Holders of a majority in principal amount of the Securities of any series then outstanding may waive compliance with any provision of this Indenture, any Supplemental Indenture or the Securities of that series with regard to the Securities of that series without notice to any Securityholder. However, without the consent of the Holder so affected, no amendment, supplement or waiver, including a waiver pursuant to Section 6.04, may:

- (1) extend the fixed maturity of any Security, reduce the rate or extend the time for payment of interest on any Security, reduce the principal amount of any Security or premium, if any, on any Security;
- (2) impair or affect the right of a Holder to institute suit for the payment of interest, if any, principal or premium, if any, on the Securities;
- (3) change the currency in which the Securities are payable from that specified in the Securities or in a Supplemental Indenture applicable to the Securities;
- (4) impair the right, if any, to convert the Securities into, or exchange the Securities for, other securities or assets;
- (5) reduce the percentage of Securities required to consent to an amendment, supplement or waiver;
- (6) reduce the amount payable upon the redemption of any Security or change the time at which any Security may or will be redeemed;

- (7) modify the provisions of any Supplemental Indenture with respect to subordination of the Securities of a series in a manner adverse to the Securityholders; or
- (8) make any change in Section 6.04 or 6.08 or the fifth sentence of this Section.

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

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Persons entitled to consent to any indenture supplemental hereto. If a record date is fixed, the Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to consent to such supplemental indenture, whether or not such Holders remain Holders after such record date; provided, that unless such consent shall have become effective by virtue of the requisite percentage having been obtained prior to the date which is 90 days after such record date, any such consent previously given shall automatically and without further action by any Holder be cancelled and of no further effect.

After an amendment under this Section becomes effective, the Company will mail to the Securityholders a notice briefly describing the amendment. The failure to give such notice to all Securityholders, or any defect in a notice, will not impair or affect the validity of an amendment under this Section.

SECTION 9.03. Compliance with Trust Indenture Act. Every amendment or supplement to this Indenture, any Supplemental Indenture or the Securities will comply with the TIA as then in effect.

SECTION 9.04. Revocation and Effect of Consents. A consent to an amendment, supplement or waiver by a Holder of a Security will bind the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to the Holder's Security or portion of a Security. For a revocation to be effective, the Trustee must receive notice of the revocation before the date the amendment, supplement or waiver becomes effective. After an amendment, supplement or waiver becomes effective in accordance with its terms, it will bind every Holder of every Security of every series to which it applies.

SECTION 9.05. Notation on or Exchange of Securities. If an amendment changes the terms of a series of Securities, the Trustee may require the Holder of a Security of the series to deliver the Holder's Security to the Trustee, who will place an appropriate notation about the amendment, supplement or waiver on the Security and will return it to the Holder. Alternatively, the Company may, in exchange for the Security, issue, and the Trustee will authenticate, a new Security that reflects the amendment, supplement or waiver.

SECTION 9.06. Trustee to Sign Amendments, etc. In executing, or accepting the additional trusts created by, any supplemental indenture permitted by Article Two or this Article Nine or the modification thereby of the trusts created by this Indenture, the Trustee shall receive, and shall be fully protected in relying upon, an Opinion of Counsel and an Officers' Certificate stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee will sign any amendment, supplement or waiver authorized pursuant to Article Two or this Article Nine if the amendment, supplement or waiver does not adversely

affect the rights, duties, liabilities or immunities of the Trustee. If it does adversely affect those rights, duties, liabilities or immunities, the Trustee may but need not sign it. The Company may not sign an amendment or supplement until the amendment or supplement is approved by an appropriate Board Resolution.

ARTICLE TEN
CONVERSION OR EXCHANGE OF SECURITIES

SECTION 10.01. Provisions Relating to Conversion or Exchange of Securities. Any rights which Holders of Securities of a series will have to convert those Securities into other securities of the Company or to exchange those Securities for securities of other Persons or other assets, including but not limited to the terms of the conversion or exchange and the circumstances, if any, under which those terms will be adjusted to prevent dilution or otherwise, will be set forth in a Supplemental Indenture relating to the series of Securities. In the absence of provisions in a Supplemental Indenture relating to a series of Securities setting forth rights to convert or exchange the Securities of that series into or for other securities or assets, Holders of the Securities of that series will not have any such rights.

ARTICLE ELEVEN
SINKING OR PURCHASE FUNDS

SECTION 11.01. Provisions Relating to Sinking or Purchase Funds. Any requirements that the Company make, or rights of the Company to make at its option, payments prior to maturity of the Securities of a series which will be used as a fund with which to redeem or to purchase Securities of that series, including but not limited to provisions regarding the amount of the payments, when the Company will be required, or will have the option, to make the payments and when the payments will be applied, will be set forth in a Supplemental Indenture relating to the series of Securities. In the absence of provisions in a Supplemental Indenture relating to a series of Securities setting forth requirements that the Company make, or rights of the Company to make at its option, payments to be used as a fund with which to redeem or purchase Securities of the series, the Company will not be subject to any such requirements and will not have any such rights. However, unless otherwise specifically provided in a Supplemental Indenture relating to a series of Securities, the Company will at all times have the right to purchase Securities from Holders in market transactions or otherwise.

ARTICLE TWELVE
MISCELLANEOUS

SECTION 12.01. Trust Indenture Act Controls. If any provision of this Indenture or any Supplemental Indenture limits, qualifies or conflicts with the duties imposed by Section 310 through 317 of the TIA, the imposed duties will control.

SECTION 12.02. Supplemental Indentures Contract. If any provision of a Supplemental Indenture relating to a series of Securities is inconsistent with any provision of this Indenture, the

provision of the Supplemental Indenture will control with regard to the Securities of the series to which it relates.

SECTION 12.03. Notices. Any notice or communication under or relating to this Indenture or any Supplemental Indenture will be sufficiently given if made upon, given or furnished to, or filed with the applicable party, in writing and delivered by facsimile transmission, in person or mailed by first-class mail, certified or registered, return receipt requested, addressed as follows:

if to the Company: Take-Two Interactive Software, Inc.
622 Broadway
New York, New York 10012
Attention: General Counsel
Facsimile: (646) 536-2923

with a copy (which shall not
constitute notice and shall not be
required to be delivered in
satisfaction of any requirement
hereof) to: Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, New York 10019
Attention: Adam M. Turteltaub and Laura L. Delanoy
Facsimile: (212) 728-8111

if to the Trustee: The Bank of New York Mellon
101 Barclay Street, 8W
New York, New York 10286
Attention: Corporate Trust Administration
Facsimile: (212) 815-5704

Either the Company or the Trustee by a notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Securityholder will be mailed to the Securityholder at the Securityholder's address as it appears on the registration books of the Registrar and will be sufficiently given to the Securityholder if so mailed within the time prescribed.

Failure to mail a notice or communication to a Securityholder or any defect in it will not affect its sufficiency with respect to other Securityholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

If by reason of the suspension of regular mail service, or by reason of any other cause, it is impossible to mail any notice as required by this Indenture or any Supplemental Indenture, then any method of notification which is approved by the Trustee will constitute a sufficient mailing of the notice.

The Company may set a record date for purposes of determining the identity of Securityholders entitled to vote or consent to any action by vote or consent authorized or permitted by Sections 6.04 and 6.05. The record date will be the later of 30 days prior to the first solicitation of consents or the date of the most recent list of Holders furnished to the Trustee pursuant to Section 2.07 prior to the solicitation.

The Trustee shall have the right, but shall not be required, to rely upon and comply with notices, instructions, directions or other communications sent by e-mail, facsimile and other similar unsecured electronic methods by persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Company. The Trustee shall have no duty or obligation to verify or confirm that the person who sent such instructions or directions is, in fact, a person authorized to give instructions or directions on behalf of the Company; and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Company as a result of such reliance upon or compliance with such notices, instructions, directions or other communications. The Company agrees to assume all risks arising out of the use of such electronic methods to submit notices, instructions, directions or other 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. The Company shall use all reasonable endeavors to ensure that any such notices, instructions, directions or other communications transmitted to the Trustee pursuant to this Indenture are complete and correct. Any such notices, instructions, directions or other communications shall be conclusively deemed to be valid instructions from the Company to the Trustee for the purposes of this Indenture.

SECTION 12.04. Communication by Holders with Other Holders. Securityholders may communicate pursuant to TIA Section 312(b) with other Securityholders with respect to their rights under this Indenture or the Securities. Each of the Company, the Trustee, the Registrar and anyone else will have the protection of TIA Section 312(c).

SECTION 12.05. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take any action under this Indenture or any Supplemental Indenture, the Company will furnish to the Trustee:

- (1) an Officers' Certificate stating that, in the opinion of the signer, all conditions precedent, if any, provided for in this Indenture or any Supplemental Indenture relating to the proposed action have been complied with;
- (2) an Opinion of Counsel stating that, in the opinion of such counsel, all those conditions precedent, if any, provided for in this Indenture or any Supplemental Indenture relating to the proposed action have been complied with; and
- (3) such other opinions and certificates as may be required by applicable provisions of this Indenture or the Supplemental Indenture.
Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture or a Supplemental Indenture will include:
 - (i) a statement that each person signing the certificate or opinion has read such covenant or condition and the definitions herein relating thereto;
 - (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in the certificate or opinion are based;
 - (iii) a statement that, in the opinion of the person giving the certificate or opinion, that person has made such examination or investigation as is necessary to enable that person to express an informed opinion as to whether or not the covenant or condition has been complied with; and
 - (iv) a statement as to whether or not, in the opinion of that person, the condition or covenant has been complied with.

Nothing in this Section 12.05 will be construed as requiring that the Company furnish to the Trustee any evidence of compliance with the conditions and covenants provided for in this Indenture or any Supplemental Indenture other than the evidence specified in this Section 12.05 except as may be required by any other provision of this Indenture.

SECTION 12.06. When Treasury Securities Disregarded. In determining whether the Holders of the required principal amount of Securities have concurred in any direction, waiver or consent, Securities owned by the Company, or anyone under direct or indirect control or under direct or indirect common control with the Company will be disregarded and deemed not to be outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Securities which a Trust Officer of the Trustee actually knows are so owned will be so disregarded. Securities so owned which have been pledged in good faith will not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to act with respect to the Securities and that the pledgee is not the Company or a person directly or indirectly controlling or controlled by, or under common control with, the Company. Nothing in this Section 12.06 will be construed as requiring that the Company furnish to the Trustee any evidence of compliance with the conditions and covenants provided for in the Indenture other than the evidence specified in this Section 12.06.

SECTION 12.07. Rules by Trustee, Paying Agent, Registrar. The Trustee may make reasonable rules for action by or at a meeting of Securityholders. The Paying Agent or Registrar may make reasonable rules for its functions.

SECTION 12.08. Legal Holidays. A "Legal Holiday" is a Saturday, a Sunday, or a day on which banking institutions are not required to be open in the State of New York. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest on the sum being paid will accrue for the intervening period.

SECTION 12.09. Governing Law and Submission to Jurisdiction. The laws of the State of New York will govern this Indenture, each Supplemental Indenture and the Securities, and any dispute, case or controversy arising thereunder or relating thereto. The Company submits to the jurisdiction of the courts of the State of New York sitting in the Borough of Manhattan, The City of New York, and of the United States District Court for the Southern District of New York, in any action or proceeding to enforce any of its obligations under this Indenture or any Supplemental Indenture or with regard to the Securities, and agrees not to seek a transfer of any such action or proceeding on the basis of inconvenience of the forum or otherwise (but the Company will not be prevented from removing any such action or proceeding from a state court to the United States District Court for the Southern District of New York). The Company agrees that process in any such action or proceeding may be served upon it by registered mail or in any other manner permitted by the rules of the court in which the action or proceeding is brought.

SECTION 12.10. Actions by the Company. Any action or proceeding brought by the Company to enforce any right, assert any claim or obtain any relief in connection with this Indenture, any Supplemental Indenture or the Securities will be brought by the Company exclusively in the courts of the State of New York sitting in the Borough of Manhattan, The City of New York or in the United States District Court for the Southern District of New York.

SECTION 12.11. No Adverse Interpretation of Other Agreements. Neither this Indenture nor any Supplemental Indenture may be used to interpret another indenture, loan or debt agreement of the Company or any Subsidiary. No such indenture, loan or debt agreement may be used to interpret this Indenture or any Supplemental Indenture.

SECTION 12.12. Successors. All agreements of the Company in this Indenture, any Supplemental Indentures and the Securities will bind its successors. All agreements of the Trustee in this Indenture and any Supplemental Indentures will bind its successors.

SECTION 12.13. Duplicate Originals. The parties may sign any number of copies of this Indenture or any Supplemental Indenture. Each signed copy will be an original, but all of them together will represent the same agreement. The exchange of copies of this Indenture and of signature pages by facsimile or electronic format (*i.e.*, “pdf” or “tif”) transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or electronic format (*i.e.*, “pdf” or “tif”) shall be deemed to be their original signatures for all purposes.

SECTION 12.14. Table of Contents, Headings, etc. The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only. They are not to be considered a part of this Indenture, and will in no way modify or restrict any of the terms or provisions of this Indenture.

SECTION 12.15. Waiver of Jury Trial. EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 12.16. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable best efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

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

TAKE-TWO INTERACTIVE SOFTWARE, INC.

By: /s/ Lainie Goldstein

Name: Lainie Goldstein

Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Laurence J. O'Brien

Name: Laurence J. O'Brien

Title: Vice President

[Signature Page to Indenture]

EXHIBIT A

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the Securities of the series described in the within-mentioned Indenture and Supplemental Indenture.

Dated:

THE BANK OF NEW YORK MELLON
as Trustee

By: _____
Authorized Signatory

1.00% Convertible Senior Notes due 2018

TAKE-TWO INTERACTIVE SOFTWARE, INC.

as Issuer

SUPPLEMENTAL INDENTURE

Dated as of June 18, 2013

to Indenture

Dated as of June 18, 2013

THE BANK OF NEW YORK MELLON

as Trustee

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SUPPLEMENTAL INDENTURE dated as of June 18, 2013 between TAKE-TWO INTERACTIVE SOFTWARE, INC., a Delaware corporation, as issuer (the “**Company**”) and THE BANK OF NEW YORK MELLON, a New York banking corporation, as trustee (the “**Trustee**”) under the Indenture dated as of June 18, 2013 between the Company and the Trustee (as amended and supplemented from time to time in accordance with the terms thereof, the “**Original Indenture**”).

RECITALS OF THE COMPANY

WHEREAS, the Company executed and delivered the Original Indenture to the Trustee to provide, among other things, for the future issuance of the Company’s unsecured Securities from time to time in one or more series as might be determined by the Company under the Original Indenture, in an unlimited aggregate principal amount which may be authenticated and delivered as provided in the Original Indenture;

WHEREAS, Section 2.02 of the Original Indenture provides for the Company to establish Securities of any series pursuant to an indenture supplemental, and 9.01 of the Original Indenture provides for the Company and the Trustee to enter into such indenture supplemental to establish the form or terms of Securities of such series as permitted by Article Two of the Original Indenture without the consent of any Holders;

WHEREAS, the Board of Directors has duly adopted resolutions authorizing the Company to execute and deliver this Supplemental Indenture;

WHEREAS, pursuant to the terms of the Original Indenture, the Company desires to provide for the establishment of a new series of its Securities to be known as its “1.00% Convertible Senior Notes due 2018” (the “**Notes**”), the form and substance of the Notes and the terms, provisions and conditions thereof to be set forth as provided in the Original Indenture and this Supplemental Indenture; and

WHEREAS, the Company has requested that the Trustee execute and deliver this Supplemental Indenture, and all requirements necessary to make (i) this Supplemental Indenture a valid and legally binding instrument in accordance with its terms and (ii) the Notes, when executed by the Company and authenticated and delivered by the Trustee, the valid and legally binding obligations of the Company, have been performed, and the execution and delivery of this Supplemental Indenture has been duly authorized in all respects.

