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 29, 2012

Gevo, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**001-35073**	**87-0747704**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

345 Inverness Drive South, Building C, Suite 310, Englewood, CO 80112
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (303) 858-8358

N/A
(Former Name, or former address, if changed since last report)

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

Offerings of Common Stock and Convertible Notes

On July 5, 2012, Gevo, Inc. (the "Company") issued and sold (i) 12,500,000 shares of its common stock, par value $0.01 per share, and (ii) $40,000,000 aggregate principal amount of 7.5% convertible senior notes due 2022 (the "Notes"), in each case in a firm commitment underwritten public offering (the "Equity Offering" and the "Note Offering", respectively, and together, the "Offerings"), pursuant to an effective Registration Statement on Form S-3 (Registration No. 333-180097) (as amended, the "Registration Statement"). The net proceeds from the Offerings, after deducting the underwriting discounts and commissions and estimated offering expenses, totaled approximately $94.1 million.

The Company used a portion of the net proceeds from the Note Offering to repay $5.0 million in outstanding long-term debt obligations. The Company intends to use the remaining net proceeds from the Offerings to fund the cash consideration payable to complete the retrofit of the 22 MGPY ethanol production facility in Luverne, Minnesota that it acquired in September 2010. A portion of the net proceeds from the Offerings may also be used for detailed design work in preparation for the retrofit of the 50 MGPY ethanol production facility located near Redfield, South Dakota to isobutanol production pursuant to a joint venture agreement that the Company entered into in June 2011, and to fund working capital and other general corporate purposes, which may include paying down certain of its other long-term debt obligations and expenses associated with litigation. Pending such uses, the Company intends to invest the net proceeds in demand deposit accounts or short-term, investment grade securities.

Base Indenture and Supplemental Indenture

The Notes were issued pursuant to a base indenture, dated as of July 5, 2012 (the "Base Indenture"), as supplemented by the first supplemental indenture, dated as of July 5, 2012 (the "Supplemental Indenture" and, together with the Base Indenture, the "Indenture"), between the Company and Wells Fargo Bank, National Association, as trustee (the "Trustee").

The Notes will bear interest at a rate of 7.5% per annum, which shall be payable semi-annually in arrears on January 1 and July 1 of each year, beginning on January 1, 2013. The Notes will mature on July 1, 2022.

Holders may surrender their Notes, in integral multiples of $1,000 principal amount, for conversion any time prior to the close of business on the third business day immediately preceding the maturity date. Upon conversion, the Company will deliver shares of its common stock at an initial conversion rate of 175.6697 shares for each $1,000 in principal amount of Notes (equivalent to an initial conversion price of approximately $5.69 per share of the Company's common stock). Such conversion rate is subject to adjustment in certain circumstances. In addition, if holders elect to convert some or all of their Notes on or after January 1, 2013 but prior to July 1, 2017, they will receive a coupon make-whole payment for the Notes being converted. The Company may pay any coupon make-whole payments either in cash or in shares of its common stock, at its election.

On July 1, 2017, holders may require the Company to purchase all or a portion of their Notes at a purchase price in cash equal to 100% of the principal amount of the Notes to be purchased, plus any accrued and unpaid interest to, but excluding, the purchase date. Beginning July 1, 2015, the Company may redeem for cash all or part of the Notes if the last reported sale price of the Company's common stock for 20 or more trading days in a period of 30 consecutive trading days ending on the trading day immediately prior to the date the Company provides the notice of redemption exceeds 150% of the conversion price in effect on each such trading day. The redemption price will equal the sum of 100% of the principal amount of the Notes to be redeemed, plus any accrued and unpaid interest to, but excluding, the redemption date. If a fundamental change occurs, holders may require the Company to repurchase all or a portion of their Notes at a cash repurchase price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the repurchase date. Beginning July 1, 2017, the Company may redeem for cash all or part of the Notes, at any time, and from time to time, at a redemption price equal to 100% of the principal amount of the Notes to be redeemed, plus any accrued and unpaid interest to, but excluding, the redemption date.

The Notes are the Company's general unsecured subordinated obligations, ranking equally in right of payment with the Company's future senior unsecured indebtedness, if any, and senior in right of payment to the Company's future subordinated debt, if any. The Notes will effectively be junior to any of the Company's existing and future secured indebtedness to the extent of the value of the assets securing such indebtedness. The Notes will also be structurally subordinated to all existing and future indebtedness and other liabilities (including trade payables) of any of the Company's subsidiaries.

The other relevant terms of the Notes are described in the section entitled "Description of Notes" in the prospectus supplement, dated June 29, 2012, filed with the Securities and Exchange Commission by the Company on July 2, 2012 pursuant to Rule 424(b)(5) under the Securities Act of 1933, as amended, and in the section entitled "Description of Debt Securities" of the base prospectus, dated May 8, 2012, included in the Registration Statement.

A copy of the Base Indenture is filed as Exhibit 4.1 to this Current Report on Form 8-K and is incorporated herein by reference. A copy of the Supplemental Indenture (including a form of the Note) is filed as Exhibit 4.2 to this Current Report on Form 8-K and is incorporated herein by reference. The foregoing descriptions of the Base Indenture, the Supplemental Indenture and the Notes do not purport to be complete and are subject to, and qualified in their entirety by, the full text of the Base Indenture, the Supplemental Indenture and the form of the Note, respectively. The Base Indenture and the Supplemental Indenture are also filed with reference to, and are incorporated by reference into, the Registration Statement.

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

Amendment to Security Agreements

On June, 29, 2012, the Company entered into (i) an amendment (the "Security Agreement Amendment") to that certain Plain English Security Agreement, by and between the Company and TriplePoint Capital LLC ("TPC"), dated as of September 22, 2010 (the "Security Agreement"), which secures the Company's guarantee of Agri-Energy, LLC's ("Agri-Energy") obligations under that certain Amended and Restated Plain English Growth Capital Loan and Security Agreement, by and between Agri-Energy, LLC and TPC (the "AE Loan Agreement"), and (ii) an amendment (the "Gevo Loan Amendment") to that certain Plain English Growth Capital Loan and Security Agreement, dated August 5, 2010, by and between Company and TPC. In addition, concurrently with the execution of the Security Agreement Amendment and the Gevo Loan Amendment, Agri-Energy has entered into an amendment to the AE Loan Agreement (the "AE Loan Amendment").

The Security Agreement Amendment, Gevo Loan Amendment and AE Loan Amendment, among other things, (i) permit the Notes Offering; (ii) eliminate all of Agri-Energy's and the Company's options to elect additional interest-only periods upon the achievement of certain milestones, including (a) the optional interest-only election in the event that the Company had received net proceeds of at least $75.0 million from one or more secondary equity offerings by June 30, 2012 and (b) the optional interest-only election in the event that the Company began producing isobutanol at the Agri-Energy facility by June 30, 2012; (iii) permit Agri-Energy to make dividends and distributions to the Company for the purpose of (a) paying regularly scheduled interest payments on the Notes, (b) making conversions of all or any portion of the Notes or amounts payable under the terms of the Notes and documents governing the Notes (including any coupon make-whole payment), into common stock of the Company and (c) making payments to the indenture trustee of reasonable and customary compensation and expense reimbursement with respect to the Notes; (iv) add as an additional event of default the payment, repurchase or redemption of the Notes or of amounts payable in connection therewith other than (a) the payment of regularly scheduled interest on the Notes, (b) the conversion of all or any portion of the Notes or amounts payable under the terms of the Notes and documents governing the Notes (including any coupon make whole payment), into common stock of the Company, (c) the making of cash payments in lieu of issuing fractional shares in connection with any conversion described in clause (b) above and (d) payments to the indenture trustee of reasonable and customary compensation and expense reimbursement with respect to the Notes; (v) add a negative covenant whereby the Company may not incur any indebtedness other than as permitted under the Security Agreement (as amended, restated, supplemented or otherwise modified from time to time); and (vi) add a prohibition on making any coupon make-whole payments in cash prior to the payment in full of all remaining outstanding obligations in full under the AE Loan Agreement (as amended, restated, supplemented or modified from time to time).

The foregoing descriptions of the Security Agreement Amendment, the Gevo Loan Amendment and the AE Loan Amendment do not purport to be complete and are subject to, and qualified in their entirety by, the full text of the Security Agreement Amendment, the Gevo Loan Amendment and the AE Loan Amendment, a copy of each of which is attached hereto as Exhibit 10.1, Exhibit 10.2 and Exhibit 10.3, respectively, and the terms of each of which are incorporated herein by reference.

The information set forth under Item 1.01 related to the Base Indenture and Supplemental Indenture is hereby incorporated by reference into this Item 2.03.

Forward-Looking Statements

Certain statements in this Current Report on Form 8-K and in the attached exhibits may constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements relate to a variety of matters, including, without limitation, the Company's intended use of the net proceeds from the Offerings and other statements that are not purely statements of historical fact. These forward-looking statements are made on the basis of the current beliefs, expectations and assumptions of the management of the Company and are subject to significant risks and uncertainty. Investors are cautioned not to place undue reliance on any such forward-looking statements. All such forward-looking statements speak only as of the date they are made, and the Company undertakes no obligation to update or revise these statements, whether as a result of new information, future events or otherwise. Factors that could cause actual results to differ materially from those described in the forward-looking statements are set forth in the prospectus supplements for each Offering.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

4.1	Indenture, dated as of July 5, 2012, between Gevo, Inc. and Wells Fargo Bank, National Association, as trustee.
4.2	First Supplemental Indenture, dated as of July 5, 2012, to the Indenture dated as of July 5, 2012, by and among Gevo, Inc. and Wells Fargo Bank, National Association, as trustee.
10.1	Second Amendment to Plain English Security Agreement, made and entered into as of June 29, 2012, by and among Gevo, Inc. and TriplePoint Capital LLC.
10.2	Second Amendment to Plain English Growth Capital Loan and Security Agreement, made and entered into as of June 29, 2012, by and between Gevo, Inc. and TriplePoint Capital LLC.
10.3	First Amendment to Amended and Restated Plain English Growth Capital Loan and Security Agreement, made and entered into as of as of June 29, 2012, by and between Agri-Energy, LLC and TriplePoint Capital LLC.

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.

Gevo, Inc.

By: /s/ Mark Smith
Mark Smith
Chief Financial Officer

Date: July 5, 2012

Exhibit 4.1

GEVO, INC.

SENIOR DEBT SECURITIES

INDENTURE

Dated as of July 5, 2012

WELLS FARGO BANK, NATIONAL ASSOCIATION

as Trustee

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS	1
SECTION 1.01 DEFINITIONS OF TERMS.	1
ARTICLE 2 ISSUE, DESCRIPTION, TERMS, EXECUTION, REGISTRATION AND EXCHANGE OF SECURITIES	4
SECTION 2.01 DESIGNATION AND TERMS OF SECURITIES.	4
SECTION 2.02 FORM OF SECURITIES AND TRUSTEE'S CERTIFICATE.	5
SECTION 2.03 DENOMINATIONS: PROVISIONS FOR PAYMENT.	6
SECTION 2.04 EXECUTION AND AUTHENTICATIONS.	7
SECTION 2.05 REGISTRATION OF TRANSFER AND EXCHANGE.	7
SECTION 2.06 TEMPORARY SECURITIES.	8
SECTION 2.07 MUTILATED, DESTROYED, LOST OR STOLEN SECURITIES.	8
SECTION 2.08 CANCELLATION.	9
SECTION 2.09 BENEFITS OF INDENTURE.	9
SECTION 2.10 AUTHENTICATING AGENT.	9
SECTION 2.11 GLOBAL SECURITIES.	10
ARTICLE 3 REDEMPTION OF SECURITIES AND SINKING FUND PROVISIONS	10
SECTION 3.01 REDEMPTION.	10
SECTION 3.02 NOTICE OF REDEMPTION.	11
SECTION 3.03 PAYMENT UPON REDEMPTION.	11
SECTION 3.04 SINKING FUND.	12
SECTION 3.05 SATISFACTION OF SINKING FUND PAYMENTS WITH SECURITIES.	12
SECTION 3.06 REDEMPTION OF SECURITIES FOR SINKING FUND.	12
ARTICLE 4 COVENANTS	12
SECTION 4.01 PAYMENT OF PRINCIPAL, PREMIUM AND INTEREST.	12
SECTION 4.02 MAINTENANCE OF OFFICE OR AGENCY.	13
SECTION 4.03 PAYING AGENTS.	13
SECTION 4.04 APPOINTMENT TO FILL VACANCY IN OFFICE OF TRUSTEE.	14
SECTION 4.05 COMPLIANCE WITH CONSOLIDATION PROVISIONS.	14
ARTICLE 5 SECURITYHOLDERS' LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE	14
SECTION 5.01 COMPANY TO FURNISH TRUSTEE NAMES AND ADDRESSES OF SECURITYHOLDERS.	14
SECTION 5.02 PRESERVATION OF INFORMATION; COMMUNICATIONS WITH SECURITYHOLDERS.	14
SECTION 5.03 REPORTS BY THE COMPANY.	15
SECTION 5.04 REPORTS BY THE TRUSTEE.	15
ARTICLE 6 REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT	15
SECTION 6.01 EVENTS OF DEFAULT.	15
SECTION 6.02 COLLECTION OF INDEBTEDNESS AND SUITS FOR ENFORCEMENT BY TRUSTEE.	17
SECTION 6.03 APPLICATION OF MONEYS COLLECTED.	18
SECTION 6.04 LIMITATION ON SUITS.	18
SECTION 6.05 RIGHTS AND REMEDIES CUMULATIVE; DELAY OR OMISSION NOT WAIVER.	19
SECTION 6.06 CONTROL BY SECURITYHOLDERS.	19
SECTION 6.07 UNDERTAKING TO PAY COSTS.	19
ARTICLE 7 CONCERNING THE TRUSTEE	20
SECTION 7.01 CERTAIN DUTIES AND RESPONSIBILITIES OF TRUSTEE.	20
SECTION 7.02 CERTAIN RIGHTS OF TRUSTEE.	20
SECTION 7.03 TRUSTEE NOT RESPONSIBLE FOR RECITALS OR ISSUANCE OR SECURITIES.	22
SECTION 7.04 MAY HOLD SECURITIES.	22

TABLE OF CONTENTS
(continued)

	Page
SECTION 7.05 MONEYS HELD IN TRUST.	22
SECTION 7.06 COMPENSATION AND REIMBURSEMENT.	22
SECTION 7.07 RELIANCE ON OFFICERS' CERTIFICATE.	23
SECTION 7.08 DISQUALIFICATION; CONFLICTING INTERESTS.	23
SECTION 7.09 CORPORATE TRUSTEE REQUIRED; ELIGIBILITY.	23
SECTION 7.10 RESIGNATION AND REMOVAL; APPOINTMENT OF SUCCESSOR.	23
SECTION 7.11 ACCEPTANCE OF APPOINTMENT BY SUCCESSOR.	24
SECTION 7.12 MERGER, CONVERSION, CONSOLIDATION OR SUCCESSION TO BUSINESS.	25
SECTION 7.13 PREFERENTIAL COLLECTION OF CLAIMS AGAINST THE COMPANY.	25
SECTION 7.14 NOTICE OF DEFAULT	25
ARTICLE 8 CONCERNING THE SECURITYHOLDERS	26
SECTION 8.01 EVIDENCE OF ACTION BY SECURITYHOLDERS.	26
SECTION 8.02 PROOF OF EXECUTION BY SECURITYHOLDERS.	26
SECTION 8.03 WHO MAY BE DEEMED OWNERS.	26
SECTION 8.04 CERTAIN SECURITIES OWNED BY COMPANY DISREGARDED.	27
SECTION 8.05 ACTIONS BINDING ON FUTURE SECURITYHOLDERS.	27
ARTICLE 9 SUPPLEMENTAL INDENTURES	27
SECTION 9.01 SUPPLEMENTAL INDENTURES WITHOUT THE CONSENT OF SECURITYHOLDERS.	27
SECTION 9.02 SUPPLEMENTAL INDENTURES WITH CONSENT OF SECURITYHOLDERS.	28
SECTION 9.03 EFFECT OF SUPPLEMENTAL INDENTURES.	29
SECTION 9.04 SECURITIES AFFECTED BY SUPPLEMENTAL INDENTURES.	29
SECTION 9.05 EXECUTION OF SUPPLEMENTAL INDENTURES.	29
ARTICLE 10 SUCCESSOR ENTITY	30
SECTION 10.01 COMPANY MAY CONSOLIDATE, ETC.	30
SECTION 10.02 SUCCESSOR ENTITY SUBSTITUTED.	30
SECTION 10.03 EVIDENCE OF CONSOLIDATION, ETC. TO TRUSTEE.	30
ARTICLE 11 SATISFACTION AND DISCHARGE	31
SECTION 11.01 SATISFACTION AND DISCHARGE OF INDENTURE.	31
SECTION 11.02 DISCHARGE OF OBLIGATIONS.	31
SECTION 11.03 DEPOSITED MONEYS TO BE HELD IN TRUST.	31
SECTION 11.04 PAYMENT OF MONEYS HELD BY PAYING AGENTS.	31
SECTION 11.05 REPAYMENT TO COMPANY.	32
ARTICLE 12 IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS	32
SECTION 12.01 NO RECOURSE.	32
ARTICLE 13 MISCELLANEOUS PROVISIONS	32
SECTION 13.01 EFFECT ON SUCCESSORS AND ASSIGNS.	32
SECTION 13.02 ACTIONS BY SUCCESSOR.	32
SECTION 13.03 SURRENDER OF COMPANY POWERS.	33
SECTION 13.04 NOTICES.	33
SECTION 13.05 GOVERNING LAW.	33
SECTION 13.06 TREATMENT OF SECURITIES AS DEBT.	33
SECTION 13.07 CERTIFICATES AND OPINIONS AS TO CONDITIONS PRECEDENT.	33
SECTION 13.08 PAYMENTS ON BUSINESS DAYS.	33
SECTION 13.09 CONFLICT WITH TRUST INDENTURE ACT.	34
SECTION 13.10 COUNTERPARTS.	34
SECTION 13.11 SEPARABILITY.	34

	Page
SECTION 13.12 COMPLIANCE CERTIFICATES.	34
SECTION 13.13 U.S.A. PATRIOT ACT.	34
SECTION 13.14 FORCE MAJEURE.	34

INDENTURE

INDENTURE, dated as of July 5, 2012, between **GEVO, INC.**, a Delaware corporation (the "Company"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, as trustee (the "Trustee"):

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of debt securities (hereinafter referred to as the "Securities"), in an unlimited aggregate principal amount to be issued from time to time in one or more series as in this Indenture provided, as registered Securities without coupons, to be authenticated by the certificate of the Trustee;

WHEREAS, to provide the terms and conditions upon which the Securities are to be authenticated, issued and delivered, the Company has duly authorized the execution of this Indenture; and

WHEREAS, all things necessary to make this Indenture a valid agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, in consideration of the premises and the purchase of the Securities by the holders thereof, it is mutually covenanted and agreed as follows for the equal and ratable benefit of the holders of Securities:

ARTICLE 1
DEFINITIONS

Section 1.01 Definitions of Terms.

The terms defined in this Section (except as in this Indenture or any indenture supplemental hereto otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section and shall include the plural as well as the singular. All other terms used in this Indenture that are defined in the Trust Indenture Act of 1939, as amended, or that are by reference in such Act defined in the Securities Act of 1933, as amended (except as herein or any indenture supplemental hereto otherwise expressly provided or unless the context otherwise requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date of the execution of this instrument.

"***Authenticating Agent***" means an authenticating agent with respect to all or any of the series of Securities appointed by the Trustee pursuant to Section 2.10.

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

"***Board of Directors***" means the Board of Directors of the Company or any duly authorized committee of such Board.

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

"***Business Day***" means, with respect to any series of Securities, any day other than a day on which federal or state banking institutions in the Borough of Manhattan, the City of New York, or in the city of the Corporate Trust Office of the Trustee, are authorized or obligated by law, executive order or regulation to close.

"***Certificate***" means a certificate signed by any Officer. The Certificate need not comply with the provisions of Section 13.07.

"***Company***" means Gevo, Inc., a corporation duly organized and existing under the laws of the State of Delaware, and, subject to the provisions of Article Ten, shall also include its successors and assigns.

"***Corporate Trust Office***" means the office of the Trustee at which, at any particular time, its corporate trust business shall be principally administered, which office at the date hereof is located at 707 Wilshire Blvd., 17th Flr., MAC# E2818-176, Los Angeles, CA 90017, Attn: Administrator for Gevo, Inc. with respect to presentation of notes or for registration of transfer or exchange of notes, 608 2nd Ave., S. Minneapolis, MN 55479, Attn: Bondholder Communications.

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

"***Default***" means any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"***Depositary***" means, with respect to Securities of any series for which the Company shall determine that such Securities will be issued as a Global Security, The Depository Trust Company, New York, New York, another clearing agency, or any successor registered as a clearing agency under the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), or other applicable statute or regulation, which, in each case, shall be designated by the Company pursuant to either Section 2.01 or 2.11.

"***Defaulted Interest***" has the meaning set forth in Section 2.03.

"***Event of Default***" means, with respect to Securities of a particular series, any event specified in Section 6.01, continued for the period of time, if any, therein designated.

"***Global Security***" means, with respect to any series of Securities, a Security executed by the Company and delivered by the Trustee to the Depositary or pursuant to the Depositary's instruction, all in accordance with the Indenture, which shall be registered in the name of the Depositary or its nominee.

"***Governmental Obligations***" means securities that are (a) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America that, in either case, are not callable or redeemable at the option of the issuer thereof at any time prior to the stated maturity of the Securities, and shall also include a depositary receipt issued by a bank or trust company as custodian with respect to any such Governmental Obligation or a specific payment of principal of or interest on any such Governmental Obligation held by such custodian for the account of the holder of such depositary receipt; provided, however, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the Governmental Obligation or the specific payment of principal of or interest on the Governmental Obligation evidenced by such depositary receipt.

"***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.

"***Indenture***" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into in accordance with the terms hereof.

"***Interest Payment Date***", when used with respect to any installment of interest on a Security of a particular series, means the date specified in such Security or in a Board Resolution or in an indenture supplemental hereto with respect to such series as the fixed date on which an installment of interest with respect to Securities of that series is due and payable.

"***Officer***" means, with respect to the Company, the chairman of the Board of Directors, a chief executive officer, a president, a chief financial officer, a chief operating officer, any executive vice president, any senior vice president, any vice president, the treasurer or any assistant treasurer, the controller or any assistant controller or the secretary or any assistant secretary.

"***Officers' Certificate***" means a certificate signed by any two Officers. Each such certificate shall include the statements provided for in Section 13.07, if and to the extent required by the provisions thereof.

"***Opinion of Counsel***" means an opinion in writing subject to customary exceptions of legal counsel, who may be an employee of or counsel for the Company, that is delivered to the Trustee in accordance with the terms hereof. Each such opinion shall include the statements provided for in Section 13.07, if and to the extent required by the provisions thereof.

"***Outstanding***", when used with reference to Securities of any series, means, subject to the provisions of Section 8.04, as of any particular time, all Securities of that series theretofore authenticated and delivered by the Trustee under this Indenture, except (a) Securities theretofore canceled by the Trustee or any paying agent, or delivered to the Trustee or any paying agent for cancellation or that have previously been canceled; (b) Securities or portions thereof for the payment or redemption of which moneys or Governmental Obligations in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own paying agent); provided, however, that if such Securities or portions of such Securities are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article Three provided, or provision satisfactory to the Trustee shall have been made for giving such notice; and (c) Securities in lieu of or in substitution for which other Securities shall have been authenticated and delivered pursuant to the terms of Section 2.07.

"***Person***" means any individual, corporation, partnership, joint venture, joint-stock company, limited liability company, association, trust, unincorporated organization, any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"***Predecessor Security***" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 2.07 in lieu of a lost, destroyed or stolen Security shall be deemed to evidence the same debt as the lost, destroyed or stolen Security.

"***Responsible Officer***" when used with respect to the Trustee means any trust officer, any corporate trust officer including any vice president or assistant vice president of the Trustee customarily performing functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his or her knowledge of and familiarity with the particular subject.

"***Securities***" means the debt Securities authenticated and delivered under this Indenture.

"***Securityholder***" , "***holder of Securities***", "***registered holder***", or other similar term, means the Person or Persons in whose name or names a particular Security shall be registered on the books of the Company kept for that purpose in accordance with the terms of this Indenture.

"***Security Register***" and "***Security Registrar***" shall have the meanings as set forth in Section 2.05.

"***Subsidiary***" means, with respect to any Person, (i) any corporation at least a majority of whose outstanding Voting Stock shall at the time be owned, directly or indirectly, by such Person or by one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, (ii) any general partnership, joint venture or similar entity, at least a majority of whose outstanding partnership or similar interests shall at the time be owned by such Person, or by one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries and (iii) any limited partnership of which such Person or any of its Subsidiaries is a general partner.

"***Trustee***" means Wells Fargo Bank, National Association, and, subject to the provisions of Article Seven, shall also include its successors and assigns, and, if at any time there is more than one Person acting in such capacity hereunder, "Trustee" shall mean each such Person. The term "Trustee" as used with respect to a particular series of the Securities shall mean the trustee with respect to that series.

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

"***Voting Stock***", as applied to stock of any Person, means shares, interests, participations or other equivalents in the equity interest (however designated) in such Person having ordinary voting power for the election of a majority of the directors (or the equivalent) of such Person, other than shares, interests, participations or other equivalents having such power only by reason of the occurrence of a contingency.

ARTICLE 2
ISSUE, DESCRIPTION, TERMS, EXECUTION, REGISTRATION AND EXCHANGE OF SECURITIES

Section 2.01 Designation and Terms of Securities.

(a) The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more series up to the aggregate principal amount of Securities of that series from time to time authorized by or pursuant to a Board Resolution or pursuant to one or more indentures supplemental hereto. Prior to the initial issuance of Securities of any series, there shall be established in or pursuant to a Board Resolution, and set forth in an Officers' Certificate, or established in one or more indentures supplemental hereto:

(1) the title of the Securities of the series (which shall distinguish the Securities of that series from all other Securities);

(2) any limit upon the aggregate principal amount of the Securities of that series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of that series);

(3) the date or dates on which the principal of the Securities of the series is payable, any original issue discount that may apply to the Securities of that series upon their issuance, the principal amount due at maturity, and the place(s) of payment;

(4) the rate or rates at which the Securities of the series shall bear interest or the manner of calculation of such rate or rates, if any;

(5) the date or dates from which such interest shall accrue, the Interest Payment Dates on which such interest will be payable or the manner of determination of such Interest Payment Dates, the place(s) of payment, and the record date for the determination of holders to whom interest is payable on any such Interest Payment Dates or the manner of determination of such record dates;

(6) the right, if any, to extend the interest payment periods and the duration of such extension;

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

(8) the obligation, if any, of the Company to redeem or purchase Securities of the series pursuant to any sinking fund, mandatory redemption, or analogous provisions (including payments made in cash in satisfaction of future sinking fund obligations) or at the option of a holder thereof and the period or periods within which, the price or prices at which, and the terms and conditions upon which, Securities of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(9) the form of the Securities of the series including the form of the Certificate of Authentication for such series;

(10) if other than denominations of one thousand U.S. dollars ($1,000) or any integral multiple thereof, the denominations in which the Securities of the series shall be issuable;

(11) any and all other terms (including terms, to the extent applicable, relating to any auction or remarketing of the Securities of that series and any security for the obligations of the Company with respect to such Securities) with respect to such series (which terms shall not be inconsistent with the terms of this Indenture, as amended by any supplemental indenture) including any terms which may be required by or advisable under United States laws or regulations or advisable in connection with the marketing of Securities of that series;

(12) whether the Securities are issuable as a Global Security and, in such case, the terms and the identity of the Depositary for such series;

(13) whether the Securities will be convertible into or exchangeable for shares of common stock or other securities of the Company or any other Person and, if so, the terms and conditions upon which such Securities will be so convertible or exchangeable, including the conversion or exchange price, as applicable, or how it will be calculated and may be adjusted, any mandatory or optional (at the Company's option or the holders' option) conversion or exchange features, and the applicable conversion or exchange period;

(14) if other than the principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof pursuant to Section 6.01;

(15) any additional or different Events of Default or restrictive covenants (which may include, among other restrictions, restrictions on the Company's ability or the ability of the Company's Subsidiaries to: incur additional indebtedness; issue additional securities; create liens; pay dividends or make distributions in respect of their capital stock; redeem capital stock; place restrictions on such Subsidiaries placing restrictions on their ability to pay dividends, make distributions or transfer assets; make investments or other restricted payments; sell or otherwise dispose of assets; enter into sale-leaseback transactions; engage in transactions with stockholders and affiliates; issue or sell stock of their Subsidiaries; or effect a consolidation or merger) or financial covenants (which may include, among other financial covenants, financial covenants that require the Company and its Subsidiaries to maintain specified interest coverage, fixed charge, cash flow-based or asset-based ratios) provided for with respect to the Securities of the series;

(16) if other than dollars, the coin or currency in which the Securities of the series are denominated (including, but not limited to, foreign currency);

(17) the terms and conditions, if any, upon which the Company shall pay amounts in addition to the stated interest, premium, if any and principal amounts of the Securities of the series to any Securityholder that is not a "United States person" for federal tax purposes; and

(18) any restrictions on transfer, sale or assignment of the Securities of the series.

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to any such Board Resolution or in any indentures supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution of the Company, a copy of an appropriate record of such action shall be certified by the secretary or an assistant secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate of the Company setting forth the terms of the series.

Securities of any particular series may be issued at various times, with different dates on which the principal or any installment of principal is payable, with different rates of interest, if any, or different methods by which rates of interest may be determined, with different dates on which such interest may be payable and with different redemption dates.

Section 2.02 Form of Securities and Trustee's Certificate.

The Securities of any series and the Trustee's certificate of authentication to be borne by such Securities shall be substantially of the tenor and purport as set forth in one or more indentures supplemental hereto or as

provided in a Board Resolution, and set forth in an Officers' Certificate, and they may have such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange on which Securities of that series may be listed, or to conform to usage.

Section 2.03 Denominations: Provisions for Payment.

The Securities shall be issuable as registered Securities and in the denominations of one thousand U.S. dollars ($1,000) or any integral multiple thereof, subject to Section 2.01(a)(10). The Securities of a particular series shall bear interest payable on the dates and at the rate specified with respect to that series. Subject to Section 2.01(a)(16), the principal of and the interest on the Securities of any series, as well as any premium thereon in case of redemption thereof prior to maturity, shall be payable in the coin or currency of the United States of America that at the time is legal tender for public and private debt, at the office or agency of the Company maintained for that purpose in Minneapolis, MN. Each Security shall be dated the date of its authentication. Interest on the Securities shall be computed on the basis of a 360-day year composed of twelve 30-day months.

The interest installment on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date for Securities of that series shall be paid to the Person in whose name said Security (or one or more Predecessor Securities) is registered at the close of business on the regular record date for such interest installment. In the event that any Security of a particular series or portion thereof is called for redemption and the redemption date is subsequent to a regular record date with respect to any Interest Payment Date and prior to such Interest Payment Date, interest on such Security will be paid upon presentation and surrender of such Security as provided in Section 3.03.

Any interest on any Security that is payable, but is not punctually paid or duly provided for, on any Interest Payment Date for Securities of the same series (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered holder on the relevant regular record date by virtue of having been such holder; and such Defaulted Interest shall be paid by the Company, at its election, as provided in clause (1) or clause (2) below:

(1) The Company may make payment of any Defaulted Interest on Securities to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a special record date for the payment of such Defaulted Interest which shall not be more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such special record date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be mailed, first class postage prepaid, or electronic facsimile in the case of book entry, to each Securityholder at his or her address as it appears in the Security Register (as hereinafter defined), not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered on such special record date and shall be no longer payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest on any Securities in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after written notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Unless otherwise set forth in a Board Resolution or one or more indentures supplemental hereto establishing the terms of any series of Securities pursuant to Section 2.01 hereof, the term "regular record date" as used in this Section with respect to a series of Securities and any Interest Payment Date for such series shall mean either the fifteenth day of the month immediately preceding the month in which an Interest Payment Date established for such series pursuant to Section 2.01 hereof shall occur, if such Interest Payment Date is the first day of a month, or the first day of the month in which an Interest Payment Date established for such series pursuant to Section 2.01 hereof shall occur, if such Interest Payment Date is the fifteenth day of a month, whether or not such date is a Business Day.

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

Section 2.04 Execution and Authentications.

The Securities shall be signed on behalf of the Company by one of its Officers. Signatures may be in the form of a manual or facsimile signature.

The Company may use the facsimile signature of any Person who shall have been an Officer, notwithstanding the fact that at the time the Securities shall be authenticated and delivered or disposed of such Person shall have ceased to be such an officer of the Company. The seal of the Company may be in the form of a facsimile of such seal and may be impressed, affixed, imprinted or otherwise reproduced on the Securities. The Securities may contain such notations, legends or endorsements required by law, stock exchange rule or usage. Each Security shall be dated the date of its authentication by the Trustee.

A Security shall not be valid until authenticated manually by an authorized signatory of the Trustee, or by an Authenticating Agent. Such signature shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the holder is entitled to the benefits of this Indenture. At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a written order of the Company for the authentication and delivery of such Securities, signed by an Officer, and the Trustee in accordance with such written order shall authenticate and deliver such Securities.

In authenticating such Securities and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to Section 7.01) shall be fully protected in relying upon, an Opinion of Counsel stating that the form and terms thereof have been established in conformity with the provisions of this Indenture.

The Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner that is not reasonably acceptable to the Trustee.

Section 2.05 Registration of Transfer and Exchange.

(a) Securities of any series may be exchanged upon presentation thereof at the office or agency of the Company designated for such purpose in Minneapolis, MN, for other Securities of such series of authorized denominations, and for a like aggregate principal amount, upon payment of a sum sufficient to cover any tax or other governmental charge in relation thereto, all as provided in this Section. In respect of any Securities so surrendered for exchange, the Company shall execute, the Trustee shall authenticate and such office or agency shall deliver in exchange therefor the Security or Securities of the same series that the Securityholder making the exchange shall be entitled to receive, bearing numbers not contemporaneously outstanding.

(b) The Company shall keep, or cause to be kept, at its office or agency designated for such purpose in Minneapolis, MN, or such other location designated by the Company, a register or registers (herein referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall register

the Securities and the transfers of Securities as in this Article provided and which at all reasonable times shall be open for inspection by the Trustee. The registrar for the purpose of registering Securities and transfer of Securities as herein provided shall be appointed as authorized by Board Resolution (the "Security Registrar").

Upon surrender for transfer of any Security at the office or agency of the Company designated for such purpose, the Company shall execute, the Trustee shall authenticate and such office or agency shall deliver in the name of the transferee or transferees a new Security or Securities of the same series as the Security presented for a like aggregate principal amount.

All Securities presented or surrendered for exchange or registration of transfer, as provided in this Section, shall be accompanied (if so required by the Company or the Security Registrar) by a written instrument or instruments of transfer, in form satisfactory to the Company or the Security Registrar, duly executed by the registered holder or by such holder's duly authorized attorney in writing.

(c) Except as provided pursuant to Section 2.01 pursuant to a Board Resolution, and set forth in an Officers' Certificate, or established in one or more indentures supplemental to this Indenture, no service charge shall be made for any exchange or registration of transfer of Securities, or issue of new Securities in case of partial redemption of any series, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge in relation thereto, other than exchanges pursuant to Section 2.06, Section 3.03(b) and Section 9.04 not involving any transfer.