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH, for and in consideration of the premises and the purchases of the Notes by the Holders thereof, it is mutually agreed, for the benefit of the Company and the equal and proportionate benefit of all Holders of the Notes, as follows:

ARTICLE 1

Definitions and Other Provisions of General Application

SECTION 1.01 Scope of Supplemental Indenture. The changes, modifications and supplements to the Original Indenture effected by this Supplemental Indenture shall be applicable only with respect to, and shall only govern the terms of, the Notes and shall not apply to any other Securities that may be issued under the Original Indenture unless a supplemental indenture with respect to such other Securities specifically incorporates such changes, modifications and supplements. The provisions of this Supplemental Indenture shall supersede any corresponding provisions in the Original Indenture to the extent of any conflict, and any reference in the Original Indenture to any superseded provision of the Original Indenture shall be deemed to refer instead to the corresponding provision of this Supplemental Indenture. For all purposes under the Original Indenture, the Notes shall constitute a single series of Securities, and with regard to any matter requiring the consent under the Original Indenture of Holders of multiple series of Securities voting together as a single class, the consent of Holders of the Notes voting as a separate class shall also be required and the same threshold shall apply.

SECTION 1.02 Definitions. For all purposes of the Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(i) the terms defined in this Article 1 shall have the meanings assigned to them in this Article and include the plural as well as the singular;

(ii) all words, terms and phrases defined in the Original Indenture (but not otherwise defined herein) shall have the same meanings as in the Original Indenture, and all words, terms and phrases used in the Original Indenture and not otherwise defined therein (due to an amendment to the Original Indenture pursuant to this Supplemental Indenture), shall have the meanings assigned in this Supplemental Indenture;

(iii) all other terms used herein that are defined in the TIA, either directly or by reference therein, shall have the meanings assigned to them in the TIA;

(iv) all accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with generally accepted accounting principles, and, except as otherwise herein expressly provided, the term “generally accepted accounting principles” with respect to any computation required or permitted hereunder shall mean such accounting principles as are generally accepted at the date of this instrument; and

(v) the words “herein,” “hereof” and “hereunder” and other words of similar import (a) when used with regard to any specified Article, Section or sub-division, refer to such Article, Section or sub-division of this Supplemental Indenture and (b) otherwise, refer to this Supplemental Indenture or the Indenture, as the context may require, in each case, as a whole and not to any particular Article, Section or other subdivision.

“**Additional Interest**” has the meaning specified in Section 6.03.

“**Additional Notes**” has the meaning specified in Section 2.01.

“**Additional Shares**” has the meaning specified in Section 9.06(a).

“**Agent Members**” has the meaning specified in Section 2.03(d)(v).

“**Bid Solicitation Agent**” means the Company or the Person appointed by the Company to solicit bids for the Trading Price of the Notes in accordance with Section 9.01(a)(ii). The Company will initially act as the Bid Solicitation Agent.

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

“**Business Day**” means, solely for purposes of the Notes and notwithstanding the definition thereof in Section 1.01 of the Original Indenture, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

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

“**Cash Amount**” has the meaning specified in Section 9.03(a)(i).

“**Cash Settlement**” has the meaning specified in Section 9.03(a).

“**Clause A Distribution**” has the meaning specified in Section 9.04(c).

“**Clause B Distribution**” has the meaning specified in Section 9.04(c).

“**Clause C Distribution**” has the meaning specified in Section 9.04(c).

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

“**Combination Settlement**” has the meaning specified in Section 9.03(a).

“**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 of this instrument such Commission is not existing and performing the duties now assigned to it under the TIA, then the body performing such duties at such time.

“**Common Equity**” of any Person means Capital Stock of such Person that is generally entitled to (i) vote in the election of directors of such Person or (ii) if such Person is not a corporation, vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

“**Common Stock**” means the common stock, par value \$0.01 per share, of the Company, subject to Section 9.07.

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

“**Conversion Agent**” means the agency appointed by the Company to which Notes may be presented for conversion. The Conversion Agent appointed by the Company shall initially be the Trustee.

“**Conversion Date**” has the meaning specified in Section 9.02(b).

“**Conversion Notice**” has the meaning specified in Section 9.02(b)(i).

“**Conversion Obligation**” has the meaning specified in Section 9.01(a).

“**Conversion Price**” means, in respect of each \$1,000 principal amount of Notes, as of any time, \$1,000 *divided by* the Conversion Rate in effect at such time.

“**Conversion Rate**” means, initially 46.4727 shares of Common Stock per \$1,000 principal amount of Notes, subject to adjustment as set forth herein.

“**Daily Cash Amount**” has the meaning set forth in the definition of “Daily Settlement Amount” in this Section 1.02.

“**Daily Conversion Value**” means, in respect of each \$1,000 principal amount of Notes and for each of the forty (40) consecutive Trading Days during the Observation Period, 2.5% of the product of (i) the Conversion Rate on such Trading Day and (ii) the Daily VWAP of the Common Stock on such Trading Day.

“**Daily Settlement Amount**” means, for each of the forty (40) consecutive Trading Days during the Observation Period:

(i) cash in an amount equal to the lesser of (x) 2.5% of the Cash Amount specified by the Company in the notice regarding the chosen Settlement Method (the “**Daily Cash Amount**”) and (y) the Daily Conversion Value on such Trading Day; and

(ii) if the Daily Conversion Value on such Trading Day exceeds the Daily Cash Amount, a number of shares of Common Stock equal to (x) the difference between such Daily Conversion Value and the Daily Cash Amount *divided by* (y) the Daily VWAP on such Trading Day.

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

“**Depository**” means initially DTC until a successor shall have been appointed and become such pursuant to the applicable provisions of this Supplemental Indenture, and thereafter, “**Depository**” shall mean such successor. Any successor Depository hereunder must be a clearing agency registered under the Exchange Act.

“**DTC**” means The Depository Trust Company.

“**Effective Date**” has the meaning specified in Section 9.06(c).

“**Event of Default**” has the meaning, with respect to the Notes, set forth in Section 6.01 hereof.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended from time to time, and any successor legislation.

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

“**Fundamental Change**” means the occurrence after the original issuance of the Notes of any of the following events:

(a) a “person” or “group” within the meaning of Section 13(d) of the Exchange Act, other than the Company, its Wholly-Owned Subsidiaries or the employee benefit plans of the Company or any such Wholly-Owned Subsidiary of the Company, has become the direct or indirect “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of the Company’s Common Equity representing more than 50% of the voting power of the Company’s Common Equity; or

(b) consummation of (i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets or (ii) any share exchange, consolidation or merger of the Company pursuant to which the Common Stock will be converted into cash, securities or other property or any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one of the Company’s Wholly-Owned Subsidiaries; *provided, however*, that a transaction where the holders of all classes of the Company’s Common Equity immediately prior to such transaction that is a share exchange, consolidation or merger own, directly or indirectly, more than 50% of all classes of Common Equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such event shall not be a Fundamental Change; or

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

(d) the Common Stock (or other common stock, American Depositary Receipts or American Depositary Shares underlying the Notes) ceases to be listed or quoted on The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors);

provided, however, that a Fundamental Change as a result of clause (a) or (b) above will not be deemed to have occurred if at least 90% of the consideration received or to be received by the holders of the Common Stock, excluding cash payments for fractional shares, in connection with the transaction or transactions constituting the Fundamental Change consists of shares of common stock, American Depositary Receipts or American Depositary Shares traded on the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors) or which will be so traded or quoted when issued or exchanged and as a result of such transaction or transactions the Notes become convertible into such consideration in accordance with Section 9.07, excluding cash payments for fractional shares (subject to the provisions set forth under Section 9.03).

“**Fundamental Change Company Notice**” has the meaning specified in Section 3.01(b).

“**Fundamental Change Repurchase Date**” has the meaning specified in Section 3.01(a).

“**Fundamental Change Repurchase Expiration Time**” has the meaning specified in Section 3.01(a)(1).

“**Fundamental Change Repurchase Notice**” has the meaning specified in Section 3.01(a)(1).

“**Fundamental Change Repurchase Price**” has the meaning specified in Section 3.01(a).

“**Global Note**” means any Note that is in global form registered in the Security Register in the name of the Depositary or a nominee thereof.

“**Holder**” means any “Holder” (as defined in Section 1.01 of the Original Indenture) with respect to the Notes.

“**Indenture**” means the Original Indenture, solely to the extent it governs the Notes, as supplemented by this Supplemental Indenture, and as further supplemented and/or amended from time to time, with respect to the Notes, in accordance therewith and herewith.

“**Initial Notes**” has the meaning specified in Section 2.01.

“**Interest Payment Date**” has the meaning specified in Section 2.03(c).

“**Last Reported Sale Price**” of the Common Stock on any date means:

(i) the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. securities exchange on which the Common Stock is traded; or

(ii) if the Common Stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date, “**Last Reported Sales Price**” will be the average of the last quoted bid and ask prices for the Common Stock in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization; or

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

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

“**Market Disruption Event**” means (i) a failure by The NASDAQ Global Select Market or, if the Common Stock is not then listed on The NASDAQ Global Select Market, the principal other U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, the principal other market on which the Common Stock is then listed or admitted to trading to open for trading during its regular trading session or (ii) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the Common Stock for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Common Stock or in any options contracts or future contracts relating to the Common Stock.

“**Maturity Date**” means July 1, 2018.

“**Measurement Period**” has the meaning set forth in Section 9.01(a)(ii).

“**Merger Event**” has the meaning set forth in Section 9.07.

“**Note**” or “**Notes**” has the meaning set forth in the fourth paragraph of the recitals of this Supplemental Indenture.

“Observation Period” with respect to any Note surrendered for conversion means: (i) if the relevant Conversion Date occurs prior to the 45th Scheduled Trading Day immediately preceding the Maturity Date, the 40 consecutive Trading Day period beginning on, and including, the second Trading Day after the related Conversion Date, and (ii) if the relevant Conversion Date occurs on or after the 45th Scheduled Trading Day prior to the Maturity Date, the forty (40) consecutive Trading Days beginning on, and including, the 42nd Scheduled Trading Day immediately preceding the Maturity Date.

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

“Outstanding” means, with respect to any Note, that such Note is “outstanding” as defined in Section 2.10 of the Original Indenture, subject to Section 3.03 and Section 4.02 hereof and Section 12.06 of the Original Indenture.

“Paying Agent” has the meaning set forth in the Original Indenture, which shall initially be the Trustee, and shall be the Person authorized by the Company to pay the principal amount of, interest on, or Fundamental Change Repurchase Price of, any Notes on behalf of the Company.

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

“Physical Settlement” has the meaning specified in Section 9.03(a).

“Preferred Stock” as applied to the Capital Stock of any Person means Capital Stock of any class or classes (however designated) that is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

“Reference Property” has the meaning specified in Section 9.07.

“Regular Record Date” means, with respect to any Interest Payment Date of the Notes, the December 15 or June 15, as the case may be (whether or not such day is a Business Day) immediately preceding the applicable January 1 or July 1 Interest Payment Date, respectively.

“Schedule TO” means a Tender Offer Statement under Section 14(d)(1) or 13(e)(1) of the Exchange Act.

“Scheduled Trading Day” means a day that is scheduled to be a Trading Day; *provided* that if the Common Stock is not listed or admitted for trading on any United States national or regional securities exchange, “Scheduled Trading Day” means a Business Day.

“Security Register” means the register of Securities kept by the Registrar in accordance with Section 2.05 of the Original Indenture.

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

“**Significant Subsidiary**” means any Subsidiary of the Company that would be a “significant subsidiary” of the Company within the meaning of Article 1, Rule 1-02 under Regulation S-X promulgated by the Commission.

“**Spin-off**” has the meaning specified in Section 9.04(c)

“**Stock Price**” has the meaning specified in Section 9.06(c).

“**Subsidiary**” means, solely for purposes of the Notes and notwithstanding the definition thereof in Section 1.01 of the Original Indenture, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

“**Successor Company**” has the meaning specified in Section 5.01(a).

“**Trading Day**” means (A) except for purposes of determining amounts due upon conversion, a day on which (i) trading in the Common Stock generally occurs on The NASDAQ Global Select Market or, if the Common Stock is not then listed on The NASDAQ Global Select Market, on the principal other United States national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a United States national or regional securities exchange, on the principal other market on which the Common Stock is then traded and (ii) a Last Reported Sale Price for the Common Stock is available on such securities exchange or market; and (B) for purposes of determining amounts due upon conversion only, a day on which (i) there is no Market Disruption Event and (ii) trading in the Common Stock generally occurs on The NASDAQ Global Select Market or, if the Common Stock is not then listed on The NASDAQ Global Select Market, on the principal other United States national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a United States national or regional securities exchange, on the principal other market on which the Common Stock is then traded; *provided* that, in the case of clause (A) or (B) above, if the Common Stock is not so listed or admitted for trading, “**Trading Day**” means a Business Day.

“**Trading Price**” of the Notes on any date of determination means the average of the secondary market bid quotations obtained by the Bid Solicitation Agent for \$5.0 million principal amount of the Notes at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers the Company selects; *provided* that, if three such bids cannot reasonably be obtained by the Bid Solicitation Agent but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can reasonably be obtained by the Bid Solicitation Agent, that one bid shall be

used. If the Bid Solicitation Agent cannot reasonably obtain at least one bid for \$5.0 million principal amount of the Notes from a nationally recognized securities dealer, then the Trading Price per \$1,000 principal amount of Notes will be deemed to be less than 98% of the product of the Last Reported Sale Price of the Common Stock and the applicable Conversion Rate.

“**Trigger Event**” has the meaning specified in Section 9.04(c).

“**Underwriters**” mean J.P. Morgan Securities LLC, Barclays Capital Inc. and Wells Fargo Securities, LLC.

“**Underwriting Agreement**” means the Underwriting Agreement, dated June 12, 2013, entered into by the Company and the Underwriters.

“**Valuation Period**” has the meaning set forth in Section 9.04(c).

“**Wholly-Owned Subsidiary**” means, with respect to any Person, any Subsidiary of such Person, except that, solely for purposes of this definition, the reference to “50%” in the definition of “Subsidiary” shall be deemed replaced by a reference to “100%”.

SECTION 1.03 Incorporation by Reference of TIA. This Indenture is subject to the mandatory provisions of the TIA, which are incorporated by reference in and made a part of this Indenture. The following TIA terms have the following meanings:

“indenture securities” means the Notes.

“indenture security holder” means a Holder.

“indenture to be qualified” means this Indenture.

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

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

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

SECTION 1.04 Rules of Construction. Unless the context otherwise requires:

- (1) “or” is not exclusive; and
- (2) “including” means including without limitation.

ARTICLE 2

The Notes

SECTION 2.01 Designation, Amount and Issuance of Notes. The Notes shall be designated as “1.00% Convertible Senior Notes due 2018.” The Notes will initially not exceed the aggregate principal amount of \$250,000,000 (as increased by an amount equal to the aggregate principal amount of any additional Notes purchased by the Underwriters pursuant to the exercise of their option to purchase additional Notes as set forth in the Underwriting Agreement) except for Notes authenticated and delivered upon registration of transfer of, in exchange for, or in lieu of, other Notes to the extent expressly permitted hereunder. Upon the execution of this Supplemental Indenture, or from time to time thereafter, Notes may be executed by the Company and delivered to the Trustee for authentication.

The Company may, without the consent of the Holders of the Notes, hereafter issue additional notes (“**Additional Notes**”) under the Indenture with the same terms as the Notes issued on the date of this Supplemental Indenture (the “**Initial Notes**”) in an unlimited aggregate principal amount; *provided* that if any such Additional Note are not fungible with the Initial Notes for U.S. federal income tax purposes, such Additional Notes shall have a separate CUSIP number. Any such Additional Notes shall constitute a single series together with the Initial Notes for all purposes hereunder, including, without limitation, for purposes of any waivers, supplements or amendments to the Indenture requiring the approval of Holders of the Notes and any offers to purchase the Notes.

SECTION 2.02 Form of the Notes. The Notes and the Trustee’s certificate of authentication to be borne by such Notes, the Conversion Notice, Fundamental Change Repurchase Notice and Assignment shall be substantially in the forms set forth in Exhibits A, B, C and D, respectively, hereto. The terms and provisions contained in the form of Notes attached as Exhibit A hereto shall constitute, and are hereby expressly made, a part of this Supplemental Indenture and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby.

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

So long as the Notes are eligible for book-entry settlement with the Depositary, or unless otherwise required by law, or otherwise contemplated by Section 2.03(d), all of the Notes will be represented by one or more Global Notes. The transfer and exchange of beneficial interests in any such Global Notes shall be effected through the Depositary in accordance with

the Indenture and the applicable procedures of the Depository. Except as provided in Section 2.03(d), beneficial owners of a Global Note shall not be entitled to have certificates registered in their names, will not receive or be entitled to receive physical delivery of certificates in definitive form and will not be considered holders of such Global Note.

Any Global Note shall represent such principal amount of the Outstanding Notes as shall be specified therein and shall provide that it shall represent the aggregate principal amount of Outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of Outstanding Notes represented thereby may from time to time be increased or reduced to reflect, repurchases, conversions, transfers or exchanges permitted hereby. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the amount of Outstanding Notes represented thereby shall be made by the Trustee or the custodian for the Global Note, at the direction of the Trustee, in such manner and upon instructions given by the Holder of such Notes in accordance with this Indenture. The Company has initially designated the Trustee as its Paying Agent and Registrar in respect of the Notes and the Corporate Trust Office as a place where Notes may be presented for payment or for registration of transfer. The Company may, however, change the Paying Agent or Registrar for the Notes without prior notice to the Holders, and the Company may act as Paying Agent or Registrar for the Notes.

SECTION 2.03 Date and Denomination of Notes; Payment at Maturity; Payment of Interest.

(a) Date and Denomination. The Notes initially shall be issued in the form of one or more Global Notes without interest coupons in denominations of \$1,000 principal amount and integral multiples thereof (i) registered in the name of Cede & Co., as nominee of the Depository and (ii) delivered to the Trustee as custodian for the Depository. Each Note shall be dated the date of its authentication and shall bear interest from the date specified on the face of the form of Notes attached as Exhibit A hereto.

(b) Payment at Maturity. The Notes shall mature on July 1, 2018, unless earlier converted or repurchased in accordance with the provisions hereof. On the Maturity Date, each Holder shall be entitled to receive on such date \$1,000 in cash for each \$1,000 principal amount of Notes, together with accrued and unpaid interest to, but not including, the Maturity Date. With respect to Global Notes, principal and interest will be paid to the Depository in immediately available funds. With respect to any Physical Notes, principal and interest will be payable at the Company's office or agency in New York City, which initially will be the Corporate Trust Office.

(c) Payment of Interest. Interest on the Notes will accrue at the rate of 1.00% per annum, from June 18, 2013 until the Maturity Date. Interest shall be payable on January 1 and July 1 of each year (each, an "**Interest Payment Date**"), commencing on January 1, 2014, to the Person in whose name a Note is registered on the Security Register at the close of business on the Regular Record Date relating to the applicable Interest Payment Date. Notwithstanding Section 9.03(b), if Notes are converted after the close of business on a Regular Record Date, Holders of such Notes at the close of business on such Regular Record Date will receive the interest payable on such Notes on the corresponding Interest Payment Date notwithstanding the conversion. Notwithstanding the foregoing, any Notes or portion

thereof surrendered for conversion after the close of business on any Regular Record Date but prior to the open of business on the immediately following Interest Payment Date shall be accompanied by payment, in immediately available funds or other funds acceptable to the Company, of an amount equal to the interest otherwise payable on such Interest Payment Date on the principal amount being converted; provided that no such payment need be made:

(i) with respect to Notes converted after the close of business on the Regular Record Date immediately preceding the Maturity Date;

(ii) if the Company has specified a Fundamental Change Repurchase Date pursuant to Section 3.01(a) that is after a Regular Record Date and on or prior to the corresponding Interest Payment Date; or

(iii) to the extent of any overdue interest, if any overdue interest exists at the time of conversion with respect to converted Notes.

Therefore, for the avoidance of doubt, all Holders of record on the Regular Record Date immediately preceding the Maturity Date shall receive the full interest payment due on the Maturity Date regardless of whether their Notes have been converted following such Regular Record Date.

Interest on the Notes will be computed on the basis of a three hundred sixty (360)-day year comprised of twelve (12) thirty (30)-day months.

The Company shall pay interest on:

(i) any Global Notes by wire transfer of immediately available funds to the account of the Depositary or its nominee;

(ii) any Physical Note having a principal amount of \$5,000,000 or less, by check mailed to the Holder thereof at its address in the Security Register; and

(iii) any Physical Note having a principal amount of more than \$5,000,000, either by check mailed to the Holder thereof at its address in the Security Register or, upon application by such a Holder to the Registrar not later than the relevant Regular Record Date, by wire transfer in immediately available funds to that Holder's account within the United States, which application shall remain in effect until the Holder notifies the Registrar to the contrary.

If an Interest Payment Date, the Maturity Date or any earlier required repurchase date upon a Fundamental Change of a Note is not a Business Day, the required payment shall instead be made on the next succeeding Business Day, and no interest on such payment shall accrue in respect of the delay. This sentence shall supersede Section 12.08 of the Original Indenture with respect to the Notes.

All references to "interest" in this Indenture shall be deemed to include Additional Interest, if any, that accrues in connection with the Company's failure to comply with Section 2.05, if applicable, as provided by Section 6.03.

(d) The following provisions shall apply only to Global Notes:

(i) Notwithstanding any other provision in the Indenture (other than clause (ii) below), no Global Note may be exchanged in whole or in part for Notes registered, and no transfer of a Global Note in whole or in part may be registered, in the name of any Person other than the Depositary or a nominee thereof unless the Depositary (x) has notified the Company that it is unwilling or unable to continue as Depositary for such Global Note or (y) has ceased to be a clearing agency registered under the Exchange Act, and in each case a successor Depositary has not been appointed by the Company within ninety (90) calendar days. Any Global Note exchanged pursuant to this Section 2.03(d)(i) shall be so exchanged in whole and not in part.

(ii) In addition, Physical Notes will be issued in exchange for beneficial interests in a Global Note upon request by or on behalf of the Depositary in accordance with customary procedures following the request of a beneficial owner following the occurrence and continuation of an Event of Default. Notwithstanding anything to the contrary herein, any beneficial owner of an interest in a Global Note shall have the right to enforce this clause (ii) directly against the Company without any action or consent of the Depositary.

(iii) Notes issued in exchange for a Global Note or any portion thereof pursuant to clause (i) or (ii) above shall be issued in definitive, fully registered form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Notes or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall designate (or, in the case of clause (ii) above, to the beneficial owner requesting such exchange) and shall bear any legends required hereunder. Any Global Notes to be exchanged shall be surrendered by the Depositary to the Trustee, as Registrar; provided that pending completion of the exchange of a Global Note, the Trustee acting as custodian for the Global Notes for the Depositary or its nominee with respect to such Global Notes, shall reduce the principal amount thereof, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon any such surrender or adjustment, the Trustee shall authenticate and make available for delivery the Notes issuable on such exchange to or upon the written order of the Depositary or an authorized representative thereof.

(iv) In the event of the occurrence of any of the events specified in clause (i) above or upon any request pursuant to clause (ii) above, the Company will promptly make available to the Trustee a sufficient supply of Physical Notes in definitive, fully registered form, without interest coupons.

(v) No member of, or participant in, the Depositary (the “**Agent Members**”) or any other Person on whose behalf Agent Members may act shall have any rights under this Indenture with respect to any Global Notes registered

in the name of the Depository or any nominee thereof (subject to clause (ii) above), and the Depository or such nominee, as the case may be, may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and holder of such Global Notes for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or such nominee, as the case may be, or impair, as between the Depository, its Agent Members and any other Person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a Holder of any Notes.

(vi) At such time as all interests in a Global Note have been repurchased, converted, cancelled or exchanged for Notes in certificated form, such Global Note shall, upon receipt thereof, be cancelled by the Trustee in accordance with standing procedures and instructions existing between the Depository and the custodian for the Global Note. At any time prior to such cancellation, if any interest in a Global Note is repurchased, converted, cancelled or exchanged for Notes in certificated form, the principal amount of such Global Note shall, in accordance with the standing procedures and instructions existing between the Depository and the custodian for the Global Note, be appropriately reduced, and an endorsement shall be made on such Global Note, by the Trustee or the custodian for the Global Note, at the direction of the Trustee, to reflect such reduction.

(vii) The Holder of Global Notes may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Notes.

(viii) None of the Company, the Trustee and any agent of the Company or the Trustee will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Note or maintaining, supervising or reviewing any records relating to such beneficial ownership interests. None of the Trustee, the Paying Agent or the Registrar shall have any responsibility for any actions taken or not taken by the Depository or any Agent Member.

SECTION 2.04 Reserved.

SECTION 2.05 Reporting Requirement. The first paragraph of Section 4.02 of the Original Indenture shall be superseded in its entirety, with respect to the Notes, by this Section 2.05. Instead, the Company shall file with the Trustee, within fifteen (15) calendar days after it is required to file them with the Commission (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act), any documents or reports which the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act. Documents filed by the Company with the Commission via its EDGAR system shall be deemed to be filed with the Trustee as of the time such documents are filed via EDGAR. The Company also shall comply with the other provisions of Section 314(a) of the TIA.

SECTION 2.06 Transfer and Exchange The Registrar and the Trustee may require a Holder who transfers or exchanges a Note in accordance with Section 2.08 of the Original Indenture, among other things, to furnish appropriate endorsements and transfer documents. No service charge shall be imposed by the Company, the Trustee or the Registrar for any registration of transfer or exchange of Notes, but the Company, the Trustee or the Registrar may require a Holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required by law or permitted by the Indenture. Neither the Company nor the Trustee nor any Security Registrar shall be required to exchange, issue or register a transfer of (a) any Notes surrendered for conversion or (b) any Notes surrendered for required repurchase upon a Fundamental Change (and not withdrawn).

ARTICLE 3

Repurchase of Notes

SECTION 3.01 Repurchase at Option of the Holder Upon a Fundamental Change. (a) If there shall occur a Fundamental Change at any time prior to the Maturity Date, then each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes, or any portion of the principal amount thereof that is equal to \$1,000 or an integral multiple of \$1,000, on a date (the "**Fundamental Change Repurchase Date**") of the Company's choosing that is not less than twenty (20) or more than thirty-five (35) calendar days after the date of the Fundamental Change Company Notice at a repurchase price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest thereon to, but excluding, the Fundamental Change Repurchase Date (the "**Fundamental Change Repurchase Price**"); *provided* that if such Fundamental Change Repurchase Date falls after a Regular Record Date and on or prior to the Interest Payment Date to which it relates, the Company shall instead pay the full amount of accrued and unpaid interest payable on such Interest Payment Date to the Holder of record on the close of business on the corresponding Regular Record Date and the Fundamental Change Repurchase Price shall be equal to 100% of the principal amount of the Notes to be repurchased. Repurchases of Notes under this Section 3.01 shall be made, at the option of the holder thereof, upon:

(1) delivery to the Paying Agent by a Holder of a duly completed notice (the "**Fundamental Change Repurchase Notice**") in the form set forth on the reverse of the Note by the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date (the "**Fundamental Change Repurchase Expiration Time**"); and

(2) delivery or book-entry transfer of the Notes to the Paying Agent by the Fundamental Change Repurchase Expiration Time (together with all necessary endorsements) at the Corporate Trust Office of the Paying Agent in New York City, such delivery being a condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor.

The Fundamental Change Repurchase Notice shall state:

- (i) if certificated, the certificate numbers of the Notes to be delivered for repurchase, or if not certificated, such Fundamental Change Repurchase Notice must comply with appropriate Depository procedures;
- (ii) the portion of the principal amount of Notes to be repurchased, which must be \$1,000 or an integral multiple thereof; and
- (iii) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture.

Any repurchase by the Company contemplated pursuant to the provisions of this Section 3.01 shall be consummated by the payment of the Fundamental Change Repurchase Price to the relevant Holders on the later of the Fundamental Change Repurchase Date and the time of the book-entry transfer or delivery of the Notes (subject to the penultimate paragraph of Section 2.03(c)).

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 3.01 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 3.02 below.

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

(b) On or before the tenth (10th) calendar day after the occurrence of a Fundamental Change, the Company shall mail or cause to be mailed to all Holders of the Notes, and to beneficial owners as required by applicable law, a notice (the “**Fundamental Change Company Notice**”) of the occurrence of the Fundamental Change and of the repurchase right at the option of the Holders arising as a result thereof. Such mailing shall be by first class mail or, in the case of Global Notes, in accordance with the applicable procedures of the Depository. The Company shall also deliver a copy of the Fundamental Change Company Notice to the Trustee, the Paying Agent and the Conversion Agent. Simultaneously with providing such notice, the Company shall publish a notice containing the information set forth in the Fundamental Change Company Notice in a newspaper of general circulation in The City of New York or publish the information on the Company’s website or through such other public medium as the Company may use at that time.

Each Fundamental Change Company Notice shall specify:

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

- (iii) the last date on which a Holder may exercise the repurchase right pursuant to this Article 3;
- (iv) the Fundamental Change Repurchase Price;
- (v) the Fundamental Change Repurchase Date;
- (vi) the name and address of the Paying Agent and the Conversion Agent, if applicable;
- (vii) the applicable Conversion Rate and, if applicable, any adjustments to the applicable Conversion Rate;
- (viii) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Supplemental Indenture;
- (ix) the procedures that Holders must follow to require the Company to repurchase their Notes pursuant to this Article 3; and
- (x) the CUSIP, ISIN or other similar numbers, if any, assigned to the Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit the repurchase rights of Holders or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 3.01.

SECTION 3.02 Withdrawal of Fundamental Change Repurchase Notice. A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Corporate Trust Office of the Paying Agent at any time prior to the Fundamental Change Repurchase Expiration Time, specifying:

- (1) if Physical Notes have been issued, the certificate numbers of the Notes in respect of which such notice of withdrawal is being submitted, or if Physical Notes have not been issued, such notice of withdrawal must comply with appropriate Depositary procedures;
- (2) the principal amount of the Note with respect to which such notice of withdrawal is being submitted, which portion must be in principal amount of \$1,000 or an integral multiple thereof; and
- (3) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amount of \$1,000 or an integral multiple thereof.

SECTION 3.03 Deposit of Fundamental Change Repurchase Price. Prior to 10:00 a.m., New York City time, on the Fundamental Change Repurchase Date, the Company shall deposit with the Paying Agent or, if the Company or a Subsidiary of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.06 of the Original Indenture, an amount of cash (in immediately available funds if deposited on the Fundamental Change Repurchase Date), sufficient to pay the aggregate Fundamental Change Repurchase Price of all the Notes or portions thereof that are to be repurchased as of the Fundamental Change Repurchase Date.

If on the Fundamental Change Repurchase Date the Paying Agent holds cash sufficient to pay the Fundamental Change Repurchase Price of the Notes that Holders have elected to require the Company to repurchase in accordance with Section 3.01, then, on the Fundamental Change Repurchase Date, (1) such Notes shall cease to be Outstanding, interest shall cease to accrue (whether or not book-entry transfer of the Notes is made or the Note is delivered to the Paying Agent) and (2) all other rights of the Holders of such Notes will terminate (other than (x) the right to receive the Fundamental Change Repurchase Price upon delivery or book-entry transfer of the Notes and (y) if the Fundamental Change Repurchase Date falls after a Regular Record Date and on or prior to the related Interest Payment Date, the right of Holders on such Regular Record Date to receive such payment of interest). This shall be the case whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Paying Agent.