(d) The Company shall not be required (i) to issue, exchange or register the transfer of any Securities during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of less than all the Outstanding Securities of the same series and ending at the close of business on the day of such mailing, nor (ii) to register the transfer of or exchange any Securities of any series or portions thereof called for redemption, other than the unredeemed portion of any such Securities being redeemed in part. The provisions of this Section 2.05 are, with respect to any Global Security, subject to Section 2.11 hereof.

Section 2.06 Temporary Securities.

Pending the preparation of definitive Securities of any series, the Company may execute, and the Trustee shall authenticate and deliver, temporary Securities (printed, lithographed or typewritten) of any authorized denomination. Such temporary Securities shall be substantially in the form of the definitive Securities in lieu of which they are issued, but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Company. Every temporary Security of any series shall be executed by the Company and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Securities of such series. Without unnecessary delay the Company will execute and will furnish definitive Securities of such series and thereupon any or all temporary Securities of such series may be surrendered in exchange therefor (without charge to the holders), at the office or agency of the Company designated for the purpose in Minneapolis, MN, and the Trustee shall authenticate and such office or agency shall deliver in exchange for such temporary Securities an equal aggregate principal amount of definitive Securities of such series, unless the Company advises the Trustee to the effect that definitive Securities need not be executed and furnished until further notice from the Company. Until so exchanged, the temporary Securities of such series shall be entitled to the same benefits under this Indenture as definitive Securities of such series authenticated and delivered hereunder.

Section 2.07 Mutilated, Destroyed, Lost or Stolen Securities.

In case any temporary or definitive Security shall become mutilated or be destroyed, lost or stolen, the Company (subject to the next succeeding sentence) shall execute, and upon the Company's request the Trustee (subject as aforesaid) shall authenticate and deliver, a new Security of the same series, bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Security, or in lieu of and in substitution for the Security so destroyed, lost or stolen. In every case the applicant for a substituted Security shall furnish to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company and the Trustee evidence to their satisfaction of the destruction, loss or theft of the applicant's Security and of the ownership

thereof. The Trustee may authenticate any such substituted Security and deliver the same upon the written request or authorization of any officer of the Company. Upon the issuance of any substituted Security, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

In case any Security that has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Company may, instead of issuing a substitute Security, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Security) if the applicant for such payment shall furnish to the Company and the Trustee such security or indemnity as they may require to save them harmless, and, in case of destruction, loss or theft, evidence to the satisfaction of the Company and the Trustee of the destruction, loss or theft of such Security and of the ownership thereof.

Every replacement Security issued pursuant to the provisions of this Section shall constitute an additional contractual obligation of the Company whether or not the mutilated, destroyed, lost or stolen Security shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of the same series duly issued hereunder. All Securities shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities, and shall preclude (to the extent lawful) any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

Section 2.08 Cancellation.

All Securities surrendered for the purpose of payment, redemption, exchange or registration of transfer shall, if surrendered to the Company or any paying agent, be delivered to the Trustee for cancellation, or, if surrendered to the Trustee, shall be cancelled by it, and no Securities shall be issued in lieu thereof except as expressly required or permitted by any of the provisions of this Indenture. On request of the Company at the time of such surrender, the Trustee shall deliver to the Company canceled Securities held by the Trustee. In the absence of such request the Trustee may dispose of canceled Securities in accordance with its standard procedures and deliver a certificate of disposition to the Company. If the Company shall otherwise acquire any of the Securities, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee for cancellation.

Section 2.09 Benefits of Indenture.

Nothing in this Indenture or in the Securities, express or implied, shall give or be construed to give to any Person, other than the parties hereto and the holders of the Securities any legal or equitable right, remedy or claim under or in respect of this Indenture, or under any covenant, condition or provision herein contained; all such covenants, conditions and provisions being for the sole benefit of the parties hereto and of the holders of the Securities.

Section 2.10 Authenticating Agent.

So long as any of the Securities of any series remain Outstanding there may be an Authenticating Agent for any or all such series of Securities which the Trustee shall have the right to appoint. Said Authenticating Agent shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon exchange, transfer or partial redemption thereof, and Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. All references in this Indenture to the authentication of Securities by the Trustee shall be deemed to include authentication by an Authenticating Agent for such series. Each Authenticating Agent shall be acceptable to the Company and shall be a corporation that has a combined capital and surplus, as most recently reported or determined by it, sufficient under the laws of any jurisdiction under which it is organized or in which it is doing business to conduct a trust business, and that is otherwise authorized under such laws to conduct such business and is subject to supervision or examination by federal or state authorities. If at any time any Authenticating Agent shall cease to be eligible in accordance with these provisions, it shall resign immediately.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time (and upon request by the Company shall) terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and to the Company. Upon resignation, termination or cessation of eligibility of any Authenticating Agent, the Trustee may appoint an eligible successor Authenticating Agent acceptable to the Company. Any successor Authenticating Agent, upon acceptance of its appointment hereunder, shall become vested with all the rights, powers and duties of its predecessor hereunder as if originally named as an Authenticating Agent pursuant hereto.

Section 2.11 Global Securities.

(a) If the Company shall establish pursuant to Section 2.01 that the Securities of a particular series are to be issued as a Global Security, then the Company shall execute and the Trustee shall, in accordance with Section 2.04, authenticate and deliver, a Global Security that (i) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of, all of the Outstanding Securities of such series, (ii) shall be registered in the name of the Depositary or its nominee, (iii) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary's instruction and (iv) shall bear a legend substantially to the following effect: "Except as otherwise provided in Section 2.11 of the Indenture, this Security may be transferred, in whole but not in part, only to another nominee of the Depositary or to a successor Depositary or to a nominee of such successor Depositary."

(b) Notwithstanding the provisions of Section 2.05, the Global Security of a series may be transferred, in whole but not in part and in the manner provided in Section 2.05, only to another nominee of the Depositary for such series, or to a successor Depositary for such series selected or approved by the Company or to a nominee of such successor Depositary.

(c) If at any time the Depositary for a series of the Securities notifies the Company that it is unwilling or unable to continue as Depositary for such series or if at any time the Depositary for such series shall no longer be registered or in good standing under the Exchange Act, or other applicable statute or regulation, and a successor Depositary for such series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such condition, as the case may be, or if an Event of Default has occurred and is continuing and the Company has received a request from the Depositary, this Section 2.11 shall no longer be applicable to the Securities of such series and the Company will execute, and subject to Section 2.04, the Trustee will authenticate and deliver the Securities of such series in definitive registered form without coupons, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the Global Security of such series in exchange for such Global Security. In addition, the Company may at any time determine that the Securities of any series shall no longer be represented by a Global Security and that the provisions of this Section 2.11 shall no longer apply to the Securities of such series. In such event the Company will execute and, subject to Section 2.04, the Trustee, upon receipt of an Officers' Certificate evidencing such determination by the Company, will authenticate and deliver the Securities of such series in definitive registered form without coupons, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the Global Security of such series in exchange for such Global Security. Upon the exchange of the Global Security for such Securities in definitive registered form without coupons, in authorized denominations, the Global Security shall be canceled by the Trustee. Such Securities in definitive registered form issued in exchange for the Global Security pursuant to this Section 2.11(c) shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Securities to the Depositary for delivery to the Persons in whose names such Securities are so registered.

ARTICLE 3
REDEMPTION OF SECURITIES AND SINKING FUND PROVISIONS

Section 3.01 Redemption.

The Company may redeem the Securities of any series issued hereunder on and after the dates and in accordance with the terms established for such series pursuant to Section 2.01 hereof.

Section 3.02 Notice of Redemption.

(a) In case the Company shall desire to exercise such right to redeem all or, as the case may be, a portion of the Securities of any series in accordance with any right the Company reserved for itself to do so pursuant to Section 2.01 hereof, the Company shall, or shall cause the Trustee to, give notice of such redemption to holders of the Securities of such series to be redeemed by mailing, first class postage prepaid, or electronic facsimile in the case of book entry, a notice of such redemption not less than 30 days and not more than 90 days before the date fixed for redemption of that series to such holders at their last addresses as they shall appear upon the Security Register, unless a shorter period is specified in the Securities to be redeemed. Any notice that is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the registered holder receives the notice. In any case, failure duly to give such notice to the holder of any Security of any series designated for redemption in whole or in part, or any defect in the notice, shall not affect the validity of the proceedings for the redemption of any other Securities of such series or any other series. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with any such restriction.

Each such notice of redemption shall specify the date fixed for redemption and the redemption price at which Securities of that series are to be redeemed, and shall state that payment of the redemption price of such Securities to be redeemed will be made at the office or agency of the Company in Minneapolis, MN, upon presentation and surrender of such Securities, that interest accrued to the date fixed for redemption will be paid as specified in said notice, that from and after said date interest will cease to accrue and that the redemption is for a sinking fund, if such is the case. If less than all the Securities of a series are to be redeemed, the notice to the holders of Securities of that series to be redeemed in part shall specify the particular Securities to be so redeemed.

In case any Security is to be redeemed in part only, the notice that relates to such Security shall state the portion of the principal amount thereof to be redeemed, and shall state that on and after the redemption date, upon surrender of such Security, a new Security or Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

(b) If less than all the Securities of a series are to be redeemed, the Company shall give the Trustee at least 45 days' notice (unless a shorter notice shall be satisfactory to the Trustee) in advance of the date fixed for redemption as to the aggregate principal amount of Securities of the series to be redeemed, and thereupon the Trustee shall select, by lot or in such other manner as it shall deem appropriate and fair in its discretion and that may provide for the selection of a portion or portions (equal to one thousand U.S. dollars ($1,000) or any integral multiple thereof) of the principal amount of such Securities of a denomination larger than $1,000, the Securities to be redeemed and shall thereafter promptly notify the Company in writing of the numbers of the Securities to be redeemed, in whole or in part. The Company may, if and whenever it shall so elect, by delivery of instructions signed on its behalf by an Officer, instruct the Trustee or any paying agent to call all or any part of the Securities of a particular series for redemption and to give notice of redemption in the manner set forth in this Section, such notice to be in the name of the Company or its own name as the Trustee or such paying agent may deem advisable. In any case in which notice of redemption is to be given by the Trustee or any such paying agent, the Company shall deliver or cause to be delivered to, or permit to remain with, the Trustee or such paying agent, as the case may be, such Security Register, transfer books or other records, or suitable copies or extracts therefrom, sufficient to enable the Trustee or such paying agent to give any notice by mail that may be required under the provisions of this Section.

Section 3.03 Payment Upon Redemption.

(a) If the giving of notice of redemption shall have been completed as above provided, the Securities or portions of Securities of the series to be redeemed specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption and interest on such Securities or portions of Securities shall cease to accrue on and after the date fixed for redemption, unless the Company shall default in the payment of such redemption price and accrued interest with respect to any such Security or portion thereof. On presentation and surrender of such Securities on or after the date fixed for redemption at the place of payment specified in the notice, said Securities shall be paid and

redeemed at the applicable redemption price for such series, together with interest accrued thereon to the date fixed for redemption (but if the date fixed for redemption is an interest payment date, the interest installment payable on such date shall be payable to the registered holder at the close of business on the applicable record date pursuant to Section 2.03).

(b) Upon presentation of any Security of such series that is to be redeemed in part only, the Company shall execute and the Trustee shall authenticate and the office or agency where the Security is presented shall deliver to the holder thereof, at the expense of the Company, a new Security of the same series of authorized denominations in principal amount equal to the unredeemed portion of the Security so presented.

Section 3.04 Sinking Fund.

The provisions of Sections 3.04, 3.05 and 3.06 shall be applicable to any sinking fund for the retirement of Securities of a series, except as otherwise specified as contemplated by Section 2.01 for Securities of such series.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an "optional sinking fund payment". If provided for by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.05. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series.

Section 3.05 Satisfaction of Sinking Fund Payments with Securities.

The Company (i) may deliver Outstanding Securities of a series and (ii) may apply as a credit Securities of a series that have been redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such Securities as provided for by the terms of such series, provided that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustee at the redemption price specified in such Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 3.06 Redemption of Securities for Sinking Fund.

Not less than 45 days prior to each sinking fund payment date for any series of Securities (unless a shorter period shall be satisfactory to the Trustee), the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of the series, the portion thereof, if any, that is to be satisfied by delivering and crediting Securities of that series pursuant to Section 3.05 and the basis for such credit and will, together with such Officers' Certificate, deliver to the Trustee any Securities to be so delivered. Not less than 30 days before each such sinking fund payment date the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 3.02 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.02. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Section 3.03.

ARTICLE 4
COVENANTS

Section 4.01 Payment of Principal, Premium and Interest.

The Company will duly and punctually pay or cause to be paid the principal of (and premium, if any) and interest on the Securities of that series at the time and place and in the manner provided herein and established with respect to such Securities. Payments of principal on the Securities may be made at the time provided herein and established with respect to such Securities by U.S. dollar check drawn on and mailed to the address of the

Securityholder entitled thereto as such address shall appear in the Security Register, or U.S. dollar wire transfer to, a U.S. dollar account (such wire transfer to be made only to a Securityholder of an aggregate principal amount of Securities of the applicable series in excess of U.S. $2,000,000 and only if such Securityholder shall have furnished wire instructions to the Trustee no later than 15 days prior to the relevant payment date). Payments of interest on the Securities may be made at the time provided herein and established with respect to such Securities by U.S. dollar check mailed to the address of the Securityholder entitled thereto as such address shall appear in the Security Register, or U.S. dollar wire transfer to, a U.S. dollar account (such a wire transfer to be made only to a Securityholder of an aggregate principal amount of Securities of the applicable series in excess of U.S. $2,000,000 and only if such Securityholder shall have furnished wire instructions in writing to the Security Registrar and the Trustee no later than 15 days prior to the relevant payment date.

Section 4.02 Maintenance of Office or Agency.

So long as any series of the Securities remain Outstanding, the Company agrees to maintain an office or agency in Minneapolis, MN, with respect to each such series and at such other location or locations as may be as herein above authorized for registration of transfer and exchange, and (iii) notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be given or served, such designation to continue with respect to such office or agency until the Company shall, by written notice signed by any officer authorized to sign an Officers' Certificate and delivered to the Trustee, designate some other office or agency for such purposes or any of them. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, notices and demands. The Company initially appoints the Corporate Trust Office of the Trustee located in the Borough of Manhattan, the City of New York as its paying agent with respect to the Securities.

Section 4.03 Paying Agents.

(a) If the Company shall appoint one or more paying agents for all or any series of the Securities, other than the Trustee, the Company will cause each such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section:

(1) that it will hold all sums held by it as such agent for the payment of the principal of (and premium, if any) or interest on the Securities of that series (whether such sums have been paid to it by the Company or by any other obligor of such Securities) in trust for the benefit of the Persons entitled thereto;

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

(3) that it will, at any time during the continuance of any failure referred to in the preceding paragraph (a)(2) above, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such paying agent; and

(4) that it will perform all other duties of paying agent as set forth in this Indenture.

(b) If the Company shall act as its own paying agent with respect to any series of the Securities, it will on or before each due date of the principal of (and premium, if any) or interest on Securities of that series, set aside, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay such principal (and premium, if any) or interest so becoming due on Securities of that series until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of such action, or any failure (by it or any other obligor on such Securities) to take such action. Whenever the Company shall have one or more paying agents for any series of Securities, it will, prior to each due date of the principal of (and premium, if any) or interest on any Securities of that series, deposit with the paying agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such paying agent is the Trustee) the Company will promptly notify the Trustee of this action or failure so to act.

(c) Notwithstanding anything in this Section to the contrary, (i) the agreement to hold sums in trust as provided in this Section is subject to the provisions of Section 11.05, and (ii) the Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or direct any paying agent to pay, to the Trustee all sums held in trust by the Company or such paying agent, such sums to be held by the Trustee upon the same terms and conditions as those upon which such sums were held by the Company or such paying agent; and, upon such payment by the Company or any paying agent to the Trustee, the Company or such paying agent shall be released from all further liability with respect to such money.

Section 4.04 Appointment to Fill Vacancy in Office of Trustee.

The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.10, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 4.05 Compliance with Consolidation Provisions.

The Company will not, while any of the Securities remain Outstanding, consolidate with or merge into any other Person, in either case where the Company is not the survivor of such transaction, or sell or convey all or substantially all of its property to any other Person unless the provisions of Article Ten hereof are complied with.

ARTICLE 5
SECURITYHOLDERS' LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE

Section 5.01 Company to Furnish Trustee Names and Addresses of Securityholders.

The Company will furnish or cause to be furnished to the Trustee (a) within 15 days after each regular record date (as defined in Section 2.03) a list, in such form as the Trustee may reasonably require, of the names and addresses of the holders of each series of Securities as of such regular record date, provided that the Company shall not be obligated to furnish or cause to furnish such list at any time that the list shall not differ in any respect from the most recent list furnished to the Trustee by the Company and (b) at such other times as the Trustee may request in writing within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished; provided, however, that, in either case, no such list need be furnished for any series for which the Trustee shall be the Security Registrar.

Section 5.02 Preservation Of Information; Communications With Securityholders.

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of Securities contained in the most recent list furnished to it as provided in Section 5.01 and as to the names and addresses of holders of Securities received by the Trustee in its capacity as Security Registrar (if acting in such capacity).

(b) The Trustee may destroy any list furnished to it as provided in Section 5.01 upon receipt of a new list so furnished.

(c) Securityholders may communicate as provided in Section 312(b) of the Trust Indenture Act with other Securityholders with respect to their rights under this Indenture or under the Securities, and, in connection with any such communications, the Trustee shall satisfy its obligations under Section 312(b) of the Trust Indenture Act in accordance with the provisions of Section 312(b) of the Trust Indenture Act.

Section 5.03 Reports by the Company.

(a) The Company covenants and agrees to provide to the Trustee (which delivery may be via electronic mail), after the Company files the same with the Securities and Exchange Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Securities and Exchange Commission may from time to time by rules and regulations prescribe) that the Company files with the Securities and Exchange Commission pursuant to Section 13 or Section 15(d) of the Exchange Act; or, if the Company is not required to file information, documents or reports pursuant to either of such sections, then to file with the Trustee, in accordance with the rules and regulations prescribed from time to time by the Securities and Exchange Commission, such of the supplementary and periodic information, documents and reports that may be required pursuant to Section 13 of the Exchange Act, in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations; provided, however, the Company shall not be required to deliver to the Trustee any materials for which the Company has sought and received confidential treatment by the Securities and Exchange Commission; and provided further, so long as such filings are available on the Securities and Exchange Commission's Electronic Data Gathering, Analysis and Retrieval System (EDGAR) or any successor system thereto, such filings shall be deemed to have been filed with the Trustee for purposes of this Section 5.03 without any further action required by the Company; provided, however, that the Trustee shall have no responsibility whatsoever to determine whether such filings or postings have been made.

(b) The Company covenants and agrees to file with the Trustee and the Securities and Exchange Commission, in accordance with the rules and regulations prescribed from to time by the Securities and Exchange Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture as may be required from time to time by such rules and regulations.

(c) The Company covenants and agrees to transmit by mail, first class postage prepaid, or reputable over-night delivery service that provides for evidence of receipt, to the Securityholders, as their names and addresses appear upon the Security Register, within 30 days after the filing thereof with the Trustee, such summaries of any information, documents and reports required to be filed by the Company pursuant to subsections (a) and (b) of this Section as may be required by rules and regulations prescribed from time to time by the Securities and Exchange Commission.

Section 5.04 Reports by the Trustee.

(a) If required by Section 313(a) of the Trust Indenture Act, the Trustee, within sixty (60) days after each May 1, shall transmit by mail, first class postage prepaid, to the Securityholders, as their names and addresses appear upon the Security Register, a brief report dated as of such May 1, which complies with Section 313(a) of the Trust Indenture Act.

(b) The Trustee shall comply with Section 313(b) and 313(c) of the Trust Indenture Act.

(c) A copy of each such report shall, at the time of such transmission to Securityholders, be filed by the Trustee with the Company, with each securities exchange upon which any Securities are listed (if so listed) and also with the Securities and Exchange Commission. The Company agrees to notify the Trustee when any Securities become listed on any securities exchange.

ARTICLE 6
REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT

Section 6.01 Events of Default.

(a) Whenever used herein with respect to Securities of a particular series, "Event of Default" means any one or more of the following events that has occurred and is continuing:

(1) the Company defaults in the payment of any installment of interest upon any of the Securities of that series, as and when the same shall become due and payable, and such default continues for a period of 90 days; provided, however, that a valid extension of an interest payment period by the Company in accordance with the terms of any indenture supplemental hereto shall not constitute a default in the payment of interest for this purpose;

(2) the Company defaults in the payment of the principal of (or premium, if any, on) any of the Securities of that series as and when the same shall become due and payable whether at maturity, upon redemption, by declaration or otherwise, or in any payment required by any sinking or analogous fund established with respect to that series; provided, however, that a valid extension of the maturity of such Securities in accordance with the terms of any indenture supplemental hereto shall not constitute a default in the payment of principal or premium, if any;

(3) the Company fails to observe or perform any other of its covenants or agreements with respect to that series contained in this Indenture or otherwise established with respect to that series of Securities pursuant to Section 2.01 hereof (other than a covenant or agreement that has been expressly included in this Indenture solely for the benefit of one or more series of Securities other than such series) for a period of 90 days after the date on which written notice of such failure, requiring the same to be remedied and stating that such notice is a "Notice of Default" hereunder, shall have been given to the Company by the Trustee, by registered or certified mail, or to the Company and the Trustee by the holders of at least 25% in principal amount of the Securities of that series at the time Outstanding;

(4) the Company pursuant to or within the meaning of any Bankruptcy Law (i) commences a voluntary case, (ii) consents to the entry of an order for relief against it in an involuntary case, (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property or (iv) makes a general assignment for the benefit of its creditors; or

(5) a court of competent jurisdiction enters an order under any Bankruptcy Law that (i) is for relief against the Company in an involuntary case, (ii) appoints a Custodian of the Company for all or substantially all of its property or (iii) orders the liquidation of the Company, and the order or decree remains unstayed and in effect for 90 days.

(b) In each and every such case (other than an Event of Default specified in clause (4) or clause (5) above), unless the principal of all the Securities of that series shall have already become due and payable, either the Trustee or the holders of not less than 25% in aggregate principal amount of the Securities of that series then Outstanding hereunder, by notice in writing to the Company (and to the Trustee if given by such Securityholders), may declare the principal of (and premium, if any, on) and accrued and unpaid interest on all the Securities of that series to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable. If an Event of Default specified in clause (4) or clause (5) above occurs, the principal of and accrued and unpaid interest on all the Securities of that series shall automatically be immediately due and payable without any declaration or other act on the part of the Trustee or the holders of the Securities.

(c) At any time after the principal of (and premium, if any, on) and accrued and unpaid interest on the Securities of that series shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the holders of a majority in aggregate principal amount of the Securities of that series then Outstanding hereunder, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if: (i) the Company has paid or deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all the Securities of that series and the principal of (and premium, if any, on) any and all Securities of that series that shall have become due otherwise than by acceleration (with interest upon such principal and premium, if any, and, to the extent that such payment is enforceable under applicable law, upon overdue installments of interest, at the rate per annum expressed in the Securities of that series to the date of such payment or deposit) and the amount payable to the Trustee under Section 7.06, and (ii) any and all Events of Default under the Indenture with respect to such series, other than the nonpayment of principal on (and premium, if any, on) and accrued and unpaid interest on Securities of that series that shall not have become due by their terms, shall have been remedied or waived as provided in Section 6.06.

No such rescission and annulment shall extend to or shall affect any subsequent default or impair any right consequent thereon.

(d) In case the Trustee shall have proceeded to enforce any right with respect to Securities of that series under this Indenture and such proceedings shall have been discontinued or abandoned because of such rescission or annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case, subject to any determination in such proceedings, the Company and the Trustee shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Company and the Trustee shall continue as though no such proceedings had been taken.

Section 6.02 Collection of Indebtedness and Suits for Enforcement by Trustee.

(a) The Company covenants that (i) in case it shall default in the payment of any installment of interest on any of the Securities of a series, or in any payment required by any sinking or analogous fund established with respect to that series as and when the same shall have become due and payable, and such default shall have continued for a period of 90 days, or (ii) in case it shall default in the payment of the principal of (or premium, if any, on) any of the Securities of a series when the same shall have become due and payable, whether upon maturity of the Securities of a series or upon redemption or upon declaration or otherwise then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the Securities of that series, the whole amount that then shall have been become due and payable on all such Securities for principal (and premium, if any) or interest, or both, as the case may be, with interest upon the overdue principal (and premium, if any) and (to the extent that payment of such interest is enforceable under applicable law) upon overdue installments of interest at the rate per annum expressed in the Securities of that series; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, and the amount payable to the Trustee under Section 7.06.

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

(c) In case of any receivership, insolvency, liquidation, bankruptcy, reorganization, readjustment, arrangement, composition or judicial proceedings affecting the Company, or its creditors or property, the Trustee shall have power to intervene in such proceedings and take any action therein that may be permitted by the court and shall (except as may be otherwise provided by law) be entitled to file such proofs of claim and other papers and documents as may be necessary or advisable in order to have the claims of the Trustee and of the holders of Securities of such series allowed for the entire amount due and payable by the Company under the Indenture at the date of institution of such proceedings and for any additional amount that may become due and payable by the Company after such date, and to collect and receive any moneys or other property payable or deliverable on any such claim, and to distribute the same after the deduction of the amount payable to the Trustee under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of Securities of such series to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to such Securityholders, to pay to the Trustee any amount due it under Section 7.06.

(d) All rights of action and of asserting claims under this Indenture, or under any of the terms established with respect to Securities of that series, may be enforced by the Trustee without the possession of any of such Securities, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for payment to the Trustee of any amounts due under Section 7.06, be for the ratable benefit of the holders of the Securities of such series.

In case of an Event of Default hereunder, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most

effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in the Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Nothing contained herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of that series or the rights of any holder thereof or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding.

Section 6.03 Application of Moneys Collected.

Any moneys collected by the Trustee pursuant to this Article with respect to a particular series of Securities shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal (or premium, if any) or interest, upon presentation of the Securities of that series, and notation thereon of the payment, if only partially paid, and upon surrender thereof if fully paid:

FIRST: To the payment of reasonable costs and expenses of collection and of all amounts payable to the Trustee under Section 7.06;

SECOND: To the payment of the amounts then due and unpaid upon Securities of such series for principal (and premium, if any) and interest, in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal (and premium, if any) and interest, respectively; and

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

Section 6.04 Limitation on Suits.

No holder of any Security of any series shall have any right by virtue or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless (i) such holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof with respect to the Securities of such series specifying such Event of Default, as hereinbefore provided; (ii) the holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder; (iii) such holder or holders shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby; (iv) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity, shall have failed to institute any such action, suit or proceeding and (v) during such 60 day period, the holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

Notwithstanding anything contained herein to the contrary or any other provisions of this Indenture, the right of any holder of any Security to receive payment of the principal of (and premium, if any) and interest on such Security, as therein provided, on or after the respective due dates expressed in such Security (or in the case of redemption, on the redemption date), or to institute suit for the enforcement of any such payment on or after such respective dates or redemption date, shall not be impaired or affected without the consent of such holder and by accepting a Security hereunder it is expressly understood, intended and covenanted by the taker and holder of every Security of such series with every other such taker and holder and the Trustee, that no one or more holders of Securities of such series shall have any right in any manner whatsoever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of the holders of any other of such Securities, or to obtain or seek to obtain priority over or preference to any other such holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all holders of Securities of such series. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Section 6.05 Rights and Remedies Cumulative; Delay or Omission Not Waiver.

(a) Except as otherwise provided in Section 2.07, all powers and remedies given by this Article to the Trustee or to the Securityholders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any other powers and remedies available to the Trustee or the holders of the Securities, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture or otherwise established with respect to such Securities.

(b) No delay or omission of the Trustee or of any holder of any of the Securities to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein; and, subject to the provisions of Section 6.04, every power and remedy given by this Article or by law to the Trustee or the Securityholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Securityholders.

Section 6.06 Control by Securityholders.

The holders of a majority in aggregate principal amount of the Securities of any series at the time Outstanding, determined in accordance with Section 8.04, shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to such series; provided, however, that such direction shall not be in conflict with any rule of law or with this Indenture. Subject to the provisions of Section 7.01, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer or officers of the Trustee, determine that the proceeding so directed, subject to the Trustee's duties under the Trust Indenture Act, would involve the Trustee in personal liability or might be unduly prejudicial to the Securityholders not involved in the proceeding. The holders of a majority in aggregate principal amount of the Securities of any series at the time Outstanding affected thereby, determined in accordance with Section 8.04, may on behalf of the holders of all of the Securities of such series waive any past default in the performance of any of the covenants contained herein or established pursuant to Section 2.01 with respect to such series and its consequences, except a default in the payment of the principal of, or premium, if any, or interest on, any of the Securities of that series as and when the same shall become due by the terms of such Securities otherwise than by acceleration (unless such default has been cured and a sum sufficient to pay all matured installments of interest and principal and any premium has been deposited with the Trustee (in accordance with Section 6.01(c)). Upon any such waiver, the default covered thereby shall be deemed to be cured for all purposes of this Indenture and the Company, the Trustee and the holders of the Securities of such series shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 6.07 Undertaking to Pay Costs.

All parties to this Indenture agree, and each holder of any Securities by such holder's acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder, or group of Securityholders, holding more than 10% in aggregate principal amount of the Outstanding Securities of any series, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Security of such series, on or after the respective due dates expressed in such Security or established pursuant to this Indenture.

ARTICLE 7
CONCERNING THE TRUSTEE

Section 7.01 Certain Duties and Responsibilities of Trustee.

(a) The Trustee, prior to the occurrence of an Event of Default with respect to the Securities of a series and after the curing of all Events of Default with respect to the Securities of that series that may have occurred, shall undertake to perform with respect to the Securities of such series such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants shall be read into this Indenture against the Trustee. In case an Event of Default with respect to the Securities of a series has occurred (that has not been cured or waived), the Trustee shall exercise with respect to Securities of that series such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

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

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

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

(B) in the absence of bad faith on the part of the Trustee, the Trustee may with respect to the Securities of such series conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

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

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Securities of any series at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture with respect to the Securities of that series; and

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

(c) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

Section 7.02 Certain Rights of Trustee.

Except as otherwise provided in Section 7.01:

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

(b) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by a Board Resolution or an instrument signed in the name of the Company by any authorized officer of the Company (unless other evidence in respect thereof is specifically prescribed herein);

(c) The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted hereunder in good faith and in reliance thereon;

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that may be incurred therein or thereby; nothing contained herein shall, however, relieve the Trustee of the obligation, upon the occurrence of an Event of Default with respect to a series of the Securities (that has not been cured or waived), to exercise with respect to Securities of that series such of the rights and powers vested in it by this Indenture, and to use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs;

(e) Any permissive right or authority granted to the Trustee shall not be construed as a mandatory duty;

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

(g) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, security, or other papers or documents, unless requested in writing so to do by the holders of not less than a majority in principal amount of the Outstanding Securities of the particular series affected thereby (determined as provided in Section 8.04); provided, however, that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require reasonable indemnity against such costs, expenses or liabilities as a condition to so proceeding. The reasonable expense of every such examination shall be paid by the Company or, if paid by the Trustee, shall be repaid by the Company upon demand;

(h) 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;

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including, its right to be compensated, reimbursed, and indemnified, and its right to resign, are extended to, and shall be enforceable by the Trustee, including but not limited to its capacities as Paying Agent and Security Registrar and to each agent, custodian and other Person employed to act hereunder;

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

(k) 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 or profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except (1) any Event of Default occurring pursuant to Sections 6.01(a)(1) and 6.01(a)(2) or (2) any Default or Event of Default of which the Trustee shall have received written notification in the manner set forth in this Indenture or a Responsible Officer of the Trustee shall have obtained actual knowledge. Delivery of reports, information and documents to the Trustee under Section 5.03 is for informational purposes only and the information and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein, or determinable from information contained therein including the Company's compliance with any of their covenants thereunder (as to which the Trustee is entitled to rely exclusively on an Officers' Certificate).

Section 7.03 Trustee Not Responsible for Recitals or Issuance or Securities.

(a) The recitals contained herein and in the Securities shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same.

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

(c) The Trustee shall not be accountable for the use or application by the Company of any of the Securities or of the proceeds of such Securities, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Indenture or established pursuant to Section 2.01, or for the use or application of any moneys received by any paying agent other than the Trustee.

Section 7.04 May Hold Securities.

The Trustee or any paying agent or Security Registrar, in its individual or any other capacity, may become the owner or pledgee of Securities with the same rights it would have if it were not Trustee, paying agent or Security Registrar.

Section 7.05 Moneys Held in Trust.

Subject to the provisions of Section 11.05, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree with the Company to pay thereon.

Section 7.06 Compensation and Reimbursement.

(a) The Company covenants and agrees to pay to the Trustee, and the Trustee shall be entitled to, such reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as the Company and the Trustee may from time to time agree in writing, for all services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties hereunder of the Trustee, and, except as otherwise expressly provided herein, the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all Persons not regularly in its employ), except any such expense, disbursement or advance as may arise from its negligence or bad faith and except as the Company and Trustee may from time to time agree in writing. The Company also covenants to indemnify the Trustee (and its officers, agents, directors and employees) for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Trustee and arising out of or in connection with the acceptance or administration of this trust, including the reasonable costs and expenses of defending itself against any claim of liability in the premises.

(b) The obligations of the Company under this Section to compensate and indemnify the Trustee and to pay or reimburse the Trustee for reasonable expenses, disbursements and advances shall constitute additional indebtedness hereunder. Such additional indebtedness shall be secured by a lien prior to that of the Securities upon

all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the holders of particular Securities. The obligations of the Company will survive the satisfaction and discharge of this Indenture or earlier resignation or removal of the Trustee.

Section 7.07 Reliance on Officers' Certificate.

Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it reasonably necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to take any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee and such certificate, in the absence of negligence or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Indenture upon the faith thereof.

Section 7.08 Disqualification; Conflicting Interests.

If the Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee and the Company shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

Section 7.09 Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee with respect to the Securities issued hereunder which shall at all times be a corporation organized and doing business under the laws of the United States of America or any state or territory thereof or of the District of Columbia, or a corporation or other Person permitted to act as trustee by the Securities and Exchange Commission, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least fifty million U.S. dollars ($50,000,000), and subject to supervision or examination by federal, state, territorial, or District of Columbia authority.

If such corporation or other Person publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation or other Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Company may not, nor may any Person directly or indirectly controlling, controlled by, or under common control with the Company, serve as Trustee. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 7.10.

Section 7.10 Resignation and Removal; Appointment of Successor.

(a) The Trustee or any successor hereafter appointed may at any time resign with respect to the Securities of one or more series by giving written notice thereof to the Company and by transmitting notice of resignation by mail, first class postage prepaid, to the Securityholders of such series, as their names and addresses appear upon the Security Register. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee with respect to Securities of such series by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee with respect to Securities of such series, or any Securityholder of that series who has been a bona fide holder of a Security or Securities for at least six months may on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

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

(i) the Trustee shall fail to comply with the provisions of Section 7.08 after written request therefor by the Company or by any Securityholder who has been a bona fide holder of a Security or Securities for at least six months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.09 and shall fail to resign after written request therefor by the Company or by any such Securityholder; or

(iii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or commence a voluntary bankruptcy proceeding, or a receiver of the Trustee or of its property shall be appointed or consented to, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation; then, in any such case, the Company may remove the Trustee with respect to all Securities and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or any Securityholder who has been a bona fide holder of a Security or Securities for at least six months may, on behalf of that holder and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The holders of a majority in aggregate principal amount of the Securities of any series at the time Outstanding may at any time remove the Trustee with respect to such series by so notifying the Trustee and the Company and may appoint a successor Trustee for such series with the consent of the Company.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee with respect to the Securities of a series pursuant to any of the provisions of this Section shall become effective upon acceptance of appointment by the successor trustee as provided in Section 7.11.