SECTION 3.04 Restrictions on Repurchases. No Notes may be repurchased at the option of the Holders upon a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the event of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes).

SECTION 3.05 Notes Repurchased in Part. Upon presentation of any Notes repurchased only in part, the Company shall execute and the Trustee shall authenticate and make available for delivery to the Holder thereof, at the expense of the Company, a new Note or Notes, of any authorized denomination, in aggregate principal amount equal to the portion of the Notes presented that is not repurchased.

SECTION 3.06 Covenant to Comply with Securities Laws Upon Repurchase of Notes. The Company shall, to the extent applicable, (i) comply with the provisions of Rule 13e-4 and any other tender offer rules under the Exchange Act that may be applicable at the time of the offer to repurchase the Notes, (ii) file the related Schedule TO or any other schedule required under the Exchange Act and (iii) otherwise comply with all other federal and state securities laws in connection with any offer by the Company to repurchase the Notes pursuant to a Fundamental Change Repurchase Notice, in each case, so as to permit the rights and obligations under this Article 3 to be exercised at the time and in the manner specified in the Indenture.

SECTION 3.07 Repayment to the Company. To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 3.03 exceeds the aggregate Fundamental Change Repurchase Price of the Notes or portions thereof that the Company is obligated to repurchase as of the Fundamental Change Repurchase Date, then, following the Fundamental Change Repurchase Date, the Paying Agent shall promptly return any such excess to the Company.

ARTICLE 4

Covenants

SECTION 4.01 Additional Interest. If Additional Interest is payable by the Company, the Company shall deliver to the Trustee an Officers' Certificate to that effect stating (i) the amount of such Additional Interest that is payable and (ii) the date on which such Additional Interest is payable. Unless and until a Trust Officer receives such an Officer's Certificate, the Trustee may assume without inquiry that no Additional Interest is payable.

SECTION 4.02 Repurchase and Cancellation. To the extent permitted by law, the Company may repurchase any Notes in open-market purchases or negotiated transactions without giving prior notice to Holders. The Company shall surrender any Notes repurchased by the Company to the Trustee for cancellation as provided by Section 2.12 of the Original Indenture and any such Notes repurchased by the Company shall be deemed to be no longer Outstanding. Any Notes surrendered for cancellation by the Company shall not be reissued or resold.

ARTICLE 5

Successor Company

SECTION 5.01 When Company May Merge or Transfer Assets. This Article 5 shall supersede Article Five of the Original Indenture in its entirety. The Company shall not consolidate with or merge with or into, or sell, convey, transfer or lease all or substantially all of its properties and assets to, another Person, unless:

(a) the resulting, surviving or transferee Person (if not the Company) (the "**Successor Company**") is a corporation organized and existing under the laws of the United States of America, any state thereof or the District of Columbia and such Successor Company (if not the Company) expressly assumes, by a supplemental indenture, all of the Company's obligations under the Notes and the Indenture;

(b) if as a result of such transaction the Notes become convertible into common stock or other securities issued by a third party, such third party fully and unconditionally guarantees all obligations of the Company or such Successor Company under the Notes and the Indenture;

(c) immediately after giving effect to such transaction, no Default or Event of Default has occurred and is continuing under the Indenture; and

(d) the Company has delivered to the Trustee the Officers' Certificate and Opinion of Counsel pursuant to Section 5.03.

SECTION 5.02 Successor to Be Substituted. In case of any such consolidation, merger, sale, conveyance, transfer or lease in which the Company is not the resulting, surviving or transferee Person and upon the assumption by the Successor Company, by supplemental

indenture, executed and delivered to the Trustee, of the due and punctual payment of the principal of and interest on all of the Notes, and the due and punctual performance and observance of all of the covenants and conditions of the Indenture to be performed or satisfied by the Company, except in the case of a lease of all or substantially all of the Company's properties and assets, such Successor Company shall succeed to, and be substituted for, and may exercise every right and power of, the Company, with the same effect as if it had been named herein as the party of this first part, and the Company shall be discharged from its obligations under the Notes and the Indenture. Such Successor Company thereupon may cause to be signed, and may issue either in its own name or in the name of the Company any or all of the Notes, issuable hereunder that theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in the Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication, and any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under the Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. In the event of any such consolidation, merger, sale, conveyance or transfer (other than by way of a lease), upon compliance with this Article 5 the Person named as the "Company" in the first paragraph of this Indenture or any successor that shall thereafter have become such in the manner prescribed in this Article 5 may be dissolved, wound up and liquidated at any time thereafter and such Person shall be discharged from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture.

SECTION 5.03 Opinion of Counsel to Be Given Trustee. Prior to execution of any supplemental indenture pursuant to this Article 5, the Trustee shall receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale, conveyance, transfer or lease and any such assumption complies with the provisions of this Article 5.

ARTICLE 6

Defaults and Remedies

SECTION 6.01 Events of Default. This Section 6.01 and Section 6.06(b) below shall, with respect to the Notes, supersede Section 6.01 of the Original Indenture in its entirety. Each of the following events shall be an "Event of Default" with respect to the Notes:

- (a) default in any payment of interest on any Note when due and payable and the default continues for a period of thirty (30) days;
- (b) default in the payment of the principal amount of any Note when due and payable on the Maturity Date, upon any required repurchase at the option of the Holders pursuant to Article 3, upon declaration of acceleration or otherwise;

(c) failure by the Company to comply with its obligation to convert the Notes in accordance with Article 9 upon exercise of a Holder's conversion right and such conversion default is not cured or such conversion is not rescinded within five (5) days;

(d) failure by the Company to give a Fundamental Change Company Notice or notice to Holders required pursuant to Section 9.01(a)(iii) or Section 9.01(a)(iv), in each case, when due;

(e) failure by the Company to comply with its obligations under Article 5;

(f) failure by the Company for sixty (60) days after written notice from the Trustee or the Holders of at least 25% in principal amount of the Notes then Outstanding (a copy of which notice, if given by the Holders, also to be given to the Trustee) has been received by the Company to comply with any of its other agreements contained in the Notes or this Indenture;

(g) default by the Company or any Significant Subsidiary with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed in excess of \$10 million in the aggregate of the Company and/or any such Significant Subsidiary, whether such indebtedness now exists or shall hereafter be created (i) resulting in such indebtedness becoming or being declared due and payable (unless rescinded) or (ii) constituting a failure to pay the principal or interest of any such indebtedness when due and payable at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise;

(h) (i) the entry by a court having jurisdiction in the premises of a decree or order for relief in respect of the Company or any of its Significant Subsidiaries in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law, (ii) the entry by a court having jurisdiction in the premises of a decree or order adjudging the Company or any Significant Subsidiary as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company or any Significant Subsidiary under any applicable federal or state law or (iii) the appointment by a court having jurisdiction in the premises of a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any Significant Subsidiary, or ordering the winding up or liquidation of a Significant Subsidiary's affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(i) the commencement by the Company or by a Significant Subsidiary of a voluntary case or other proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company or of a Significant Subsidiary in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief

under any applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of a Significant Subsidiary or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company or by a Significant Subsidiary in furtherance of any such action; or

(j) a final judgment for the payment of \$50 million or more (excluding any amounts covered by insurance) rendered against the Company or any Significant Subsidiary, which judgment is not discharged or stayed within sixty (60) days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished.

Payments of the Fundamental Change Repurchase Price, principal and interest that are not made when due shall accrue interest per annum at the then-applicable interest rate from the required payment date.

SECTION 6.02 Waiver of Past Defaults. Section 6.04 of the Original Indenture shall be superseded in its entirety, with respect to the Notes, by this Section 6.02. The Holders of not less than a majority in principal amount of the Notes then Outstanding may, on behalf of all Holders, waive any past Default under the Indenture (except with respect to a Default set forth in Section 6.01(a), (b) or (c) of this Supplemental Indenture) and rescind any acceleration with respect to the Notes pursuant to Section 6.04 and its consequences if (i) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) all existing Events of Default, other than a Default with respect to the nonpayment of the principal of and interest on the Notes that have become due solely by such declaration of acceleration, have been cured or waived.

SECTION 6.03 Failure to Comply with Reporting Covenant. Notwithstanding anything to the contrary in the Indenture, to the extent elected by the Company, the sole remedy during the 60-day period described below for an Event of Default relating to (i) the Company's failure to file with the Trustee pursuant to Section 314(a)(1) of the TIA any documents or reports that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, or (ii) the Company's failure to comply with its obligations as set forth under Section 2.05, shall after the occurrence of such an Event of Default consist exclusively of the right to receive additional interest (the "**Additional Interest**") on the Notes at a rate equal to 0.25% per annum of the principal amount of the Notes Outstanding for each day during the 60-day period beginning on, and including, the occurrence of such an Event of Default during which such Event of Default is continuing. If the Company makes such an election, such Additional Interest shall be payable in the same manner and on the same dates as the stated interest payable on the Notes. On the sixty-first (61st) day after the occurrence of such Event of Default (if the Event of Default relating to the Company's obligations referred to in clauses (i) and (ii) of this Section 6.03 is not cured or waived prior to such sixty-first (61st) day), the Notes shall be subject to acceleration as provided in Section 6.04 hereof. A Holder's right to receive Additional Interest for an Event of Default relating to the Company's failure to comply with its obligations referred to in clauses (i) and (ii) of this Section 6.03 shall not affect the rights of the Holders in the event

of an occurrence of any other Event of Default. In the event the Company does not timely elect to pay the Additional Interest following an Event of Default referred to in clauses (i) and (ii) of this Section 6.03 in accordance with this paragraph, the Notes shall be subject to acceleration as provided in Section 6.04 hereof. To make such election to pay Additional Interest as the sole remedy during the first sixty (60) days after the occurrence of an Event of Default referred to in clauses (i) and (ii) of this Section 6.03, the Company must notify all Holders of the Notes and the Trustee and the Paying Agent of such election prior to the beginning of such 60-day period. Upon the Company's failure to timely give such notice, the Notes shall be immediately subject to acceleration as provided in Section 6.04 hereof.

SECTION 6.04 Acceleration. Section 6.02 of the Original Indenture shall, with respect to the Notes, be superseded in its entirety by this Section 6.04. If an Event of Default occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Notes then Outstanding by notice to the Company and the Trustee, may, and the Trustee at the request of such Holders shall, declare 100% of the principal of and accrued and unpaid interest, on all the Notes to be due and payable. If an Event of Default specified in Section 6.01(h) and Section 6.01(i) of this Supplemental Indenture (solely with respect to the Company and not with respect to a Significant Subsidiary) occurs, 100% of the principal of and accrued and unpaid interest on the Notes shall automatically become due and payable. Upon such a declaration, such principal and accrued and unpaid interest, will be due and payable immediately.

SECTION 6.05 Limitation on Suits; Control by Majority. Notwithstanding Section 6.07 of the Original Indenture, a Holder may enforce, and may institute and maintain any proceeding suitable to enforce, its right to receive payment of principal or interest when due, or the right to receive payment or delivery of the consideration due upon conversion. Each of (i) clause (3) of Section 6.07 of the Original Indenture, (ii) the last sentence of Section 6.05 of the Original Indenture, (iii) Section 7.01(f) of the Original Indenture and (iv) Section 7.02(i) of the Original Indenture is hereby amended, with respect to the Notes, in each case, by inserting the word "reasonably" immediately prior to the word "satisfactory". In addition, the last sentence of Section 6.05 of the Original Indenture is hereby further amended, with respect to the Notes, by deleting the words "in its sole discretion".

SECTION 6.06 Notice of Defaults.

(a) Notwithstanding the proviso in Section 7.05 of the Original Indenture, the Trustee shall not be protected in withholding notice of a Default after the ninetieth (90th) day following the occurrence of the Default if such Default relates to the payment or delivery of the consideration due upon conversion.

(b) The Company shall deliver to the Trustee, as soon as possible and in any event within thirty (30) days after it occurs, written notice, pursuant to Section 12.03 of the Original Indenture (and making explicit reference to the Indenture, the Notes and the Company), in the form of an Officers' Certificate of any Event of Default or any event which with the giving of notice or the lapse of time would constitute an Event of Default (or both), its status and what action the Company is taking or proposes to take with respect to it.

(c) Neither the proviso set forth in Section 315(b) of the TIA nor clause (B) of Section 316(a)(1) of the TIA shall apply with respect to the Notes.

SECTION 6.07 Unconditional Right to Receive Conversion Consideration. Section 6.08 of the Original Indenture is hereby amended, for purposes of the Notes, by: (a) replacing the reference therein to “security issuable upon conversion” with the words “consideration due upon conversion” and (b) inserting the parenthetical “(including the Fundamental Change Repurchase Price, if applicable)” immediately following the words “payment of principal” therein. In addition, Section 6.13 of the Original Indenture is hereby amended, for purposes of the Notes, by inserting the words “or for the enforcement of the right to receive the consideration due upon conversion”.

ARTICLE 7

Discharge

SECTION 7.01 Discharge of the Supplemental Indenture. (a) The satisfaction and discharge provisions set forth in this Article 7 shall, with respect to the Notes, supersede in their entirety Article 8 of the Original Indenture. When (i) the Company delivers to the Trustee all Outstanding Notes (other than Notes replaced pursuant to Section 2.09 of the Original Indenture) for cancellation or (ii) all Outstanding Notes have become due and payable, whether on the Maturity Date, upon a required repurchase pursuant to Article 3 hereof, upon conversion pursuant to Article 9 or otherwise, and the Company irrevocably deposits with the Trustee money sufficient to pay on the Maturity Date or upon repurchase of all Outstanding Notes, including interest thereon to the Maturity Date or the relevant Fundamental Change Repurchase Date, as the case may be, or (in the case of conversion) money and/or any shares of Common Stock sufficient to satisfy outstanding conversions, and if in each such case, the Company pays all other sums payable hereunder by the Company, then the Indenture shall, with respect to the Notes, subject to Section 7.01(b), cease to be of further effect. The Trustee shall acknowledge satisfaction and discharge of the Indenture, with respect to the Notes, on demand of the Company accompanied by an Officers’ Certificate and an Opinion of Counsel as required by Section 12.05 of the Original Indenture and at the cost and expense of the Company.

(b) Notwithstanding clause (a) above, the Company’s obligations in Sections 2.06, 2.07, 2.08, 2.09, 2.10, 7.07, and 7.08 of the Original Indenture and Section 3.03 hereof and this Article 7 shall survive until the Notes have been paid in full. Thereafter, the Company’s obligations in Section 7.07 of the Original Indenture shall survive such satisfaction and discharge.

SECTION 7.02 Application of Trust Money. The Trustee shall hold in trust cash and any shares of Common Stock or other property due in respect of converted Notes deposited with it pursuant to this Article 7. It shall apply the deposited money through the Paying Agent and in accordance with the Indenture to the payment of principal of and interest on the Notes or, in the case of any cash and/or shares of Common Stock (or other property) due in respect of converted Notes, in accordance with the Indenture in relation to the conversion of Notes pursuant to the terms hereof.

SECTION 7.03 Repayment to Company. Subject to any applicable abandoned property law, the Trustee and the Paying Agent shall pay to the Company upon written request any money held by them for the payment of principal or interest and any shares of Common Stock or other property due in respect of converted Notes that remains unclaimed for two years, and, thereafter, Holders entitled to the money or securities must look to the Company for payment as general creditors.

SECTION 7.04 Reinstatement. If the Trustee or Paying Agent is unable to apply any cash or to pay or deliver, as the case may be, cash or any shares of Common Stock (or other property) due in respect of converted Notes in accordance with this Article 7 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Supplemental Indenture, the Original Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to this Article 7 until such time as the Trustee or Paying Agent is permitted to apply all such cash and pay or deliver, as the case may be, cash or any shares of Common Stock (or other property) due in respect of converted Notes in accordance with this Article 7; provided, however, that, if the Company has made any payment of interest on or principal of any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 8

Amendments

SECTION 8.01 Without Consent of Holders. Section 9.01 of the Original Indenture shall, with respect to the Notes, be superseded in its entirety by this Section 8.01. The Company and the Trustee may amend or supplement the Indenture (to the extent applicable to the Notes) or the Notes without notice to or the consent of any Holder to:

- (a) cure any ambiguity, omission, defect or inconsistency that does not adversely affect Holders of the Notes;
- (b) provide for the assumption by a Successor Company of the obligations of the Company under the Indenture in accordance with Article 5;
- (c) increase the Conversion Rate of the Notes;
- (d) add guarantees with respect to the Notes;
- (e) secure the Notes;
- (f) add to the covenants of the Company for the benefit of the Holders or surrender any right or power conferred upon the Company;
- (g) make any change that does not adversely affect the rights of any Holder;

- (h) comply with any requirements of the Commission in connection with qualifying, or maintaining the qualification of, the Indenture under the TIA;
- (i) in connection with any Merger Event, provide that the Notes are convertible into Reference Property, subject to the provisions of Section 9.03, and to make such related changes to the terms of the Notes to the extent expressly required by Section 9.07; or
- (j) conform the provisions of the Indenture, with respect to the Notes, and the form or terms of the Notes to the “Description of Debt Securities” section of the prospectus accompanying the preliminary prospectus supplement, dated June 12, 2013, for the offering of Notes, as amended and/or supplemented by the “Description of notes” section in such preliminary prospectus supplement, as further supplemented by the related pricing term sheet.

SECTION 8.02 With Consent of Holders. The first paragraph of Section 9.02 of the Original Indenture shall be superseded in its entirety, with respect to the Notes, by this Section 8.02. The Indenture or the Notes may be amended with the consent of the Holders of at least a majority in principal amount of the Notes then Outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes) and prospective compliance with any provisions may be waived with the consent of the Holders of a majority in principal amount of the Notes then Outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes); *provided* that, without the consent of each Holder of an Outstanding Note affected, no amendment, supplement or prospective waiver may:

- (a) reduce the amount of Notes whose Holders must consent to an amendment;
- (b) reduce the rate of, or extend the stated time for payment of, interest on any Note;
- (c) reduce the principal of any Note or change the Maturity Date;
- (d) make any change that adversely affects the conversion rights of any Notes;
- (e) reduce the Fundamental Change Repurchase Price or amend or modify in any manner adverse to the Holders of Notes the Company’s obligation to make such payment, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;
- (f) make any Note payable in money other than that stated in the Note;
- (g) change the ranking of the Notes if such change would adversely affect the rights of Holders;
- (h) impair the right of any Holder to receive payment of principal or interest on such Holder’s Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder’s Notes; or
- (i) make any change in the provisions of this Section 8.02 which require each Holder’s consent or in the waiver provisions in Section 6.02.

SECTION 9.01 Right to Convert.

(a) Subject to and upon compliance with the provisions of this Indenture, each Holder shall have the right, at such Holder's option, to convert the principal amount of any such Notes, or any portion of such principal amount which is \$1,000 or an integral multiple of \$1,000 thereof, at the Conversion Rate then in effect, (x) on or after January 1, 2018 through the close of business on the Business Day immediately preceding the Maturity Date, regardless of whether any of the conditions set forth in clause (i) through (iv) below are satisfied and (y) prior to the close of business on the Business Day immediately preceding January 1, 2018, but only upon the satisfaction of one or more of the conditions set forth in clauses (i) through (iv) below and only during the periods set forth below (subject to Section 9.02 and Section 9.03, the "**Conversion Obligation**").

(i) Prior to the close of business on the Business Day immediately preceding January 1, 2018, a Holder may surrender all or a portion of its Notes for conversion during any fiscal quarter (and only during such fiscal quarter) commencing after September 30, 2013, if the Last Reported Sale Price of the Common Stock for at least twenty (20) Trading Days (whether or not consecutive) during the period of 30 consecutive Trading Days ending on the last Trading Day of the immediately preceding fiscal quarter is greater than or equal to 130% of the Conversion Price in effect on each applicable Trading Day. The Company shall determine at the beginning of each fiscal quarter commencing after September 30, 2013 whether the Notes have become convertible pursuant to this clause (i) and, if so, shall so notify Holders, the Trustee and the Conversion Agent within one Business Day.

(ii) Prior to the close of business on the Business Day immediately preceding January 1, 2018, a Holder may surrender all or a portion of its Notes for conversion during the five (5) Business-Day period immediately after any ten (10) consecutive Trading-Day period (the "**Measurement Period**") in which the Trading Price per \$1,000 principal amount of Notes, as determined following a request by a Holder in accordance with the procedures set forth in this Section 9.01(a)(ii) and the definition of "Trading Price", for each Trading Day of such Measurement Period was less than 98% of the product of the Last Reported Sale Price of the Common Stock and the Conversion Rate on such Trading Day. The Bid Solicitation Agent shall have no obligation to determine the Trading Price of the Notes in accordance with this Section 9.01(a)(ii) and the definition thereof (if the Company is not acting as Bid Solicitation Agent) unless requested by the Company, and the Company shall have no obligation to make such request (or, if the Company is acting as Bid Solicitation Agent, the Company shall have no

obligation to determine the Trading Price of the Notes) unless a Holder provides the Company with reasonable evidence that the Trading Price per \$1,000 principal amount of Notes would be less than 98% of the product of the Last Reported Sale Price of the Common Stock and the Conversion Rate. At such time, the Company shall instruct the Bid Solicitation Agent to determine the Trading Price of the Notes (or, if the Company is acting as Bid Solicitation Agent, the Company shall determine the Trading Price of the Notes) beginning on the next Trading Day and on each successive Trading Day until the Trading Price per \$1,000 principal amount of the Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the Common Stock and the Conversion Rate. If (x) the Company is not acting as Bid Solicitation Agent, and does not so instruct the Bid Solicitation Agent to obtain bids when required or the Company gives such instruction to the Bid Solicitation Agent and the Bid Solicitation Agent fails to obtain bids or (y) the Company is acting as Bid Solicitation Agent and the Company does not obtain bids when required, the Trading Price per \$1,000 principal amount of Notes shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the Common Stock and the Conversion Rate on each day of such failure. If the Trading Price condition has been met on any Business Day, the Company shall notify the Holders of the Notes, by first class mail to their respective addresses as shown on the Security Register, or in the case of Global Notes, in accordance with the applicable procedures of the Depository, the Trustee and the Conversion Agent within one (1) Business Day. If, at any time after the Trading Price condition has been met, the Trading Price per \$1,000 principal amount of Notes is greater than 98% of the product of the Last Reported Sale Price of the Common Stock and the Conversion Rate for such date, the Company shall promptly so notify the Holders of the Notes, by first class mail to their respective addresses as shown on the Security Register, or in the case of Global Notes, in accordance with the applicable procedures of the Depository, the Trustee and the Conversion Agent.

(iii) If, prior to the close of business on the Business Day immediately preceding January 1, 2018, the Company elects to:

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

(B) distribute to all or substantially all holders of Common Stock the Company's assets, debt securities or rights to purchase securities of the Company, which distribution has a per share value, as reasonably determined by the Board of Directors, exceeding 10% of the Last Reported Sale Price of the Common Stock on the Trading Day preceding the date of announcement for such distribution,

then, in each case, the Company shall notify all Holders of the Notes, by first class mail to their respective addresses as shown on the Security Register, or in the case of Global Notes, in accordance with the applicable procedures of the Depository, at least forty-five (45) Scheduled Trading Days prior to the Ex-Dividend Date for such issuance or distribution. Once the Company has given such notice, Holders may surrender Notes for conversion at any time until the earlier of the close of business on the Business Day immediately prior to such Ex-Dividend Date or the Company's announcement that such issuance or distribution will not take place, even if the Notes are not otherwise convertible at such time.

(iv) If, prior to the close of business on the Business Day immediately preceding January 1, 2018, a transaction or event that constitutes a Fundamental Change or a Make-Whole Fundamental Change occurs, regardless of whether a Holder has the right to require the Company to repurchase the Notes under Section 3.01, or if the Company is a party to a consolidation, merger, binding share exchange, or sale, conveyance, transfer or lease of all or substantially all of the Company's assets, pursuant to which the Common Stock would be converted into cash, securities or other assets, Holders may surrender Notes for conversion at any time from or after the 45th Scheduled Trading Day prior to the anticipated effective date of such transaction (or, if later, the Business Day after the Company gives notice of such transaction as set forth in clause (y) of the following sentence) until thirty-five (35) Trading Days after the actual effective date of such transaction or, if such transaction also constitutes a Fundamental Change, until the related Fundamental Change Repurchase Date. The Company shall notify the Holders, by first class mail to their respective addresses as shown on the Security Register, or in the case of Global Notes, in accordance with the applicable procedures of the Depository, and the Trustee, (x) as promptly as practicable following the date the Company or a third party publicly announces such transaction, but in no event less than forty-five (45) Scheduled Trading Days prior to the anticipated effective date of such transaction or (y) if the Company does not have knowledge of such transaction at least forty-five (45) Scheduled Trading Days prior to the anticipated effective date of such transaction, within one (1) Business Day of the date upon which it receives notice, or otherwise becomes aware, of such transaction, but in no event later than the actual effective date of such transaction.

SECTION 9.02 Conversion Procedures.

(a) Each Note shall be convertible at the office of the Conversion Agent and, if applicable, in accordance with the procedures of the Depository.

(b) In order to exercise the conversion privilege with respect to any beneficial interest in a Global Note, the beneficial owner thereof must comply with the Depository's procedures for converting a beneficial interest in a Global Note and pay the funds, if any, required by Section 2.03(c) to which such converting Holder is not entitled and, if required, pay all transfer taxes pursuant to Section 9.08, if any. In order to exercise the conversion privilege with respect to any Physical Notes, the Holder of any such Notes to be converted, in whole or in part, shall:

(i) complete and manually sign the conversion notice on the back of the Note (the "**Conversion Notice**") or a facsimile of the Conversion Notice and deliver such notice, which is irrevocable, to the Conversion Agent;

- (ii) surrender the Note to the Conversion Agent;
- (iii) if required, furnish appropriate endorsements and transfer documents,
- (iv) if required, pay all transfer or similar taxes; and
- (v) if required under Section 2.03(c), pay funds equal to the interest payment on the next Interest Payment Date to which such Holder is not entitled.

The date on which the Holder satisfies all of the applicable requirements set forth above is the “**Conversion Date.**” The Trustee shall, as promptly as possible, provide the Company with notice of any conversion exercised by Holders of which a Trust Officer becomes aware.

(c) Each Conversion Notice shall state the name or names (with address or addresses) in which any certificate or certificates for shares of Common Stock which shall be issuable on such conversion shall be issued. All such Notes surrendered for conversion shall, unless any shares issuable on conversion are to be issued in the same name as the registration of such Notes, be duly endorsed by, or be accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the Holder or his duly authorized attorney.

(d) In case any Notes of a denomination greater than \$1,000 shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of the Notes so surrendered, without charge to such Holder, new Notes in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Notes.

(e) Each conversion of Notes shall be deemed to have been effected on the relevant Conversion Date, and with respect to any shares of Common Stock that are issuable upon such conversion: (i) if Physical Settlement applies, the Person in whose name the certificate or certificates for such shares of Common Stock will be registered shall become the holder of record of such shares as of the close of business on the Conversion Date; and (ii) if Combination Settlement applies, the Person in whose name the certificate or certificates for such shares of Common Stock will be registered, shall become the holder of record of such shares as of the close of business on the last Trading Day of the related Observation Period.

(f) Upon the conversion of an interest in Global Notes, the Trustee (or other Conversion Agent appointed by the Company) shall make a notation on such Global Notes as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversions of Notes effected through any Conversion Agent other than the Trustee.

(g) If a Holder has submitted any Notes for required repurchase pursuant to Section 3.01, such Notes may be converted only if the Holder submits a withdrawal notice in accordance with Section 3.02 prior to the Fundamental Change Repurchase Expiration Time.

SECTION 9.03 Payment Upon Conversion.

(a) Upon any conversion of any Note, the Company shall deliver to converting Holders, in respect of each \$1,000 principal amount of Notes being converted, at the Company's election, in full satisfaction of the Company's Conversion Obligation, any of (1) shares of Common Stock, together with cash in lieu of fractional shares pursuant to Section 9.03(c), if any (a "**Physical Settlement**"), (2) a cash payment without any delivery of shares of Common Stock (a "**Cash Settlement**") or (3) a combination of cash and shares of Common Stock, together with cash in lieu of fractional shares pursuant to Section 9.03(c), if any (a "**Combination Settlement**"), in each case, as set forth below. Prior to the close of business on the 45th Scheduled Trading Day immediately preceding the Maturity Date, the Company shall use the same Settlement Method for all conversions occurring on the same Conversion Date as set forth in clause (i) or (ii) below, *provided* that, prior to the 45th Scheduled Trading Day immediately preceding the Maturity Date, the Company shall not have any obligation to use the same Settlement Method with respect to conversions that occur on different Conversion Dates. The Company shall use the same Settlement Method for all conversions occurring on or after the 45th Scheduled Trading Day immediately preceding the Maturity Date as set forth in clause (i) or (ii) below.

(i) For conversions that occur prior to the 45th Scheduled Trading Day immediately preceding the Maturity Date, by the close of business on the Trading Day following the Conversion Date, the Company shall deliver a notice to converting Holders of the relevant Settlement Method in respect of such Conversion Date and, if the Company elects Combination Settlement, the dollar amount of the Conversion Obligation (the "**Cash Amount**") that will be settled in cash. The Company shall deliver, prior to the 45th Scheduled Trading Day immediately preceding the Maturity Date, a notice to all Holders of the Settlement Method and, if the Company elects Combination Settlement, the related Cash Amount that will be applicable to all conversions that occur on or after such 45th Scheduled Trading Day. Any such notice of a Settlement Method (and, if applicable, the relevant Cash Amount) delivered pursuant to this Section 9.03(a)(i) may not be revoked.

(ii) If the Company does not timely deliver a notice of Settlement Method with respect to any conversion of a Note in accordance with Section 9.03(a)(i), then the Company shall be deemed to have elected Physical Settlement in respect of its Conversion Obligation.

(iii) If Physical Settlement applies to any Notes surrendered for conversion, the Company shall deliver to the converting Holder, for each \$1,000 principal amount of Notes, a number of shares of Common Stock equal to the Conversion Rate in effect on the relevant Conversion Date, together with cash in lieu of fractional shares of Common Stock pursuant to Section 9.03(c), on the third Business Day following the Conversion Date.

(iv) If Cash Settlement applies to any Notes surrendered for conversion, the Company shall deliver to the converting Holder, for each \$1,000 principal amount of Notes, a cash payment equal to the sum of the Daily Conversion Values for each Trading Day during the relevant Observation Period. Subject to Section 9.06(b), the Company shall make such payment on the third Business Day following the last Trading Day of the applicable Observation Period.

(v) If Combination Settlement applies to any Notes surrendered for conversion, the Company shall deliver to the converting Holder, for each \$1,000 principal amount of Notes, the sum of the Daily Settlement Amounts for each Trading Day during the relevant Observation Period. Subject to Section 9.06(b), the Company shall deliver the cash and shares of Common Stock comprising its Conversion Obligation pursuant to the immediately preceding sentence on the third Business Day following the last Trading Day of the applicable Observation Period.

(b) Upon conversion, Holders shall not receive any separate cash payment for accrued and unpaid interest, except to the extent specified in Section 2.03(c). The Company's delivery to the Holder of Common Stock, cash or a combination of cash and Common Stock, as applicable, together with any cash payment for any fractional share of Common Stock pursuant to Section 9.03(c), into which a Note is convertible will be deemed to satisfy in full the Company's obligation to pay (i) the principal amount of the Notes so converted and (ii) accrued and unpaid interest, if any, to, but not including, the Conversion Date, except as provided in Section 2.03(c). As a result, any such accrued and unpaid interest to, but not including, the Conversion Date will be deemed to be paid in full rather than cancelled, extinguished or forfeited. Upon a conversion of Notes into a combination of cash and shares of Common Stock, any such accrued and unpaid interest shall be deemed to be paid first out of any cash paid upon such conversion.