(e) Any successor trustee appointed pursuant to this Section may be appointed with respect to the Securities of one or more series or all of such series, and at any time there shall be only one Trustee with respect to the Securities of any particular series.

(f) Appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section.

Section 7.11 Acceptance of Appointment By Successor.

(a) In case of the appointment hereunder of a successor trustee with respect to all Securities, every such successor trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor trustee all the rights, powers, and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor trustee shall accept such appointment and which (i) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor trustee relates, (ii) shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (iii) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall

constitute such Trustees co-trustees of the same trust, that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee and that no Trustee shall be responsible for any act or failure to act on the part of any other Trustee hereunder; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, such retiring Trustee shall with respect to the Securities of that or those series to which the appointment of such successor trustee relates have no further responsibility for the exercise of rights and powers or for the performance of the duties and obligations vested in the Trustee under this Indenture, and each such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor trustee relates; but, on request of the Company or any successor trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor trustee, to the extent contemplated by such supplemental indenture, the property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor trustee relates.

(c) Upon request of any such successor trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor trustee all such rights, powers and trusts referred to in paragraph (a) or (b) of this Section, as the case may be.

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

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

Section 7.12 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to the corporate trust business of the Trustee, including the administration of the trust created by this Indenture, shall be the successor of the Trustee hereunder, provided that such corporation shall be qualified under the provisions of Section 7.08 and eligible under the provisions of Section 7.09, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

Section 7.13 Preferential Collection of Claims Against the Company.

The Trustee shall comply with Section 311(a) of the Trust Indenture Act, excluding any creditor relationship described in Section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent included therein.

Section 7.14 Notice of Default

If any Default or any Event of Default occurs and is continuing and if such Default or Event of Default is actually known to a Responsible Officer of the Trustee, the Trustee shall mail to each Securityholder in the manner and to the extent provided in Section 313(c) of the Trust Indenture Act notice of the Default or Event of Default within 45 days after it occurs, unless such Default or Event of Default has been cured; *provided*, *however*, 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 shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interest of the Securityholders.

ARTICLE 8
CONCERNING THE SECURITYHOLDERS

Section 8.01 Evidence of Action by Securityholders.

Whenever in this Indenture it is provided that the holders of a majority or specified percentage in aggregate principal amount of the Securities of a particular series may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such majority or specified percentage of that series have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by such holders of Securities of that series in person or by agent or proxy appointed in writing.

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

Section 8.02 Proof of Execution by Securityholders.

Subject to the provisions of Section 7.01, proof of the execution of any instrument by a Securityholder (such proof will not require notarization) or his agent or proxy and proof of the holding by any Person of any of the Securities shall be sufficient if made in the following manner:

(a) The fact and date of the execution by any such Person of any instrument may be proved in any reasonable manner acceptable to the Trustee.

(b) The ownership of Securities shall be proved by the Security Register of such Securities or by a certificate of the Security Registrar thereof. The Trustee may require such additional proof of any matter referred to in this Section as it shall deem necessary.

Section 8.03 Who May be Deemed Owners.

Prior to the due presentment for registration of transfer of any Security, the Company, the Trustee, any paying agent and any Security Registrar may deem and treat the Person in whose name such Security shall be registered upon the books of the Company as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notice of ownership or writing thereon made by anyone other than the Security Registrar) for the purpose of receiving payment of or on account of the principal of, premium, if any, and (subject to Section 2.03) interest on such Security and for all other purposes; and neither the Company nor the Trustee nor any paying agent nor any Security Registrar shall be affected by any notice to the contrary.

Section 8.04 Certain Securities Owned by Company Disregarded.

In determining whether the holders of the requisite aggregate principal amount of Securities of a particular series have concurred in any direction, consent or waiver under this Indenture, the Securities of that series that are owned by the Company or any other obligor on the Securities of that series or by any Person directly or indirectly controlling or controlled by or under common control with the Company or any other obligor on the Securities of that series shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Securities of such series that the Trustee actually knows are so owned shall be so disregarded. The Securities so owned that have been pledged in good faith may be regarded as Outstanding for the purposes of this Section, if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not a Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any such other obligor. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 8.05 Actions Binding on Future Securityholders.

At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the majority or percentage in aggregate principal amount of the Securities of a particular series specified in this Indenture in connection with such action, any holder of a Security of that series that is shown by the evidence to be included in the Securities the holders of which have consented to such action may, by filing written notice with the Trustee, and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Security. Except as aforesaid any such action taken by the holder of any Security shall be conclusive and binding upon such holder and upon all future holders and owners of such Security, and of any Security issued in exchange therefor, on registration of transfer thereof or in place thereof, irrespective of whether or not any notation in regard thereto is made upon such Security. Any action taken by the holders of the majority or percentage in aggregate principal amount of the Securities of a particular series specified in this Indenture in connection with such action shall be conclusively binding upon the Company, the Trustee and the holders of all the Securities of that series.

ARTICLE 9
SUPPLEMENTAL INDENTURES

Section 9.01 Supplemental Indentures Without the Consent of Securityholders.

In addition to any supplemental indenture otherwise authorized by this Indenture, the Company and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as then in effect), without the consent of the Securityholders, for one or more of the following purposes:

(a) to cure any ambiguity, defect, or inconsistency herein or in the Securities of any series;

(b) to comply with Article Ten;

(c) to provide for uncertificated Securities in addition to or in place of certificated Securities;

(d) to add to the covenants, restrictions, conditions or provisions relating to the Company for the benefit of the holders of all or any series of Securities (and if such covenants, restrictions, conditions or provisions are to be for the benefit of less than all series of Securities, stating that such covenants, restrictions, conditions or provisions are expressly being included solely for the benefit of such series), to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default, or to surrender any right or power herein conferred upon the Company;

(e) to add to, delete from, or revise the conditions, limitations, and restrictions on the authorized amount, terms, or purposes of issue, authentication, and delivery of Securities, as herein set forth;

(f) to make any change that does not adversely affect the rights of any Securityholder in any material respect;

(g) to provide for the issuance of and establish the form and terms and conditions of the Securities of any series as provided in Section 2.01, to establish the form of any certifications required to be furnished pursuant to the terms of this Indenture or any series of Securities, or to add to the rights of the holders of any series of Securities;

(h) to evidence and provide for the acceptance of appointment hereunder by a successor trustee; or

(i) to comply with any requirements of the Securities and Exchange Commission or any successor in connection with the qualification of this Indenture under the Trust Indenture Act.

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

Any supplemental indenture authorized by the provisions of this Section may be executed by the Company and the Trustee without the consent of the holders of any of the Securities at the time Outstanding, notwithstanding any of the provisions of Section 9.02.

Section 9.02 Supplemental Indentures With Consent of Securityholders.

With the consent (evidenced as provided in Section 8.01) of the holders of not less than a majority in aggregate principal amount of the Securities of each series affected by such supplemental indenture or indentures at the time Outstanding, the Company, when authorized by a Board Resolution, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as then in effect) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner not covered by Section 9.01 the rights of the holders of the Securities of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the holders of each Security then Outstanding and affected thereby,

(i) extend the fixed maturity of any Securities of any series, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon,

(ii) reduce any premium payable upon the redemption thereof or reduce the aforesaid percentage of Securities, the holders of which are required to consent to any such supplemental indenture;

(iii) change any obligation to pay additional amounts;

(iv) reduce the amount of principal of an original issue discount security or any other Security payable upon acceleration of the maturity thereof;

(v) change currency in which any Security or any premium or interest is payable;

(vi) impair the right to enforce any payment on or with respect to any Security;

(vii) adversely change the right to convert or exchange, including decreasing the conversion rate or increasing the conversion price of, such Security (if applicable);

(viii) if the Securities are secured, change the terms and conditions pursuant to which the Securities are secured in a manner adverse to the holders of the Securities;

(ix) reduce the percentage in principal amount of outstanding Securities of any series, the consent of whose holders is required for modification or amendment of the indenture or for waiver of compliance with certain provisions of the indenture or for waiver of certain defaults;

(x) reduce the requirements contained in the indenture for quorum or voting;

(xi) change any obligations of the Company to maintain an office or agency in the places and for the purposes required by the indentures; or

(xii) modify any of the above provisions.

It shall not be necessary for the consent of the Securityholders of any series affected thereby under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 9.03 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture pursuant to the provisions of this Article or of Section 10.01, this Indenture shall, with respect to such series, be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the holders of Securities of the series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.04 Securities Affected by Supplemental Indentures.

Securities of any series affected by a supplemental indenture, authenticated and delivered after the execution of such supplemental indenture pursuant to the provisions of this Article or of Section 10.01, may bear a notation in form approved by the Company, provided such form meets the requirements of any securities exchange upon which such series may be listed, as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities of that series so modified as to conform, in the opinion of the Board of Directors, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Company, authenticated by the Trustee and delivered in exchange for the Securities of that series then Outstanding.

Section 9.05 Execution of Supplemental Indentures.

Upon the request of the Company, accompanied by its Board Resolutions authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Securityholders required to consent thereto as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion but shall not be obligated to enter into such supplemental indenture. The Trustee, subject to the provisions of Section 7.01, may receive an Officers' Certificate or an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article is authorized or permitted by, and conforms to, the terms of this Article and that it is proper for the Trustee under the provisions of this Article to join in the execution thereof; provided, however, that such Officers' Certificate or Opinion of Counsel need not be provided in connection with the execution of a supplemental indenture that establishes the terms of a series of Securities pursuant to Section 2.01 hereof.

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section, the Trustee shall transmit by mail, first class postage prepaid, a notice, setting forth in general terms the substance of such supplemental indenture, to the Securityholders of all series affected thereby as their names and addresses appear upon the Security Register. Any failure of the Trustee to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

ARTICLE 10
SUCCESSOR ENTITY

Section 10.01 Company May Consolidate, Etc.

Except as provided pursuant to Section 2.01 pursuant to a Board Resolution, and set forth in an Officers' Certificate, or established in one or more indentures supplemental to this Indenture, nothing contained in this Indenture shall prevent any consolidation or merger of the Company with or into any other Person (whether or not affiliated with the Company) or successive consolidations or mergers in which the Company or its successor or successors shall be a party or parties, or shall prevent any sale, conveyance, transfer or other disposition of the property of the Company or its successor or successors as an entirety, or substantially as an entirety, to any other corporation (whether or not affiliated with the Company or its successor or successors) authorized to acquire and operate the same; provided, however, (a) the Company hereby covenants and agrees that, upon any such consolidation or merger (in each case, if the Company is not the survivor of such transaction), sale, conveyance, transfer or other disposition, the due and punctual payment of the principal of (premium, if any) and interest on all of the Securities of all series in accordance with the terms of each series, according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this Indenture with respect to each series or established with respect to such series pursuant to Section 2.01 to be kept or performed by the Company shall be expressly assumed, by supplemental indenture (which shall conform to the provisions of the Trust Indenture Act, as then in effect) reasonably satisfactory in form to the Trustee executed and delivered to the Trustee by the entity formed by such consolidation, or into which the Company shall have been merged, or by the entity which shall have acquired such property and (b) in the event that the Securities of any series then Outstanding are convertible into or exchangeable for shares of common stock or other securities of the Company, such entity shall, by such supplemental indenture, make provision so that the Securityholders of Securities of that series shall thereafter be entitled to receive upon conversion or exchange of such Securities the number of securities or property to which a holder of the number of shares of common stock or other securities of the Company deliverable upon conversion or exchange of those Securities would have been entitled had such conversion or exchange occurred immediately prior to such consolidation, merger, sale, conveyance, transfer or other disposition.

Section 10.02 Successor Entity Substituted.

(a) In case of any such consolidation, merger, sale, conveyance, transfer or other disposition and upon the assumption by the successor entity by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the obligations set forth under Section 10.01 on all of the Securities of all series Outstanding, such successor entity shall succeed to and be substituted for the Company with the same effect as if it had been named as the Company herein, and thereupon the predecessor corporation shall be relieved of all obligations and covenants under this Indenture and the Securities.

(b) In case of any such consolidation, merger, sale, conveyance, transfer or other disposition, such changes in phraseology and form (but not in substance) may be made in the Securities thereafter to be issued as may be appropriate.

(c) Nothing contained in this Article shall require any action by the Company in the case of a consolidation or merger of any Person into the Company where the Company is the survivor of such transaction, or the acquisition by the Company, by purchase or otherwise, of all or any part of the property of any other Person (whether or not affiliated with the Company).

Section 10.03 Evidence of Consolidation, Etc. to Trustee.

The Trustee, subject to the provisions of Section 7.01, may receive an Officers' Certificate or an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale, conveyance, transfer or other disposition, and any such assumption, comply with the provisions of this Article.

ARTICLE 11
SATISFACTION AND DISCHARGE

Section 11.01 Satisfaction and Discharge of Indenture.

If at any time: (a) the Company shall have delivered to the Trustee for cancellation all Securities of a series theretofore authenticated and not delivered to the Trustee for cancellation (other than any Securities that shall have been destroyed, lost or stolen and that shall have been replaced or paid as provided in Section 2.07 and Securities for whose payment money or Governmental Obligations have theretofore been deposited in trust or segregated and held in trust by the Company and thereupon repaid to the Company or discharged from such trust, as provided in Section 11.05); or (b) all such Securities of a particular series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Company shall deposit or cause to be deposited with the Trustee as trust funds the entire amount in moneys or Governmental Obligations or a combination thereof, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay at maturity or upon redemption all Securities of that series not theretofore delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder with respect to such series by the Company then this Indenture shall thereupon cease to be of further effect with respect to such series except for the provisions of Sections 2.03, 2.05, 2.07, 4.01, 4.02, 4.03 and 7.10, that shall survive until the date of maturity or redemption date, as the case may be, and Sections 7.06 and 11.05, that shall survive to such date and thereafter, and the Trustee, on demand of the Company and at the cost and expense of the Company shall execute proper instruments acknowledging satisfaction of and discharging this Indenture with respect to such series.

Section 11.02 Discharge of Obligations.

If at any time all such Securities of a particular series not heretofore delivered to the Trustee for cancellation or that have not become due and payable as described in Section 11.01 shall have been paid by the Company by depositing irrevocably with the Trustee as trust funds moneys or an amount of Governmental Obligations sufficient to pay at maturity or upon redemption all such Securities of that series not theretofore delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder by the Company with respect to such series, then after the date such moneys or Governmental Obligations, as the case may be, are deposited with the Trustee the obligations of the Company under this Indenture with respect to such series shall cease to be of further effect except for the provisions of Sections 2.03, 2.05, 2.07, 4,01, 4.02, 4,03, 7.06, 7.10 and 11.05 hereof that shall survive until such Securities shall mature and be paid.

Thereafter, Sections 7.06 and 11.05 shall survive.

Section 11.03 Deposited Moneys to be Held in Trust.

All moneys or Governmental Obligations deposited with the Trustee pursuant to Sections 11.01 or 11.02 shall be held in trust and shall be available for payment as due, either directly or through any paying agent (including the Company acting as its own paying agent), to the holders of the particular series of Securities for the payment or redemption of which such moneys or Governmental Obligations have been deposited with the Trustee.

Section 11.04 Payment of Moneys Held by Paying Agents.

In connection with the satisfaction and discharge of this Indenture all moneys or Governmental Obligations then held by any paying agent under the provisions of this Indenture shall, upon demand of the Company, be paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys or Governmental Obligations.

Section 11.05 Repayment to Company.

Any moneys or Governmental Obligations deposited with any paying agent or the Trustee, or then held by the Company, in trust for payment of principal of or premium, if any, or interest on the Securities of a particular series that are not applied but remain unclaimed by the holders of such Securities for at least two years after the date upon which the principal of (and premium, if any) or interest on such Securities shall have respectively become due and payable, or such other shorter period set forth in applicable escheat or abandoned or unclaimed property law, shall be repaid to the Company on May 31 of each year or upon the Company's request or (if then held by the Company) shall be discharged from such trust; and thereupon the paying agent and the Trustee shall be released from all further liability with respect to such moneys or Governmental Obligations, and the holder of any of the Securities entitled to receive such payment shall thereafter, as a general creditor, look only to the Company for the payment thereof.

ARTICLE 12
IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

Section 12.01 No Recourse.

No recourse under or upon any obligation, covenant or agreement of this Indenture, or of any Security, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, stockholder, officer or director, past, present or future as such, of the Company or of any predecessor or successor corporation, either directly or through the Company or any such predecessor or successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Indenture and the obligations issued hereunder are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, stockholders, officers or directors as such, of the Company or of any predecessor or successor corporation, or any of them, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Securities or implied therefrom; and that any and all such personal liability of every name and nature, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such incorporator, stockholder, officer or director as such, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Securities or implied therefrom, are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of such Securities.

ARTICLE 13
MISCELLANEOUS PROVISIONS

Section 13.01 Effect on Successors and Assigns.

All the covenants, stipulations, promises and agreements in this Indenture made by or on behalf of the Company shall bind its successors and assigns, whether so expressed or not.

Section 13.02 Actions by Successor.

Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or officer of the Company shall and may be done and performed with like force and effect by the corresponding board, committee or officer of any corporation that shall at the time be the lawful successor of the Company.

Section 13.03 Surrender of Company Powers.

The Company by instrument in writing executed by authority of 2/3 (two-thirds) its Board of Directors and delivered to the Trustee may surrender any of the powers reserved to the Company, and thereupon such power so surrendered shall terminate both as to the Company and as to any successor corporation.

Section 13.04 Notices.

Except as otherwise expressly provided herein, any notice, request or demand that by any provision of this Indenture is required or permitted to be given, made or served by the Trustee or by the holders of Securities or by any other Person pursuant to this Indenture to or on the Company may be given or served by being deposited in first class mail, postage prepaid, addressed (until another address is filed in writing by the Company with the Trustee), as follows: Gevo, Inc., 345 Inverness Drive South, Building C, Suite 310, Englewood, Colorado 80112, Attn: Chief Financial Officer. Any notice, election, request or demand by the Company or any Securityholder or by any other Person pursuant to this Indenture to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made in writing at the Corporate Trust Office of the Trustee.

Section 13.05 Governing Law.

This Indenture and each Security shall be deemed to be a contract made under the internal laws of the State of New York, and for all purposes shall be construed in accordance with the laws of said State, except to the extent that the Trust Indenture Act is applicable.

Section 13.06 Treatment of Securities as Debt.

It is intended that the Securities will be treated as indebtedness and not as equity for federal income tax purposes. The provisions of this Indenture shall be interpreted to further this intention.

Section 13.07 Certificates and Opinions as to Conditions Precedent.

(a) Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent provided for in this Indenture (other than the certificate to be delivered pursuant to Section 13.12) relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant in this Indenture shall include (i) a statement that the Person making such certificate or opinion has read such covenant or condition; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (iii) a statement that, in the opinion of such Person, he has made such examination or investigation as is reasonably necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (iv) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 13.08 Payments on Business Days.

Except as provided pursuant to Section 2.01 pursuant to a Board Resolution, and set forth in an Officers' Certificate, or established in one or more indentures supplemental to this Indenture, in any case where the date of maturity of interest or principal of any Security or the date of redemption of any Security shall not be a Business Day, then payment of interest or principal (and premium, if any) may be made on the next succeeding Business Day with the same force and effect as if made on the nominal date of maturity or redemption, and no interest shall accrue for the period after such nominal date.

Section 13.09 Conflict with Trust Indenture Act.

If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

Section 13.10 Counterparts.

This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

Section 13.11 Separability.

In case any one or more of the provisions contained in this Indenture or in the Securities of any series shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Indenture or of such Securities, but this Indenture and such Securities shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

Section 13.12 Compliance Certificates.

The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year during which any Securities of any series were outstanding, an officer's certificate stating whether or not the signers know of any Default or Event of Default that occurred during such fiscal year. Such certificate shall contain a certification from the principal executive officer, principal financial officer or principal accounting officer of the Company that a review has been conducted of the activities of the Company and the Company's performance under this Indenture and that the Company has complied with all conditions and covenants under this Indenture. For purposes of this Section 13.12, such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture. If the officer of the Company signing such certificate has knowledge of such a Default or Event of Default, the certificate shall describe any such Default or Event of Default and its status.

Section 13.13 U.S.A. Patriot Act.

The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

Section 13.14 Force Majeure.

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

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

GEVO, INC.

By: /s/ Mark Smith
Name: Mark Smith
Title: Chief Financial Officer

WELLS FARGO BANK, NATIONAL ASSOCIATION
As Trustee

By: /s/ Michael Tu
Name: Michael Tu
Title: Assistant Vice President

CROSS-REFERENCE TABLE[1]

Section of Trust Indenture Act of 1939, as Amended	Section of Indenture
310(a)	7.09
310(b)	7.08
	7.10
310(c)	Inapplicable
311(a)	7.13
311(b)	7.13
311(c)	Inapplicable
312(a)	5.01
	5.02(a)
312(b)	5.02(c)
312(c)	5.02(c)
313(a)	5.04(a)
313(b)	5.04(b)
313(c)	5.04(a)
	5.04(b)
313(d)	5.04(c)
314(a)	5.03
	13.12
314(b)	Inapplicable
314(c)	13.07(a)
314(d)	Inapplicable
314(e)	13.07(b)
314(f)	Inapplicable
315(a)	7.01(a)
	7.01(b)
315(b)	7.14
315(c)	7.01
315(d)	7.01(b)
315(e)	6.07
316(a)	6.06
	8.04
316(b)	6.04
316(c)	8.01
317(a)	6.02
317(b)	4.03
318(a)	13.09

(1) This Cross-Reference Table does not constitute part of the Indenture and shall not have any bearing on the interpretation of any of its terms or provisions.

Exhibit 4.2

Execution Copy

GEVO, INC.

as Issuer

AND

WELLS FARGO BANK, NATIONAL ASSOCIATION

as Trustee

First Supplemental Indenture

Dated as of July 5, 2012

to

Indenture dated as of July 5, 2012

7.5% Convertible Senior Notes due 2022

TABLE OF CONTENTS

		Page
ARTICLE 1	Certain Definitions and Provisions of General Application	1
Section 1.01.	Definitions	1
Section 1.02.	Conflicts With Base Indenture	9
Section 1.03.	Section References	9
ARTICLE 2	The Notes	9
Section 2.01.	Designation and Terms of Notes	9
Section 2.02.	Denominations	10
Section 2.03.	Form and Dating	10
Section 2.04.	CUSIP Numbers	10
Section 2.05.	Ranking	10
ARTICLE 3	Particular Covenants of the Company	11
Section 3.01.	Payment of Principal and Interest	11
Section 3.02.	Maintenance of Office or Agency	12
Section 3.03.	Provisions as to Paying Agent	12
Section 3.04.	Existence	13
Section 3.05.	Commission Filings and Reports	13
Section 3.06.	Book-Entry System	14
Section 3.07.	Additional Interest	14
Section 3.08.	Stay; Extension and Usury Laws	14
Section 3.09.	Compliance Certificate	14
ARTICLE 4	Repurchase at Option of the Holder	15
Section 4.01.	Repurchase at the Option of the Holder Upon a Fundamental Change	15
Section 4.02.	Repurchase of Notes at the Option of the Holder	19
ARTICLE 5	Conversion of Notes	23
Section 5.01.	Right to Convert	23
Section 5.02.	Conversion Procedures	23
Section 5.03.	Settlement Upon Conversion	24
Section 5.04.	Adjustment of Conversion Rate	25
Section 5.05.	Adjustments of Prices	33
Section 5.06.	Adjustment to Conversion Rate Upon Conversion Upon Make-Whole Fundamental Changes	33

Section 5.07.	Coupon Make-Whole Payment; Conversion On or After January 1, 2013 But Prior to July 1, 2017	35
Section 5.08.	Taxes on Shares Issued	35
Section 5.09.	Reservation of Shares; Shares to be Fully Paid; Compliance with Governmental Requirements	35
Section 5.10.	Responsibility of Trustee	36
Section 5.11.	Stockholder Rights Plan	36
Section 5.12.	Company Determination Final	36
ARTICLE 6	Redemption	37
Section 6.01.	Right to Redeem; Notices to Trustee	37
Section 6.02.	Optional Redemption	37
Section 6.03.	Provisional Redemption	37
Section 6.04.	Redemption Price	37
Section 6.05.	Selection of Notes to be Redeemed	38
Section 6.06.	Notice of Redemption	38
Section 6.07.	Effect of Notice of Redemption	39
Section 6.08.	Deposit of Redemption Price	39
Section 6.09.	Notes Redeemed in Part	40
ARTICLE 7	Events of Default and Remedies	40
Section 7.01.	Events of Default	40
Section 7.02.	Acceleration of Maturity; Rescission and Annulment	42
Section 7.03.	Collection of Indebtedness and Suits for Enforcement by Trustee	43
Section 7.04.	Trustee May File Proofs of Claim	43
Section 7.05.	Trustee May Enforce Claims Without Possession of Notes	44
Section 7.06.	Application of Money Collected	44
Section 7.07.	Limitation on Suits	44
Section 7.08.	Unconditional Right of Holders to Receive Principal and Interest and to Convert	45
Section 7.09.	Restoration of Rights and Remedies	45
Section 7.10.	Rights and Remedies Cumulative	45
Section 7.11.	Delay or Omission Not Waiver	46
Section 7.12.	Control by Holders	46
Section 7.13.	Waiver of Past Defaults and Rescission	46
Section 7.14.	Undertaking for Costs	47
Section 7.15.	Waiver of Stay or Extension Laws	47
Section 7.16.	Notice of Default	48
ARTICLE 8	Consolidation, Merger, Conveyance, Transfer or Lease	48
Section 8.01.	Company May Consolidate, Etc., Only on Certain Terms	48
Section 8.02.	Successor Substituted	49

ARTICLE 9	Satisfaction and Discharge	49
Section 9.01.	Satisfaction and Discharge of Indenture	49
ARTICLE 10	Supplemental Indentures	50
Section 10.01.	Supplemental Indentures	50
Section 10.02.	Supplemental Indentures Without Consent of Holders	50
Section 10.03.	Supplemental Indentures with Consent of Holders	51
ARTICLE 11	Miscellaneous	52
Section 11.01.	Governing Law	52
Section 11.02.	Calculations in Respect of Notes	53
Section 11.03.	Confirmation of Indenture	53
Section 11.04.	Counterparts	53

FIRST SUPPLEMENTAL INDENTURE dated as of July 5, 2012 ("**Supplemental Indenture**"), to the Indenture dated as of July 5, 2012 (as amended, modified or supplemented from time to time in accordance therewith, the "**Base Indenture**" and, as amended, modified and supplemented by this Supplemental Indenture, the "**Indenture**"), by and among GEVO, INC., a Delaware corporation (the "**Company**") and WELLS FARGO BANK, NATIONAL ASSOCIATION as trustee (the "**Trustee**").

RECITALS OF THE COMPANY

WHEREAS, the Company has duly authorized the execution and delivery of the Base Indenture to provide for the issuance from time to time of senior debt securities (the "**Securities**") to be issued in one or more series as provided in the Base Indenture;

WHEREAS, Section 2.01 of the Base Indenture provides for the Company to establish Securities of any series pursuant to an indenture supplemental, and Section 9.01(g) of the Base Indenture provides for the Company and the Trustee to enter into any such indenture supplemental to provide for the issuance and establish the form or terms of Securities of such series as permitted by Section 2.01 of the Base 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 Indenture, the Company desires to provide for the establishment of a new series of its Securities to be known as its "7.5% Convertible Senior Notes due 2022" (the "**Notes**"), the form and substance of the Notes and the terms, provisions and conditions thereof to be set forth as provided in the Indenture and this Supplemental Indenture;

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:

Certain Definitions and Provisions of General Application

Section 1.01. *Definitions*. Capitalized terms used herein and not otherwise defined herein have the meanings assigned to them in the Base Indenture. For all purposes of this Supplemental Indenture, except as otherwise provided or unless the context otherwise requires:

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

(2) all other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;

(3) all accounting terms not otherwise defined herein 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" in the United States with respect to any computation required or permitted hereunder shall mean such accounting principles as are generally accepted at the date of the Indenture; and

(4) the words "herein", "hereof" and "hereunder" and other words of similar import refer to the Indenture as a whole and not to any particular Article, Section or other subdivision.

As used herein, the following terms have the specified meanings:

"**Additional Interest**" has the meaning specified in Section 7.02(b).

"**Additional Notes**" means an unlimited maximum aggregate principal amount of Notes (other than the Initial Notes) issued under this Supplemental Indenture.

"**Additional Shares**" has the meaning specified in Section 5.06(a).

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

"**Applicable Procedures**" with respect to any transfer or transaction involving a Global Note or beneficial interest therein, the rules and procedures of DTC or any successor Depositary, in each case to the extent applicable to such transaction and as in effect from time to time.

"**Business Day**" means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in the City of New York are authorized or obligated by law or executive order to close.

"**Capital Stock**" means, for any entity, any and all shares, interests, participations or other equivalents of or interests in (however designated) stock issued by that entity.

"**Certificated Note**" means a Note that is in substantially the form attached hereto as Exhibit A and that does not include the information or the schedule called for by footnotes 1 and 2 thereof.

"**Close of Business**" means 5:00 p.m. New York City time.

"**Commission**" or "**SEC**" 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 the Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

"**Common Equity**" of any corporation means the common stock, common equity interests, ordinary shares or depositary shares or other certificates representing common equity interests of such corporation.

"**Common Stock**" means the shares of common stock, par value $0.01 per share, of the Company as they exist on the date of this Supplemental Indenture or any other shares of Capital Stock of the Company into which the Common Stock shall be reclassified or changed or, in the event of a merger, consolidation or other similar transaction involving the Company that is otherwise permitted hereunder in which the Company is not the surviving corporation, the Common Equity of such surviving corporation or its direct or indirect parent corporation.

"**Company's Option Purchase Notice**" has the meaning specified in Section 4.02.

"**Conversion Agent**" means the person authorized by the Company to convert Notes in accordance with Article 5.

"**Conversion Date**" has the meaning specified in Section 5.02.

"**Conversion Notice**" has the meaning specified in Section 5.02(a).

"**Conversion Price**" means at any time the amount equal to $1,000 divided by the then applicable Conversion Rate.

"**Conversion Rate**" has the meaning specified in Section 5.01.

"**corporation**" means a corporation, association, company, joint-stock company or business trust.

"**Coupon Make-Whole Payment**" means a payment equal to the sum of the present values of the lesser of: (i) eight semi-annual interest payments; or (ii) the number of semi-annual interest payments, that would have been payable on the Notes that a Holder has elected to

convert from the last day through which interest was paid on such Notes, or the Issue Date if no interest has been paid, to but excluding July 1, 2017, computed using a discount rate equal to 2.0%, subject to Section 5.07(d).

"**Current Market Price**" means the average of the Last Reported Sale Prices of Common Stock over the ten consecutive Trading-Day period ending on the Trading Day immediately preceding the Ex-Date of the distribution requiring such computation.

"**default**" means any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"**Depositary**" means DTC until a successor Depositary shall have become such pursuant to the applicable provisions of the Indenture, and thereafter "Depositary" shall mean such successor Depositary.

"**DTC**" means The Depository Trust Company, a New York corporation, or any successor.

"**Effective Date**" means, with respect to any issuance or distribution on Common Stock, the first date on which shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, reflecting such issuance or distribution.

"**Expiration Date**" has the meaning specified in Section 5.04(e).

"**Expiration Time**" has the meaning specified in Section 5.04(e).

"**Event of Default**" has the meaning specified in Section 7.01(b).

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

"**Ex-Date**" means, with respect to any issuance or distribution on the Common Stock, 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 such issuance or distribution.

"**Fundamental Change**" will be deemed to have occurred at the time after the Notes are originally issued that any of the following occurs:

(1) if any "person" or "group" within the meaning of Section 13(d) of the Exchange Act other than the Company, its Significant Subsidiaries or the Company's or its Significant Subsidiaries' employee benefit plans, becomes 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;

(2) consummation of (A) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of

which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets or (B) any share exchange, consolidation or merger of the Company pursuant to which the Common Stock will be converted into cash, securities or other property or any conveyance, transfer, sale, lease or other disposition in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Significant Subsidiaries, taken as a whole, to any person other than one of the Company's Significant Subsidiaries; *provided*, *however*, that a transaction pursuant to which the holders of 50% or more of the total voting power of all classes of the Company's Common Equity immediately prior to such transaction have the right to exercise 50% or more of the total voting power of all shares of Common Equity of the continuing or surviving corporation (or any parent thereof) entitled to vote generally in elections of directors of such corporation (or any parent thereof) immediately after such event shall not be a Fundamental Change;

(3) the following persons cease for any reason to constitute a majority of the Company's Board of Directors:

(A) individuals who on the first Issue Date constituted the Company's Board of Directors; and

(B) any new directors whose election to the Company's Board of Directors or whose nomination for election by the Company's stockholders was approved by at least a majority of the Company's directors then still in office either who were directors on such first Issue Date or whose election or nomination for election was previously so approved;

(4) the Company's stockholders approve any plan or proposal for its liquidation or dissolution; or

(5) the Common Stock (or other common stock into which the Notes are then convertible) ceases to be listed on any of the NASDAQ Global Market, the NASDAQ Global Select Market, the NASDAQ Capital Market or the New York Stock Exchange or other national securities exchange.

A Fundamental Change as a result of clause (1) or (2) above will not be deemed to have occurred, however, if at least 90% of the consideration paid for the Common Stock, excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights, in the transaction or transactions constituting the Fundamental Change consists of shares of common stock listed on any of the NASDAQ Global Market, NASDAQ Global Select Market, NASDAQ Capital Market or the New York Stock Exchange (or any of their respective successors) or that will be so listed immediately following such Fundamental Change (these securities being referred to as "**publicly traded securities**") and as a result of such transaction or transactions the Notes become convertible into such publicly traded securities on the basis set forth under Section 5.04(m), subject to Section 5.02.

"**Fundamental Change Expiration Time**" has the meaning specified in Section 4.01(c).

"**Fundamental Change Notice**" has the meaning specified in Section 4.01(b).

"**Fundamental Change Repurchase Date**" has the meaning specified in Section 4.01(a).

"**Fundamental Change Repurchase Notice**" has the meaning specified in Section 4.01(a).

"**Fundamental Change Repurchase Price**" has the meaning specified in Section 4.01(a).

"**Global Note**" means a permanent Global Note that is in substantially the form attached hereto as Exhibit A and that includes the information and schedule called for by footnotes 1 and 2 thereof and which is deposited with the Depositary or its custodian and registered in the name of the Depositary or its nominee.

"**Holder**" means a Person in whose name a Note is registered in the Security Register.

"**Initial Notes**" has the meaning specified in Section 2.01.

"**Interest Payment Date**" means each January 1 and July 1 of each year, beginning January 1, 2013.

"**Issue Date**" with respect to the Initial Notes means July 5, 2012, and with respect to any Additional Notes, the date of original issuance of such Additional Notes.

"**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 by the NASDAQ Global Market; or (ii) if the Common Stock is not listed for trading on the NASDAQ Global Market, the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is traded; or (iii) if the Common Stock is not listed for trading on a U.S. national or regional securities exchange, the closing 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) for the Common Stock on that date as reported by the OTC Bulletin Board; or (iv) if not so reported by the OTC Bulletin Board, the last quoted bid price for the Common Stock in the over-the-counter market on that date as reported by OTC Markets Group, Inc. or a similar organization; or (v) if the Common Stock is not so quoted by OTC Markets Group, Inc. or a similar organization, the average of the mid-point of the last bid and ask prices for the Common Stock on the relevant date from a nationally recognized independent investment banking firm selected by the Company for this purpose. The Last Reported Sale Price of the Common Stock will be determined without reference to extended or after-hours trading. If, during a period applicable for calculating the Last Reported Sale Price of

the Common Stock, an event occurs that requires an adjustment to the Conversion Rate, the Last Reported Sale Price shall be calculated for such period in a manner determined by the Company to appropriately reflect the impact of such event on the price of the Common Stock during such period.