(c) The Company shall not issue fractional shares of Common Stock upon conversion of Notes. If multiple Notes shall be surrendered for conversion at one time by the same Holder, the number of full shares of Common Stock which shall be issuable upon conversion shall be computed on the basis of the aggregate principal amount of such Notes (or specified portions thereof to the extent permitted hereby) so surrendered. If any fractional share of Common Stock would otherwise be issuable upon the conversion of any Notes, the Company shall make payment therefor in cash in lieu of such fractional share of Common Stock based on:

- (i) if Physical Settlement applies, the Last Reported Sale Price of the Common Stock on the relevant Conversion Date, and
- (ii) if Combination Settlement applies, the Daily VWAP of the Common Stock on the final Trading Day of the applicable Observation Period.

SECTION 9.04 Adjustment of Conversion Rate. The Conversion Rate shall be adjusted from time to time by the Company if any of the following events occurs, except that the Company will not make any of the adjustments to the Conversion Rate referred to in clauses (a) (but only with respect to a dividend or distribution), (b), (c) or (d) below if Holders of the Notes have the right to participate, at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Notes, in any of the transactions described below without having to convert their Notes as if such Holders held the full number of shares of Common Stock underlying their Notes.

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

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where

- CR₀ = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as applicable;
- CR₁ = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date or effective date, as applicable;
- OS₀ = the number of shares of Common Stock outstanding immediately prior to the open of business on such Ex-Dividend Date or effective date, as applicable; and
- OS₁ = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

Such adjustment shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination. If any dividend or distribution of the type described in this Section 9.04(a) is declared but not so paid or made, the Conversion Rate shall again be immediately adjusted, effective as of the date of the Board of Directors determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(b) If the Company issues to all or substantially all holders of the Common Stock any rights or warrants entitling them for a period of not more than forty-five (45) calendar days after the announcement date of such issuance to subscribe for or purchase shares of the Common Stock, at a price per share that is less than the average of the Last Reported Sale Prices of Common Stock for the ten (10) consecutive Trading-Day period ending on the

Trading Day immediately preceding the date of announcement of such issuance, the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

- CR₀ = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such issuance;
- CR₁ = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date;
- OS₀ = the number of shares of Common Stock outstanding immediately prior to the open of business on such Ex-Dividend Date;
- X = the total number of shares of Common Stock issuable pursuant to such rights or warrants; and
- Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights or warrants *divided by* the average of the Last Reported Sale Prices of the Common Stock over the ten (10) consecutive Trading Day period ending on the Trading Day immediately preceding the date of announcement of the issuance of such rights or warrants.

Any adjustment made under this Section 9.04(b) shall be made successively whenever any such rights or warrants are issued. To the extent that shares of the Common Stock are not delivered after the expiration of such rights or warrants, the Conversion Rate shall be decreased, effective as of the date of such expiration, to the Conversion Rate that would then be in effect had the increase with respect to the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of the Common Stock actually delivered. If such rights or warrants are not so issued, the Conversion Rate shall be decreased, effective as of the scheduled issuance date, to the Conversion Rate that would then be in effect if such Ex-Dividend Date for such issuance had not occurred.

For purposes of this Section 9.04(b) and for the purpose of Section 9.01(a)(iii)(A), in determining whether any rights or warrants entitle the holders thereof to subscribe for or purchase shares of the Common Stock at less than such average of the Last Reported Sale Prices for the ten (10) consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement for such issuance, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) If the Company distributes shares of any class of Capital Stock of the Company, evidences of its indebtedness, other assets or property of the Company or rights or warrants to acquire the Company's Capital Stock or other securities to all or substantially all holders of the Common Stock, excluding:

- (i) dividends or distributions and rights or warrants as to which an adjustment was effected pursuant to Section 9.04(a) or Section 9.04(b);
- (ii) dividends or distributions paid exclusively in cash (as set forth below in Section 9.04(d)); and
- (iii) Spin-offs to which provisions set forth below in this Section 9.04(c) shall apply,

then the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

- CR₀ = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;
- CR₁ = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date;
- SP₀ = the average of the Last Reported Sale Prices of the Common Stock over the ten (10) consecutive Trading-Day period ending on the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and
- FMV = the fair market value (as determined by the Board of Directors) of the shares of Capital Stock, evidences of indebtedness, assets, property, rights or warrants distributed with respect to each outstanding share of the Common Stock on the Ex-Dividend Date for such distribution.

Such adjustment shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If the Board of Directors determines the fair market value of any distribution for purposes of this Section 9.04(c) by reference to the actual or when-issued trading market for any securities, it shall in doing so consider the prices in such market over the same period used in computing the average of the Last Reported Sale Prices of the Common Stock over the ten (10) consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Dividend Date for such distribution. Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP₀" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, in respect of each \$1,000 principal amount thereof, at the same time and upon the same terms as holders of Common Stock, the amount and kind of Capital Stock, evidences of indebtedness, other assets or property

of the Company or rights or warrants to acquire the Capital Stock of the Company or other securities such Holder would have received if such Holder had owned a number of shares of Common Stock equal to the Conversion Rate in effect on the Ex-Dividend Date for such distribution.

If any such distribution is not so paid or made, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to pay or make such distribution, to be the Conversion Rate that would then be in effect if such distribution had not been declared.

With respect to an adjustment pursuant to this Section 9.04(c) where there has been a payment of a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company, in each case that are or, when issued, will be listed on a national securities exchange (a “**Spin-off**”), the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

- CR₀ = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such Spin-off;
- CR₁ = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such Spin-off;
- FMV₀ = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Common Stock (determined for purposes of the definition of “Last Reported Sale Price” as if such Capital Stock or similar equity interest were the Common Stock) applicable to one share of the Common Stock over the first ten (10) consecutive Trading Day period after, and including, the Ex-Dividend Date of the Spin-Off (the “**Valuation Period**”); and
- MP₀ = the average of the Last Reported Sale Prices of the Common Stock over the Valuation Period.

The adjustment to the Conversion Rate under the preceding paragraph shall be determined on the last day of the Valuation Period but will be given retroactive effect as of the open of business on the Ex-Dividend Date for the Spin-off; *provided* that in respect of any conversion during the Valuation Period, references in the portion of this Section 9.04(c) relating to Spin-offs to ten (10) Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed between the Ex-Dividend Date of such Spin-off and the Conversion Date in determining the applicable Conversion Rate. If the Ex-Dividend Date for the Spin-off is less than ten (10) Trading Days prior to, and including, the end of the Observation Period in respect of any conversion, references in the portion of this Section 9.04(c) related to

Spin-offs to ten (10) Trading Days shall be deemed replaced, for purposes of calculating the affected daily Conversion Rates in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including the Ex-Dividend Date for such Spin-off to, and including, the last Trading Day of such Observation Period.

If any dividend or distribution of the type described in this Section 9.04(c) is declared but not so paid or made, the Conversion Rate shall be decreased, effective as of the date of the Board of Directors determines not to pay or make such distribution, to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

For purposes of this Section 9.04(c) (and subject in all respect to Section 9.12), rights, options or warrants distributed by the Company to all holders of the Common Stock entitling them to subscribe for or purchase shares of the Company's Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events ("**Trigger Event**"): (i) are deemed to be transferred with such shares of the Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this Section 9.04(c) (and no adjustment to the Conversion Rate under this Section 9.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 9.04(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Supplemental Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 9.04(c) was made, (1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 9.04(a), Section 9.04(b) and this Section 9.04(c), if any dividend or distribution to which this Section 9.04(c) is applicable also includes one or both of:

(A) a dividend or distribution of shares of Common Stock to which Section 9.04(a) is applicable (the “**Clause A Distribution**”); or

(B) a dividend or distribution of rights, options or warrants to which Section 9.04(b) is applicable (the “**Clause B Distribution**”),

then, in either case, (1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 9.04(c) is applicable (the “**Clause C Distribution**”) and any Conversion Rate adjustment required by this Section 9.04(c) with respect to such Clause C Distribution shall then be made, and (2) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Conversion Rate adjustment required by Section 9.04(a) and Section 9.04(b) with respect thereto shall then be made, except that, if determined by the Company (I) the “Ex-Dividend Date” of the Clause A Distribution and the Clause B Distribution shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (II) any shares of Common Stock included in the Clause A Distribution or Clause B Distribution shall be deemed not to be “outstanding immediately prior to the open of business on such Ex-Dividend Date or effective date, as applicable” within the meaning of Section 9.04(a) or “outstanding immediately prior to the open of business on such Ex-Dividend Date” within the meaning of Section 9.04(b).

(d) If any cash dividend or other distribution is made to all or substantially all holders of the Common Stock, the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - C}$$

where

CR₀ = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution;

CR₁ = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution;

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

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

If “C” (as defined above) is equal to or greater than “SP₀” (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, for each \$1,000 principal amount of Notes, at the same time and upon the same terms as holders of shares of the Common Stock, the amount of cash that such Holder would have received if such Holder owned a number of shares

of Common Stock equal to the Conversion Rate on the Ex-Dividend Date for such cash dividend or distribution. Such adjustment shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution. If such dividend or distribution is not so paid, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to make or pay such dividend or distribution, to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

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

$$CR_1 = CR_0 \times \frac{AC + (SP_1 \times OS_1)}{OS_0 \times SP_1}$$

where

- CR₀ = the Conversion Rate in effect immediately prior to the open of business on the Trading Day next succeeding the date such tender or exchange offer expires;
- CR₁ = the Conversion Rate in effect immediately after the open of business on the Trading Day next succeeding the date such tender or exchange offer expires;
- AC = the aggregate value of all cash and any other consideration (as determined by the Board of Directors) paid or payable for shares of the Common Stock purchased in such tender or exchange offer;
- OS₀ = the number of shares of Common Stock outstanding immediately prior to the open of business on the Trading Day next succeeding the date such tender or exchange offer expires;
- OS₁ = the number of shares of Common Stock outstanding immediately after the open of business on the Trading Day next succeeding the date such tender or exchange offer expires (after giving effect to the purchase of all shares of the Common Stock accepted for purchase or exchanged in such tender or exchange offer); and
- SP₁ = the average of the Last Reported Sale Prices of the Common Stock over the ten (10) consecutive Trading Day period commencing on the Trading Day next succeeding the date such tender or exchange offer expires.

The adjustment to the Conversion Rate under this Section 9.04(e) shall be determined at the close of business on the tenth (10th) Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires but will be given retroactive effect as of the open of business on the Trading Day next succeeding the date such tender or exchange offer expires; *provided* that in respect of any conversion within ten (10) Trading Days immediately following, and including, the expiration date of any tender or exchange offer, references with respect to ten (10) Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed between the expiration date of such tender or exchange offer and the Conversion Date in determining the Conversion Rate. If the Trading Day immediately following the date the tender or exchange offer expires is less than ten (10) Trading Days prior to, and including, the end of the Observation Period in respect of any conversion, references in this Section 9.04(e) to ten (10) Trading Days shall be deemed replaced, for purposes of calculating the affected daily Conversion Rates in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Trading Day immediately following the date such tender or exchange offer expires to, and including, the last Trading Day of such Observation Period.

If the Company or one of its subsidiaries is obligated to purchase shares of Common Stock pursuant to any such tender or exchange offer, but the Company or such subsidiary is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made.

(f) For purposes of Section 9.04(c), “**record date**” shall mean, with respect to any dividend, issuance, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of shareholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(g) To the extent permitted by applicable law and the rules of The NASDAQ Global Select Market and any other securities exchange on which the Company’s securities are then listed, (i) the Company is permitted to increase the Conversion Rate of the Notes by any amount for a period of at least twenty (20) Business Days if the Board of Directors determines that such increase would be in the Company’s best interest, and (ii) the Company may (but is not required to) increase the Conversion Rate to avoid or diminish income tax to holders of Common Stock or rights to purchase shares of Common Stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event.

(h) [Reserved.]

(i) All calculations under this Article 9 shall be made by the Company and shall be calculated to the nearest one-ten-thousandth (1/10,000th) of a share. No adjustment to the Conversion Rate shall be required unless the adjustment would require an increase or decrease of at least 1% of the Conversion Rate. However, the Company will carry forward any adjustments that are less than 1% of the Conversion Rate that the Company elects not to make and take such carried-forward adjustments into account upon (1) each of the forty (40) consecutive Trading Days of any Observation Period with respect to a conversion of the Notes

(or, in the case of a Physical Settlement, any Conversion Date), (2) the occurrence of a Fundamental Change, (3) the Maturity Date and (4) such time as all adjustments that have not been made prior thereto would have the effect of adjusting the Conversion Rate by at least 1%.

(j) Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly file with the Trustee and any Conversion Agent an Officers' Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Trust Officer shall have received such Officers' Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume without inquiry that the last Conversion Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall mail such notice of such adjustment of the Conversion Rate to each Holder of Notes. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(k) For purposes of this Section 9.04, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company so long as the Company does not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(l) Notwithstanding the foregoing, if the application of the foregoing formulas would result in a decrease in the Conversion Rate, no adjustment to the Conversion Rate shall be made (other than (x) as a result of a reverse share split or a share combination or (y) a decrease in the Conversion Rate that reverses an earlier increase in the Conversion Rate, in whole or in part, due to the transaction or event that led to such increase not being completed, to the extent expressly specified in Section 9.04(a) to Section 9.04(e) above).

(m) Notwithstanding any of the foregoing, the applicable Conversion Rate shall not be adjusted:

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

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

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

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

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

(n) Notwithstanding the Conversion Rate adjustment provisions above, if any Conversion Rate adjustment becomes effective, or any Ex-Dividend Date, effective date or expiration date relating to a required Conversion Rate adjustment occurs, during the period beginning on the earlier of (i) a Conversion Date, or (ii) the first Trading Day of the corresponding Observation Period, and ending on the date that the consideration due upon a conversion is delivered (or, in the case of Physical Settlement, during the period beginning on a Conversion Date and ending on the date the shares due upon conversion are delivered), the Board of Directors shall make adjustments to the Conversion Rate or the amount of cash or number of shares of Common Stock issuable upon conversion of the Notes, as may be necessary or appropriate to effect the intent of the foregoing Conversion Rate adjustments to avoid unjust or inequitable results, as determined in good faith by the Board of Directors. Any adjustment made pursuant to this Section 9.04(n) will apply in lieu of the adjustment or other term that would otherwise be applicable. In addition, if a Conversion Rate adjustment becomes effective on any Ex-Dividend Date as set forth above, and a Holder that has converted its Notes would become the record holder of shares of Common Stock as of the related Conversion Date as set forth in Section 9.02(e) based on an adjusted Conversion Rate for such Ex-Dividend Date, then, notwithstanding the Conversion Rate adjustment provisions above, the Conversion Rate adjustment relating to such Ex-Dividend Date will not be made for such converting Holder. Instead, such Holder will be deemed to be the record owner of the shares on an un-adjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

(o) Except as stated herein, the applicable Conversion Rate shall not be adjusted for the issuance of shares of Common Stock or any securities convertible into or exchangeable for shares of Common Stock or the right to purchase shares of Common Stock or such convertible or exchangeable securities.

SECTION 9.05 Adjustment of Average Prices. Whenever any provision of this Indenture requires the Company to calculate Last Reported Sale Prices or Daily VWAPs over a span of multiple days, the Company will make appropriate adjustments to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date, effective date or expiration date of the event occurs, at any time during the period from which such Last Reported Sale Prices or Daily VWAPs are to be calculated.

SECTION 9.06 Adjustments Upon Make-Whole Fundamental Changes.

(a) If a Make-Whole Fundamental Change occurs prior to the Maturity Date and a Holder elects to convert its Notes in connection with such Make-Whole Fundamental Change, the Company shall, under the circumstances set forth below, increase the Conversion Rate for the Notes so surrendered for conversion by a number of additional shares of Common Stock (the “**Additional Shares**”) as set forth below. A conversion of Notes shall be deemed for these purposes to be “in connection with” such Make-Whole Fundamental Change if the Conversion Notice of the Notes is received by the Conversion Agent at any time from, and including, the Effective Date of the Make-Whole Fundamental Change up to, and including,

the Business Day immediately prior to the related Fundamental Change Repurchase Date (or, in the case of a Make-Whole Fundamental Change that would have been a Fundamental Change but for the *proviso* in clause (b) of the definition thereof, the thirty-fifth (35th) Trading Day immediately following the Effective Date of such Make-Whole Fundamental Change).

(b) Upon surrender of Notes for conversion in connection with a Make-Whole Fundamental Change, the Company shall, at its option, satisfy the related Conversion Obligation by Physical Settlement, Cash Settlement or Combination Settlement in accordance with Section 9.03; *provided, however*, that if the consideration for the Common Stock in any Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change is comprised entirely of cash, for any conversion of Notes following the Effective Date of such Make-Whole Fundamental Change, the Conversion Obligation shall be calculated based solely on the Stock Price for the transaction and shall be deemed to be an amount of cash per \$1,000 principal amount of converted Notes equal to the Conversion Rate (including any adjustment for Additional Shares) *multiplied by* such Stock Price. In such event, the Conversion Obligation shall be determined as of the relevant Conversion Date and paid to Holders in cash on the third Business Day following such Conversion Date. The Company shall notify the Holders of Notes of the Effective Date of any Make-Whole Fundamental Change and issue a press release announcing such Effective Date no later than five (5) Business Days after such Effective Date.

(c) The number of Additional Shares, if any, by which the Conversion Rate will be increased will be determined by reference to the table in clause (e) below, based on the date on which the Make-Whole Fundamental Change occurs or becomes effective (the “**Effective Date**”) and the price (the “**Stock Price**”) paid (or deemed paid) per share of the Common Stock in the Make-Whole Fundamental Change. If the holders of the Common Stock receive only cash in such Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Last Reported Sale Prices of Common Stock over the five (5) Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date of the Make-Whole Fundamental Change.

(d) The Stock Prices set forth in the column headings of the table below shall be adjusted as of any date on which the Conversion Rate of the Notes is otherwise adjusted. The adjusted Stock Prices shall equal the Stock Prices immediately prior to such adjustment, *multiplied by* a fraction, the numerator of which is the Conversion Rate immediately prior to such adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of Additional Shares set forth in the table below shall be adjusted in the same manner and at the same time as the Conversion Rate as set forth in Section 9.04.

(e) The following table sets forth the number of Additional Shares to be added to the Conversion Rate for each Stock Price and Effective Date set forth below:

Effective date	Stock price										
	\$ 15.37	\$ 17.50	\$ 20.00	\$ 22.50	\$ 25.00	\$ 30.00	\$ 40.00	\$ 50.00	\$ 75.00	\$100.00	\$125.00
June 18, 2013	18.5891	14.5964	10.9066	8.3298	6.4798	4.1019	1.8772	0.9665	0.2312	0.0497	0.0008
July 1, 2014	18.5891	14.6186	10.7041	8.0053	6.0965	3.7015	1.5714	0.7609	0.1606	0.0265	0.0000
July 1, 2015	18.5891	14.3395	10.1935	7.3873	5.4467	3.1003	1.1729	0.5204	0.0941	0.0088	0.0000
July 1, 2016	18.5891	13.5688	9.1804	6.3002	4.3860	2.2229	0.6907	0.2737	0.0445	0.0003	0.0000
July 1, 2017	18.5891	12.2407	7.4682	4.5263	2.7440	1.0425	0.2213	0.0897	0.0168	0.0000	0.0000
July 1, 2018	18.5891	10.6702	3.5273	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

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

(1) If the Stock Price is between two Stock Prices in the table or the Effective Date is between two Effective Dates in the table, the number of Additional Shares shall be determined by a straight-line interpolation between the number of Additional Shares set forth for the higher and lower Stock Prices and the earlier and later Effective Dates based on a 365-day year, as applicable.

(2) If the Stock Price is greater than \$125.00 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above), no Additional Shares shall be added to the Conversion Rate.

(3) If the Stock Price is less than \$15.37 per share (subject to adjustment in the same manner as the Stock Prices as set forth in the column headings of the table above), no Additional Shares shall be added to the Conversion Rate.

Notwithstanding the foregoing, in no event shall the total number of shares of Common Stock issuable upon conversion exceed 65.0618 per \$1,000 principal amount of Notes, subject to adjustments in the same manner as the Conversion Rate as set forth in Section 9.04.

(f) The Company shall notify the Holders of Notes of the Effective Date of any Make-Whole Fundamental Change and issue a press release announcing such Effective Date no later than five (5) Business Days after such Effective Date.

SECTION 9.07 Effect of Recapitalization, Reclassification, Consolidation, Merger or Sale. In the case of:

- (a) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination);
- (b) any consolidation, merger or combination involving the Company; or
- (c) any sale, lease or other transfer to a third party of the consolidated assets of the Company and its Subsidiaries substantially as an entirety; or
- (d) any statutory share exchange;

in each case of clauses (a) – (d) as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities or other property or assets (including cash or any combination thereof) (any such event, a “**Merger Event**”), then, at the effective time of such Merger Event, the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture (which shall comply with the TIA as in force

at the date of execution of such supplemental indenture) providing that at and after the effective time of such Merger Event, the right of a Holder to convert a Note will be changed into a right to convert such Note as set forth in this Supplemental Indenture into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock equal to the Conversion Rate immediately prior to such Merger Event would have owned or been entitled to receive (the “**Reference Property**,” with each “**unit of Reference Property**” meaning the type and amount of Reference Property that a holder of one share of Common Stock is entitled to receive) upon such Merger Event. However, at and after the effective time of the Merger Event, (i) the Company shall continue to have the right to determine the form of consideration to be delivered upon conversion of the Notes as set forth in Section 9.03, and (ii) (x) the amount otherwise payable in cash upon conversion of the Notes as set forth in Section 9.03 shall continue to be payable in cash, (y) the number of shares of Common Stock otherwise deliverable upon conversion of the Notes as set forth in Section 9.03 shall instead be deliverable in the amount and type of Reference Property that a holder of that number of shares of Common Stock would have received in such Merger Event and (z) the Daily VWAP shall be calculated based on the value of a unit of Reference Property.

If the Merger Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), (x) the Reference Property into which the Notes shall be convertible will be deemed to be the weighted average of the types and amounts of consideration received by the holders of the Common Stock that affirmatively make such election and (y) the unit of Reference Property for purposes of the foregoing sentence shall refer to the consideration referred to in clause (x) attributable to one share of Common Stock. The Company shall notify Holders of such weighted average as soon as practicable after such determination is made.

The Company shall not become a party to any such Merger Event unless its terms are consistent with this Section 9.07. Any supplemental indenture under this Section 9.07 shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 9 in the judgment of the Board of Directors or the board of directors of the successor Person. If, in the case of any Merger Event, the Reference Property receivable thereupon by a holder of Common Stock includes shares of stock, securities or other property or assets (including cash or any combination thereof) of a Person other than the successor or purchasing Person, as the case may be, in such reorganization, reclassification, change, consolidation, merger, combination, sale, lease, other transfer or statutory share exchange, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Board of Directors shall reasonably consider necessary by reason of the foregoing, including the provisions providing for the repurchase rights set forth in Article 3.

The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder, at the address of such Holder as it appears on the register of the Notes maintained by the Registrar, within twenty (20) days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture. The above provisions of this Section 9.07 shall similarly apply to successive reclassifications, changes, consolidations, mergers, combinations, sales and conveyances. If this Section 9.07 applies to any Merger Event, Section 9.04 shall not apply.

SECTION 9.08 Taxes on Shares Issued. Any issue of stock certificates on conversions of Notes shall be made without charge to the converting Holder for any documentary, stamp or any similar issue or transfer tax in respect of the issue thereof, and the Company shall pay any and all documentary, stamp or similar issue or transfer taxes that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of Notes pursuant hereto. The Company shall not, however, be required to pay any such tax that may be payable in respect of any transfer involving the issue and delivery of shares of Common Stock in any name other than that of the Holder of any Notes converted.

SECTION 9.09 Reservation of Shares; Shares to Be Fully Paid; Compliance with Governmental Requirements; Listing of Common Stock. The Company shall provide, free from preemptive rights, out of its authorized but unissued shares or shares held in treasury, sufficient shares of Common Stock to satisfy conversion of the Notes from time to time as such Notes are presented for conversion (assuming that, at the time of the computation of such number of shares or securities, (x) all such Notes would be converted by a single Holder, (y) Physical Settlement applies to such conversion and (z) the maximum number of Additional Shares is added to the Conversion Rate).

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

The Company covenants that all shares of Common Stock that may be issued upon conversion of Notes shall be newly issued shares or treasury shares, shall be duly authorized, validly issued, fully paid and non-assessable and shall be free from preemptive rights and free from any tax, lien or charge (other than those created by the Holder).

The Company shall list or cause to have quoted any shares of Common Stock to be issued upon conversion of Notes on each national securities exchange or over-the-counter or other domestic market on which the Common Stock is then listed or quoted.

The Company covenants that, if any shares of Common Stock to be provided for the purpose of conversion of Notes hereunder require registration with or approval of any governmental authority under any federal or state law before such shares may be validly issued upon conversion (other than solely as a result of the status of the converting Holder as an affiliate of the Company), the Company will secure such registration or approval, as the case may be.

SECTION 9.10 Responsibility of Trustee. The Trustee and any Conversion Agent shall not at any time be under any duty or responsibility to any Holder of Notes to determine or calculate the Conversion Rate, to determine whether any facts exist which may require any adjustment of the Conversion Rate, or to confirm the accuracy of any such adjustment when made or the appropriateness of the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock or of any other securities or property that may at any time be issued or delivered upon the conversion of any Notes; and the Trustee and the Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property or cash upon the surrender of any Notes for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article 9. The rights, privileges, protections, immunities and benefits given to the Trustee under this Supplemental Indenture and the Original Indenture, 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, including its capacity as Conversion Agent and if it is so appointed by the Company and accepts such appointment, as Bid Solicitation Agent.

SECTION 9.11 Notice to Holders Prior to Certain Actions. Unless a notice has been provided under Section 9.01(a)(iii) or Section 9.01(a)(iv), as applicable, in case:

(a) the Company shall declare a dividend (or any other distribution) on its Common Stock that would require an adjustment in the Conversion Rate pursuant to Section 9.04; or

(b) the Company shall authorize the granting to the holders of all or substantially all of the Common Stock of rights or warrants to subscribe for or purchase any share of any class or any other rights or warrants that would require an adjustment in the Conversion Rate pursuant to Section 9.04; or

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

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

then, in each case, the Company shall cause to be filed with the Trustee and the Conversion Agent (if other than the Trustee) and to be mailed to each Holder at such Holder's address appearing on the list of Holders provided for in Section 2.07 of the Original Indenture, as promptly as practicable but in any event at least thirty (30) days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or rights or warrants, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger,

sale, lease, transfer, dissolution, liquidation or winding up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up.

SECTION 9.12 Stockholder Rights Plan. Each share of Common Stock issued upon conversion of Notes pursuant to this Article 9 shall be entitled to receive, in addition to any shares of Common Stock received in connection with such conversion, rights under the rights plan, if any, and the certificates representing the Common Stock issued upon such conversion shall bear such legends, if any, in each case as may be provided by the terms of any stockholder rights plan adopted by the Company, as the same may be amended from time to time. If prior to any conversion, however, such rights have separated from the shares of Common Stock in accordance with the provisions of the applicable stockholder rights agreement, the Conversion Rate shall be adjusted at the time of separation as if the Company distributed to all holders of the Common Stock, shares of the Company's Capital Stock, evidences of indebtedness, assets, property, rights or warrants as described in Section 9.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights.

SECTION 9.13 Company Determination Final. Any determination that the Company or the Board of Directors must make pursuant to this Article 9 shall be conclusive if made in good faith, absent manifest error.

ARTICLE 10

No Redemption

SECTION 10.01 No Redemption. Article 3 of the Original Indenture shall not apply to the Notes. The Notes shall not be redeemable by the Company prior to maturity, and no sinking fund is provided for the Notes.

ARTICLE 11

Miscellaneous

SECTION 11.01 Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of Holders. The Registrar and the Paying Agent may make reasonable rules for their functions.

SECTION 11.02 Electronic Communications. The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture set by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods. If a party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's reasonable understanding of such instructions shall be deemed controlling. Subject to the provisions in the Original

Indenture, the Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reasonably reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all rights arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on authorized instructions, and the risk or interpretation and misuse by third parties. Notwithstanding anything to the contrary contained herein, so long as the Notes are in the form of a Global Note, notice to the Holders may be made electronically in accordance with the procedures of the Depositary.

SECTION 11.03 No Recourse Against Others. No director, officer, employee, incorporator, stockholder or partner of the Company, as such, shall have any liability for any obligations of the Company under the Notes, the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release shall be part of the consideration for the issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

SECTION 11.04 Severability Clause. In case any provision in the Indenture 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 and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

SECTION 11.05 Calculations. The Company shall be responsible for making all calculations called for under the Indenture and the Notes, including, but not limited to, determinations of the Last Reported Sales Prices of the Common Stock, Daily VWAPs, accrued interest payable on the Notes and the Conversion Rate of the Notes. The Company shall make all these calculations in good faith and, absent manifest error, the Company's calculations shall be final and binding on Holders of the Notes. The Company shall provide a schedule of its calculations to each of the Trustee and the Conversion Agent, and each of the Trustee and Conversion Agent is entitled to rely conclusively upon the accuracy of the Company's calculations without independent verification. The Trustee will deliver a copy of such schedule to any Holder upon the request of such Holder.

SECTION 11.06 Recitals. The recitals herein and in the Notes, except the Trustee's certificate of authentication, are deemed to be those of the Company and not of the Trustee and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Supplemental Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the Company of Notes or the proceeds thereof.

SECTION 11.07 Ratification of Original Indenture. The Original Indenture, as supplemented by this Supplemental Indenture, except as amended or superseded hereby, is in all respects ratified and confirmed, and this Supplemental Indenture shall be deemed part of the Original Indenture in the manner and to the extent herein and therein provided. For the avoidance of doubt, each of the Company and each Holder of Notes, by its acceptance of such Notes, acknowledges and agrees that all of the rights, privileges, protections, immunities and benefits afforded the Trustee under the Original Indenture (except as amended or superseded hereby) are deemed to be incorporated herein, and shall be enforceable by the Trustee hereunder, as if set forth herein in full.

SECTION 11.08 Governing Law. This Supplemental Indenture and the Notes, and any dispute, case or controversy arising thereunder or relating thereto, shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 11.09 Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, but all of them together will represent the same agreement. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or electronic format (*i.e.*, “pdf” or “tif”) transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or electronic format (*i.e.*, “pdf” or “tif”) shall be deemed to be their original signatures for all purposes.

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

TAKE-TWO INTERACTIVE SOFTWARE, INC.,
as Issuer

By: /s/ Lainie Goldstein
Name: Lainie Goldstein
Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON,
as Trustee,

By: /s/ Laurence J. O'Brien
Name: Laurence J. O'Brien
Title: Vice President

[FORM OF FACE OF NOTE]

[INCLUDE THE FOLLOWING LEGEND IF A GLOBAL NOTE]

[THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY. THIS NOTE IS EXCHANGEABLE FOR NOTES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY) MAY BE REGISTERED EXCEPT IN LIMITED CIRCUMSTANCES.

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE 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 HEREON 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.]