"**Make-Whole Fundamental Change**" means any transaction or event that constitutes a Fundamental Change pursuant to clause (1), (2) (disregarding the proviso in clause (2)), (3), (4) and (5) under the definition of Fundamental Change pursuant to which 10% or more of the consideration for the Common Stock (other than cash payments for preferred shares and cash payments made in respect of dissenters' appraisal rights) in such Fundamental Change transaction consists of cash or securities (or other property) that are not shares of Common Stock, depositary receipts or other certificates representing common equity interests traded or scheduled to be traded immediately following such transaction on a U.S. national securities exchange.

"**Make-Whole Reference Date**" has the meaning in Section 5.06(b).

"**Market Disruption Event**" means to the extent the Common Stock is listed for trading on the NASDAQ Global Market or listed on another U.S. national or regional securities exchange, (i) a failure by the primary U.S. national or regional securities exchange or market on which the Common Stock is listed or admitted to trading to open for trading during its regular trading session or (ii) the occurrence or existence during the one-half hour period ending on the scheduled close of trading on any Trading Day of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the 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, 2022.

"**Merger Event**" has the meaning specified in Section 5.04(m).

"**Note**" and "**Notes**" have the meaning specified in the Recitals and include the Initial Notes and any Additional Notes. The Initial Notes and Additional Notes shall be treated as a single class for all purposes under the Indenture.

"**Open of Business**" means 9:00 a.m. New York City time.

"**Option Purchase Date**" has the meaning specified in Section 4.02(a).

"**Option Purchase Notice**" has the meaning specified in Section 4.02(a).

"**Option Purchase Price**" has the meaning specified in Section 4.02(a).

"**Optional Redemption**" has the meaning specified in Section 6.02.

"**Paying Agent**" means any Person authorized by the Company to pay the principal of or interest on any Notes on behalf of the Company.

"**Provisional Redemption**" has the meaning specified in Section 6.03.

"**Purchase at Holder's Option**" has the meaning specified in Section 4.02(a).

"**Purchase Notice**" means a Purchase Notice in the form set forth in the Notes.

"**Redemption Date**" means the date, which shall be a Business Day, specified for redemption of the Notes in accordance with the terms of the Notes and Article 6.

"**Redemption Notice**" has the meaning specified in Section 6.06.

"**Redemption Price**" has the meaning specified in Section 6.04.

"**Reference Property**" has the meaning specified in Section 5.04(m).

"**Regular Record Date**" for the interest payable on any Interest Payment Date means the December 15 or June 15 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date.

"**Reporting Default**" has the meaning specified in Section 7.02(b).

"**Securities Act**" means the Securities Act of 1933, as amended.

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

"**Significant Subsidiaries**" means any direct or indirect subsidiary of the Company within the meaning of Section 1-02(w) of Regulation S-X as promulgated by the Commission.

"**Spin-Off**" has the meaning specified in Section 5.04(c).

"**Stated Maturity**", when used with respect to any Security, means the date specified in such Security as the fixed date on which the principal of such Security is due and payable.

"**Stock Price**" has the meaning specified in Section 5.06(b).

"**Trading Day**" means a day during which (i) the NASDAQ Global Market is open for trading, or if the Common Stock is not listed for trading on the NASDAQ Global Market, the principal U.S. national or regional securities exchange on which the Common Stock is listed is open for trading, or if the Common Stock is not so quoted or listed, any Business Day; and (ii) there is no Market Disruption Event.

"**Valuation Period**" has the meaning specified in Section 5.04(c).

"**VWAP**" means with respect to any Coupon Make-Whole Payment, the per share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page GEVO.Q <equity> AQR, or any successor page, in respect of the period from 9:30 a.m. to 4:00 p.m., New York City time, on such Conversion Date, or if such volume-weighted average price is unavailable, the market value per share of Common Stock (or one unit of Reference Property consisting of marketable equity securities) on such Conversion Date as determined by a nationally recognized independent investment banking firm retained for this purpose by the Company.

Section 1.02. *Conflicts With Base Indenture.* If any provision of this Supplemental Indenture limits, qualifies or conflicts with a provision of the Base Indenture, such provision of this Supplemental Indenture shall control.

Section 1.03. *Section References.* References to Articles, Sections, Exhibits, Annexes and Schedules are to Articles, Sections, Exhibits, Annexes and Schedules of this Supplemental Indenture unless otherwise specified.

The Notes

Section 2.01. *Designation and Terms of Notes.* There is hereby created and designated a series of Securities under the Base Indenture. The title of the Notes shall be "7.5% Convertible Senior Notes Due 2022." The changes, modifications and supplements to the Base Indenture effected by this Supplemental Indenture shall be applicable only with respect to, and govern the terms of, the Notes and shall not apply to any other series of Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other series of Securities specifically incorporates such changes, modifications and supplements.

The aggregate principal amount of the Notes that initially may be authenticated and delivered under this Supplemental Indenture (the "**Initial Notes**") shall be limited to $45,000,000, subject to increase as set forth in Section 10.02(g).

The Notes shall mature on July 1, 2022.

The Notes shall bear interest at the rate of 7.5% per annum, from July 5, 2012 or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be, semi-annually in arrears, on January 1 and July 1 of each year, commencing on January 1, 2013. Interest (including Additional Interest, if any) will be computed on the basis of a 360-day year comprised of twelve 30-day months. If an Interest Payment Date is not a Business Day, payment will be made on the next succeeding Business Day and no additional interest will accrue thereon. Pursuant to Section 7.02(b), in certain circumstances, the Holders of Notes shall be entitled to receive Additional Interest. Interest (including Additional Interest, if any) will cease to accrue on a Note upon the Maturity Date, conversion, redemption or repurchase by the Company at the option of the Holder pursuant to Article 4.

Principal and interest (including Additional Interest, if any) on Global Notes shall be payable in the manner set forth in Section 3.01.

The Notes shall be convertible as provided in Article 5.

Section 2.02. *Denominations.* The Notes initially shall be issuable only in book-entry form without coupons and only in denominations of $1,000 and any integral multiple thereof.

Section 2.03. *Form and Dating.* (a) The Notes and the Trustee's certificate of authentication shall be substantially in the form set forth in Exhibit A, which Exhibit is incorporated in and made part of the Indenture. The Notes may have notations, legends or endorsements required by law, exchange rule, Applicable Procedures or usage. The Company shall provide any such notations, legends or endorsements to the Trustee in writing. Each Note shall be dated the date of its authentication.

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

(c) Certificated Notes. Certificated Notes will be issued only under the limited circumstances in which definitive registered form of the Securities may be issued as provided in Section 2.11(c) of the Base Indenture.

Section 2.04. *CUSIP Numbers.* The Company in issuing the Notes may use one or more "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of purchase as a convenience to Holders; *provided, however*, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any such notice shall not be affected by any defect in or omission of such numbers. The Company shall without unreasonable delay provide written notice to the Trustee of any change in the "CUSIP" numbers.

Section 2.05. *Ranking.* The obligations of the Company arising under or in connection with the Indenture and every outstanding Note

issued under the Indenture from time to time constitute and shall constitute a general unsecured senior obligation of the Company, ranking equally in right of payment with existing and future senior unsecured indebtedness of the Company and ranking senior in right of payment to any future indebtedness of the Company that is expressly made subordinate to the Notes by the terms of such indebtedness.

Particular Covenants of the Company

Section 3.01. *Payment of Principal and Interest.*

(a) The Company covenants and agrees that it shall duly and punctually pay or cause to be paid the principal of and interest (including Additional Interest, if any), on each of the Notes at the places, at the respective times and in the manner provided herein and in the Notes. All references to "interest" in the Indenture are deemed to include Additional Interest if any, but without duplication.

(b) On the Maturity Date, each Holder will be entitled to receive on such date $1,000 in cash for each $1,000 in principal amount of Notes, together with accrued and unpaid interest to, but not including, the Maturity Date, unless earlier converted, repurchased or redeemed. With respect to Global Notes, principal and interest will be paid to the Depositary in immediately available funds. With respect to any Certificated Notes, principal and interest will be payable at the office or agency maintained by the Company for such purpose, which initially shall be the Corporate Trust Office of the Trustee.

(c) The Company will pay or cause to be paid interest on:

(i) Global Notes to the Depositary in immediately available funds;

(ii) any Certificated Notes having a principal amount of less than $1,000,000, by check mailed to the holders of those notes; provided, however, at maturity, interest will be payable as described in Section 3.01(b); and

(iii) any Certificated Notes having a principal amount of $1,000,000 or more, by wire transfer in immediately available funds at the election of the Holders of those Notes duly delivered to the Trustee at least five business days prior to the relevant interest payment date; provided, however, at maturity, interest will be payable as described in Section 3.01(b).

Subject to Section 3.01(b) and Section 5.03(b), interest will be paid to the person in whose name a Note is registered at the Close of Business on December 15 or June 15, as the case may be, immediately preceding the relevant Interest Payment Date.

Section 3.02. *Maintenance of Office or Agency.* The Company shall maintain an office or agency where the Notes may be surrendered for registration of transfer or exchange or for presentation for payment or for conversion and where notices and demands to or upon the Company in respect of the Notes and the Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency not designated or appointed by the Trustee. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate co-registrars and one or more offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations.

The Company will give prompt written notice of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby initially designates the Trustee as Paying Agent, Security Registrar, Securities Custodian and Conversion Agent.

Section 3.03. *Provisions as to Paying Agent*.

(a) If the Company shall appoint a Paying Agent other than the Trustee, or if the Trustee shall appoint such a Paying Agent, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 3.03 that such Paying Agent will:

(i) comply with the duties applicable to a paying agent under the Trust Indenture Act; and

(ii) during the continuance of any default by the Company (or any other obligor upon the Notes) in the making of any payment in respect of the Notes, upon the written request of the Trustee, forthwith pay to the Trustee all sums held in trust by such Paying Agent as such.

The Company shall, on or before each due date of the principal of or interest (including Additional Interest, if any) on the Notes, deposit with the Paying Agent a sum (in funds which are immediately available on the due date for such payment) sufficient to pay such principal or interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of any failure to take such action; *provided, however*, that if such deposit is made on the due date, such deposit shall be received by the Paying Agent by 10:00 a.m. New York City time, on such date.

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

(c) Anything in this Section 3.03 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of the Indenture, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by the Company or any Paying Agent hereunder as required by this Section 3.03, such sums to be held by the Trustee upon the trusts herein contained, and upon such payment by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability with respect to such sums.

(d) Anything in this Section 3.03 to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section 3.03 is subject to Section 11.05 of the Base Indenture.

The Trustee shall not be responsible for the actions of any other Paying Agents (including the Company if acting as its own Paying Agent) and shall have no control of any funds held by such other Paying Agents.

Section 3.04. *Existence.* Subject to Article 8, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and rights (charter and statutory); *provided, however*, that the Company shall not be required to preserve any such right if the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and that the loss thereof is not disadvantageous in any material respect to the Holders of the Notes.

Section 3.05. *Commission Filings and Reports.* So long as any Notes are outstanding, the Company shall deliver to the Trustee, within 15 calendar days after the Company would have been required to file with the Commission (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act), copies of the Company's annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) 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 (or any successor thereto) will be deemed to be filed with the Trustee as of the time such documents are so filed. In the event the Company is at any time no longer subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, it shall continue to provide the Trustee with reports containing substantially the same information as would have been required to be filed with the Commission had the Company continued to

have been subject to such reporting requirements. In such event, such reports shall be provided at the times the Company would have been required to provide reports had it continued to have been subject to such reporting requirements. The Company also shall comply with the other provisions of Section 314(a) of the Trust Indenture Act and will furnish to Holders, beneficial owners and prospective purchasers of the Notes or shares of Common Stock issuable upon conversion of the Notes, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act. 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); *provided, however,* that the Trustee shall have no responsibility whatsoever to determine whether such filings or postings have been made.

Section 3.06. *Book-Entry System.* If the Notes cease to trade in the Depositary's book-entry settlement system, the Company covenants and agrees that it shall use reasonable efforts to make such other book entry arrangements that it determines are reasonable for the Notes.

Section 3.07. *Additional Interest.* If at any time Additional Interest becomes payable by the Company pursuant to Section 7.02, the Company shall promptly deliver to the Trustee a certificate to that effect and stating (i) the amount of such Additional Interest that is payable and (ii) the date on which such Additional Interest is payable. Unless and until a Responsible Officer of the Trustee receives such a certificate, the Trustee may assume without inquiry that no Additional Interest is payable. If the Company has paid Additional Interest directly to the Persons entitled to such Additional Interest, the Company shall deliver to the Trustee a certificate setting forth the particulars of such payment.

Section 3.08. *Stay; Extension and Usury Laws.* The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of or interest (including Additional Interest, if any) on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of the Indenture, and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 3.09. *Compliance Certificate.* The Company shall deliver to the Trustee, within one hundred twenty (120) days after the end of each fiscal year of the Company, an Officers' Certificate, stating whether or not to the

knowledge of the signer thereof the Company is in default in the performance and observance of any of the terms, provisions and conditions of the Indenture (without regard to any period of grace or requirement of notice provided hereunder) and, if the Company shall be in default, specifying all such defaults and the nature and the status thereof of which the signer may have knowledge.

Any notice required to be given under this Section 3.09 shall be delivered to a Responsible Officer of the Trustee at its Corporate Trust Office.

Repurchase at Option of the Holder

Section 4.01. *Repurchase at the Option of the Holder Upon a Fundamental Change*.

(a) If a Fundamental Change occurs at any time, then each Holder shall have the right, at such Holder's option, to require the Company to repurchase all of such Holder's Notes, or any portion thereof that is an integral multiple of $1,000 principal amount, for cash on the date (the "**Fundamental Change Repurchase Date**") specified by the Company that is not less than 20 Business Days and not more than 35 Business Days after the date of the Fundamental Change Notice (as defined below) at a repurchase price equal to 100% of the principal amount thereof, together with any accrued and unpaid interest thereon to, but excluding, the Fundamental Change Repurchase Date (unless the Fundamental Change Repurchase Date is between a Regular Record Date and the Interest Payment Date to which it relates, in which case the Company will pay the full interest amount payable on such Interest Payment Date to the record holder as of such Regular Record Date) (the "**Fundamental Change Repurchase Price**").

Repurchases of Notes under this Section 4.01 shall be made, at the option of the Holder thereof, upon:

(i) if the Notes are held in certificated form, delivery to the Paying Agent by a Holder of a duly completed Purchase Notice (the "**Fundamental Change Repurchase Notice**") in the form set forth in the Note or, if the Notes are held in global form, a notice that complies with the Applicable Procedures, prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Repurchase Date, subject to extension to comply with applicable law; and

(ii) delivery or book-entry transfer of the Notes (together with all necessary endorsements) to the Paying Agent at any time after delivery of the Fundamental Change Repurchase Notice and prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Repurchase Date, subject to extension to comply with applicable law, at the Corporate Trust Office of the Paying Agent, such delivery being a

condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor; *provided* that such Fundamental Change Repurchase Price shall be so paid pursuant to this Section 4.01 only if the Note so delivered to the Paying Agent shall conform in all respects to the description thereof in the related Fundamental Change Repurchase Notice.

The Fundamental Change Repurchase Notice shall state:

(A) if certificated, the certificate numbers of Notes to be delivered for repurchase;

(B) the portion of the principal amount of Notes to be repurchased, which must be $1,000 or an integral multiple thereof; and

(C) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and the Indenture;

provided, however, that if the Notes are not in certificated form, the Fundamental Change Repurchase Notice must comply with the Applicable Procedures.

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 in accordance with the provisions of subsection (c) of this Section 4.01.

Any Note that is to be repurchased only in part shall be surrendered to the Trustee (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company duly executed by the Holder thereof or his attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and make available for delivery to the Holder of such Note without service charge, a new Note or Notes, containing identical terms and conditions, each in an authorized denomination in aggregate principal amount equal to and in exchange for the unrepurchased portion of the principal of the Note so surrendered.

(b) On or before the 15th calendar day after the occurrence of a Fundamental Change, the Company shall provide to all Holders of record of the Notes and the Trustee and Paying Agent a written notice (the "**Fundamental Change Notice**") of the occurrence of such Fundamental Change and of the repurchase right, if any, at the option of the Holders arising as a result thereof.

Each Fundamental Change Notice shall specify (if applicable):

(i) the events causing the Fundamental Change;

(ii) the date of the Fundamental Change;

(iii) the last date on which a Holder may exercise its repurchase rights under Section 4.01;

(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;

(vii) the applicable Conversion Rate and 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 the Indenture;

(ix) that the Holder must exercise its repurchase right by the Close of Business on the Business Day immediately preceding the Fundamental Change Repurchase Date;

(x) that the Holder has the right to withdraw any Notes tendered for repurchase prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Repurchase Date; and

(xi) the procedures the Holder must follow to require the Company to purchase its Notes under Section 4.01.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 4.01.

(c) A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by a written notice of withdrawal delivered to the Paying Agent at any time prior to the Close of Business on the Business Day prior to the Fundamental Change Repurchase Date (the "**Fundamental Change Expiration Time**"), specifying:

(i) the principal amount of the withdrawn Notes;

(ii) if Certificated Notes have been issued, the certificate numbers of the withdrawn Notes; and

(iii) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amounts of $1,000 or an integral multiple of $1,000;

provided, *however*, that if the Notes are not in certificated form, the notice must comply with the Applicable Procedures.

(d) On or 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 is acting as its own Paying Agent, segregate and hold in trust as provided in Section 7.05 of the Base Indenture) an amount of money sufficient to repurchase on the Fundamental Change Repurchase Date all of the Notes to be repurchased on such date at the Fundamental Change Repurchase Price. Subject to receipt of funds by the Paying Agent, payment for Notes properly surrendered for repurchase (and not withdrawn) prior to the Fundamental Change Expiration Time shall be made promptly on or after the later of (x) the Fundamental Change Repurchase Date with respect to such Note (provided the Holder has satisfied the conditions to the payment of the Fundamental Change Repurchase Price in this Section 4.01), and (y) the time of book-entry transfer or the delivery of such Note to the Paying Agent by the Holder thereof in the manner required by this Section 4.01 by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Security Register; *provided*, *however*, that all payments shall be subject to Section 4.01(a) and payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Paying Agent shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Repurchase Price.

(e) If the Paying Agent holds money sufficient to repurchase on the Fundamental Change Repurchase Date all the Notes or portions thereof that are to be purchased on the Fundamental Change Repurchase Date, then: (i) such Notes shall cease to be outstanding and interest shall cease to accrue on such Notes (whether or not book-entry transfer of the Notes is made or whether or not the Note is delivered or transferred to the Paying Agent), and (ii) all other rights of the Holders of such Notes shall terminate other than the right to receive the Fundamental Change Repurchase Price and previously accrued and unpaid interest upon delivery or transfer of the Notes.

(f) No Notes may be repurchased at the option of Holders upon a Fundamental Change if there has occurred and is continuing an Event of Default other than an Event of Default that is cured by the payment of the Fundamental Change Repurchase Price of the Notes.

(g) In connection with any repurchase upon the occurrence of a Fundamental Change, to the extent required by applicable law, the Company shall:

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

(ii) otherwise comply with all federal and state securities laws as necessary to effect a repurchase of Notes by the Company at the option of such Holder.

Section 4.02. *Repurchase of Notes at the Option of the Holder*.

(a) At the option of the Holder thereof, Notes (or portions thereof that are integral multiples of $1,000 in principal amount) shall be purchased by the Company pursuant to this section on July 1, 2017 (the "**Option Purchase Date**"), at a purchase price, payable in cash, equal to one hundred percent (100%) of the principal amount of the Notes (or such portions thereof) to be so purchased (the "**Option Purchase Price**"), plus accrued and unpaid interest, if any, to, but excluding, the Option Purchase Date (provided, that such accrued and unpaid interest shall be paid to the Holder of record of such Notes at the Close of Business on the record date immediately preceding such Option Purchase Date), upon:

(i) delivery to the Company (if it is acting as its own Paying Agent), or to a Paying Agent designated by the Company for such purpose in the Company's Option Purchase Notice (as defined below), by such Holder, at any time from the Open of Business on the date that is twenty (20) Business Days prior to the Option Purchase Date until the Close of Business on the Business Day immediately preceding the applicable Option Purchase Date, of a duly completed Purchase Notice (the "**Option Purchase Notice**"), in the form set forth in the Notes or any other form of written notice substantially similar thereto, stating:

(A) the certificate number(s) of the Notes which the Holder will deliver to be purchased, if such Notes are in certificated form;

(B) the principal amount of Notes to be purchased, which must be $1,000 or an integral multiple thereof; and

(C) that such principal amount of Notes are to be purchased as of the applicable Option Purchase Date pursuant to the terms and conditions specified in paragraph 8 of the Notes and in this Indenture; and

(ii) delivery to the Company (if it is acting as its own Paying Agent), or to a Paying Agent designated by the Company for such purpose in the Company's Option Purchase Notice, at any time after delivery of an Option Purchase Notice, of such Notes (together with all necessary endorsements), such delivery being a condition to receipt by the Holder of the Option Purchase Price therefor plus accrued and unpaid interest, if any, payable as herein provided upon redemption of the Notes with respect to a repurchase at the Holder's option, in accordance with this Section 4.02 (a "**Purchase at Holder's Option**") (provided, however, that the Holder of record of such Notes on the record date immediately preceding such Option Purchase Date need not surrender such Notes in order to be entitled to receive, on the Option Purchase Date, the accrued and unpaid interest due thereon).

If such Notes are held in book-entry form through the Depositary, the Option Purchase Notice shall comply with Applicable Procedures.

Upon such delivery of Notes to the Company (if it is acting as its own Paying Agent) or such Paying Agent, such Holder shall be entitled to receive from the Company or such Paying Agent, as the case may be, a nontransferable receipt of deposit evidencing such delivery.

Notwithstanding anything herein to the contrary, any Holder that has delivered the Option Purchase Notice contemplated by this Section 4.02(a) to the Company (if it is acting as its own Paying Agent) or to a Paying Agent designated by the Company for such purpose in the Company's Option Purchase Notice shall have the right to withdraw such Option Purchase Notice by delivery, at any time prior to the Close of Business on the Business Day immediately preceding the Option Purchase Date, of a written notice of withdrawal to the Company (if acting as its own Paying Agent) or the Paying Agent, which notice shall contain the information specified in Section 4.02(b)(vii).

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

(b) The Company shall give notice (the "**Company's Option Purchase Notice**") on a date not less than twenty (20) Business Days prior to the Option Purchase Date to each Holder at its address shown in the register of the Registrar and to each beneficial owner as required by applicable law. Such notice shall state:

(i) the Option Purchase Price plus accrued and unpaid interest, if any, to, but excluding, such Option Purchase Date and the Conversion Rate;

(ii) the names and addresses of the Paying Agent and the Conversion Agent;

(iii) that Notes with respect to which an Option Purchase Notice is given by a Holder may be converted pursuant to Article 5 only if such Option Purchase Notice has been withdrawn in accordance with this Section 4.02 or if there shall be a Default in the payment of such Option Purchase Price or in accrued and unpaid interest, if any, payable as herein provided upon Purchase at Holder's Option;

(iv) that Notes must be surrendered to the Paying Agent to collect payment of the Option Purchase Price plus (if such Holder was the Holder of record of the applicable Note at the Close of Business on the record date immediately preceding the Option Purchase Date) accrued and unpaid interest, if any, payable as herein provided upon Purchase at Holder's Option;

(v) that the Option Purchase Price, plus accrued and unpaid interest, if any, to, but excluding, such Option Purchase Date, for any Note as to which an Option Purchase Notice has been given and not withdrawn will be paid as promptly as practicable, but in no event

later than the later of such Option Purchase Date or the time of delivery of the Note as described in clause (iv) above; *provided, however*, that such accrued and unpaid interest shall be paid, on the applicable interest payment date, to the Holder of record of such Note at the Close of Business on the record date immediately preceding such Option Purchase Date;

(vi) the procedures the Holder must follow to exercise rights under this Section 4.02 (including the name and address of the Paying Agent) and a brief description of those rights;

(vii) that a Holder will be entitled to withdraw its election in the Option Purchase Notice if the Company (if acting as its own Paying Agent) or the Paying Agent receives, at any time prior to the Close of Business on the Business Day immediately preceding the applicable Option Purchase Date, or such longer period as may be required by law, a letter or telegram, telex or facsimile transmission (receipt of which is confirmed and promptly followed by a letter) setting forth:

(A) the name of such Holder;

(B) a statement that such Holder is withdrawing its election to have Notes purchased by the Company on such Option Purchase Date pursuant to a Purchase at Holder's Option;

(C) the certificate number(s) of such Notes to be so withdrawn, if such Notes are in certificated form;

(D) the principal amount of the Notes of such Holder to be so withdrawn, which amount must be $1,000 or an integral multiple thereof; and

(E) the principal amount, if any, of the Notes of such Holder that remain subject to the Option Purchase Notice delivered by such Holder in accordance with this Section 4.02, which amount must be $1,000 or an integral multiple thereof;

(viii) that, except as otherwise provided herein, on and after the applicable Option Purchase Date (unless there shall be a Default in the payment of the consideration payable as herein provided upon a Purchase at Holder's Option), interest on Notes subject to Purchase at Holder's Option will cease to accrue, and all rights of the Holders of such Notes shall terminate, other than the right to receive, in accordance herewith, the consideration payable as herein provided upon a Purchase at Holder's Option; and

(ix) the CUSIP number or numbers, as the case may be, of the Notes.

(c) Subject to the provisions of this Section 4.02, the Company shall pay, or cause to be paid, the Option Purchase Price, plus accrued and unpaid interest, if any, to, but excluding, the applicable Option Purchase Date, with respect to each Note subject to Purchase at Holder's Option to the Holder thereof as promptly as practicable, but in no event later than the

later of the applicable Option Purchase Date and the time such Note (together with all necessary endorsements) is surrendered to the Paying Agent; *provided*, *however*, that such accrued and unpaid interest shall be paid, on the applicable interest payment date, to the Holder of record of such Note at the Close of Business on the record date immediately preceding such Option Purchase Date.

(d) Prior to 10:00 A.M., New York City time on the applicable Option Purchase Date, the Company shall deposit with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 7.05 of the Base Indenture) money, in funds immediately available on the applicable Option Purchase Date, sufficient to pay the Option Purchase Price, plus accrued and unpaid interest, if any, to, but excluding, such Option Purchase Date, of all of the Notes that are to be purchased by the Company on such Option Purchase Date pursuant to a Purchase at Holder's Option. The Paying Agent shall return to the Company, as soon as practicable, any money not required for that purpose.

(e) Once the Option Purchase Notice has been duly delivered in accordance with this Section 4.02, the Notes to be purchased pursuant to the Purchase at Holder's Option shall, on the applicable Option Purchase Date, become due and payable in accordance herewith, and, on and after such date (unless there shall be a Default in the payment of the consideration payable as herein provided upon a Purchase at Holder's Option), except as otherwise herein provided, such Notes shall cease to bear interest, and all rights of the Holders of such Notes shall terminate, other than the right to receive, in accordance herewith, such consideration.

(f) Notes with respect to which an Option Purchase Notice has been duly delivered in accordance with this Section 4.02 may be converted pursuant to Article 5, if otherwise convertible in accordance with Article 5, only if such Option Purchase Notice has been withdrawn in accordance with this Section 4.02 or if there shall be a Default in the payment of the consideration payable as herein provided upon a Purchase at Holder's Option.

(g) If any Note subject to Purchase at Holder's Option shall not be paid in accordance herewith, the principal of, and accrued and unpaid interest on, such Note shall, until paid, bear interest, payable in cash, at the rate borne by such Note on the principal amount of such Note, and such Note shall continue to be convertible pursuant to Article 5.

(h) Any Note which is to be submitted for Purchase at Holder's Option only in part shall be delivered pursuant to this Section 4.02 (with, if the Company so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder thereof or its attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and make available for delivery to the Holder of such Note without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder, of the same tenor and in aggregate principal amount equal to the portion of such Note not submitted for Purchase at Holder's Option.

(i) Notwithstanding anything herein to the contrary, there shall be no purchase of any Notes pursuant to this Section 4.02 if the principal amount of the Notes has been accelerated pursuant to Section 7.02 and such acceleration shall not have been rescinded on or before the applicable Option Purchase Date. The Paying Agent will promptly return to the respective Holders thereof any Notes tendered to it for Purchase at Holder's Option during the continuance of such an acceleration.

(j) Notwithstanding anything herein to the contrary, if the option granted to Holders to require the purchase of the Notes on the applicable Option Purchase Date is determined to constitute a tender offer, the Company shall comply with all applicable tender offer rules under the Exchange Act, including Rule 13e-4 and Regulation 14E thereunder, and with all other applicable laws, and will file a Schedule TO or any other schedules required under the Exchange Act or any other applicable laws.

Conversion of Notes

Section 5.01. *Right to Convert*. Subject to and upon compliance with the procedures for conversion set forth in this Article 5, a 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 thereof, into Common Stock at an initial conversion rate (the "**Conversion Rate**") equivalent to 175.6697 shares of Common Stock per $1,000 principal amount of Notes, subject to adjustment as set forth in Section 5.04, at any time prior to the Close of Business on the third Business Day immediately preceding the Maturity Date. The number of shares of Common Stock issuable upon conversion of a Note shall be determined as set forth in Section 5.03.

Section 5.02. *Conversion Procedures*. The following procedures shall apply to the conversion of Notes:

(a) In respect of Certificated Notes, a Holder must:

(i) complete and manually sign the conversion notice attached to the Note (the "**Conversion Notice**"), or facsimile of such Conversion Notice;

(ii) deliver such Conversion Notice, which is irrevocable, and the Note to the Conversion Agent at the office maintained by the Conversion Agent;

(iii) furnish endorsements and transfer documents as may be required by the Conversion Agent and, if required pursuant to Section 5.08 below, pay all transfer or similar taxes; and

(iv) if required pursuant to Section 5.03(b), pay funds equal to interest payable on the next Interest Payment Date.

(b) In respect of a beneficial interest in a Global Note, a Beneficial owner must comply with Applicable Procedures for converting a beneficial interest in a Global Note and, if required pursuant to Section 5.03(b), pay funds equal to interest payable on the next Interest Payment Date and all taxes or duties, if any.

The date a Holder satisfies the foregoing requirements is the "**Conversion Date**" hereunder.

If a Holder converts Notes, the Company will pay any documentary, stamp or similar issue or transfer tax due on the issuance of any shares of Common Stock upon the conversion, unless the tax is due because the Holder requests any shares to be issued in a name other than the Holder's name, in which case the Holder will pay that tax.

No Note may be surrendered for conversion by a Holder thereof if such Holder has also tendered a Fundamental Change Repurchase Notice or an Option Purchase Notice and not validly withdrawn such notice in accordance with the applicable provisions of Section 4.01 or Section 4.02, as applicable, unless the Company defaults in the payment of the repurchase price.

Upon surrender of a Note that is converted in part, the Company shall execute, and the Trustee or the Authenticating Agent shall authenticate and deliver to the Holder, a new Note in an authorized denomination equal in principal amount to the unconverted portion of the Note surrendered.

Section 5.03. *Settlement Upon Conversion*.

(a) *Settlement Methods.* Upon any conversion of any Note, the Company shall deliver to converting Holders, in respect of each $1,000 principal amount of Notes tendered for conversion, on the third Trading Day immediately following the Conversion Date (or, if earlier, on the Maturity Date), a number of shares of Common Stock equal to the Conversion Rate on the relevant Conversion Date (plus cash in lieu of fractional shares if applicable).

(b) *Payment of Interest Upon Conversion*.

(i) Upon conversion, Holders shall not receive any additional cash payment or shares of Common Stock for accrued and unpaid interest, except as described in Section 5.03(b)(ii) and Section 5.07. Upon conversion, accrued and unpaid interest to the Conversion Date is deemed to be paid in full rather than cancelled, extinguished or forfeited.

(ii) If any Note is converted after the Close of Business on a Regular Record Date for an Interest Payment Date but prior to the corresponding Interest Payment Date, Holders of record of such Note at the Close of Business on such Regular Record Date will receive on the corresponding Interest Payment Date the interest accrued and unpaid on such Notes, notwithstanding the conversion prior to the Interest Payment Date. Notes surrendered for conversion during the period from the Close of Business on any Regular Record Date to the

Open of Business on the immediately following Interest Payment Date must be accompanied by funds equal to the amount of interest payable on such Interest Payment Date for the Notes so converted; provided that no such payment need be made:

(A) for conversions after the Close of Business on January 1, 2013 and before the Close of Business on June 30, 2017;

(B) for conversions after the Close of Business on June 15, 2022, which is the Regular Record Date for the Maturity Date;

(C) if the Company has specified a Fundamental Change Repurchase Date that is after a Regular Record Date and prior to the corresponding Interest Payment Date;

(D) if the Company has specified a Redemption Date that is after a Regular Record Date and prior to the corresponding Interest Payment Date; or

(E) to the extent of any overdue interest, if any overdue interest exists at the time of conversion with respect to such Note.

(c) *Cash Payments in Lieu of Fractional Shares*. The Company shall not issue fractional shares upon conversion of the Notes. If multiple Notes shall be surrendered for conversion at one time by the same Holder, the number of full shares which shall be issuable upon conversion (and the number of fractional shares, if any, for which cash shall be delivered) shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted hereby) so surrendered. If any fractional share would be issuable upon the conversion of any Notes, the Company shall make payment an amount in cash for the current market value of the fractional shares. The current market value of a fractional share shall be determined based on the Last Reported Sale Price per share of Common Stock on the Trading Day immediately preceding the Conversion Date.

Section 5.04. *Adjustment of Conversion Rate*.

The Conversion Rate shall be adjusted from time to time by the Company if any of the following events occurs as described below, except that the Company will not make any adjustment to the Conversion Rate if Holders may participate in the transaction as a result of holding the Notes, without having to convert their Notes, on a basis equivalent to a holder of a number of shares of Common Stock equal to the principal amount of Notes held *divided by* the applicable Conversion Price. This exception will not apply to any adjustment to Conversion Rate upon conversion upon a Make-Whole Fundamental Change as described in Section 5.06. In no event will the Company adjust the Conversion Rate to the extent that the adjustment would reduce the Conversion Price below the par value per share of Common Stock.

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

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

where,

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Date of such dividend or distribution, or immediately prior to the Open of Business on the Effective Date of such share split or share combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Date or immediately after the Open of Business on such Effective Date, as applicable;

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

OS_1 = the number of the shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

Any adjustment made under this Section 5.04(a) shall become effective (x) immediately after the Open of Business on the Ex-Date for such dividend or distribution, or (y) the Effective Date for such share split or share combination. If any dividend or distribution of the type described in this Section 5.04(a) is declared but is not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Company's Board of Directors (or a committee thereof) determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

(b) If the Company distributes to all or substantially all holders of Common Stock any rights, options or warrants (other than pursuant to a stockholder rights plan adopted by the Company) entitling such holders for a period of not more than 60 calendar days to subscribe for or purchase shares of Common Stock at a price per share less than the Current Market Price of Common Stock, the Conversion Rate will be adjusted based on the following formula:

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

where

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Date for such issuance;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on such Ex-Date;

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

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants divided by the Current Market Price.

Any adjustment made pursuant to this Section 5.04(b) shall be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the Open of Business on the Ex-Date for such distribution. If such rights, options or warrants described in this Section 5.04(b) are not so distributed, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect if such Ex-Date for such distribution had not occurred. To the extent that such rights, options or warrants are not exercised prior to their expiration or shares of Common Stock are otherwise not delivered pursuant to such rights, options or warrants upon the exercise of such rights, options or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of the delivery of only the number of shares of Common Stock actually delivered.

For purposes of this clause (b), in determining the aggregate price payable for shares of such Common Stock, there shall be taken into account any consideration received by the Company for such rights, options or warrants and the value of such consideration, if other than cash, to be determined by the Company's Board of Directors (or a committee thereof).

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

(i) any dividends or distributions referred to in Section 5.04(a) or Section 5.04(e);

(ii) any rights, options or warrants referred to in Section 5.04(b);

(iii) except as otherwise described below, rights issued pursuant to a stockholder rights plan adopted by the Company, or the detachment of such rights under the terms of such rights plan;

(iv) any dividends or distributions paid referred to in Section 5.04(d);

(v) any dividends or distributions in connection with a Merger Event resulting in a change in the conversion consideration pursuant to Section 5.04(m); and

(vi) any Spin-Off to which the provisions set forth in this Section 5.04(c) shall apply;

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

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

where,

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Date;

SP_0 = the Current Market Price; and

FMV = the fair market value (as determined by the Company's Board of Directors (or a committee thereof)) on the Ex-Date for such distribution of the shares of Capital Stock, evidences of indebtedness, or other assets or property of the Company so distributed, expressed as an amount per share of Common Stock.

With respect to an adjustment pursuant to this Section 5.04(c) where there has been a payment of a dividend or other distribution on Common Stock of any class or series of, or similar equity interest in, a Significant Subsidiary or other business unit of the Company (a "**Spin-Off**"), that are, or when issued will be, quoted or listed on any securities exchange or other market, the Conversion Rate will instead be adjusted based on the following formula:

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

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the last Trading Day of the Valuation Period (as defined below);

CR_1 = the Conversion Rate in effect immediately after the Close of Business or the last Trading Day of the Valuation Period;

FMV_0 = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of Common Stock applicable to one share of Common Stock over the ten consecutive Trading-Day period commencing on, and including, the Ex-Date of the Spin-Off (the "**Valuation Period**"); and

MP_0 = 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 occur at the Close of Business on the last Trading Day of the Valuation Period, but will be given effect as of the Open of Business on the Ex-Date for the Spin-Off; *provided* that in respect of any conversion during the Valuation Period, references within this clause (c) to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed between the Ex-Date of such Spin-Off and the Conversion Date in determining the applicable Conversion Rate.

(d) If the Company pays any cash dividend or distribution to all or substantially all holders of Common Stock, the Conversion Rate will be adjusted based on the following formula:

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

where,

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

SP_0 = the Current Market Price; and

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

(e) If the Company or any Significant Subsidiary of the Company makes a payment in respect of a tender offer or exchange offer for Common Stock subject to the tender offer rules, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the Last Reported Sale Price of the Common Stock on the Trading Day immediately succeeding the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender offer or exchange offer, the Conversion Rate will be adjusted based on the following formula:

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

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the Expiration Date;

CR_1 = the Conversion Rate in effect immediately after the Expiration Date;

FMV = the fair market value (as determined by the Company's Board of Directors (or a committee thereof)), on the Expiration Date, of the aggregate value of all cash and any other consideration paid or payable for shares of Common Stock validly tendered or exchanged and not withdrawn as of the Expiration Date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the last time tenders or exchanges may be made pursuant to such tender offer or exchange offer (the "**Expiration Time**");

OS_1 = the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to the purchase of all shares of Common Stock accepted for purchase exchange in such tender offer or exchange offer); and

SP_1 = the average of the Last Reported Sale Prices of Common Stock over the ten consecutive Trading-Day period commencing on, and including, the Trading Day immediately following the Expiration Date.

Any adjustment made pursuant to this clause (e) shall become effective immediately prior to the Open of Business on the Trading Day immediately following the Expiration Date; *provided that* in respect of any conversion within 10 Trading Days immediately following, and including, the expiration date of any tender or exchange offer, references with respect to 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 applicable Conversion Rate.

In the event that the Company or one of its Subsidiaries is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Company, or any such Significant Subsidiary, is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Conversion Rate shall be adjusted to be the Conversion Rate which would then be in effect if such tender offer or exchange offer had not been made. Except as set forth in the preceding sentence, if the application of the formula in this Section 5.04(e) to any tender offer or exchange offer would result in a decrease in the Conversion Rate, no adjustment shall be made for such tender offer or exchange offer under this Section 5.04(e).

(f) If:

(i) any distribution or transaction described in Section 5.04(a), (b), (c), (d) or (e) above has not yet resulted in an adjustment to the applicable Conversion Rate on the Trading Day in question, and

(ii) the shares that the Holder will receive on settlement are not entitled to participate in the relevant distribution or transaction (because they were not held on a related record date or otherwise),

then promptly after such distribution or transaction has occurred, the Company will adjust the number of shares of Common Stock that it delivers to the Holder as it determines is appropriate

to reflect the relevant distribution or transaction. In addition, if a Conversion Rate adjustment becomes effective on any Ex-Date as described 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 pursuant to Section 5.03 based on an adjusted Conversion Rate for such Ex-Date, then, notwithstanding the Conversion Rate adjustment provisions above, the Conversion Rate adjustment relating to such Ex-Date will not be made for such converting Holder. Instead, such Holder will be deemed to be the record owner of shares on un-adjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment or, if no holders of Common Stock affirmatively make such election, the types and amounts of consideration actually received by such holders.

(G) [RESERVED]

(h) For purposes of Sections 5.04(c) and 5.04(d), except with respect to a Spin-Off, in cases where the fair market value of assets, debt securities or certain rights, warrants or options to purchase the Company's securities, or the amount of the cash dividend or distribution applicable to one share of Common Stock, distributed to all or substantially all shareholders:

(i) equals or exceeds the average of the Last Reported Sale Prices of Common Stock over the relevant consecutive Trading-Day period ending on the Trading Day immediately preceding the Ex-Date for such distribution; or

(ii) such average Last Reported Sale Price exceeds the fair market value of such assets, debt securities or rights, warrants or options or the amount of cash so distributed by less than $1.00,

rather than being entitled to an adjustment in the Conversion Rate, the Holder of a Note will be entitled to receive upon conversion, in addition to the consideration such Holder is entitled to receive upon conversion, the kind and amount of assets, debt securities or rights, warrants or options comprising the distribution, if any, that such Holder would have received if such Holder had held a number of shares of Common Stock equal to the principal amount of the Notes held divided by the Conversion Price in effect immediately prior to the Ex-Date for determining the shareholders entitled to receive the distribution; provided that if the Company's Board of Directors determines fair market value for purposes of any such adjustment by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing Current Market Price.

(i) Except as described herein, the Company will not adjust the Conversion Rate for the issuance of shares of Common Stock, including in connection with satisfaction of the Company's conversion obligation, 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. In addition, the Conversion Rate will 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 securities of the Company and the investment of additional optional amounts in shares of Common Stock under any plan;

(ii) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of the Company's, or assumed by the Company, or any of its Significant 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 the preceding clause (ii) and outstanding as of the date the Notes were first issued;

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

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

(j) The Company is permitted, to the extent permitted by law and the rules of The NASDAQ Global Market or any other securities exchange on which the Common Stock is then listed, to increase the Conversion Rate of the Notes by any amount for a period of at least 20 Business Days if the Company's Board of Directors (or a committee thereof) determines that such increase would be in the Company's best interest. The Company may also (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 of Common Stock (or rights to acquire shares of Common Stock) or similar event.

(k) The Company shall not take any voluntary action that would result in an adjustment pursuant to any of the provisions in this Section 5.04, Section 5.06 or Section 6.02 without complying, if applicable, with the stockholder approval rules of the NASDAQ Global Stock Market (including NASDAQ Market Rule 5635, which requires stockholder approval of certain issuances of Common Stock) or any similar rule of any other stock exchange on which Common Stock is listed at the relevant time.

(l) Adjustments to the applicable Conversion Rate shall be calculated to the nearest one ten-thousandth (1/10,000th) of a share. The Company will not be required to make an adjustment in the Conversion Rate unless such adjustment would require a change of at least 1% in the applicable Conversion Rate. However, the Company will carry forward any adjustments that are less than 1% of the Conversion Rate and make such carried-forward adjustments on each Conversion Date for any Notes.

(m) In the event (a "**Merger Event**") of:

(i) any reclassification of the Common Stock;

(ii) any Fundamental Change described in clause (2) of the definition thereof;

(iii) a share exchange, consolidation, or merger involving the Company; or

(iv) a conveyance, transfer, sale, lease or other disposition to another person of all or substantially all of the Company's assets,

in which holders of Common Stock received cash, securities or other property (the "**Reference Property**") in exchange for their shares of Common Stock, the Notes will become convertible based on the type and amount of consideration that the Holders of a number of shares of Common Stock equal to the principal amount of the Notes divided by the Conversion Price would have received in such Merger Event. For purposes of the foregoing, the type and amount of consideration that a holder of Common Stock received in the case of Merger Event that cause Common Stock to be exchanged for more than a single type of consideration (determined based in part upon any form of shareholder election) will be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively made such an election.

Section 5.05. *Adjustments of Prices.* Whenever any provision of the Indenture requires the Company to calculate a number of shares of Common Stock equal to a sum or an average of the Last Reported Sale Price over 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-Date of the event occurs, at any time during the period from which the sum or average is to be calculated.

Section 5.06. *Adjustment to Conversion Rate Upon Conversion Upon Make-Whole Fundamental Changes*

(a) If a Make-Whole Fundamental Change occurs and a Holder elects to convert its Notes prior to July 1, 2017 following the effective date of such Make-Whole Fundamental Change, the Company shall increase the Conversion Rate for the Notes so surrendered for conversion by a number of additional shares of Common Stock (the "**Additional Shares**") as described below.

(b) The number of Additional Shares by which the Conversion Rate will be increased shall be determined by reference to the table attached as Schedule A hereto, based on the date on which the Make-Whole Fundamental Change occurs or becomes effective (the "**Make-Whole Reference Date**") and the price (the "**Stock Price**") paid per share of Common Stock in the Make-Whole Fundamental Change. If holders of Common Stock receive only cash in a Make-Whole Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Last Reported Sale Prices of the Common Stock over the five consecutive Trading Day period ending on, and including, the Trading Day preceding the relevant Make-Whole Reference Date.

(c) The Stock Prices set forth in the column headings of the table in Schedule A hereto 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 the adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of Additional Shares set forth in Schedule A shall be adjusted in the same manner as the Conversion Rate as set forth in Section 5.04.

(d) If either of the exact Stock Price or the Make-Whole Reference Date is not be set forth in the table in Schedule A:

(i) If the Stock Price is between two adjacent Stock Price amounts in the table or the Make-Whole Reference Date is between two adjacent Make-Whole Reference Dates in the table, the number of Additional Shares by which the Conversion Rate will be increased will be determined by a straight-line interpolation between the number of Additional Shares set forth for the higher and lower Stock Price amounts and the two Make-Whole Reference Dates, as applicable, based on a 365-day year.

(ii) If the Stock Price is greater than $20.00 per share (subject to adjustment in the same manner as the Stock Prices as set forth in the column headings of the table in Schedule A), no Additional Shares will be added to the Conversion Rate.

(iii) If the Stock Price is less than $4.95 per share (subject to adjustment in the same manner as the Stock Prices as set forth in the column headings of the table in Schedule A), no Additional Shares will be added to the Conversion Rate.

Notwithstanding the foregoing, in no event shall the Conversion Rate exceed 202.0202 per $1,000 principal amount of Notes, subject to adjustments in the same manner as the Conversion Rate as set forth in Section 5.04.

(e) If a Holder of Notes elects to convert its Notes prior to the effective date of any Make-Whole Fundamental Change, such Holder shall not be entitled to an increased Conversion Rate in connection with such conversion.

(f) Any conversion that entitles the converting Holder to an increase in the Conversion Rate as described in this Section 5.06 shall be settled as described under Section 5.03.

(g) The Company will notify Holders, the Trustee and the Conversion Agent in writing of the effective date of any Make-Whole Fundamental Change no later than 20 days after such effective date which may be included in the Fundamental Change Notice.

Section 5.07. *Coupon Make-Whole Payment Upon Conversion On or After January 1, 2013 But Prior to July 1, 2017*.

(a) In the event a Holder elects to exercise its right to convert its Notes pursuant to this Article 5, and such election occurs on or after January 1, 2013 but prior to July 1, 2017, such Holder shall be entitled to receive, in addition to the consideration that such Holder is entitled to receive upon conversion, a Coupon Make-Whole Payment.

(b) The Company may pay any Coupon Make-Whole Payment either in cash or in Common Stock, at its election. If the Company elects to pay a Coupon Make-Whole Payment in Common Stock, such stock will be valued at 90% of the simple average of the daily VWAP of the Common Stock for the 10 Trading Days ending on and including the Trading Day immediately preceding the Conversion Date and should be calculated by the Company. The calculation of the simple average of the daily volume weighted average price shall be subject to appropriate adjustment pursuant to Section 5.04.

(c) Not withstanding anything in the Indenture to the contrary, the Company shall have thirty (30) days from the Conversion Date to pay the Coupon Make-Whole Payment.

(d) If the Conversion Date falls after the Close of Business on a Regular Record Date for an Interest Payment Date and on or prior to the corresponding Interest Payment Date, the amount of the Coupon Make-Whole Payment will be reduced by the amount of interest payable on such Interest Payment Date to the Holder of record of the converted Notes on the Close of Business on the corresponding Regular Record Date.

Section 5.08. *Taxes on Shares Issued.* Any issue of share certificates on conversion of any Notes shall be made without charge to the converting Holder for any documentary, transfer, stamp or any similar 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 which may be payable in respect of any transfer involved in the issue and delivery of shares in any name other than that of the Holder of any Notes converted, and the Company shall not be required to issue or deliver any such share certificate unless and until the Person or Persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

Section 5.09. *Reservation of Shares; Shares to be Fully Paid; Compliance with Governmental Requirements.* The Company shall provide, free from preemptive rights, out of its authorized but unissued shares or shares held in treasury, sufficient Common Stock to provide for the conversion of the Notes from time to time as such Notes are presented for conversion.

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 lien or adverse claim.

The Company shall use its reasonable efforts to 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; and the Company shall use its reasonable efforts to list or cause to have quoted any shares of Common Stock issued in connection with any Coupon Make-Whole Payment on each national securities exchange or over-the-counter or other domestic market on which the Common Stock is then listed or quoted.

Section 5.10. *Responsibility of Trustee.* The Trustee and any other Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate or whether any facts exist which may require any adjustment of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any Common Stock, or of any securities or property, which may at any time be issued or delivered upon the conversion of any Notes; and the Trustee and any other Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any Common Stock or share 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 5.

Section 5.11. *Stockholder Rights Plan.* To the extent that the Company has a stockholder rights plan in effect upon conversion of the Notes into Common Stock, Holders of Notes will receive, in addition to Common Stock, the rights under the stockholder rights plan, unless prior to any conversion, the rights have separated from the Common Stock, in which case the Conversion Rate will be adjusted at the time of separation as if the Company distributed to all holders of the Common Stock, shares of its Capital Stock, evidences of indebtedness or assets as described in clause Section 5.04(c) above, subject to readjustment in the event of the expiration, termination or redemption of such rights. Any distribution of rights or warrants pursuant to a rights plan that would allow Holders to receive upon conversion, in addition to any shares of Common Stock, the right or warrants described therein with respect to such Common Stock (unless such rights or warrants have separated from the Common Stock) shall not constitute a distribution of rights or warrants that would entitle Holders to an adjustment of the Conversion Rate.

Section 5.12. *Company Determination Final.* Any determination that the Company or its Board of Directors

must make pursuant to this Article 5 shall be conclusive if made in good faith, absent manifest error. 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 Responsible Officer of the Trustee shall have received such Officers' Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume without inquiry that the last Conversion Rate of which it has knowledge is still in effect.

Redemption

Section 6.01. *Right to Redeem; Notices to Trustee*.

(a) Pursuant to Section 3.01 of the Base Indenture, the Notes are redeemable on the terms and subject to the conditions set forth in this Article 6.

(b) Sections 3.02, 3.03, 3.04, 3.05 and 3.06 of the Base Indenture shall not apply to the Notes. No sinking fund is provided for the Notes and the Notes will not be subject to defeasance.

(c) The Company will not redeem any notes at the Company's option if the principal amount of the notes has been accelerated and the acceleration has not been rescinded on or before the Redemption Date.

Section 6.02. *Optional Redemption*. Except for any Provisional Redemption as set forth under Section 6.03, the Company may not redeem the Notes prior to July 1, 2017. The Company shall have the right, at the Company's option, at any time, and from time to time, on a Redemption Date on or after July 1, 2017, to redeem (a "**Optional Redemption**") all or any part of the Notes at a price payable in cash equal to the Redemption Price (as defined below).

Section 6.03. *Provisional Redemption*. The Company shall have the right, at the Company's option, at any time, and from time to time, on a Redemption Date beginning July 1, 2015 but prior to July 1, 2017, to redeem (a "**Provisional Redemption**") all or any part of the Notes at a price payable in cash equal to the Redemption Price, *provided that* the Last Reported Sale Price of the Common Stock for 20 or more Trading Days in a period of 30 consecutive Trading Days ending on the Trading Day immediately prior to the date of the Redemption Notice (as defined below) exceeds 150% of the applicable Conversion Price in effect on each such Trading Day.

Section 6.04. *Redemption Price.* The redemption price (the "**Redemption Price**") at which the Notes are redeemable shall be equal to the sum of (i) 100% of the principal amount of the Notes to be redeemed, plus (ii)

accrued and unpaid interest, if any, to, but excluding, the Redemption Date, *provided, however*, that if the Redemption Date is after a Regular Record Date and prior to the Interest Payment Date to which it relates, then the accrued and unpaid interest, if any, to, but excluding, the Redemption Date, shall be paid on such Interest Payment Date to the Holders of record of such Notes on the applicable Regular Record Date instead of the Holders surrendering such Notes for redemption on the Redemption Date.

Section 6.05. *Selection of Notes to be Redeemed*. If less than all the Notes are to be redeemed, the Trustee will select the Notes to be redeemed by lot or by any other method the Trustee considers fair and appropriate in accordance with applicable procedures (so long as such method is not prohibited by the rules of the NASDAQ Global Market or the NASDAQ Global Select Market or any other stock exchange on which the Notes are then listed, as applicable). The Trustee shall make the selection within seven (7) days from its receipt of the notice from the Company delivered pursuant to Section 6.06 from outstanding Notes not previously called for redemption.

Notes and portions of Notes the Trustee selects shall be in principal amounts of $1,000 or integral multiples of $1,000. Provisions of the Indenture that apply to Notes called for redemption in whole also apply to Notes called for redemption in part. The Trustee shall notify the Company promptly of the Notes or portions of Notes to be redeemed.

If any Note selected for partial redemption is converted in part before termination of the conversion right with respect to the portion of the Note so selected, the converted portion of such Note shall be deemed (so far as may be) to be the portion selected for redemption. Notes which have been converted during a selection of Notes to be redeemed may be treated by the Trustee as outstanding for the purpose of such selection.

Section 6.06. *Redemption Notice*. At least 30 days but not more than 60 days before a Redemption Date, the Company shall send a written notice of redemption ("**Redemption Notice**") by electronic transmission or by first-class mail, postage prepaid, to the Trustee, the Paying Agent and each Holder of Notes to be redeemed.

The notice shall specify the Notes to be redeemed and shall state:

(a) the Redemption Date;

(b) the Redemption Price;

(c) the applicable Conversion Rate;

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

(e) that Notes called for redemption may be converted at any time before the Close of Business on the Trading Day immediately preceding the Redemption Date unless the Company fails to pay the Redemption Price;

(f) that Holders who want to convert Notes must satisfy the requirements set forth therein and in the Indenture;

(g) that Notes called for redemption must be surrendered to the Paying Agent for cancellation to collect the Redemption Price;

(h) if fewer than all the outstanding Notes are to be redeemed, the certificate numbers (if such Notes are held other than in global form) and principal amounts of the particular Notes to be redeemed;

(i) that, unless the Company defaults in making payment of such Redemption Price, interest will cease to accrue on and after the Redemption Date; and

(j) the CUSIP number of the Notes.

At the Company's written request delivered at least 10 days prior to the date such notice is to be given to the Holders, the Trustee shall give the Redemption Notice to each Holder of Notes to be redeemed in the Company's name and at the Company's expense.

Section 6.07. *Effect of Redemption Notice*. Once a Redemption Notice is given, Notes called for redemption become due and payable on the Redemption Date and at the Redemption Price stated in the notice except for Notes that are converted in accordance with the terms of the Indenture. Upon surrender to the Paying Agent, such Notes shall be paid at the Redemption Price stated in the notice.

Section 6.08. *Deposit of Redemption Price*. Prior to 10:00 a.m. (New York City time) on the Redemption Date, the Company shall deposit with the Trustee or with the Paying Agent (or, if the Company or a Significant Subsidiary of the Company or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 4.03(b) of the Base Indenture) an amount of money (in immediately available funds if deposited on such Trading Day) sufficient to pay the aggregate Redemption Price of all the Notes or portions thereof which are to be redeemed as of the Redemption Date.

If the Paying Agent holds money sufficient to pay the Redemption Price with respect to the Notes to be redeemed on the Redemption Date in accordance with the terms of the Indenture, then, immediately on and after the Redemption Date, the Notes will cease to be outstanding and interest on such Notes shall cease to accrue, whether or not the Notes are delivered to the Paying Agent, and all other rights of the Holders of such Notes shall terminate, other than the right to receive the Redemption Price upon delivery of such Notes.

Section 6.09. *Notes Redeemed in Part*. Any Note which is to be redeemed only in part shall be surrendered at the office of the Paying Agent (with, if the Company so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Note, without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Note so surrendered that is not redeemed; *provided*, that the Company shall not be required to (i) issue, register the transfer of or exchange any Notes during a period beginning at the Open of Business 15 days before any selection for redemption of Notes and ending at the Close of Business on the earliest date on which the relevant Redemption Notice is deemed to have been given to all Holders of Notes to be redeemed or (ii) register the transfer of or exchange any Notes so selected for redemption, in whole or in part, except the unredeemed portion of any Notes being redeemed in part.

Events of Default and Remedies

Section 7.01. *Events of Default*.

(a) The provisions of this Article 7 shall, with respect to the Notes, supersede in its entirety Article 6 of the Base Indenture.

(b) "**Event of Default**", wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be 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):

(i) default by the Company in the payment of any interest upon any Note when it becomes due and payable, and continuance of such default for a period of 30 days; or

(ii) default by the Company in the payment of the principal of any Note when due and payable at its Stated Maturity, upon required repurchase, upon redemption, upon acceleration or otherwise; or

(iii) failure by the Company to comply with its conversion obligation upon exercise of a Holder's conversion right and such failure continues for five days; or;

(iv) failure by the Company to comply with its obligations under Article 8; or

(v) failure by the Company to issue a Fundamental Change Notice in accordance with Section 4.01; or

(vi) failure by the Company for 50 days after written notice from the Trustee, at the direction of the Holders, or the Holders of at least 25% principal amount of the Outstanding Notes has been received by the Company to comply with any of its other agreements contained in the Notes or the Indenture; or

(vii) default under any agreements, indentures or instruments under which the Company or any Significant Subsidiary then has outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed having a principal amount in excess of $5,000,000 in the aggregate of the Company and/or any such Significant Subsidiary of the Company, whether such indebtedness now exists or shall hereafter be created, and such default results in such indebtedness being accelerated or otherwise becoming due and owing prior to its scheduled maturity or such default constitutes a failure to pay at least $5,000,000 of such indebtedness when due and payable (after the expiration of any applicable grace period) at its stated maturity, upon required repurchase, upon declaration or otherwise; *provided that* any such Event of Default shall be deemed cured and not continuing upon payment of such indebtedness or rescission of such declaration; or

(viii) one or more judgments, orders or decrees for the payment of money in excess of $5,000,000, either individually or in the aggregate, shall be entered against the Company or any of its Significant Subsidiaries and shall not be discharged, bonded, paid, stayed, waived, subject to a negotiated settlement or subject to insurance within 60 days after (A) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (B) the date on which all rights to appeal have been extinguished; or

(ix) the Company or any of its Significant Subsidiaries shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or any of its Significant Subsidiaries or any substantial part of its respective property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due; or

(x) an involuntary case or other proceeding shall be commenced against the Company or any of its Significant Subsidiaries seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or any of its Significant Subsidiaries or any substantial part of its respective property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) consecutive days.

Section 7.02. *Acceleration of Maturity; Rescission and Annulment*.

(a) If an Event of Default occurs and is continuing, then and in every such case except as provided below, the Trustee by notice to the Company, at the direction of the Holders, or the Holders of not less than 25% in principal amount of the Outstanding Notes by notice to the Company and the Trustee may, and the Trustee at the request of such holders shall, declare the principal of all the Outstanding Notes and accrued and unpaid interest, if any, to be due and payable immediately, and upon any such declaration such principal and accrued and unpaid interest, if any, shall become immediately due and payable. However, upon an Event of Default arising out of Section 7.01(b)(ix) or Section 7.01(b)(x) (except in each case with respect to any Significant Subsidiary) the principal amount of all the Outstanding Notes, plus accrued and unpaid interest to the acceleration date, if any, shall be due and payable immediately without notice from the Trustee or Holders.

(b) Notwithstanding the foregoing, at the election of the Company, the sole remedy with respect to an Event of Default for the failure by the Company to comply with its covenants set forth in Section 3.05 (any such Event of Default, a "**Reporting Default**"), will for the first 365 days after the occurrence of such Reporting Default, consist exclusively of the right to receive additional interest (the "**Additional Interest**") on the Notes at an annual rate equal to 0.50% of the principal amount of the Notes. The Additional Interest will be payable in the same manner and on the same dates as the stated interest payable on the Notes. The Additional Interest shall accrue on all Outstanding Notes from and including the date on which such Reporting Default first occurs until, but excluding, the 365th day thereafter (or such earlier date on which such Reporting Default is cured or waived). On the 365th day after such Reporting Default (if such violation is not cured or waived prior to such 365th day), such Additional Interest will cease to accrue and the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Notes may declare the principal of and accrued and unpaid interest on all such Notes to be due and payable immediately. If the Company does not elect to pay Additional Interest during the continuance of such an Event of Default, in accordance with this paragraph, the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Notes may declare the principal of and accrued and unpaid interest on all such Notes to be due and payable immediately.

(c) If the Company elects to pay the Additional Interest as the sole remedy for the Reporting Default, the Company shall notify in writing the Holders, the Paying Agent and the Trustee of such election at any time on or before the Close of Business on the date on which such Event of Default first occurs. If the Company fails to give such notice, the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Notes may declare the principal of and accrued and unpaid interest (including Additional Interest, if any) on such Notes to be due and payable immediately. The Company shall pay the Additional Interest semi-annually in arrears, with the first semi-annual payment due on the first Interest Payment Date following the date of such Reporting Default, in the same manner as described on the face of the Note.

Section 7.03. *Collection of Indebtedness and Suits for Enforcement by Trustee*.

The Company covenants that if

(a) default is made in the payment of any interest on any Note when such interest becomes due and payable and such default continues for a period of 30 days, or

(b) default is made in the payment of the principal of any Note at the Stated Maturity thereof,

the Company will pay for the benefit of the Holders of such Notes, the whole amount then due and payable on such Notes for principal and interest, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and on any overdue interest, at the rate borne by the Notes, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders by such appropriate judicial proceedings as to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in the Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 7.04. *Trustee May File Proofs of Claim*.

In case of any judicial proceeding relative to the Company (or any other obligor upon the Notes), its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized under the Trust Indenture Act in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 of the Base Indenture.

No provision of the Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 7.05. *Trustee May Enforce Claims Without Possession of Notes*.

All rights of action and claims under the Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Notes in respect of which such judgment has been recovered.

Section 7.06. *Application of Money Collected*.

Any money or property money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 7.06 of the Base Indenture;

SECOND: To the payment of the amounts then due and unpaid for principal of and interest on the Notes in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Notes for principal and interest, respectively; and

THIRD: The balance, if any, to the Company or any other Person or Persons entitled thereto.

Section 7.07. *Limitation on Suits*.

Subject to Section 7.08, no Holder of any Note shall have any right to institute any proceeding, judicial or otherwise, with respect to the Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

(a) such Holder has previously given written notice to the Trustee of a continuing Event of Default;

(b) the Holders of not less than 25% in principal amount of the Outstanding Notes shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee hereunder;

(c) such Holder or Holders have offered in writing to the Trustee security or indemnity satisfactory to it against any loss, expenses and liabilities to be incurred in compliance with such request;

(d) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(e) no direction that, in the opinion of the Trustee, is inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Notes;

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of the Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under the Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders.

Section 7.08. *Unconditional Right of Holders to Receive Principal and Interest and to Convert*.

Notwithstanding any other provision in the Indenture, the Holder of any Note shall have the right, which is absolute and unconditional, to receive payment of the principal of and interest, (including any Additional Interest), on such Note expressed in such Note and to convert such Note in accordance with Article 5 and to institute suit for the enforcement of any such payment and right to convert, and such rights shall not be impaired without the consent of such Holder.

Section 7.09. *Restoration of Rights and Remedies*.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under the Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 7.10. *Rights and Remedies Cumulative*.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 of the Base Indenture, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be

cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 7.11. *Delay or Omission Not Waiver*.

No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee (subject to the limitations contained in the Indenture) or by the Holders, as the case may be.

Section 7.12. *Control by Holders*.

The Holders of a majority in principal amount of the Outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, *provided* that

(a) such direction shall not be in conflict with any rule of law or with the Indenture, and

(b) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction or the Indenture.

The Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer or officers of the Trustee or upon the advice of legal counsel, determine that the proceeding so directed, subject to the Trustee's duties under the Trust Indenture Act, would involve the Trustee in personal liability or might be unduly prejudicial to the Holders not involved in the proceeding.

Section 7.13. *Waiver of Past Defaults and Rescission*.

The Holders of not less than a majority in aggregate principal amount of the Outstanding Notes may, by written notice to the Company and the Trustee, on behalf of the Holders of all the Notes:

(a) waive any past default or Event of Default hereunder and its consequences, except a default

(i) in the payment of the principal of, accrued and unpaid interest (including any Additional Interest) on any Note that remains uncured,

(ii) in respect of the failure to deliver the consideration due upon conversion of a Note in accordance with Section 5.01 hereunder,

(iii) in the payment of any applicable Redemption Price, or

(iv) in the payment of any applicable Fundamental Change Repurchase Price or any applicable Option Purchase Price.

(b) at any time after a declaration of acceleration has been made, rescind and annul any such declaration of acceleration with respect to the Notes and its consequences, if:

(i) such rescission will not conflict with any judgment or decree of a court of competent jurisdiction; and

(ii) such declaration is not the result of a failure to deliver consideration due upon conversion, a payment default arising from the Company's failure to repurchase any Notes when required, a payment default arising from the Company's failure to pay the Redemption Price on the Redemption Date in connection with the Company exercising its redemption rights.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of the Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 7.14. *Undertaking for Costs*.

In any suit for the enforcement of any right or remedy under the Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant, in the manner and to the extent provided in the Trust Indenture Act; *provided*, that neither this Section nor the Trust Indenture Act shall be deemed to authorize any court to require such an undertaking or to make such an assessment in any suit instituted by the Company or in any suit for the enforcement of the right to convert any Note in accordance with Article 5.

Section 7.15. *Waiver of Stay or Extension Laws*.

The Company covenants (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 or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which

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

Section 7.16. *Notice of Default*.

(a) The provisions of this Section 7.16 shall, with respect to the Notes, supersede in its entirety Section 7.14 of the Base Indenture.

(b) If a default or Event of Default occurs and is continuing and a Responsible Officer of the Trustee has actual knowledge of such default, the Trustee must send to each Holder notice of the default or Event of Default within 90 days after it occurs or, if later, promptly after the Trustee obtains actual knowledge thereof. Except in the case of a default in the payment of principal of or interest on any Note, the Trustee may withhold notice if and so long as the Trustee in good faith or in reliance on the advice of legal counsel, determines that withholding notice is in the interests of the Holders. In addition, the Company shall deliver to the Trustee, within 120 days after the end of each fiscal year, a certificate indicating whether the signers thereof know of any default or Event of Default that occurred during the previous year. The Company shall also deliver to the Trustee, within 30 days after the occurrence thereof, written notice of any events which would constitute certain defaults, their status and what action the Company is taking or propose to take in respect thereof.

Consolidation, Merger, Conveyance, Transfer or Lease

Section 8.01. *Company May Consolidate, Etc., Only on Certain Terms*.

(a) This Section 8.01 shall, with respect to the Notes, supersede in its entirety Section 10.01 of the Base Indenture. The Company shall not consolidate with or merge with or into any other Person or sell, convey, transfer or lease all or substantially all of its properties and assets to another Person, unless:

(i) either (A) the Company is the surviving corporation or (b) the resulting, surviving or transferee Person (if other than the 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 Person expressly assumes by supplemental indenture all of the Company’s obligations under the Notes and the Indenture;

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

(iii) the Company, or the successor Person if other than the Company, has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with and such supplemental indenture is the legal, valid and binding obligation of the Company enforceable against it in accordance with its terms, subject to customary exceptions.

Section 8.02. *Successor Substituted*.

Upon any consolidation of the Company with, or merger of the Company into, any other Person or any conveyance, transfer or lease of the properties and assets of the Company substantially as an entirety in accordance with Section 8.01, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease is made shall succeed to, and may exercise, every right and power of the Company under the Indenture with the same effect as if such successor Person had been named as the Company herein, and thereafter, the predecessor Person shall be relieved of all obligations and covenants under the Indenture and the Notes. If the Company is still in existence after the transaction, it will be released from its obligations and covenants hereunder and the under the Notes.

Satisfaction and Discharge

Section 9.01. *Satisfaction and Discharge of Indenture*.

(a) Subject to Section 1.02 hereof, the provisions of Article 11 of the Base Indenture, as supplemented by the provisions of this Supplemental Indenture, shall apply to the Notes.

(b) Section 11.01 and 11.02 of the Base Indenture shall not apply to the Notes.

(c) When (i) the Company shall deliver to the Trustee for cancellation all Notes theretofore authenticated (other than any Notes that have been destroyed, lost or stolen and in lieu of or in substitution for which other Notes shall have been authenticated and delivered) and not theretofore canceled, or (ii) all the Notes not theretofore canceled or delivered to the Trustee for cancellation shall have become due and payable, and the Company shall deposit with the Trustee, in trust, cash and/or shares of Common Stock sufficient to pay at Stated Maturity, upon conversion (assuming the maximum number of Additional Shares then issuable), upon any date on which a Coupon Make-Whole Payment is to be paid, upon any Redemption Date, upon any Option Purchase Date or upon any Fundamental Change Repurchase Date all principal and interest (including Additional Interest, if any) due or to become due to such Stated Maturity, Redemption Date, date on which a Coupon Make-Whole Payment is to be paid, Option Purchase

Date or Fundamental Change Repurchase Date, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then the Indenture shall cease to be of further effect (except as to (A) remaining rights of registration of transfer, substitution and exchange and conversion of Notes, (B) rights hereunder of Holders to receive payments of principal of and interest (including Additional Interest, if any) on, the Notes and the other rights, duties and obligations of Holders, as beneficiaries hereof with respect to the amounts, if any, so deposited with the Trustee and (C) the rights, obligations and immunities of the Trustee hereunder) and the Trustee, on written demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel and at the reasonable cost and expense of the Company, shall execute proper instruments acknowledging satisfaction of and discharging the Indenture; the Company, however, hereby agrees to reimburse the Trustee for any costs or expenses thereafter incurred by the Trustee and to compensate the Trustee for any services thereafter rendered by the Trustee in connection with the Indenture or the Notes.