A-1

TAKE-TWO INTERACTIVE SOFTWARE, INC.

1.00% Convertible Senior Note due 2018

No. [_____]

[Initially]\$[___]

CUSIP No.: 874054 AD1

ISIN: US874054AD16

Take-Two Interactive Software, Inc., a Delaware corporation (herein called the “**Company**”, which term includes any successor corporation or other entity under the Indenture hereinafter referred to), for value received, hereby promises to pay to [_____] * [CEDE & CO.]†, or registered assigns, [[_____] DOLLARS (\$[_____]†) * [the principal amount as set forth in the “Schedule of Exchanges of Securities” attached hereto)]†, which amount, taken together with the principal amounts of all other outstanding Notes, shall not, unless permitted by the Indenture, exceed \$250,000,000 in aggregate at any time (or \$287,500,000 if the Underwriters exercise their over-allotment option in full as set forth in the Underwriting Agreement), in accordance with the rules and procedures of the Depository, on July 1, 2018, unless earlier converted, or repurchased, and to pay interest thereon as set forth in the manner, at the rates and to the Holders of record as set forth in the Indenture.

This Note shall bear interest at the rate of 1.00% per annum from June 18, 2013 or from the most recent date to which interest has been paid or provided to, but excluding, the next scheduled Interest Payment Date, until July 1, 2018. Interest on this Note will be computed on the basis of a 360-day year composed of twelve 30-day months. Interest is payable semi-annually in arrears on each January 1 and July 1, commencing on January 1, 2014, to the Holders of record at the close of business on the Regular Record Date for such Interest Payment Date. Additional Interest will be payable at the option of the Company on the terms set forth in Section 6.03 of the within-mentioned Supplemental Indenture.

The Company shall pay the principal of and interest on this Note, so long as such Note is a Global Note, in immediately available funds to the Depository or its nominee, as the case may be, as the registered Holder of such Note. The Company shall pay the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated the Trustee as its Paying Agent and Registrar in respect of the Notes and its Corporate Trust Office in New York, New York as a place where Notes may be presented for payment or for registration of transfer. The Company may, however, change the Paying Agent or Registrar for the Notes without prior notice to the Holders thereof, and the Company may act as Paying Agent or Registrar. Interest on the Notes (other than Notes that are Global Notes) will be payable (i) to Holders of the Notes having an aggregate principal amount of Notes of \$5,000,000 or less, by check mailed to the Holders of these Notes at their address in the Security Register and (ii) to Holders having an aggregate principal amount of Notes in excess of \$5,000,000, either by check mailed to each Holder at its

* Include for Physical Note

† Include for Global Note

address in the Security Register or, upon application by a Holder to the Registrar not later than the relevant Regular Record Date, by wire transfer in immediately available funds to that Holder's account within the United States, which application shall remain in effect until that Holder notifies, in writing, the Registrar to the contrary.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the Holder of this Note the right to convert this Note into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, on the terms and subject to the limitations set forth in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

In the case of any conflict between this Note and the Indenture, the provisions of the Indenture shall control. This Note, for all purposes, and any claim, controversy or dispute arising hereunder or relating hereto, shall be governed by and construed in accordance with the laws of the State of New York.

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

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, TAKE-TWO INTERACTIVE SOFTWARE, INC. has caused this instrument to be signed manually or by facsimile by its duly authorized officers.

Dated: [_____]

TAKE-TWO INTERACTIVE SOFTWARE, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes of the series designated herein referred to in the within-mentioned Indenture.

Dated: [_____]

THE BANK OF NEW YORK MELLON, as
Trustee

By: _____
Authorized Signatory

TAKE-TWO INTERACTIVE SOFTWARE, INC.
1.00% Convertible Senior Note due 2018

This Note is one of a duly authorized issue of Securities of the Company (herein called the “**Notes**”), issued under an Indenture dated as of June 18, 2013 (herein called the “**Original Indenture**”) and as supplemented and amended by the Supplemental Indenture dated as of June 18, 2013 (herein called the “**Supplemental Indenture**” and the Original Indenture, as supplemented and amended by the Supplemental Indenture, the “**Indenture**”) by and between the Company and The Bank of New York Mellon, herein called the “**Trustee**”, and 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. Additional Notes may be issued in an unlimited aggregate principal amount, subject to certain conditions specified in the Indenture.

This Note shall not be redeemable at the Company’s option and, for the avoidance of doubt, this Note is not subject to the provisions of Article 3 of the Original Indenture.

Upon the occurrence of a Fundamental Change, the Holder has the right, at such Holder’s option, to require the Company to repurchase all of such Holder’s Notes or any portion thereof (in principal amounts of \$1,000 or integral multiples thereof) on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price.

Subject to and upon compliance with the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture and prior to the close of business on the Business Day immediately preceding the Maturity Date, to convert any Note or portion thereof that is \$1,000 or integral multiples thereof at a Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture. In accordance with the Indenture, the Company may elect to pay or deliver, as the case may be, shares of its Common Stock, cash or a combination of cash and shares of Common Stock in respect of the Conversion Obligation upon conversion of any Notes. The initial Conversion Rate shall be 46.4727 shares of Common Stock for each \$1,000 principal amount of Notes, as the same may be adjusted pursuant to the terms and conditions of the Indenture.

As provided in and subject to the provisions of the Indenture, the Company will make all payments in respect of the Fundamental Change Repurchase Price and the principal amount on the Maturity Date, as the case may be, to the Holder who surrenders a Note to the Trustee or Paying Agent, as the case may be and as set forth in the Indenture, to collect such payments in respect of the Note. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Notes to be effected under the Indenture at any time by the Company and the

Trustee with the consent of the Holders of a majority in principal amount of the Notes at the time Outstanding. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Notes at the time Outstanding, on behalf of the Holders of all Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past Defaults under the Indenture and their consequences.

If an Event of Default occurs and is continuing, unless the principal of all of the Notes has already become due and payable, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Outstanding Notes by notice to the Company and the Trustee, may declare the principal of and accrued interest, if any, on all the Notes to be due and payable. As described in the Indenture, if an Event of Default relating to certain events of bankruptcy, insolvency or reorganization of the Company occurs, the principal of, premium, if any, and accrued interest, if any on all the Notes will automatically become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and unpaid interest on this Note at the time, place and rate, and in the coin and currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note is registrable in the Security Register, upon presentation of this Note to the Registrar or co-registrar with a request to register a transfer.

The Notes are issuable only in registered form without coupons in denominations of \$1,000 principal amount and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, the Notes are exchangeable for a like aggregate principal amount of Notes and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any documentary, stamp or similar use or transfer tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Note for registration of transfer, the Company, the Trustee, the Paying Agent, the Registrar or any co-registrar may deem and treat the Person in whose name the Note is registered as the absolute owner of the Note for all purposes, and none of the Company, the Trustee, the Paying Agent, the Registrar or any co-registrar will be affected by notice to the contrary.

All defined terms used in this Note that are defined in the Indenture shall have the meanings assigned to them in the Indenture.

ABBREVIATIONS

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

TEN COM—as tenants in common

UNIF GIFT MIN ACT – Uniform Gift to Minors Act

CUST—custodian

TEN ENT—as tenants by the entirety

JT TEN—as joint tenants with right of

Survivorship and not as tenants in common

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

SCHEDULE OF EXCHANGES OF SECURITIES[‡]

TAKE-TWO INTERACTIVE SOFTWARE, INC.
 1.00% Convertible Senior Notes due 2018

The initial principal amount of this registered Global Note is [_____] DOLLARS (\$[_____]). The following, exchanges, purchases or conversions of a part of this Registered Global Note have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in principal amount of this Global Note</u>	<u>Amount of increase in principal amount of this Global Note</u>	<u>Principal amount of this Global Note following such decrease or increase</u>	<u>Signature of authorized signatory of Trustee or Custodian</u>
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[‡] To be included for Global Notes.

[FORM OF NOTICE OF CONVERSION]

To: Take-Two Interactive Software, Inc.

The undersigned registered owner of this Note hereby irrevocably exercises the option to convert this Note, or a portion hereof (that is \$1,000 principal amount or an integral multiple thereof) below designated, into cash, shares of Common Stock or a combination of cash and shares of Common Stock, at the Company's discretion, in accordance with the terms of the Indenture referred to in this Note and directs that cash payable and any shares of Common Stock issuable and deliverable upon conversion, together with any check in payment for fractional shares of Common Stock, and any Notes representing any unconverted principal amount hereof, be paid or issued and delivered, as the case may be, to the registered Holder hereof unless a different name has been indicated below. Subject to certain exceptions set forth in the Indenture, if this notice is being delivered on a date after the close of business on a Regular Record Date and prior to the open of business on the related Interest Payment Date, this notice is accompanied by payment of an amount equal to the interest payable on such Interest Payment Date of the principal of this Note to be converted. If any shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar transfer taxes payable with respect hereto. Any amount required to be paid by the undersigned on account of interest accompanies this Note.

Principal amount to be converted (in an integral multiple of \$1,000, if less than all):

Signature(s)

Signature(s) must be guaranteed
by an institution which is a member of one of the following recognized
signature Guarantee Programs:

(i) The Securities Transfer Agent Medallion Program (STAMP); (ii) The
New York Stock Exchange Medallion Program (MNSP); (iii) The Stock
Exchange Medallion Program (SEMP) or (iv) another guarantee program
acceptable to the Trustee.

Signature Guarantee

Fill in for registration of any shares of Common Stock and Notes if to be issued otherwise than to the registered Holder.

(Name)

(Address)

Please print Name and Address
(including zip code number)

Social Security or other Taxpayer
Identifying Number _____

[FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE]

To: Take-Two Interactive Software, Inc.

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from Take-Two Interactive Software, Inc. (the "Company") as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Repurchase Date and requests and instructs the Company to repay to the registered holder hereof in accordance with the applicable provisions of this Note and the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is \$1,000 principal amount or an integral multiple thereof) below designated, and (2) if such Fundamental Change Repurchase Date does not fall during the period after a Regular Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest thereon to, but excluding, such Fundamental Change Repurchase Date.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below:

Dated: _____

Signature(s)

Social Security or Other Taxpayer Identification Number

principal amount to be repaid (if less than all):

\$_____, 000

NOTICE: The signature on the Fundamental Change Repurchase Notice must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

[FORM OF ASSIGNMENT AND TRANSFER]

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ (Please insert social security or Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints _____ to transfer the said Note on the books of the Company, with full power of substitution in the premises.

Signature(s)

Signature(s) must be guaranteed by an institution which is a member of one of the following recognized signature Guarantee Programs:

- (i) The Securities Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MNSP); (iii) The Stock Exchange Medallion Program (SEMP) or (iv) another guarantee program acceptable to the Trustee.

Signature Guarantee

June 18, 2013

Take-Two Interactive Software, Inc.
622 Broadway
New York, New York 10012

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Take-Two Interactive Software, Inc., a Delaware corporation (the "Company"), in connection with the filing by the Company with the Securities and Exchange Commission (the "Commission") on June 12, 2013 of a registration statement on Form S-3 (the "Registration Statement"), under the Securities Act of 1933, as amended (the "Act"), that is automatically effective under the Act pursuant to Rule 462 promulgated thereunder. The Registration Statement relates to, among other things, the proposed issuance and sale, from time to time, by the Company of debt securities (the "Debt Securities") and shares of the Company's Common Stock, \$0.01 par value per share (the "Common Stock" and together with the Debt Securities, the "Securities"), each with an indeterminate amount as may at various times be issued at indeterminate prices, in reliance on Rule 456(b) and Rule 457(r) under the Act. The Debt Securities and Common Stock are to be sold from time to time as set forth in the Registration Statement, the prospectus contained therein (the "Prospectus") and the supplements to the Prospectus.

Pursuant to the Registration Statement, the Company has issued \$250,000,000 of 1% Convertible Senior Notes due 2018 (the "Notes"), all of which will be sold to J.P. Morgan Securities LLC, Barclays Capital Inc., and Wells Fargo Securities, LLC (collectively, the "Underwriters"), pursuant to that certain Underwriting Agreement, dated as of June 12, 2013 (the "Underwriting Agreement"), between the Company and the Underwriters, as representatives of the several underwriters.

The Notes have been issued in the form set forth in the Indenture, dated as of June 18, 2013 (the "Base Indenture"), by and between the Company and The Bank of New York Mellon, as trustee (the "Trustee") and the Supplemental Indenture, dated as of June 18, 2013 (collectively with the Base Indenture, the "Indenture"), by and between the Company and the Trustee. The Notes are also convertible initially into up to 18,705,273 shares of Common Stock (such number of shares of Common Stock issuable upon conversion of the Notes referred to herein as, the "Conversion Shares").

We have examined the Registration Statement, together with the exhibits thereto and the documents incorporated by reference therein; the base prospectus, dated June 12, 2013, together with the documents incorporated by reference therein, filed with the Registration Statement relating to the offering of each of the Notes (the "Base Prospectus"); the preliminary prospectus supplement, dated June 12, 2013, in the form filed with the Commission pursuant to Rule 424(b) of the Securities Act relating to the offering of the Notes (collectively with the Base Prospectus, the "Preliminary Prospectus Supplement"); the final prospectus supplement, dated June 12, 2013, in the form filed with the Commission pursuant to Rule 424(b) of the Securities Act relating to the offering of the Notes (collectively with the Base Prospectus, the "Final Prospectus Supplement"); the Indenture and the Notes. In addition, we have examined such other instruments, documents, certificates and records which we have deemed relevant and necessary for the basis of our opinion hereinafter expressed.

In our examination and in rendering our opinions contained herein, we have assumed (i) the genuineness of all signatures of all parties; (ii) the authenticity of all corporate records, agreements, documents, instruments and certificates of the Company submitted to us as originals, the conformity to original documents and agreements of all documents and agreements submitted to us as conformed, certified or photostatic copies; (iii) the due authorization, execution and delivery of all documents and agreements (including the Indenture) by all parties thereto (other than the Company) and the binding effect of such documents and agreements on all such parties (other than the Company); (iv) the Underwriting Agreement has been duly authorized and validly executed and delivered by the parties thereto (other than the Company); (v) the legal rights and power of all such parties (other than the Company) under all applicable laws and regulations to enter into, execute and deliver such agreements and documents; and (vi) the capacity of natural persons. As to all questions of fact material to such opinions, we have relied without independent check or verification upon certificates of the Company, and their respective officers, employees, agents and representatives; and certificates of public officials.

- A. Based on the foregoing and subject to the qualifications and limitations expressed below, we are of the opinion that:
1. The execution and delivery of the Indenture has been duly authorized by the Company, and the Indenture constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with the terms thereof.
 2. The Notes have been validly issued and constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, and entitled to the benefits of the Indenture.
 3. When the applicable conversion right has been duly exercised in accordance with the terms of the Notes and the Indenture and the Conversion Shares have been issued and delivered upon such exercise in accordance with the terms of the Notes and the Indenture, the Conversion Shares will be validly issued, fully paid and nonassessable.

B. The foregoing opinions are subject to the following qualifications:

The opinions set forth in paragraphs A.1 through and including A.3 above are qualified in that the legality or enforceability of the documents referred to therein may be (a) subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, (b) limited insofar as the remedies of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and the discretion of the court before which any enforcement thereof may be brought and (c) subject to general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity) including principles of commercial reasonableness or conscionability and an implied covenant of good faith and fair dealing.

This opinion is limited to the matters stated herein and no opinion is implied or may be inferred beyond the matters expressly stated. The opinions expressed herein are given as of the date hereof, and we assume no obligation to update or supplement such opinions after the date hereof. We do not express an opinion as to matters arising under the laws of any jurisdiction, other than the laws of the State of New York, the General Corporation Law of the State of Delaware and the federal laws of the United States.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement referred to above and to the reference to our firm under the heading "Legal Matters" in the Base Prospectus and Prospectus Supplements included in the Registration Statement. We do not admit by giving this consent that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Willkie Farr & Gallagher LLP