Supplemental Indentures

Section 10.01. *Supplemental Indentures.* Subject to Section 1.02 hereof, the provisions of Article 9 of the Base Indenture, as supplemented by the provisions of this Supplemental Indenture, shall apply to the Notes.

It shall not be necessary for any Act of Holders under this Article 10 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Any Notes held by the Company or any of its Affiliates shall be disregarded (from both the numerator and the denominator) for purposes of determining whether the Holders of the requisite aggregate principal amount of the Outstanding Notes have consented to a modification, amendment or waiver of the terms of the Indenture.

Section 10.02. *Supplemental Indentures Without Consent of Holders.* In addition to any permitted amendment or supplement to the Indenture pursuant to Section 9.01 of the Base Indenture, without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form reasonably satisfactory to the Company, for any of the following purposes:

(a) to cure any ambiguity, manifest error, defect or omission or inconsistency that does not adversely affect the Holders in any material respect;

(b) to provide for the assumption of the Company's obligations under the Indenture by a successor upon any merger, consolidation or asset transfer permitted under the Indenture and to provide for conversion of the Notes into Reference Property;

(c) to provide any security for or add guarantees with respect to the Notes;

(d) to comply with any requirement of the SEC in connection with the qualification of the Indenture under the Trust Indenture Act;

(e) to add covenants that would benefit the Holders or to surrender any rights the Company has under the Indenture

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

(g) to provide for the issuance of Additional Notes, to the extent that the Company deems such amendment necessary or advisable in connection with such issuance; *provided* that no such amendment or supplement may impair the rights or interests of any Holder;

(h) to increase the Conversion Rate;

(i) to add Events of Default with respect to the Notes;

(j) to add circumstances under which the Company will pay additional interest on the Notes;

(k) to make any other change that does not adversely affect the rights of any Holder of Outstanding Notes; or

(l) to conform the terms of the Indenture or the Notes to the "Description of notes" section of the Company's final prospectus supplement dated July 29, 2012 relating to the offering of the Notes, which shall be evidenced by an Officer's Certificate of the Company to that effect.

Section 10.03. *Supplemental Indentures with Consent of Holders*.

In addition to any permitted amendment or supplement to the Indenture pursuant to Section 9.02 of the Base Indenture, with the consent of the Holders of not less than a majority in principal amount of the Outstanding Notes, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of modifying in any manner the rights of the Holders under the Indenture; *provided*, *however*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Note affected thereby,

(a) make any change in the percentage of principal amount of Notes whose Holders must consent to an amendment, supplement or waiver or to make any change in this provision for modification;

(b) reduce any rate of interest or extend the time for payment of interest on the Notes;

(c) reduce the principal amount of, or the Fundamental Change Repurchase Price, Option Purchase Price or Redemption Price with respect to, the Notes, or change their final Stated Maturity;

(d) make payments on the Notes payable in currency other than as originally stated in the Notes;

(e) impair the Holder's right to institute suit for the enforcement of any payment on the Notes;

(f) adversely affect the ranking of the Notes as senior unsecured indebtedness of the Company;

(g) waive a continuing default or Event of Default regarding any payment on the Notes;

(h) adversely affect the right of any Holder to require the Company to repurchase all or any of its Notes as provided in Article 4 ; or

(i) adversely affect the right of any Holder to convert any Note as provided in Article 5.

Section 10.04. *Notices of Supplemental Indentures.* After a supplement under this Article 10 becomes effective, the Company will send to the Holders a notice briefly describing the amendment, supplement or waiver. The Company will send supplemental indentures to Holders upon request. Any failure of the Company to send such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such supplemental indenture or waiver.

Miscellaneous

Section 11.01. *Governing Law.* THIS SUPPLEMENTAL INDENTURE AND THE NOTES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF).

Section 11.02. *Calculations in Respect of Notes*.

Except as otherwise provided in the Indenture, the Company shall be responsible for making all calculations called for hereunder and under the Notes or in connection with a conversion. These calculations include, but are not limited to, determinations of the Last Reported Sales Price, accrued interest payable on the Notes and the Conversion Rate on the Notes. The Company shall make all these calculations in good faith and, absent manifest error, the Company's calculations will be final and binding on the Holders. The Company shall provide a schedule of the Company's calculations to each of the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent is entitled to rely conclusively upon the accuracy of the Company's calculations without independent verification. The Trustee will forward its calculations to any Holder upon the request of such Holder.

Section 11.03. *Confirmation of Indenture.* The Base Indenture, as supplemented and amended by this Supplemental Indenture and all other indentures supplemental thereto, is in all respects ratified and confirmed, and the Base Indenture, this Supplemental Indenture and all indentures supplemental thereto shall be read, taken and construed as one and the same instrument.

Section 11.04. *Counterparts.* The parties hereto may sign one or more copies of this Supplemental Indenture in counterparts, all of which together shall constitute one and the same agreement.

[Remainder of Page Intentionally Blank; Signature Page Follows]

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

GEVO, INC.

By: /s/ Mark Smith

Name: Mark Smith
Title: Chief Financial Officer

WELLS FARGO BANK, NATIONAL ASSOCIATION
As Trustee

By: /s/ Michael Tu

Name: Michael Tu
Title: Assistant Vice President

[SIGNATURE PAGE TO THE FIRST SUPPLEMENTAL INDENTURE]

Schedule A

Make-Whole Table

Make-Whole Reference Date	Stock Price														
	$4.95	$5.50	$6.00	$7.00	$8.00	$9.00	$10.00	$11.00	$12.00	$13.00	$14.00	$15.00	$16.00	$18.00	$20.00
July 5, 2012	26.3505	26.3505	26.2426	18.9389	14.1113	10.7466	8.3001	6.4612	5.0435	3.9297	3.0430	2.3314	1.7576	0.9210	0.3793
July 1, 2013	26.3505	26.3505	23.1694	16.0302	11.5563	8.5935	6.5306	5.0302	3.8989	3.0216	2.3276	1.7715	1.3225	0.6641	0.2334
July 1, 2014	26.3505	24.9234	19.3539	12.0583	7.8906	5.4405	3.9337	2.9487	2.2594	1.7459	1.3443	1.0202	0.7536	0.3475	0.0680
July 1, 2015	26.3505	22.1860	15.8854	7.1088	1.7703	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
July 1, 2016	26.3505	19.0215	12.8142	5.2141	1.1997	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
July 1, 2017	26.3505	6.1485	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

Exhibit A

[FORM OF FACE OF NOTE]

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

[1] This legend is to be included only if the Note is a Global Note.

Certificate No. 1

GEVO, INC.

7.5% Convertible Senior Notes due 2022

U.S. $[—]

CUSIP: 374396 AA7
ISIN: US374396AA74

Gevo, Inc., a company duly incorporated and validly existing under the laws of the State of Delaware (herein called the "**Company**"), which term includes any successor corporation under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to Cede & Co., or registered assigns, the principal sum of [—] United States Dollars ($[—]) (which amount may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for the Depositary, in accordance with the rules and procedures of the Depositary and in accordance with the below referred Indenture) on July 1, 2022.

The issue date of this Note is July 5, 2012.

Reference is made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the Company the right to redeem this Note under certain circumstances, provisions giving the Holder the right to convert this Note into Common Stock of the Company and provisions relating to the ability and obligation of the Company to purchase this Note upon certain events, in each case, on the terms and subject to the limitations referred to on the reverse hereof and as more fully specified in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place. Capitalized terms used but not defined herein shall have such meanings as are ascribed to such terms in the Indenture.

This Note shall be deemed to be a contract made under the laws of the State of New York, and for all purposes shall be construed in accordance with and governed by the laws of said State.

[Signature page follows]

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

GEVO, INC.

By: _____
Name:
Title:

Date: _____

TRUSTEE'S CERTIFICATION OF AUTHENTICATION

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee, certifies that this is one of the Notes described in the within-mentioned Indenture.

By: _____
Name:
Authorized Signatory

Date: _____

[FORM OF REVERSE SIDE OF NOTE]

Gevo, Inc.

7.5% Convertible Senior Notes due 2022

This Note is one of a duly authorized issue of 7.5% Convertible Senior Notes due 2022 (the "**Notes**") of the Company issued under an Indenture, dated as of July 5, 2012 (the "**Base Indenture**"), as amended, modified and supplemented by the First Supplemental Indenture dated as of July 5, 2012 (the "**Supplemental Indenture**" and, together with the Base Indenture, the "**Indenture**") between the Company and Wells Fargo Bank, National Association, as trustee (the "**Trustee**"). The terms of the Note include those stated in the Indenture, those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (the "**TIA**"), and those set forth in this Note. This Note is subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of all such terms. To the extent permitted by applicable law, if any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture unless otherwise indicated.

1. *Interest*.

This Note shall bear interest at a rate of 7.5% per annum on the principal amount. Interest on this Note shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from July 5, 2012. Interest will be payable semi-annually, in arrears, on each January 1 and July 1, beginning on January 1, 2013, to holders of record at the Close of Business on the immediately preceding December 15 and June 15, respectively. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months. If a payment date is not a Business Day, payment will be made on the next succeeding Business Day, and no interest (including Additional Interest, if any) will accrue for the intervening period.

Interest (including Additional Interest, if any) will cease to accrue on the Notes upon the Maturity Date, their redemption by the Company or their conversion or repurchase by the Company at the option of the Holder.

2. *Method of Payment*.

Payment of the principal of the Notes shall be made at the Corporate Trust Office of the Trustee in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payment of interest including Additional Interest, if any, on Certificated Notes shall be made by check mailed to the address of the Person entitled thereto as such address appears in the Security Register; *provided*, *however*, that Holders with Notes in an aggregate principal amount in excess of $1.0 million shall be paid, at their written election, by wire transfer of immediately available funds. Notwithstanding the foregoing, so long as the Notes are registered in the name of a Depositary or its nominee, all payments with respect to the Notes shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee.

3. *Paying Agent, Registrar and Conversion Agent*.

Initially, the Trustee will act as Paying Agent, Registrar and Conversion Agent. The Company or any Affiliate of the Company may act as Paying Agent, Registrar or Conversion Agent.

4. *Indenture*.

The Notes are general unsecured senior obligations of the Company. The Indenture does not limit the ability of the Company to incur other debt, secured or unsecured.

5. *Provisional Redemption by the Company*.

The Notes are redeemable at any time and from time to time on or after July 1, 2015 but prior to July 1, 2017 at the option of the Company if the Last Reported Sale Price of the Common Stock for 20 or more Trading Days in a period of 30 consecutive Trading Days ending on the Trading Day immediately prior to the date of the Redemption Notice exceeds 150% of the applicable Conversion Price in effect on each such Trading Day. The Redemption Price shall be equal to a cash amount equal to the sum of (i) 100% of the principal amount of Notes being redeemed, *plus* (ii) accrued and unpaid interest (including Additional Interest, if any), if any to, but excluding, the Redemption Date. The Redemption Date must be a Business Day.

6. *Optional Redemption by the Company*.

The Notes are redeemable at any time on or after July 1, 2017 at the option of the Company. The Redemption Price shall be equal to a cash amount equal to the sum of (i) 100% of the principal amount of Notes being redeemed, *plus* (ii) accrued and unpaid interest (including Additional Interest, if any), if any to, but excluding, the Redemption Date. The Redemption Date must be a Business Day.

7. *Purchase by the Company at the Option of the Holder Upon a Fundamental Change*.

Subject to the terms and conditions of the Indenture, the Company shall become obligated to purchase, at the option of any Holder, all or any portion of the Notes held by such Holder upon a Fundamental Change in principal amounts of $1,000 or multiples of $1,000 at the Fundamental Change Repurchase Price. To exercise such right, a Holder shall deliver to the Paying Agent, and the Paying Agent must receive, a Fundamental Change Repurchase Notice containing the information set forth in the Indenture, at any time prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Repurchase Date, and shall deliver the Notes to the Paying Agent as set forth in the Indenture.

Holders have the right to withdraw (in whole or in part) any Fundamental Change Repurchase Notice by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

If cash sufficient to pay the Fundamental Change Repurchase Price of all Notes or portions thereof to be purchased with respect to a Fundamental Change Repurchase Date is deposited with the Paying Agent by 10:00 a.m., New York City time, on the Fundamental Change Repurchase Date, then, immediately after such Fundamental Change Repurchase Date, such Notes shall cease to be outstanding and interest (including Additional Interest, if any) on such Notes shall cease to accrue, whether or not such Notes are delivered by their Holders to the Paying Agent, and the Holders thereof shall have no other rights as such (other than the right to receive the Fundamental Change Repurchase Price upon delivery of such Notes by their Holders to the Paying Agent).

8. *Purchase by the Company at the Option of the Holder*.

Subject to the terms and conditions of the Indenture, the Company shall become obligated to purchase, at the option of any Holder, all or any portion of the Notes held by such Holder on July 1, 2017 (the "**Option Purchase Date**") in principal amounts of $1,000 or multiples of $1,000 at an Option Purchase Price, payable in cash, equal to one hundred percent (100%) of the principal amount of the Notes to be purchased, plus accrued and unpaid interest, if any, to, but excluding, the Option Purchase Date, upon delivery of an Option Purchase Notice containing the information set forth in the Indenture. To exercise such right, a Holder shall deliver to the Paying Agent, and the Paying Agent must receive, an Option Purchase Notice containing the information set forth in the Indenture, at any

time from the opening of business on the date that is twenty (20) Business Days prior to the Option Purchase Date until the close of business on the Business Day immediately preceding the Option Purchase Date, and shall deliver the Notes to the Paying Agent as set forth in the Indenture.

Holders have the right to withdraw (in whole or in part) an Option Purchase Notice by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

If cash sufficient to pay the Option Purchase Price of all Notes or portions thereof to be purchased with respect to Option Purchase Date is deposited with the Paying Agent by 10:00 a.m., New York City time, on the Option Purchase Date, then, immediately after such Option Purchase Date, such Notes shall cease to be outstanding and interest (including Additional Interest, if any) on such Notes shall cease to accrue, whether or not such Notes are delivered by their Holders to the Paying Agent, and the Holders thereof shall have no other rights as such (other than the right to receive the Option Purchase Price upon delivery of such Notes by their Holders to the Paying Agent).

9. *Conversion*.

Subject to the terms and conditions of the Indenture, the Holder hereof has the right, at any time prior to the Close of Business on the third Business Day immediately preceding the Maturity Date, to convert the principal amount hereof or any portion of such principal which is $1,000 or a multiple thereof, into shares of Common Stock at the Conversion Rate specified in the Indenture. The initial Conversion Rate is 175.6697 shares of Common Stock per $1,000 principal amount of Notes, subject to adjustment in certain events described in the Indenture.

In the event a Holder elects to exercise its right to convert its Notes, and such election occurs on or after January 1, 2013 but prior to July 1, 2017, such Holder shall be entitled to receive, in addition to the consideration that such Holder is entitled to receive upon conversion, a Coupon Make-Whole Payment. The Company shall have thirty (30) days from the Conversion Date to pay the Coupon Make-Whole Payment. The Company may pay any Coupon Make-Whole Payments either in cash or in Common Stock, at its election. If the Company elects to pay a Coupon Make-Whole Payment in Common Stock, such stock will be valued at 90% of the simple average of the daily volume weighted average prices of the Common Stock for the 10 Trading Days ending on and including the Trading Day immediately preceding the Conversion Date.

No fractional shares will be issued upon any conversion, but an adjustment and payment in cash will be made, as provided in the Indenture, in respect of any fraction of a share which would otherwise be issuable upon the surrender of any Notes for conversion.

10. *Denominations; Transfer; Exchange*.

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

11. *Unclaimed Money or Securities*.

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

12. *Amendment, Supplement and Waiver.*

Subject to certain exceptions, the Notes or the Indenture may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding, and subject to certain exceptions, an existing Default or Event of Default with respect to the Notes and its consequence or compliance with any provision of the Notes or the Indenture may be waived with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding. Without the consent of or notice to any Holder, the Company and the Trustee may amend or supplement the Indenture or the Notes to, among other things, cure any ambiguity, defect, manifest error, omission or inconsistency or make any change that does not adversely affect the rights under the Indenture of any Holder of outstanding Notes.

13. *Defaults and Remedies*.

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

14. *Authentication*.

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

15. *Abbreviations*.

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

16. *Indenture to Control; Governing Law*.

To the extent permitted by applicable law, if any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

This Note shall be governed by and construed in accordance with the laws of the state of New York (without giving effect to the conflict of laws principles thereof).

SCHEDULE OF EXCHANGES OF NOTES[2]

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

Date of Decrease or Increase	Signature of Authorized Signatory of Trustee or Custodian	Decrease in Principal Amount of this Global Note	Increase in Principal Amount of this Global Note	Principal Amount of this Global Note Following Such Decrease or Increase

[2] This schedule is to be included only if the Notes is a Global Note.

ASSIGNMENT FORM

If you want to assign this Note, fill in the form below and have your signature guaranteed:

I or we assign and transfer this Note to:

_____

_____

_____

_____

(Print or type name, address and zip code and social security or tax ID number of assignee)

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

Date: _____ Signed: _____

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

Signature
Guarantee: _____

Note: Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("**STAMP**") or such other "signature guarantee program" as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

CONVERSION NOTICE

If you want to exercise the option to convert this Note in accordance with the terms of the Indenture referred to in this Note, check the box: ≈

To convert only part of this Note, state the Principal Amount to be converted (which must be $1,000 or a multiple of $1,000, provided that the portion not so converted is in a minimum Principal Amount of $1,000):

$_____

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

_____
(Insert other person's social security or tax ID no.)

_____

_____

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

Date: _____ Signed: _____

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

Signature
Guarantee: _____

Note: Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("**STAMP**") or such other "signature guarantee program" as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

FORM OF PURCHASE NOTICE

Certificate No. of Security:

If you want to elect to have this Security purchased by the Company pursuant to Section 4.01 of the Supplemental Indenture, check the box: ≈

If you want to elect to have this Security purchased by the Company pursuant to Section 4.02 of the Supplemental Indenture, check the box: ≈

If you want to elect to have only part of this Security purchased by the Company pursuant to Section 4.01 or Section 4.02 of the Supplemental Indenture, as applicable, state the principal amount to be so purchased by the Company:

$ _____
(in an integral multiple of $1,000)

Date: _____ Signature(s): _____

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

Signature
Guarantee: _____

Note: Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("**STAMP**") or such other "signature guarantee program" as may be determined by the Security Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

Exhibit 10.1

SECOND AMENDMENT TO PLAIN ENGLISH SECURITY AGREEMENT

This Second Amendment to Plain English Security Agreement (this "Amendment") is made and entered into as of June 29, 2012, by and among GEVO, INC., a Delaware corporation ("Guarantor" or "You") and TRIPLEPOINT CAPITAL LLC, a Delaware limited liability company ("Secured Party" or "Us"; together with Guarantor, the "Parties").

RECITALS

A. Guarantor and Secured Party entered into that certain Plain English Security Agreement dated as of September 22, 2010, as amended by that certain First Amendment to Plain English Security Agreement dated as of October 20, 2011 (including all annexes, exhibits and schedules thereto, and as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Security Agreement"), pursuant to which Guarantor granted a security interest in the Collateral to secure the payment and performance in full of all the Secured Obligations. Unless otherwise defined herein, capitalized terms or matters of construction defined or established in the Security Agreement shall be applied herein as defined or established therein.

B. Guarantor and Secured Party have agreed to make certain amendments to the Security Agreement.

NOW, THEREFORE, in consideration of the premises and of the covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Amendments to Security Agreement.

The Parties hereby agree, effective only upon and subject to the occurrence of the Convertible Notes Closing Date, as follows:

(a) Section 1 of the Security Agreement is hereby amended by adding the following definitions in the appropriate alphabetical order:

The term "**Permitted Conversion**" means, with respect to the Convertible Note Indebtedness or any amounts payable under the terms of any Convertible Note Documents (including any coupon make whole payment) (or any Refinancing Indebtedness in respect thereof), (a) the conversion of all or any portion of such Indebtedness or such amounts payable under the terms of any Convertible Note Documents (including any coupon make whole payment) into common Stock in accordance with the terms of the documents governing such Indebtedness and/or (b) the making of cash payments in lieu of issuing fractional shares in connection with any conversion described in clause (a) above.

The term "**Refinancing Indebtedness**" means any extension, refinancing, modification, amendment, renewal, or restatement of the Convertible Note Indebtedness so long as (a) such extension, refinancing, modification, renewal, amendment or restatement does not result in an increase in the principal amount of the Indebtedness evidenced by the Convertible Note Indebtedness so extended, refinanced, modified, renewed, amended or restated, by more than any accrued and unpaid interest at the time of such extension, refinancing, modification, amendment or restatement, and reasonable premiums paid thereon, and other reasonable fees, costs and expenses incurred in connection with such extension, refinancing, modification, amendment or restatement, (b) such extension, refinancing, modification, amendment, renewal, or restatement does not result in a shortening of the average weighted maturity (measured as of the refinancing, renewal, or extension) of the Convertible Note Indebtedness so refinanced, renewed, or extended, nor are they on terms or conditions that are or could reasonably be expected to be adverse to the interests of TriplePoint other than in any immaterial respect, and (c) the Convertible Note Indebtedness that is refinanced, renewed, or extended is not recourse to any Person that is liable on account of the Secured Obligations other than those Persons which were obligated with respect to the Indebtedness that was refinanced, renewed, or extended.

The term "**Second Amendment Closing Date**" means June 29, 2012.

(b) The definition of "Permitted Disposition" contained in Section 1.4 of the Security Agreement is hereby amended by deleting the text "and (o)" appearing therein and adding the following text immediately after clause (n):

"(o) any Permitted Conversion; and (p)"

(c) The definition of "Permitted Liens" contained in Section 1.6 of the Security Agreement is hereby amended by deleting the text "and" appearing in front of clause (w) and adding the following text immediately after clause (w):

"; and (x) Liens in favor of the indenture trustee (as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb)), in its capacity as such and not in any other capacity, if any, under the Convertible Notes (or any Refinancing Indebtedness in respect thereof); provided that (i) such Liens only secure (A) Your obligation to pay such indenture trustee reasonable and customary compensation and the reimbursement of such indenture trustee's reasonable fees, costs and expenses, in each case, for its services as the indenture trustee and for disbursements and advances made by the indenture trustee in accordance with the documents governing the Convertible Notes (or any Refinancing Indebtedness in respect thereof) (it being understood and agreed that in no event would the outstanding principal balance of the Indebtedness under the Convertible Notes (or any Refinancing Indebtedness in respect thereof) be deemed to constitute advances made by the indenture trustee for the purposes of this clause) and (B) Your obligations to indemnify the indenture trustee, and (ii) such Lien only attaches to funds held or collected by such indenture trustee in its capacity as the indenture trustee (as defined in the as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb)) with respect to the Indebtedness evidenced by the Convertible Notes (or any Refinancing Indebtedness in respect thereof)."

(d) The definition of “Termination Date” contained in Section 1.12 of the Security Agreement is hereby amended and restated in its entirety as follows:

1.12 The term **“Termination Date”** means the date on which the Secured Obligations have been paid in full in cash and We have no further commitment to provide Advances under the Loan Agreement.

(e) The following definition of “Permitted Indebtedness” is hereby added as Section 1.14 of the Security Agreement:

1.14 The term “**Permitted Indebtedness**” means (a) Indebtedness of You in favor of Us; (b) Indebtedness of You existing as of the Amendment Closing Date and disclosed on **Schedule 1**; (c) Indebtedness incurred for the acquisition of services, supplies or inventory on normal trade credit in the ordinary course of business; (d) Subordinated Indebtedness and any Refinancing Indebtedness; (e) Permitted Purchase Money Indebtedness; (f) Indebtedness consisting of (i) unsecured guarantees arising with respect to customary indemnification obligations to purchasers in connection with Permitted Dispositions and (ii) unsecured guarantees with respect to Indebtedness of You or Your Restricted Subsidiaries, to the extent that the Person that is obligated under such guaranty could have incurred such underlying Indebtedness; (g) endorsement of instruments or other payment items for deposit in the ordinary course of business; (h) Indebtedness incurred in the ordinary course of business under performance, surety, statutory and appeal bonds; (i) Indebtedness owed to any Person providing property, casualty, liability or other insurance to You or Your Subsidiaries, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance for the year in which such Indebtedness is incurred and such Indebtedness is outstanding only during such year; (j) unsecured Indebtedness incurred in respect of netting services, overdraft protection, and other like services, in each case, incurred in the ordinary course of business; (k) unsecured Indebtedness of You or Your Affiliates owing to employees, former employees, officers, former officers, directors or former directors (or any spouses, ex-spouses, or estates of any of the foregoing) incurred in connection with the redemption by You or Your Affiliates of the Stock of You or Your Affiliates that has been issued to such Persons, so long as (i) no Event of Default has occurred and is continuing or would immediately result from the incurrence of such Indebtedness, (ii) the aggregate amount of all such Indebtedness outstanding at any one time does not exceed $100,000 and (iii) such Indebtedness is subordinated in right of payment to the Indebtedness and other obligations under the Loan Documents on terms and conditions reasonably acceptable to Us; (l) Indebtedness consisting of Permitted Investments; (m) Indebtedness incurred in respect of credit cards, credit card processing services, debit cards, stored value cards or purchase cards (including so-called “procurement cards” or “P-cards”), in each case, incurred in the ordinary course of business provided the aggregate amount of all such Indebtedness outstanding at any one time does not exceed $200,000; (n) accrual of interest on Indebtedness otherwise permitted under Section 12 of the Gevo Loan Agreement, accretion or amortization of original issue discount with respect to Indebtedness otherwise permitted under Section 12 of the Gevo Loan

Agreement or Indebtedness incurred as a result of payment of interest in kind on Indebtedness otherwise permitted under Section 12 of the Gevo Loan Agreement, to the extent that such interest or original issue discount accrues pursuant to the documents evidencing such Indebtedness as in effect at the time when such Indebtedness is initially incurred; (o) any other unsecured Indebtedness incurred by You or any of Your Restricted Subsidiaries in an aggregate outstanding amount not to exceed $100,000 at any one time; (p) Indebtedness in respect of Cash Management Services incurred in the ordinary course of business; (q) Indebtedness in respect of reimbursement obligations associated with letters of credit issued to Your utility providers in the ordinary course of business as deposits to secure performance of Your obligations to such utility providers; (r) [intentionally removed]; (s) the incurrence by You or Your Restricted Subsidiaries of Indebtedness under hedge agreements that are entered into for the bona fide purpose of hedging the interest rate or commodity risk associated with You and Your Restricted Subsidiaries' operations in the ordinary course of business and not for speculative purposes; (t) Indebtedness secured by the Lien permitted pursuant to clause (w) of the definition of Permitted Lien; (u) Indebtedness incurred under the Lighthouse Loan Documents; (v) [intentionally removed]; (w) Indebtedness under the "Loan Documents" (as such term is defined in the Agri-Energy Loan Agreement); (x) Indebtedness with respect to mortgages on real property, fixtures and obligations assumed or guaranteed by You or other relocation expenses advanced by You in connection with the relocation of Your or any of Your Subsidiaries' officers or employees in an aggregate amount that does not exceed $500,000 outstanding at any one time; (y) Indebtedness in respect of reimbursement obligations in respect of that certain Irrevocable Standby Letter of Credit No. SVBSF004981 dated as of November 30, 2007, issued by Silicon Valley Bank on behalf of Guarantor to Guarantor's landlord, Luzenac America, Inc. in the amount of $238,089; (z) Indebtedness to CDP, LLC in connection with the purchase of the outstanding Class B Interests of Devco by Guarantor; (aa) Permitted Intercompany Advances; (bb) to the extent either (i) existing on the Closing Date (after giving effect to the Agri-Energy Acquisitions) or (ii) entered into in the ordinary course of business, deferred payment contracts for the purchase of corn; and (cc) extensions, refinancings, modifications, amendments and restatements of any item of Permitted Indebtedness set forth in clauses (a) though (bb) above (including any Refinancing Indebtedness), provided that the principal amount thereof is not increased, and (dd) the Convertible Note Indebtedness (including any Refinancing Indebtedness).

(f) Section 3.2 is hereby amended by adding the following text after the end thereof:

"The foregoing provisions of this Section 3.2 to the contrary notwithstanding, if, in connection with the payment of interest or cash upon conversion otherwise permitted under this Agreement, You have a contractual obligation to irrevocably deposit funds for payment with the indenture trustee (as defined in the as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb)) with respect to the Indebtedness that is the subject of such payment, then (1) We will not require a perfected lien with respect to such funds that are deposited with the indenture trustee pursuant to such requirement and (2) so long as (y) the amount deposited with the indenture trustee pursuant to such contractual obligation does not exceed the amount required to be so deposited and (z) such amount is not deposited with the indenture trustee more than 3

Business Days before it is required to be deposited with the indenture trustee, such deposit with the indenture trustee shall be permitted pursuant to this subsection; provided that, other than with respect to regularly scheduled interest payments, You agree to use commercially reasonable efforts to provide Us notice prior to such deposit of funds for payment with the indenture trustee (as defined in the as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb))."

(g) Section 3.3 is hereby amended by adding the following text after the end thereof:

"The foregoing provisions of this Section 3.3 to the contrary notwithstanding, if, in connection with the payment of interest or cash upon conversion otherwise permitted under this Agreement, You have a contractual obligation to irrevocably deposit funds for payment with the indenture trustee (as defined in the as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb)) with respect to the Indebtedness that is the subject of such payment, then (1) We will not require a perfected lien with respect to such funds that are deposited with the indenture trustee pursuant to such requirement and the foregoing required actions shall not apply (2) so long as (y) the amount deposited with the indenture trustee pursuant to such contractual obligation does not exceed the amount required to be so deposited and (z) such amount is not deposited with the indenture trustee more than 3 Business Days before it is required to be deposited with the indenture trustee, such deposit with the indenture trustee shall be permitted pursuant to this subsection; provided that, other than with respect to regularly scheduled interest payments, You agree to use commercially reasonable efforts to provide Us notice prior to such deposit of funds for payment with the indenture trustee (as defined in the as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb))".

(h) Section 5.9 is hereby amended by deleting the text "and" appearing in front of clause (c) and adding the following text after clause (c):

", (d) You and Your Subsidiaries may make dividends or distributions (directly or indirectly to You, in the case of a dividend or distribution by Your Subsidiary), for the purpose of purchasing or paying cash in lieu of fractional shares of Your common Stock arising out of the conversion of convertible securities (including the Convertible Notes (or any Refinancing Indebtedness in respect thereof) or Permitted Conversions), and (e) You and Your Subsidiaries may make dividends or distributions (directly or indirectly to You, in the case of a dividend or distribution by Your Subsidiary) may make dividends or distributions, directly or indirectly, for the purpose of (i) paying regularly scheduled interest when due and owing on the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof), together with fees, costs and expenses from time to time due in connection with the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof), (ii) making Permitted Conversions, and (iii) making payments to the indenture trustee in respect of the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof) of reasonable and customary compensation for its services as the indenture trustee and to reimburse it for reasonable fees, costs and expenses incurred by it and disbursements and advances made by it in such capacity."

For the avoidance of doubt, this Section 5.9 does not restrict You from making Permitted Conversions."

(i) The following provision shall be added as Section 5.13 of the Security Agreement:

5.13 Permitted Indebtedness. You will not, nor will You permit any of Your Restricted Subsidiaries to, incur any Indebtedness without the prior written consent of Us other than Indebtedness evidenced by this Agreement, the Permitted Indebtedness and any Refinancing Indebtedness.

2. Representations and Warranties. Guarantor hereby represents and warrants to Secured Party that each of the representations and warranties contained in Section 4 of the Security Agreement are true and correct in all material respects as of the date hereof, except such representations and warranties that relate expressly to an earlier date, in which case they are true and correct in all material respects as of such earlier date, in each case, after giving effect to this Amendment.

3. Conditions to Effectiveness. The satisfaction of the following shall constitute conditions precedent to the effectiveness of this Amendment:

(a) receipt by Secured Party of this Amendment duly executed by the parties hereto;

(b) receipt by Secured Party of (i) the First Amendment to Amended and Restated Plain English Growth Capital Loan and Security Agreement duly executed by Agri-Energy, LLC, a Delaware limited liability company, and Secured Party, (ii) the Second Amendment to Plain English Growth Capital Loan and Security Agreement duly executed by Guarantor and Secured Party, and (iii) a secretary's certificate signed by Guarantor's corporate secretary, together with copies of resolutions of the Board of Directors of Guarantor or other authorizing documents, in form and substance satisfactory to Secured Party and its counsel, authorizing the execution and delivery of this Amendment; and

(c) the absence of any Events of Default as of the date hereof.

4. Recitals. The recitals to this Amendment shall constitute a part of the agreement of the parties hereto.

5. Consent to Jurisdiction and Venue. All judicial proceedings arising in or under or related to this Amendment may be brought in any state or federal court of competent jurisdiction located in the State of California. By execution and delivery of this Amendment, each party hereto generally and unconditionally: (a) consents to personal jurisdiction in San Mateo County, State of California; (b) waives any objection as to jurisdiction or venue in San Mateo County, State of California; (c) agrees not to assert any defense based on lack of jurisdiction or venue in the aforesaid courts; and (d) irrevocably agrees to be bound by any judgment rendered thereby in connection with this Amendment.

6. Entire Agreement. This Amendment, together with the Security Agreement and the other Loan Documents, is the entire agreement between the parties hereto with respect to the subject matter hereof. This Amendment supersedes all prior and contemporaneous oral and written agreements and discussions with respect to the subject matter hereof.

7. Mutual Waiver Of Jury Trial; Judicial Reference. Because disputes arising in connection with complex financial transactions are most quickly and economically resolved by an experienced and expert person and The Parties wish applicable state and federal laws to apply (rather than arbitration rules), The Parties desire that their disputes be resolved by a judge applying such applicable laws. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES SPECIFICALLY WAIVES ANY RIGHT THEY MAY HAVE TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, CROSS-CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR ANY OTHER CLAIM (COLLECTIVELY, "CLAIMS") ASSERTED BY YOU AGAINST US OR OUR ASSIGNEE OR BY US OR OUR ASSIGNEE AGAINST YOU. IN THE EVENT THAT THE FOREGOING JURY TRIAL WAIVER IS NOT ENFORCEABLE, ALL CLAIMS, INCLUDING ANY AND ALL QUESTIONS OF LAW OR FACT RELATING THERETO, SHALL, AT THE WRITTEN REQUEST OF ANY PARTY, BE DETERMINED BY JUDICIAL REFERENCE PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE ("REFERENCE"). THE PARTIES SHALL SELECT A SINGLE NEUTRAL REFEREE, WHO SHALL BE A RETIRED STATE OR FEDERAL JUDGE. IN THE EVENT THAT THE PARTIES CANNOT AGREE UPON A REFEREE, THE REFEREE SHALL BE APPOINTED BY THE COURT. THE REFEREE SHALL REPORT A STATEMENT OF DECISION TO THE COURT. NOTHING IN THIS SECTION SHALL LIMIT THE RIGHT OF ANY PARTY AT ANY TIME TO EXERCISE LAWFUL SELF-HELP REMEDIES, FORECLOSE AGAINST COLLATERAL OR OBTAIN PROVISIONAL REMEDIES. THE PARTIES SHALL BEAR THE FEES AND EXPENSES OF THE REFEREE EQUALLY UNLESS THE REFEREE ORDERS OTHERWISE. THE REFEREE SHALL ALSO DETERMINE ALL ISSUES RELATING TO THE APPLICABILITY, INTERPRETATION, AND ENFORCEABILITY OF THIS SECTION. THE PARTIES ACKNOWLEDGE THAT THE CLAIMS WILL NOT BE ADJUDICATED BY A JURY. THIS WAIVER EXTENDS TO ALL SUCH CLAIMS, INCLUDING CLAIMS THAT INVOLVE PERSONS OTHER THAN YOU AND US; CLAIMS THAT ARISE OUT OF OR ARE IN ANY WAY CONNECTED TO THE RELATIONSHIP BETWEEN YOU AND US; AND ANY CLAIMS FOR DAMAGES, BREACH OF CONTRACT, SPECIFIC PERFORMANCE, OR ANY EQUITABLE OR LEGAL RELIEF OF ANY KIND, ARISING OUT OF THIS AGREEMENT.

8. Signatures. This Amendment may be executed in any number of counterparts, each of which will be deemed an original, but all such counterparts together constitute one and the same instrument. This Amendment may be executed and delivered by facsimile or transmitted electronically in either Tagged Image Format Files ("TIFF") or Portable Document Format ("PDF") and, upon such delivery, the facsimile, TIFF or PDF signature, as applicable, will be deemed to have the same effect as if the original signature had been delivered to the other party.

9. Costs and Expenses. Guarantor reaffirms its obligations to pay, in accordance with the terms of Section 19 of the Security Agreement, all reasonable costs and expenses of Secured Party in connection with the preparation, negotiation, execution and delivery of this Amendment and all other Loan Documents entered into in connection herewith.

10. Effect. Upon the effectiveness of this Amendment, from and after the date hereof, each reference in the Security Agreement to "this Agreement," "hereunder," "hereof," or words of like import shall mean and be a reference to the Security Agreement as amended hereby and each reference in the other Loan Documents to the Security Agreement, "thereunder," "thereof," or words of like import shall mean and be a reference to the Security Agreement as amended hereby.

11. Conflict of Terms. In the event of any inconsistency between the provisions of this Amendment and any provision of the Security Agreement, the terms and provisions of this Amendment shall govern and control.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed and delivered as of the date first above written.

"Guarantor"

GEVO, INC.

By: /s/ Patrick Gruber
Name: Patrick Gruber
Title: Chief Executive Officer

"Secured Party"

TRIPLEPOINT CAPITAL LLC

By: /s/ Sajal Srivastava
Name: Sajal Srivastava
Title: Chief Operating Officer

Exhibit 10.2

SECOND AMENDMENT TO PLAIN ENGLISH GROWTH CAPITAL LOAN AND SECURITY AGREEMENT

This Second Amendment to Plain English Growth Capital Loan and Security Agreement (this "Amendment") is made and entered into as of June 29, 2012, by and between GEVO, INC., a Delaware corporation ("Gevo" or "You"), and TRIPLEPOINT CAPITAL LLC, a Delaware limited liability company ("TriplePoint" or "Us"; together with Gevo, the "Parties").

RECITALS

A. Gevo and TriplePoint have entered into that certain Plain English Growth Capital Loan and Security Agreement dated as of August 5, 2010, as amended by that certain First Amendment to Plain English Growth Capital Loan and Security Agreement dated as of October 20, 2011 (including all annexes, exhibits and schedules thereto, and as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), pursuant to which TriplePoint has provided loans and other financial accommodations to or for the benefit of Gevo upon the terms and conditions contained therein. Unless otherwise defined herein, capitalized terms or matters of construction defined or established in the Loan Agreement shall be applied herein as defined or established therein.

B. Gevo has requested that TriplePoint amend the Loan Agreement to provide for the issuance of the Convertible Notes (as defined below), and TriplePoint is willing to do so subject to the terms and conditions of this Amendment.

NOW, THEREFORE, in consideration of the premises and of the covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

AGREEMENT

1. Ratification and Incorporation of Loan Agreement and Other Loan Documents; Additional Acknowledgements. Except as expressly modified under this Amendment, (a) Gevo hereby acknowledges, confirms and ratifies all of the terms and conditions set forth in, and all of its respective obligations under, the Loan Agreement and the other Loan Documents and (b) all of the terms and conditions set forth in the Loan Agreement and the other Loan Documents are incorporated herein by this reference as if set forth in full herein. Gevo represents that as of the date hereof, it has no offset, defense, counterclaim, dispute or disagreement of any kind or nature whatsoever with respect to the amount of the Secured Obligations. Gevo hereby reaffirms the granting of all Liens previously granted pursuant to the Loan Documents to secure all Advances.

2. Consent to Issuance of Convertible Notes. Notwithstanding any term or provision in the Loan Agreement (as amended hereby) to the contrary, TriplePoint consents, effective upon the Second Amendment Closing Date, to the issuance of the Convertible Notes, the execution and delivery of the Convertible Note Documents, and the incurrence of the Convertible Note Indebtedness so long as (a) within 1 Business Day following Gevo's receipt of proceeds from the issuance of any Convertible Notes, Gevo shall prepay all remaining outstanding Secured

Obligations in full, including (i) all accrued and unpaid interest calculated as of the date of such prepayment and (ii) the End of Term Payment, (b) the issuance of the Convertible Notes shall have been consummated on or before July 15, 2012, and (c) such Convertible Notes are on the terms and conditions consistent in all material respects with the terms and conditions specified on Annex A attached hereto.

3. Amendments to Loan Agreement. Gevo and TriplePoint hereby agree, effective upon and subject to, (i) with respect to Section 3(g) below, the satisfaction of each of the conditions to effectiveness set forth in Section 6 below, and (ii) with respect to Sections 3(a) through (f) and Sections 3(h) through (k), to the occurrence of the Convertible Notes Closing Date (as defined below), as follows:

(a) The subsection titled "**Optional Interest-Only Periods**" contained in Section 9 of the Loan Agreement is hereby deleted.

(b) The subsection titled "**Transactions with Affiliates**" contained in Section 12 of the Loan Agreement is hereby amended by deleting the text "and" appearing before subclause (j) therein and adding the following text after clause (j):

"and, (k) any payments or dividends permitted by the subsection titled "Dividends and Distributions" in this Section 12."

(c) The subsection titled "**Subordinated Indebtedness**" contained in Section 12 of the Loan Agreement is hereby amended and restated in its entirety as follows:

Indebtedness, Subordinated Indebtedness, and Convertible Notes. Except for Indebtedness under the Lighthouse Loan Documents and Convertible Note Indebtedness, You will not prepay, redeem or otherwise satisfy in any manner prior to the scheduled repayment thereof any Indebtedness (other than the Advances) in excess of $50,000 in the aggregate. You shall not make or permit any payment on any Subordinated Indebtedness, except payment permitted under the terms of the subordination, intercreditor or other similar agreement to which such Subordinated Indebtedness is subject, if any. You shall not make or permit any payment on any Convertible Note Indebtedness, except (a) regularly scheduled interest payments on the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof), together with any fees, costs and expenses from time to time owing on the Convertible Notes Indebtedness or any Refinancing Indebtedness in respect thereof), (b) Permitted Conversions, (c) payments to the indenture trustee with respect to the Convertible Notes (or any Refinancing Indebtedness in respect thereof) of reasonable and customary compensation for its services as the indenture trustee and the reimbursement of reasonable fees, costs and expenses incurred by it and disbursements and advances made by it in such capacity, and (d) payments of Indebtedness in respect of the Convertible Notes with proceeds of any Refinancing Indebtedness, . You shall not amend any provision in any document relating to the Subordinated Indebtedness except to the extent such amendment is permitted under such subordination, intercreditor or other similar agreement. You shall not amend any provision in any Convertible Note Documents except (i) amendments with respect to the conversion features of the Convertible Note Indebtedness or technical amendments (including as to settlement) of the Convertible Note Documents (or any

Refinancing Indebtedness in respect thereof) that are required to be made pursuant to the terms of any the documents governing the Convertible Notes, (ii) amendments that, individually, or in the aggregate, could not reasonably be expected to be adverse to Triplepoint's interests, or (iii) other amendments, changes and modifications to the Convertible Note Documents so long as such amendment, modification, or change would satisfy the restrictions set forth in the definition of Refinancing Indebtedness if, instead of being amended, modified, or changed the subject Indebtedness was being refinanced, renewed, or extended (without regard to whether such amendment, modification or change would actually constitute a refinancing, renewal or extension of such Indebtedness).

(d) Section 12 of the Loan Agreement is hereby amended by adding the following subsection:

Prepayment of Secured Obligations. Upon Your receipt of proceeds from the issuance of any Convertible Notes, You shall prepay all remaining outstanding Secured Obligations (other than unasserted contingent indemnification Secured Obligations) in full, including (i) all accrued and unpaid interest calculated as of the date of such prepayment and (ii) the End of Term Payment, and no prepayment premium shall be owing to Us in connection with such prepayment.

(e) Section 14 of the Loan Agreement is hereby amended by adding the following subsection:

Convertible Notes. The making of any payment by You of the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof) other than (a) regularly scheduled interest payments, together with any fees, costs and expenses from time to time owing on the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof), (b) Permitted Conversions, (c) payments to the indenture trustee with respect to the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof) of reasonable and customary compensation for its services as the indenture trustee and the reimbursement of reasonable fees, costs and expenses incurred by it and disbursements and advances made by it in such capacity, and (d) payment of the Convertible Note Indebtedness with proceeds of any Refinancing Indebtedness.

(f) The definition of "Permitted Indebtedness" contained in Section 21 of the Loan Agreement is hereby amended by deleting the text "and" appearing before clause (cc) and adding the following text after the last proviso appearing therein:

"and (dd) the Convertible Note Indebtedness (including any Refinancing Indebtedness)."

(g) Section 21 of the Loan Agreement is hereby amended by adding the following definitions in the appropriate alphabetical order:

"**Convertible Notes**" means the convertible promissory notes issued by Gevo, Inc. from time to time pursuant to the Convertible Note Indenture, as amended, restated, replaced, extended, refinanced, or otherwise modified from time to time.

"**Convertible Notes Closing Date**" means the first date on which any Convertible Note is issued.

"**Convertible Note Documents**" means the Convertible Note Indenture, the Convertible Notes, and all other documents, instruments and agreements evidencing or governing the Convertible Notes or providing for any other right in respect thereof, as amended, modified, supplemented or restated from time to time in accordance with the terms of the Convertible Note Indenture.

"**Convertible Note Indebtedness**" means the Indebtedness incurred by Gevo, Inc. under the Convertible Note Documents in an aggregate principal amount not to exceed $75,000,000.

"**Convertible Note Indenture**" means the Indenture, dated as of July 2012, governing the Convertible Notes, by and among Gevo, as Issuer and the Trustee, as such is amended, restated, supplemented, replaced or refinanced or otherwise modified from time to time in accordance with the terms thereof, and as permitted by this Agreement.

"**Trustee**" means Wells Fargo Bank, National Association, in the capacity as the "Trustee" (as such term is defined in the Convertible Note Indenture) and any other Person acting in similar capacity under any amendment, restatement, supplement, replacement or refinancing thereof.

"**Permitted Conversion**" means, with respect to the Convertible Note Indebtedness or any amounts payable under the terms of any Convertible Note Documents (including any coupon make whole payment) (or any Refinancing Indebtedness in respect thereof), the (a) the conversion of all or any portion of such Indebtedness or such amounts payable under the terms of any Convertible Note Documents (including any coupon make whole payment) into Your common Stock in accordance with the terms of the documents governing such Indebtedness and/or (b) the making of cash payments in lieu of issuing fractional shares in connection with any conversion described in clause (a) above.

"**Refinancing Indebtedness**" means any extension, refinancing, modification, amendment, renewal, or restatement of the Convertible Note Indebtedness so long as (a) such extension, refinancing, modification, renewal, amendment or restatement does not result in an increase in the principal amount of the Indebtedness evidenced by the Convertible Note Indebtedness so extended, refinanced, modified, renewed, amended or restated, by more than any accrued and unpaid interest at the time of such extension, refinancing, modification, amendment or restatement, and reasonable premiums paid thereon, and other reasonable fees, costs and expenses incurred in connection with such extension, refinancing, modification, amendment or restatement, (b) such extension, refinancing, modification, amendment, renewal, or restatement does not result in a shortening of the average weighted maturity (measured as of the refinancing, renewal, or extension) of the Convertible Note Indebtedness so refinanced, renewed, or extended, nor are they on terms or conditions that are or could reasonably be expected to be adverse to the interests of TriplePoint other than in any immaterial respect, and (c) the Convertible

Note Indebtedness that is refinanced, renewed, or extended is not recourse to any Person that is liable on account of the Secured Obligations other than those Persons which were obligated with respect to the Indebtedness that was refinanced, renewed, or extended.

"**Second Amendment**" means that certain Second Amendment to Plain English Growth Capital Loan and Security Agreement dated as of June 29, 2012, by and between You and Us.

"**Second Amendment Closing Date**" means the date on which all of the conditions set forth in Section 3 of the Second Amendment have been satisfied.

(h) The subsection titled "**Deposit and Investment Accounts**" contained in Section 12 of the Loan Agreement is hereby amended by adding the following text after the end thereof:

"The foregoing provisions of this subsection to the contrary notwithstanding, if, in connection with the payment of interest or cash upon conversion otherwise permitted under this Agreement, You have a contractual obligation to irrevocably deposit funds for payment with the indenture trustee (as defined in the as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb)) with respect to the Indebtedness that is the subject of such payment, then (1) We will not require a perfected lien with respect to such funds that are deposited with the indenture trustee pursuant to such requirement and (2) so long as (y) the amount deposited with the indenture trustee pursuant to such contractual obligation does not exceed the amount required to be so deposited and (z) such amount is not deposited with the indenture trustee more than 3 Business Days before it is required to be deposited with the indenture trustee, such deposit with the indenture trustee shall be permitted pursuant to this subsection; provided that, other than with respect to regularly scheduled interest payments, You agree to use commercially reasonable efforts to provide Us notice prior to such deposit of funds for payment with the indenture trustee (as defined in the as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb))."

(i) The subsection titled "Dividends and Distributions" contained in Section 12 of the Loan Agreement is hereby amended by:

", (d) You and Your Subsidiaries may make dividends or distributions (directly or indirectly to You, in the case of a dividend or distribution by Your Subsidiary), for the purpose of purchasing or paying cash in lieu of fractional shares of Your common Stock arising out of the conversion of convertible securities (including the Convertible Notes (or any Refinancing Indebtedness in respect thereof) or Permitted Conversions), and (e) You and Your Subsidiaries may make dividends or distributions (directly or indirectly to You, in the case of a dividend or distribution by Your Subsidiary) for the purpose of (i) paying regularly scheduled interest when due and owing on the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof), together with fees, costs and

expenses from time to time due in connection with the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof), (ii) making Permitted Conversions, and (iii) making payments to the indenture trustee in respect of the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof) of reasonable and customary compensation for its services as the indenture trustee and to reimburse it for reasonable fees, costs, and expenses incurred by it and disbursements and advances made by it in such capacity."

(j) The definition of "**Permitted Disposition**" contained in Section 21 of the Loan Agreement is hereby amended by deleting the text "and (o)" appearing therein and adding the following text immediately after clause (n):

"(o) any Permitted Conversion; and (p)"

(k) The definition of "**Permitted Liens**" contained in Section 21 of the Loan Agreement is hereby amended by deleting the text "and" appearing in front of clause (aa) and adding the following text immediately after clause (aa):

"; and (bb) Liens in favor of the indenture trustee (as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb)), in its capacity as such and not in any other capacity, if any, under the Convertible Notes (or any Refinancing Indebtedness in respect thereof); provided that (i) such Liens only secure (A) Your obligation to pay such indenture trustee reasonable and customary compensation and the reimbursement of such indenture trustee's reasonable fees, costs, and expenses, in each case, for its services as the indenture trustee and for disbursements and advances made by the indenture trustee in accordance with the documents governing the Convertible Notes (or any Refinancing Indebtedness in respect thereof) (it being understood and agreed that in no event would the outstanding principal balance of the Indebtedness under the Convertible Notes (or any Refinancing Indebtedness in respect thereof) be deemed to constitute advances made by the indenture trustee for the purposes of this clause) and (B) Your obligations to indemnify the indenture trustee, and (ii) such Lien only attaches to funds held or collected by such indenture trustee in its capacity as the indenture trustee (as defined in the as defined in the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb)) with respect to the Indebtedness evidenced by the Convertible Notes (or any Refinancing Indebtedness in respect thereof)."

4. Representations and Warranties. Gevo hereby represents and warrants to TriplePoint that each of the representations and warranties contained in Section 11 of the Loan Agreement are true and correct in all material respects as of the date hereof, except such representations and warranties that relate expressly to an earlier date, in which case they are true and correct in all material respects as of such earlier date, in each case, after giving effect to this Amendment.

5. Covenant. On or prior to the first date on which any Convertible Note is issued, Gevo shall pay to TriplePoint a fully earned amendment fee in the amount of $100,000.

6. Conditions to Effectiveness. The effectiveness of this Amendment is subject to satisfaction of each of the following conditions:

(a) receipt by TriplePoint of this Amendment duly executed by Gevo and TriplePoint;

(b) receipt by TriplePoint of (i) the First Amendment to Amended and Restated Plain English Growth Capital Loan and Security Agreement duly executed by Agri-Energy, LLC, a Delaware limited liability company, and TriplePoint, (ii) the Second Amendment to Plain English Security Agreement duly executed by Gevo and TriplePoint, and (iii) a secretary's certificate signed by Gevo's corporate secretary, together with copies of resolutions of the Board of Directors of Gevo or other authorizing documents, in form and substance satisfactory to TriplePoint and its counsel, authorizing the execution and delivery of this Amendment; and

(c) the absence of any Defaults or Events of Default as of the date hereof.

7. Entire Agreement. This Amendment, together with the Loan Agreement and the other Loan Documents, is the entire agreement between the parties hereto with respect to the subject matter hereof. This Amendment supersedes all prior and contemporaneous oral and written agreements and discussions with respect to the subject matter hereof.

8. Recitals. The recitals to this Amendment shall constitute a part of the agreement of the parties hereto.

9. Applicable Law. This Amendment has been made, executed and delivered in the State of California and will be governed and construed for all purposes in accordance with the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

10. Consent To Jurisdiction And Venue. All judicial proceedings arising in or under or related to this Amendment may be brought in any state or federal court of competent jurisdiction located in the State of California. By execution and delivery of this Amendment, each Party hereto generally and unconditionally: (a) consents to personal jurisdiction in San Mateo County, State of California; (b) waives any objection as to jurisdiction or venue in San Mateo County, State of California; (c) agrees not to assert any defense based on lack of jurisdiction or venue in the aforesaid courts; and (d) irrevocably agrees to be bound by any judgment rendered thereby in connection with this Amendment.

11. Mutual Waiver Of Jury Trial; Judicial Reference. Because disputes arising in connection with complex financial transactions are most quickly and economically resolved by an experienced and expert person and the Parties wish applicable state and federal laws to apply (rather than arbitration rules), the Parties desire that their disputes be resolved by a judge applying such applicable laws. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES SPECIFICALLY WAIVES ANY RIGHT THEY MAY HAVE TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, CROSS-CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR ANY OTHER CLAIM (COLLECTIVELY, **"CLAIMS"**) ASSERTED BY YOU AGAINST US OR OUR ASSIGNEE OR BY US OR OUR ASSIGNEE AGAINST YOU. IN THE EVENT THAT THE FOREGOING JURY TRIAL WAIVER IS NOT ENFORCEABLE, ALL CLAIMS, INCLUDING ANY AND ALL QUESTIONS OF LAW OR FACT RELATING THERETO, SHALL, AT THE WRITTEN

REQUEST OF ANY PARTY, BE DETERMINED BY JUDICIAL REFERENCE PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE. THE PARTIES SHALL SELECT A SINGLE NEUTRAL REFEREE, WHO SHALL BE A RETIRED STATE OR FEDERAL JUDGE. IN THE EVENT THAT THE PARTIES CANNOT AGREE UPON A REFEREE, THE REFEREE SHALL BE APPOINTED BY THE COURT. THE REFEREE SHALL REPORT A STATEMENT OF DECISION TO THE COURT. NOTHING IN THIS SECTION SHALL LIMIT THE RIGHT OF ANY PARTY AT ANY TIME TO EXERCISE LAWFUL SELF-HELP REMEDIES, FORECLOSE AGAINST COLLATERAL OR OBTAIN PROVISIONAL REMEDIES. THE PARTIES SHALL BEAR THE FEES AND EXPENSES OF THE REFEREE EQUALLY UNLESS THE REFEREE ORDERS OTHERWISE. THE REFEREE SHALL ALSO DETERMINE ALL ISSUES RELATING TO THE APPLICABILITY, INTERPRETATION AND ENFORCEABILITY OF THIS SECTION. THE PARTIES ACKNOWLEDGE THAT THE CLAIMS WILL NOT BE ADJUDICATED BY A JURY. THIS WAIVER EXTENDS TO ALL SUCH CLAIMS, INCLUDING CLAIMS THAT INVOLVE PERSONS OTHER THAN YOU AND US; CLAIMS THAT ARISE OUT OF OR ARE IN ANY WAY CONNECTED TO THE RELATIONSHIP BETWEEN YOU AND US; AND ANY CLAIMS FOR DAMAGES, BREACH OF CONTRACT, SPECIFIC PERFORMANCE OR ANY EQUITABLE OR LEGAL RELIEF OF ANY KIND, ARISING OUT OF THIS AGREEMENT.

12. Signatures. This Amendment may be executed in any number of counterparts, each of which will be deemed an original, but all such counterparts together constitute one and the same instrument. This Amendment may be executed and delivered by facsimile or transmitted electronically in either Tagged Image Format Files ("TIFF") or Portable Document Format ("PDF") and, upon such delivery, the facsimile, TIFF or PDF signature, as applicable, will be deemed to have the same effect as if the original signature had been delivered to the other party.

13. Costs and Expenses. Gevo reaffirms its obligations to pay, in accordance with the terms of Section 20 of the Loan Agreement, all reasonable costs and expenses of TriplePoint in connection with the preparation, negotiation, execution and delivery of this Amendment and all other Loan Documents entered into in connection herewith.

14. Effect. Upon the effectiveness of this Amendment, from and after the date hereof, each reference in the Loan Agreement to "this Agreement," "hereunder," "hereof," or words of like import shall mean and be a reference to the Loan Agreement as amended hereby and each reference in the other Loan Documents to the Loan Agreement, "thereunder," "thereof," or words of like import shall mean and be a reference to the Loan Agreement as amended hereby.

15. Conflict of Terms. In the event of any inconsistency between the provisions of this Amendment and any provision of the Loan Agreement, the terms and provisions of this Amendment shall govern and control.

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IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed and delivered as of the date first above written.

GEVO, INC.

By: /s/ Patrick Gruber
Name: Patrick Gruber
Title: Chief Executive Officer

TRIPLEPOINT CAPITAL LLC

By: /s/ Sajal Srivastava
Name: Sajal Srivastava
Title: Chief Operating Officer

ANNEX A

TERMS OF CONVERTIBLE NOTES

See attached.

Description of notes

We will issue the notes under an indenture to be dated as of July 5, 2012 between us and Wells Fargo Bank, National Association, as trustee, as supplemented by a supplemental indenture thereto, to be dated as of July 5, 2012, relating to the notes. We refer to the indenture as so supplemented as the "indenture." The terms of the notes include those provided in the indenture and those made part of the indenture by reference to the Trust Indenture Act.

The following description is a summary of the material provisions of the notes and the indenture. It does not purport to be complete. This summary is subject to and is qualified by reference to all the provisions of the notes and the indenture, including the definitions of certain terms used therein. We urge you to read these documents because they, and not this description, define your rights as a holder of the notes. A copy of the form of indenture will be available upon request to us and is on file with the Securities and Exchange Commission.

The following description of the particular terms of the notes supplements and, to the extent inconsistent therewith, replaces the description of the general terms and provisions of the debt securities set forth in the accompanying prospectus, to which reference is hereby made. Terms not defined in this description have the meanings given to them in the indenture. In this section, the words "we," "us," "our," "Gevo" or "the Company" do not include any current or future subsidiary of Gevo, Inc., unless we specify otherwise.

GENERAL

The notes will:

- initially be limited to $40,000,000 principal amount (or a total of $45,000,000 principal amount with the underwriters' exercise of their over-allotment option in full);
- bear interest at a rate of 7.5% per year, payable semi-annually in arrears, on January 1 and July 1 of each year, commencing on January 1, 2013;
- be our general unsecured senior obligations, ranking equally in right of payment with all of our future senior unsecured indebtedness, if any, and senior in right of payment to all of our future subordinated indebtedness, if any. The notes will be effectively junior to our existing and future secured indebtedness to the extent of the value of the assets securing such indebtedness and structurally subordinated in right of payment to all future indebtedness and other liabilities (including trade payables) of any current and future subsidiary of the Company;
- be convertible by you at any time prior to the close of business on the third business day immediately preceding the maturity date into shares of our common stock initially based on a conversion rate of 175.6697 shares of our common stock per $1,000 principal amount of notes, which represents an initial conversion price of approximately $5.69 per share. In the event of certain types of fundamental changes, we will increase the conversion rate by a number of additional shares as described under "—Adjustment to Conversion Rate Upon Conversion Upon Make-Whole Fundamental Changes." If you elect to convert some or all of your notes on or after January 1, 2013 but prior to July 1, 2017, in addition to the consideration received as described under "—Conversion Rights," you will receive a coupon make-whole payment for the notes being converted. We may pay any coupon make-whole payments either in cash or in our common stock, at our election;

- be subject to repurchase by us, at your option, if a fundamental change (as defined under "—Repurchase at the Option of the Holder Upon a Fundamental Change") occurs, at a repurchase price equal to 100% of the principal amount of the notes, plus any accrued and unpaid interest to, but not including, the repurchase date;
- be subject to repurchase by us, at your option, on July 1, 2017 at a purchase price in cash equal to 100% of the principal amount of the notes to be purchased, plus any accrued and unpaid interest to, but excluding, the purchase date, as described under "—Repurchase of Notes by the Company at the Option of the Holder";
- be subject to redemption by us, at our option, at any time after July 1, 2015 but prior to July 1, 2017 at a redemption price in cash equal to 100% of the principal amount of the notes we redeem, provided that the last reported sale price of our common stock for 20 or more trading days in a period of 30 consecutive trading days ending on the trading day immediately prior to the date of the redemption notice exceeds 150% of the applicable conversion price in effect on each such trading day, as described under "—Redemption of Notes at the Company's Option—Provisional Redemption by the Company";
- be subject to redemption by us, at our option, at any time on or after July 1, 2017 at a redemption price in cash equal to 100% of the principal amount of the notes we redeem, plus accrued and unpaid interest to, but excluding, the redemption date, as described under "—Redemption of Notes at the Company's Option—Optional Redemption by the Company"; and
- be due on July 1, 2022, unless earlier converted, repurchased or redeemed.

Other than restrictions described under "—Repurchase at the Option of the Holder Upon a Fundamental Change" and "—Consolidation, Merger and Sale of Assets" below, and except for the provisions set forth under "—Repurchase of Notes by the Company at the Option of the Holder," "—Conversion Rights" or "—Adjustment to Conversion Rate Upon Conversion Upon Make-Whole Fundamental Changes," the indenture does not contain any covenants or other provisions designed to afford holders of the notes protection in the event of a highly leveraged transaction involving us or in the event of a decline in any credit rating that may have been assigned to the notes as the result of a takeover, recapitalization, highly leveraged transaction or similar restructuring involving us that could adversely affect such holders. In addition, neither we nor any of our subsidiaries will be restricted under the indenture from paying dividends, incurring indebtedness or issuing or repurchasing our securities.

No sinking fund is provided for the notes and the notes will not be subject to defeasance.

The notes initially will be issued in book-entry form only in minimum denominations of $1,000 principal amount and whole multiples thereof. Beneficial interests in the notes will be shown on, and transfers of beneficial interests in the notes will be effected only through, records maintained by DTC or its nominee, and any such interests may not be exchanged for certificated notes except in limited circumstances. For information regarding conversion, registration of transfer and exchange of global notes held in DTC, see "—Form, Denomination and Registration" below.

If certificated notes are issued, you may present them for conversion, registration of transfer and exchange, without service charge, at our office or agency, which initially will be the office or agency of the trustee. However, we or the trustee may require the holder to pay a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in connection with any registration of transfer or exchange of notes.

We may also from time to time repurchase the notes in open-market purchases or privately negotiated transactions without prior notice to holders.

RANKING

The notes will be our general unsecured senior obligations that rank equal in right of payment with our future senior unsecured indebtedness, if any, senior in right of payment to our future subordinated indebtedness, if any, and structurally subordinated to the existing and future indebtedness and other liabilities of any of our current and future subsidiaries, including trade payables.

The notes will effectively rank junior to our secured indebtedness to the extent of the assets securing such indebtedness. As of March 31, 2012, we had outstanding secured indebtedness of $35.5 million. In the event of our bankruptcy, liquidation, reorganization or other winding up, our assets that secure secured indebtedness will be available to pay obligations on the notes only after all indebtedness under such secured indebtedness has been repaid in full. We advise you that there may not be sufficient assets remaining to pay amounts due on any or all of the notes then outstanding.

PAYMENT AT MATURITY

On the maturity date, each holder will be entitled to receive on such date $1,000 in cash for each $1,000 in principal amount of notes, together with accrued and unpaid interest to, but not including, the maturity date, unless earlier converted, repurchased or redeemed. With respect to global notes, principal and interest will be paid to DTC in immediately available funds. With respect to any certificated notes, principal and interest will be payable at our office or agency, which initially will be the office or agency of the trustee.

INTEREST

The notes will bear interest at a rate of 7.5% per year. Interest will accrue from July 5, 2012, which is the date of issuance, or from the most recent date to which interest has been paid or duly provided for. We will pay interest semi-annually in arrears on January 1 and July 1 of each year, beginning on January 1, 2013, to holders of record at the close of business on the preceding December 15 or June 15, respectively. However, there are two exceptions to the preceding sentence:

- we will not pay in cash accrued interest on any notes when they are converted, except as described under “—Conversion Rights”; and
- on the maturity date, we will pay accrued and unpaid interest only to the person to whom we pay the principal amount (which may or may not be the holder of record on the relevant record date).

We will pay or cause to be paid interest on:

- global notes to DTC in immediately available funds;
- any certificated notes having a principal amount of less than $1,000,000, by check mailed to the holders of those notes; provided, however, at maturity, interest will be payable as described under “—Payment at Maturity”; and
- any certificated notes having a principal amount of $1,000,000 or more, by wire transfer in immediately available funds at the election of the holders of those notes duly delivered to the trustee at least five business days prior to the relevant interest payment date; provided, however, at maturity, interest will be payable as described under “—Payment at Maturity.”

Interest on the notes for a full interest period will be computed on the basis of a 360-day year comprised of twelve 30-day months. If a payment date is not a business day, payment will be made on the next succeeding business day and no additional interest will accrue thereon.

"Business day" means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are authorized or obligated by law or executive order to close.

All references to "interest" in this prospectus supplement are deemed to include additional interest, if any, that accrues in connection with our failure to comply with our reporting obligations under the indenture, if applicable, as described under "—Events of Default; Notice and Waiver."

CONVERSION RIGHTS

Holders may, subject to prior maturity, redemption or repurchase, convert each of their notes at an initial conversion rate of 175.6697 shares of common stock per $1,000 principal amount of notes (equivalent to an initial conversion price of approximately $5.69 per share of common stock) at any time prior to the close of business on the third business day immediately preceding the maturity date. A holder may convert fewer than all of such holder's notes so long as the notes converted are a multiple of $1,000 principal amount.

The conversion rate and the corresponding conversion price in effect at any given time are referred to as the "applicable conversion rate" and the "applicable conversion price," respectively, and will be subject to adjustment as described below. The conversion price at any given time will be computed by dividing $1,000 by the applicable conversion rate at such time.

Except as provided in the next paragraph, upon conversion, you will not receive any additional cash payment or shares of common stock for accrued and unpaid interest on the notes. Upon conversion, accrued and unpaid interest to the conversion date is deemed to be paid in full rather than cancelled, extinguished or forfeited.

If you convert your notes after the close of business on a regular record date for an interest payment date but prior to the corresponding interest payment date, you will receive on the corresponding interest payment date the interest accrued and unpaid on your notes, notwithstanding your conversion of those notes prior to the interest payment date, assuming you were the holder of record on the corresponding record date. At the time you surrender your notes for conversion, whether or not you were the holder of record on the relevant date, you must pay us an amount equal to the interest that has accrued and will be paid on the notes being converted on the corresponding interest payment date; provided that no such payment need be made:

- for conversions after the close of business on January 1, 2013 and before the close of business on June 30, 2017;
- for conversions after the close of business on June 15, 2022, which is the regular record date for the maturity date;
- if we have specified a fundamental change repurchase date that is after a regular record date and prior to the corresponding interest payment date;
- if we have specified a redemption date that is after a regular record date and prior to the corresponding interest payment date; or
- to the extent of any overdue interest, if overdue interest exists at the time of conversion with respect to such note.

We will not issue fractional shares of our common stock upon conversion of notes. Instead, we will deliver cash, as described under "—Conversion Procedures."

If you have submitted any or all of your notes for repurchase, unless you have withdrawn such notes in a timely fashion, your conversion rights on the notes so subject to repurchase will expire at the close of business on the business day preceding the repurchase date, unless we default in the payment of the repurchase price. If you have submitted any or all of your notes for repurchase, such notes may be converted only if you submit a withdrawal notice, and if the notes are evidenced by a global note, you must comply with appropriate DTC procedures.

CONVERSION PROCEDURES

If you hold a beneficial interest in a global note, to convert you must comply with DTC's procedures for converting a beneficial interest in a global note and, if required, pay funds equal to interest payable on the next interest payment date and all taxes or duties, if any.

If you hold a certificated note, to convert you must:

- complete and manually sign the conversion notice on the back of the note, or a facsimile of the conversion notice;
- deliver the conversion notice, which is irrevocable, and the note to the conversion agent;
- if required, furnish appropriate endorsements and transfer documents;
- if required, pay all transfer or similar taxes; and
- if required, pay funds equal to interest payable on the next interest payment date.

The date you comply with all of these requirements is the "conversion date" under the indenture.

If a holder converts notes, we will pay any documentary, stamp or similar issue or transfer tax due on the issuance of any shares of our common stock upon the conversion, unless the tax is due because the holder requests any shares to be issued in a name other than the holder's name, in which case the holder will pay that tax.

If a holder has already delivered a repurchase notice as described under "—Repurchase at the Option of the Holder Upon a Fundamental Change" with respect to a note, the holder may not surrender that note for conversion until the holder has withdrawn the notice in accordance with the indenture.

Settlement in shares of our common stock will occur on the third trading day following the conversion date (or, if earlier, on the maturity date). We will deliver to the holder for each $1,000 principal amount of the notes converted a number of shares of our common stock equal to the conversion rate in effect on the conversion date plus cash in lieu of fractional shares, if applicable. We will not issue fractional shares of common stock upon conversion of the notes and instead will pay a cash adjustment for fractional shares based on the closing sale price per share of our common stock on the trading day immediately preceding the conversion date.

COUPON MAKE-WHOLE PAYMENT UPON CONVERSION ON OR AFTER JANUARY 1, 2013 BUT PRIOR TO JULY 1, 2017

If you elect to convert some or all of your notes on or after January 1, 2013 but prior to July 1, 2017, in addition to the consideration received as described under "—Conversion Rights" you will receive a coupon make-whole payment for the notes being converted.

This coupon make-whole payment will be equal to the sum of the present values of the lesser of:

- eight semi-annual interest payments; or
- the number of semi-annual interest payments that would have been payable on such converted notes from the last day through which interest was paid on the notes, or the issue date if no interest has been paid, to but excluding July 1, 2017.

The present values of the remaining interest payments will be computed using a discount rate equal to 2.0%.

If the conversion date falls after a record date and on or prior to the corresponding interest payment date, the amount of the coupon make-whole payment will be reduced by the amount of interest payable on such interest payment date to the holder of record of the converted notes at the close of business on the corresponding record date.

We may pay any coupon make-whole payments either in cash or in our common stock, at our election. If we elect to pay a coupon make-whole payment in our common stock, then the stock will be valued at 90% of the simple average of the daily volume weighted average prices of our common stock for the 10 trading days ending on and including the trading day immediately preceding the conversion date. The value of any shares issued in connection with a coupon make-whole payment may be less than the market price of our common stock on the date we issued the notes. The calculation of the simple average of the daily volume weighted average price is subject to appropriate adjustment as described under "—Conversion Rate Adjustments".

CONVERSION RATE ADJUSTMENTS

The conversion rate will be adjusted as described below. Notwithstanding the below, we will not make any adjustment to the conversion rate if holders may participate in the transaction as a result of holding the notes, without having to convert their notes on a basis equivalent to a holder of a number of shares of our common stock equal to the principal amount of the notes held divided by the applicable conversion price. This exception will not apply to any adjustment described under "—Adjustment to Conversion Rate Upon Conversion Upon Make-Whole Fundamental Changes." In addition, in no event will we adjust the conversion rate to the extent that the adjustment would reduce the conversion price below the par value per share of our common stock.

(1) If we issue shares of our common stock as a dividend or distribution on shares of our common stock, or if we effect a share split or share combination of our common stock, the conversion rate will be adjusted based on the following formula:

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

where,

CR_0 = the conversion rate in effect immediately prior to the open of business on the ex-date of such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as applicable;

CR_1 = the conversion rate in effect immediately after the open of business on such ex-date or immediately after the open of business on such effective date;

OS_0 = the number of shares of our common stock outstanding immediately prior to the open of business on such ex-date or immediately prior to the open of business on such effective date; and

OS_1 = the number of shares of our common stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

Any adjustment made under this clause (1) shall become effective (x) immediately after the open of business on the ex-date for such dividend or distribution, or (y) the date on which such share split or share combination becomes effective. If any dividend or distribution of the type described in this clause (1) is declared but not so paid or made, the conversion rate shall be immediately readjusted, effective as of the date our board of directors (or a committee thereof) determines not to pay such dividend or distribution to the conversion rate that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

(2) If we distribute to all or substantially all holders of our common stock any rights, options or warrants (other than pursuant to a stockholder rights plan adopted by the Company) entitling them for a period of not more than 60 calendar days to subscribe for or purchase shares of our common stock at a price per share less than the current market price (as defined below) of our common stock, the conversion rate will be adjusted based on the following formula:

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

where,

CR_0 = the conversion rate in effect immediately prior to the open of business on the ex-date for such issuance;

CR_1 = the conversion rate in effect immediately after the open of business on such ex-date;

OS_0 = the number of shares of our common stock outstanding immediately prior to the open of business on such ex-date;

X = the total number of shares of our common stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of our common stock equal to the aggregate price payable to exercise such rights, options or warrants divided by the current market price.

Any adjustment made pursuant to this clause (2) will be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the open of business on the ex-date for such distribution. In the event that such rights, options or warrants described in this clause (2) are not so distributed, the conversion rate shall be readjusted to the conversion rate that would then be in effect if the ex-date for such distribution had not occurred. To the extent that such rights, options or warrants are not exercised prior to their expiration or shares of common stock are otherwise not delivered pursuant to such rights, options or warrants upon the exercise of such rights, options or warrants, the conversion rate shall be readjusted to the conversion rate that would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of the delivery of only the number of shares of common stock actually delivered. For purposes of this clause (2), in determining the aggregate price payable for such shares of common stock, there shall be taken into

account any consideration received for such rights, options or warrants and the value of such consideration if other than cash to be determined by our board of directors (or a committee thereof).

(3) If we distribute shares of our capital stock, evidences of our indebtedness, or other assets or property of ours or rights, options or warrants to acquire our capital stock or other securities to all or substantially all holders of our common stock, excluding:

- any dividends or distributions referred to in clause (1) above or clause (5) below;
- any rights, options or warrants referred to in clause (2) above;
- except as otherwise described below, rights issued pursuant to a stockholder rights plan adopted by the Company, or the detachment of such rights under the terms of any such plan;
- any dividends or distributions paid referred to in clause (4) below;
- any dividends and distributions in connection with a reclassification, change, consolidation, merger, conveyance, transfer, sale, lease or other disposition resulting in a change in the conversion consideration pursuant to the last paragraph in this "—Conversion Rate Adjustments" subsection; and
- any spin-off to which the provisions set forth below in this clause (3) shall apply,

then the conversion rate will be adjusted based on the following formula:

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

where,

CR_0 = the conversion rate in effect immediately prior to the open of business on the ex-date for such distribution;

CR_1 = the conversion rate in effect immediately after the open of business on such ex-date;

SP_0 = the current market price; and

FMV = the fair market value (as determined by our board of directors (or a committee thereof)), on the ex-date for such distribution, of the shares of our capital stock, evidences of our indebtedness, or other assets or property of ours so distributed, expressed as an amount per share of our common stock.

With respect to an adjustment pursuant to this clause (3) where there has been a payment of a dividend or other distribution on our common stock of shares of capital stock of any class or series of, or similar equity interest in, a subsidiary or other business unit of ours, which we refer to as a "spin-off," that are, or when issued will be, quoted or listed on any securities exchange or other market, the conversion rate will instead be adjusted based on the following formula:

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

where,

CR_0 = the conversion rate in effect immediately prior to the close of business on the last trading day of the valuation period (as defined below);

CR_1 = the conversion rate in effect immediately after the close of business or the last trading day of the valuation period;

FMV_0 = the average of the last reported sale prices of the capital stock or similar equity interest distributed to holders of our common stock applicable to one share of our common stock over the ten consecutive trading-day period commencing on, and including, the ex-date of the spin-off (the "valuation period"); and

MP_0 = the average of the last reported sale prices of our common stock over the valuation period.

The adjustment to the conversion rate under the preceding paragraph will occur at the close of business on the last trading day of the valuation period, but will be given effect as of the open of business on the ex-date for the spin-off; provided that in respect of any conversion during the valuation period, references within this clause (3) to 10 trading days shall be deemed replaced with such lesser number of trading days as have elapsed between the ex-date of such spin-off and the conversion date in determining the applicable conversion rate.

(4) If we pay any cash dividend or distribution to all or substantially all holders of our common stock, the conversion rate will be adjusted based on the following formula:

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

where,

CR_0 = the conversion rate in effect immediately prior to the open of business on the ex-date for such dividend or distribution;

CR_1 = the conversion rate in effect immediately after the open of business on the ex-date for such dividend or distribution;

SP_0 = the current market price; and

C = the amount in cash per share we distribute to holders of our common stock.

(5) If we or any of our subsidiaries makes a payment in respect of a tender offer or exchange offer for our common stock subject to the tender offer rules, to the extent that the cash and value of any other consideration included in the payment per share of common stock exceeds the last reported sale price of our common stock on the trading day immediately succeeding the last date (the "expiration date") on which tenders or exchanges may be made pursuant to such tender offer or exchange offer, the conversion rate will be adjusted based on the following formula:

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

where,

CR_0 = the conversion rate in effect immediately prior to the close of business on the expiration date;

CR_1 = the conversion rate in effect immediately after the expiration date;

FMV = the fair market value (as determined by our board of directors (or a committee thereof)), on the expiration date, of the aggregate value of all cash and any other consideration paid or payable for shares validly tendered or exchanged and not withdrawn as of the expiration date;

OS_0 = the number of shares of our common stock outstanding immediately prior to the last time tenders or exchanges may be made pursuant to such tender offer or exchange offer (the "expiration time");

OS_1 = the number of shares of our common stock outstanding immediately after the expiration time (after giving effect to the purchase of all shares accepted for purchase exchange in such tender offer or exchange offer); and

SP_1 = the average of the last reported sale prices of our common stock over the ten consecutive trading-day period commencing on, and including, the trading day immediately following the expiration date.

Any adjustment made pursuant to this clause (5) shall become effective immediately prior to the opening of business on the trading day immediately following the expiration date; provided that in respect of any conversion within 10 trading days immediately following, and including, the expiration date of any tender or exchange offer, references with respect to 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 applicable conversion rate.

In the event that we are, or one of our subsidiaries is, obligated to purchase shares of our common stock pursuant to any such tender offer or exchange offer, but we are, or such subsidiary is, permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the conversion rate shall be adjusted to be the conversion rate which would then be in effect if such tender offer or exchange offer had not been made. Except as set forth in the preceding sentence, if the application of the formula in this clause (5) to any tender offer or exchange offer would result in a decrease in the conversion rate, no adjustment shall be made for such tender offer or exchange offer under this clause (5).

If:

- any distribution or transaction described in clauses (1) to (5) above has not yet resulted in an adjustment to the applicable conversion rate on the trading day in question, and
- the shares the holder will receive on settlement are not entitled to participate in the relevant distribution or transaction (because they were not held on a related record date or otherwise),

then promptly after such distribution or transaction has occurred, we will adjust the number of shares that we deliver to the holder as we determine is appropriate to reflect the relevant distribution or transaction. In addition, if a conversion rate adjustment becomes effective on any ex-date as described above, and a holder that has converted its notes would become the record holder of shares of our common stock as of the related conversion date as described under "—Conversion Procedures" above based on an adjusted conversion rate for such ex-date, then, notwithstanding the conversion rate adjustment provisions above, the conversion rate adjustment relating to such ex-date will not be made for such converting holder. Instead, such holder will be deemed to be the record owner of shares of an un-adjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment or, if no holders of our common stock affirmatively make such election, the types and amounts of consideration actually received by such holders.

For purposes of clauses (2), (3) and (4) above, "current market price" means the average of the last reported sale prices of our common stock over the 10 consecutive trading-day period ending on the trading day immediately preceding the ex-date of the distribution requiring such computation.

We do not currently have a stockholder rights plan. To the extent that we have a stockholder rights plan in effect upon conversion of the notes into our common stock, you will receive, in addition to our common stock, the rights under the stockholder rights plan, unless prior to any conversion, the rights have separated from our common stock, in which case the conversion rate will be adjusted at the time of separation as if we distributed to all holders of our common stock, shares of our capital stock, evidences of indebtedness or assets as described in clause (3) above, subject to readjustment in the event of the expiration, termination or redemption of such rights. Any distribution of rights or warrants pursuant to a rights plan that would allow you to receive upon conversion, in addition to any shares of common stock, the right or warrants described therein with respect to such common stock (unless such rights or warrants have separated from the common stock) shall not constitute a distribution of rights or warrants that would entitle you to an adjustment of the conversion rate.

For purposes of clauses (3) and (4), except with respect to a spin-off, in cases where the fair market value of assets, debt securities or certain rights, warrants or options to purchase our securities, or the amount of the cash dividend or distribution applicable to one share of our common stock, distributed to all or substantially all stockholders:

- equals or exceeds the average of the last reported sale prices of our common stock over the relevant consecutive trading-day period ending on the trading day immediately preceding the ex-date for such distribution; or
- such average last reported sale price exceeds the fair market value of such assets, debt securities or rights, warrants or options or the amount of cash so distributed by less than $1.00,

rather than being entitled to an adjustment in the conversion rate, the holder of a note will be entitled to receive upon conversion, in addition to shares of our common stock, cash or a combination of cash and shares of our common stock, the kind and amount of assets, debt securities or rights, warrants or options comprising the distribution, if any, that such holder would have received if such holder had held a number of shares of our common stock equal to the principal amount of the notes held divided by the conversion price in effect immediately prior to the ex-date for determining the stockholders entitled to receive the distribution; provided that if our board of directors determines "FMV" for purposes of any such adjustment by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing current market price.

Except as stated herein, we will not adjust the conversion rate for the issuance of shares of our common stock. In addition, the applicable conversion rate will not be adjusted:

- upon the issuance of any shares of our common stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on our securities and the investment of additional optional amounts in shares of our common stock under any plan;
- upon the issuance of any shares of our 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 us or any of our subsidiaries;
- upon the issuance of any shares of our common stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding bullet and outstanding as of the date the notes were first issued;

- for a change in the par value of our common stock; or
- for accrued and unpaid interest, if any.

As used in this section, "ex-date" means the first date on which shares of our 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, and "effective date" means the first date on which the shares trade on the applicable exchange or in the applicable market, regular way, reflecting the transaction.

We are permitted to the extent permitted by law and the rules of the NASDAQ Global Market or any other securities exchange on which our common stock is then listed to increase the conversion rate of the notes by any amount for a period of at least 20 business days if our board of directors (or a committee thereof) determines that such increase would be in our best interest. We may also (but are not required to) increase the conversion rate to avoid or diminish income tax to holders of our common stock or rights to purchase shares of our common stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event.

A holder may, in some circumstances, including a distribution of cash dividends to holders of our shares of common stock, be deemed to have received a distribution subject to U.S. federal income tax as a result of an adjustment or the nonoccurrence of an adjustment to the conversion rate. For a discussion of the U.S. federal income tax treatment of an adjustment to the conversion rate, see "Material United States federal income tax considerations."

Adjustments to the applicable conversion rate will be calculated to the nearest 1/10,000th of a share. We will not be required to make an adjustment in the conversion rate unless the adjustment would require a change of at least 1% in the conversion rate. However, we will carry forward any adjustments that are less than 1% of the conversion rate and make such carried-forward adjustments on each conversion date, and each settlement period trading day with respect to any conversion date, for any notes.

In the event of:

- any reclassification of our common stock;
- any fundamental change described in clause (2) of the definition thereof;
- a share exchange, consolidation, or merger involving us; or
- a conveyance, transfer, sale, lease or other disposition to another person of all or substantially all of our assets,

in which holders of our common stock received cash, securities or other property (the "reference property") in exchange for their shares of common stock, the notes will become convertible based on the type and amount of consideration that the holders of a number of shares of our common stock equal to the principal amount of the notes divided by the conversion price would have received in such reclassification, share exchange, consolidation, merger, conveyance, transfer, sale, lease or other disposition. For purposes of the foregoing, the type and amount of consideration that a holder of our common stock received in the case of reclassifications, share exchanges, consolidations, mergers, conveyances, transfers, sales, leases or other dispositions that cause our common stock to be exchanged for more than a single type of consideration (determined based in part upon any form of stockholder election) will be deemed to be the weighted average of the types and amounts of consideration received by the holders of our common stock that affirmatively made such an election.

ADJUSTMENT TO CONVERSION RATE UPON CONVERSION UPON MAKE-WHOLE FUNDAMENTAL CHANGES

If you elect to convert your notes in the event of a make-whole fundamental change prior to July 1, 2017, the conversion rate will be increased by an additional number of shares of our common stock (the "additional shares") as described below.

A "make-whole fundamental change" means any transaction or event that constitutes a fundamental change pursuant to the first, second (disregarding the proviso in such bullet), third, fourth and fifth bullets under the definition of fundamental change as described under "—Repurchase at the Option of the Holder Upon a Fundamental Change" below pursuant to which 10% or more of the consideration for our common stock (other than cash payments for preferred shares and cash payments made in respect of dissenters' appraisal rights) in such fundamental change transaction consists of cash or securities (or other property) that are not shares of common stock, depositary receipts or other certificates representing common equity interests traded or scheduled to be traded immediately following such transaction on a U.S. national securities exchange.

The number of additional shares by which the conversion rate will be increased will be determined by reference to the table below, based on the date on which the make-whole fundamental change occurs or becomes effective (the "make-whole reference date") and the price (the "stock price") paid per share of our common stock in the make-whole fundamental change. If holders of our common stock receive only cash in the make-whole 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 our common stock over the five consecutive trading day period ending on the trading day preceding the date on which the make-whole fundamental change occurs or becomes effective (the "effective date").

The stock prices set forth in the first row of the table below (i.e., column headers) will be adjusted as of any date on which the conversion rate of the notes is otherwise adjusted. The adjusted stock prices will equal the stock prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the conversion rate immediately prior to the adjustment giving rise to the stock price adjustment and the denominator of which is the conversion rate as so adjusted. The number of additional shares will be adjusted in the same manner as the conversion rate as set forth under "—Conversion Rate Adjustments."

The following table sets forth the number of additional shares by which the conversion rate shall be increased based on the stock price and make-whole reference date for the make-whole fundamental change:

Make-Whole Reference Date	Stock Price														
	$4.95	$5.50	$6.00	$7.00	$8.00	$9.00	$10.00	$11.00	$12.00	$13.00	$14.00	$15.00	$16.00	$18.00	$20.00
July 5, 2012	26.3505	26.3505	26.2426	18.9389	14.1113	10.7466	8.3001	6.4612	5.0435	3.9297	3.0430	2.3314	1.7576	0.9210	0.3793
July 1, 2013	26.3505	26.3505	23.1694	16.0302	11.5563	8.5935	6.5306	5.0302	3.8989	3.0216	2.3276	1.7715	1.3225	0.6641	0.2334
July 1, 2014	26.3505	24.9234	19.3539	12.0583	7.8906	5.4405	3.9337	2.9487	2.2594	1.7459	1.3443	1.0202	0.7536	0.3475	0.0680
July 1, 2015	26.3505	22.1860	15.8854	7.1088	1.7703	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
July 1, 2016	26.3505	19.0215	12.8142	5.2141	1.1997	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
July 1, 2017	26.3505	6.1485	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact stock prices and make-whole reference dates may not be set forth in the table above, in which case if the stock price is between two stock price amounts in the table or the effective date is between make-whole reference dates in the table, the number of additional shares will be determined by a straight-line interpolation between the number of additional shares set forth for the higher and lower stock price amounts and the two make-whole reference dates, as applicable, based on a 365-day year. If the stock price is:

- greater than $20.00 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), the conversion rate will not be increased; or
- less than $4.95 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), the conversion rate will not be increased.

Notwithstanding the foregoing, in no event will the total number of shares of our common stock issuable upon conversion exceed 202.0202 per $1,000 principal amount of notes, subject to adjustments in the same manner as the conversion rate as set forth under "—Conversion Rate Adjustments."

Any conversion that entitles the converting holder to an increase in the conversion rate as described in this section shall be settled as described under "—Conversion Procedures" above.

Our obligation to increase the conversion rate as described above could be considered a penalty, in which case the enforceability thereof would be subject to general principles of the reasonableness of economic remedies.

An increase in the conversion rate for notes as a result of a fundamental change may also be treated as a distribution subject to U.S. federal income tax as a dividend. See "Material United States federal income tax considerations."

REPURCHASE AT THE OPTION OF THE HOLDER UPON A FUNDAMENTAL CHANGE

If a fundamental change (as defined below in this section) occurs at any time, you will have the right, at your option, to require us to repurchase any or all of your notes, or any portion of the principal amount thereof that is equal to $1,000 or a multiple of $1,000, on a date (the "fundamental change repurchase date") of our choosing that is not less than 20 or more than 35 business days after the date of our notice of the fundamental change. The price we are required to pay is equal to 100% of the principal amount of the notes to be repurchased, plus any accrued and unpaid interest to, but excluding, the fundamental change repurchase date (unless the fundamental change repurchase date is between a regular record date and the interest payment date to which it relates, in which case we will pay the full interest amount payable on such interest payment date to the record holder as of such record date). Any notes repurchased by us will be paid for in cash.

A "fundamental change" will be deemed to have occurred at the time after the notes are originally issued that any of the following occurs:

- if any "person" or "group" within the meaning of Section 13(d) of the Exchange Act other than us, our subsidiaries or our or their employee benefit plans becomes the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of our common equity representing more than 50% of the voting power of our common equity;

- consummation of (A) any recapitalization, reclassification or change of our common stock (other than changes resulting from a subdivision or combination) as a result of which our common stock would be converted into, or exchanged for, stock, other securities, other property or assets or (B) any share exchange, consolidation or merger of us pursuant to which our common stock will be converted into cash, securities or other property or any conveyance, transfer, sale, lease or other disposition in one transaction or a series of transactions of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole, to any person other than one of our subsidiaries; provided, however, that a transaction pursuant to which the holders of 50% or more of the total voting power of all classes of our common equity immediately prior to such transaction have the right to exercise 50% or more of the total voting power of all shares of common equity of the continuing or surviving corporation (or any parent thereof) entitled to vote generally in elections of directors of such corporation (or any parent thereof) immediately after such event shall not be a fundamental change;
- the following persons cease for any reason to constitute a majority of our board of directors:
  - individuals who on the first issue date of the notes constituted our board of directors; and
  - any new directors whose election to our board of directors or whose nomination for election by our stockholders was approved by at least a majority of our directors then still in office either who were directors on such first issue date of the notes or whose election or nomination for election was previously so approved;
- our stockholders approve any plan or proposal for our liquidation or dissolution; or
- our common stock (or other common stock into which the notes are then convertible) ceases to be listed on any of the NASDAQ Global Market, the NASDAQ Global Select Market, the NASDAQ Capital Market or the New York Stock Exchange or other national securities exchange.

A fundamental change as a result of the first and second bullets above will not be deemed to have occurred, however, if at least 90% of the consideration paid for our common stock, excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights, in the transaction or transactions constituting the fundamental change consists of shares of common stock listed on any of the NASDAQ Global Market, NASDAQ Global Select Market, the NASDAQ Capital Market or the New York Stock Exchange (or any of their respective successors) or that will be so listed immediately following such fundamental change (these securities being referred to as "publicly traded securities") and as a result of this transaction or transactions the notes become convertible into such publicly traded securities on the basis set forth under the last paragraph under "—Conversion Rate Adjustments," subject to the provisions set forth under "—Conversion Procedures" above.

On or before the 15th calendar day after the occurrence of a fundamental change, we will provide to all holders of the notes and the trustee and paying agent a written notice of the occurrence of the fundamental change and of the resulting repurchase right. Such notice shall state, among other things:

- the events causing a fundamental change;
- the date of the fundamental change;
- the last date on which a holder may exercise the repurchase right;
- the fundamental change repurchase price;
- the fundamental change repurchase date;
- the name and address of the paying agent and the conversion agent;

- that the notes are eligible to be converted, the applicable conversion rate and any adjustments to the applicable conversion rate;
- 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 the indenture;
- that a holder must exercise its repurchase right by the close of business on the business day immediately preceding the fundamental change repurchase date;
- that a holder has the right to withdraw any notes tendered for repurchase prior to the close of business on the business day immediately preceding the fundamental change repurchase date; and
- the procedures that holders must follow to require us to repurchase their notes.

To exercise the repurchase right, you must deliver, by the close of business on the business day immediately preceding the fundamental change repurchase date, subject to extension to comply with applicable law, the notes to be repurchased, duly endorsed for transfer, together with a written repurchase notice and the form entitled “Form of Fundamental Change Repurchase Notice” on the reverse side of the notes duly completed, to the paying agent. Your repurchase notice must state:

- if certificated notes have been issued, the certificate numbers of your notes to be delivered for repurchase, or if certificated notes have not been issued, your notice must comply with appropriate DTC procedures;
- the portion of the principal amount of notes to be repurchased, which must be $1,000 or an integral multiple thereof; and
- that the notes are to be repurchased by us pursuant to the applicable provisions of the notes and the indenture.

You may withdraw any repurchase notice (in whole or in part) by a written notice of withdrawal delivered to the paying agent prior to the close of business on the business day prior to the fundamental change repurchase date. The notice of withdrawal shall state:

- if certificated notes have been issued, the certificate numbers of the withdrawn notes, or if certificated notes have not been issued, your notice must comply with appropriate DTC procedures;
- the principal amount of the withdrawn notes; and
- the principal amount, if any, which remains subject to the repurchase notice.

We will be required to repurchase the notes on the fundamental change repurchase date, subject to extension to comply with applicable law. You will receive payment of the fundamental change repurchase price promptly following the later of the fundamental change repurchase date or the time of book-entry transfer or the delivery of the notes. If the paying agent holds money sufficient to pay the fundamental change repurchase price of the notes on the fundamental change repurchase date, then:

- the notes will cease to be outstanding and interest will cease to accrue (whether or not book-entry transfer of the notes is made or whether or not the note is delivered or transferred to the paying agent); and
- all other rights of the holder will terminate (other than the right to receive the fundamental change repurchase price and previously accrued and unpaid interest upon delivery or transfer of the notes).

The repurchase rights of the holders could discourage a potential acquirer of us. The fundamental change repurchase feature, however, is not the result of management's knowledge of any specific effort to obtain control of us by any means or part of a plan by management to adopt a series of anti-takeover provisions.

The term fundamental change is limited to specified transactions and may not include other events that might adversely affect our financial condition. In addition, the requirement that we offer to repurchase the notes upon a fundamental change may not protect holders in the event of a highly leveraged transaction, reorganization, merger or similar transaction involving us.

No notes may be purchased at the option of holders upon a fundamental change if there has occurred and is continuing an event of default other than an event of default that is cured by the payment of the fundamental change repurchase price of the notes.

The definition of fundamental change includes a phrase relating to the conveyance, transfer, sale, lease or other disposition of "all or substantially all" of our consolidated assets. There is no precise, established definition of the phrase "substantially all" under New York law, which governs the indenture and the notes, or under the laws of Delaware, our state of incorporation. Accordingly, the ability of a holder of the notes to require us to repurchase its notes as a result of the conveyance, transfer, sale, lease or other disposition of less than all of our assets may be uncertain.

If a fundamental change were to occur, we may not have enough funds to pay the fundamental change repurchase price. See "Risk factors—Certain Risks Relating to the Notes and Our Common Stock—We may not have the ability to pay interest on the notes or to repurchase or redeem the notes" in this prospectus supplement. If we fail to repurchase the notes when required following a fundamental change, we will be in default under the indenture. In addition, we have, and may in the future incur, other indebtedness with similar change in control provisions permitting our holders to accelerate or to require us to repurchase our indebtedness upon the occurrence of similar events or on some specific dates.

CONSOLIDATION, MERGER AND SALE OF ASSETS

The indenture provides that we may not consolidate with or merge with or into, or sell, convey, transfer or lease all or substantially all of our properties and assets to, another person, unless:

- either (A) we are the surviving corporation or (B) the resulting, surviving or transferee person (if other than us) 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 person expressly assumes by supplemental indenture all of our obligations under the notes and the indenture;
- immediately after giving effect to such transaction, no default or event of default has occurred and is continuing under the indenture; and
- we or the successor person have delivered to the trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and such supplemental indenture (if applicable) complies with this provision and that all conditions precedent provided for in the indenture relating to such transaction have been complied with.

In the event of any transaction described, and complying with the conditions listed, in the immediately preceding paragraph in which we are not the surviving corporation, the successor corporation formed or remaining shall be substituted for us and shall succeed to, and may exercise, every right and power of ours, and we shall be discharged from our obligations under the notes and the indenture.

Although these types of transactions are permitted under the indenture, certain of the foregoing transactions could constitute a fundamental change (as defined above), permitting each holder to require us to repurchase the notes of such holder as described above.

An assumption by any person of our obligations under the notes and the indenture might be deemed for U.S. federal income tax purposes to be an exchange of the notes for new notes by the holders thereof, resulting in recognition of gain or loss for such purposes and possibly other adverse tax consequences to the holders. Holders should consult their own tax advisors regarding the tax consequences of such an assumption.

REPURCHASE OF NOTES BY THE COMPANY AT THE OPTION OF THE HOLDER

On July 1, 2017, a holder may require us to purchase all or a portion of the holder's outstanding notes at a price in cash equal to 100% of the principal amount of the notes to be purchased, plus any accrued and unpaid interest to, but excluding, the purchase date. However, if the purchase date falls after a record date for the payment of interest but on or prior to the immediately succeeding interest payment date, we will, on the purchase date, pay the accrued and unpaid interest to, but excluding, the purchase date to the holder of record at the close of business on the immediately preceding record date. Accordingly, the holder submitting the note for purchase will not receive this accrued and unpaid interest unless that holder was also the holder of record at the close of business on the immediately preceding record date.

On the purchase date, we will purchase all notes for which the holder has delivered and not withdrawn a written purchase notice. Holders may submit their written purchase notice to the paying agent at any time from the open of business on the date that is 20 business days before the purchase date until the close of business on the business day immediately preceding the purchase date.

For a discussion of certain tax consequences to a holder receiving cash upon a purchase of the notes at the holder's option, see "Material United States federal income tax considerations."

We will give notice on a date that is at least 20 business days before each purchase date to all holders at their addresses shown on the register of the registrar, and to beneficial owners as required by applicable law, stating, among other things:

- the amount of the purchase price;
- that notes with respect to which the holder has delivered a purchase notice may be converted only if the holder withdraws the purchase notice in accordance with the terms of the indenture; and
- the procedures that holders must follow to require us to purchase their notes, including the name and address of the paying agent.

To require us to purchase its notes, the holder must deliver a purchase notice that states:

- the certificate numbers of the holder's notes to be delivered for purchase, if they are in certificated form;
- the principal amount of the notes to be purchased, which must be an integral multiple of $1,000; and
- that the notes are to be purchased by us pursuant to the applicable provisions of the indenture.

A holder that has delivered a purchase notice may withdraw the purchase notice by delivering a written notice of withdrawal to the paying agent before the close of business on the business day before the purchase date. The notice of withdrawal must state:

- the name of the holder;
- a statement that the holder is withdrawing its election to require us to purchase its notes;
- the certificate numbers of the notes being withdrawn, if they are in certificated form;
- the principal amount being withdrawn, which must be an integral multiple of $1,000; and
- the principal amount, if any, of the notes that remain subject to the purchase notice, which must be an integral multiple of $1,000.

If the notes are not in certificated form, the above notices must comply with appropriate DTC procedures.

To receive payment of the purchase price for a note for which the holder has delivered and not withdrawn a purchase notice, the holder must deliver the note, together with necessary endorsements, to the paying agent at any time after delivery of the purchase notice. We will pay the purchase price for the note on the later of the purchase date and the time of delivery of the note, together with necessary endorsements.

If the paying agent holds on a purchase date money sufficient to pay the purchase price due on a note in accordance with the terms of the indenture, then, on and after that purchase date, the note will cease to be outstanding and interest on the note will cease to accrue, whether or not the holder delivers the note to the paying agent. Thereafter, all other rights of the holder terminate, other than the right to receive the purchase price upon delivery of the note.

We may not have the financial resources, and we may not be able to arrange for financing, to pay the purchase price for all notes holders have elected to have us purchase.

In connection with any purchase offer, we will, to the extent applicable:

- comply with the provisions of Rule 13e-4 and Regulation 14E and all other applicable laws; and
- file a Schedule TO or any other required schedule under the Exchange Act or other applicable laws.

REDEMPTION OF NOTES AT THE COMPANY'S OPTION

Provisional Redemption by the Company

At any time and from time to time beginning July 1, 2015 but prior to July 1, 2017, we may redeem at our option, in whole or in part, any or all of the notes in cash at the redemption price, provided that the last reported sale price of our common stock for 20 or more trading days in a period of 30 consecutive trading days ending on the trading day immediately prior to the date of the redemption notice exceeds 150% of the applicable conversion price in effect on each such trading day. The redemption price will equal the sum of 100% of the principal amount of the notes being redeemed, plus any accrued and unpaid interest to, but excluding, the redemption date. Any notes redeemed by us will be paid for in cash.

The “last reported sale price” of our common stock on any date means:

- the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported by the NASDAQ Global Market; or
- if our common stock is not listed for trading on the NASDAQ Global Market, the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which our common stock is traded; or
- if our common stock is not listed for trading on a U.S. national or regional securities exchange, the closing 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) for our common stock on that date as reported by the OTC Bulletin Board; or
- if not so reported by the OTC Bulletin Board, the last quoted bid price for our common stock in the over-the-counter market on that date as reported by OTC Markets Group, Inc. or a similar organization; or
- if our common stock is not so quoted by OTC Markets Group, Inc. or a similar organization, the average of the mid-point of the last bid and ask prices for our common stock on the relevant date from a nationally recognized independent investment banking firm selected by us for this purpose.

“Trading day” means a day during which:

- the NASDAQ Global Market is open for trading, or if our common stock is not listed for trading on the NASDAQ Global Market, the principal U.S. national or regional securities exchange on which our common stock is listed is open for trading, or if our common stock is not so quoted or listed, any business day; and
- there is no market disruption event.

For purposes of determining whether this conversion contingency has been triggered, if our common stock is listed for trading on the NASDAQ Global Market or listed on another U.S. national or regional securities exchange, “market disruption event” means (i) a failure by the primary U.S. national or regional securities exchange or market on which our common stock is listed or admitted to trading to open for trading during its regular trading session or (ii) the occurrence or existence during the one-half hour period ending on the scheduled close of trading on any trading day of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in our common stock or in any options, contracts or future contracts relating to our common stock.

Optional Redemption by the Company

Except as set forth under “—Provisional Redemption by the Company” above, we cannot redeem the notes prior to July 1, 2017. We may redeem the notes at our option, in whole or in part, at any time, and from time to time, on or after July 1, 2017, at a redemption price, payable in cash, equal to 100% of the principal amount of the notes we redeem, plus any accrued and unpaid interest to, but excluding, the redemption date. The redemption date must be a business day.

PAYMENT AND SELECTION OF NOTES TO REDEEM

If we set a redemption date between a regular record date and the corresponding interest payment date, we will not pay accrued interest to any redeeming holder, and will instead pay the full amount of the relevant interest payment on such interest payment date to the holder of record on such a regular record date.

If the paying agent holds money sufficient to pay the redemption price due on a note on the redemption date in accordance with the terms of the indenture, then on and after the redemption date, the note will cease to be outstanding and interest on the note will cease to accrue, whether or not the holder delivers the note to the paying agent. Thereafter, all other rights of the holder terminate, other than the right to receive the redemption price upon delivery of the note.

We will give written notice of redemption not more than 60 calendar days but not less than 30 calendar days prior to the redemption date to all record holders at their addresses set forth in the register of the registrar. This notice will state, among other things:

- that you have a right to convert the notes called for redemption, and the conversion rate then in effect; and
- the date on which your right to convert the notes called for redemption will expire.

If we redeem less than all of the outstanding notes, the trustee will select the notes to be redeemed in integral multiples of $1,000 principal amount, on a pro rata basis or in accordance with any other method the trustee considers fair and appropriate in accordance with DTC procedures. However, we may redeem the notes only in integral multiples of $1,000 principal amount. If a portion of a holder's notes is selected for partial redemption and the holder converts a portion of the notes, the principal amount of the note that is subject to redemption will be reduced by the principal amount that the holder converted.

In the event of any redemption in part, we shall not be required to (i) issue, register the transfer of or exchange any notes during a period beginning at the opening of business 15 calendar days before any selection for redemption of notes and ending at the close of business on the earliest date on which the relevant notice of redemption is deemed to have been given to all holders of notes to be redeemed or (ii) register the transfer of or exchange any notes so selected for redemption, in whole or in part, except the unredeemed portion of any notes being redeemed in part.

We will not redeem any notes at our option if the principal amount of the notes has been accelerated and the acceleration has not been rescinded on or before the redemption date.

For a discussion of certain tax consequences to a holder upon a redemption of notes, see "Material United States federal income tax considerations."

EVENTS OF DEFAULT; NOTICE AND WAIVER

Each of the following is an event of default with respect to the notes:

- default by us in any payment of interest on any note when due and payable and the default continues for a period of 30 days;

- default by us in the payment of principal of any note when due and payable at its stated maturity, upon required repurchase, upon redemption, upon acceleration or otherwise;
- failure by us to satisfy our conversion obligation upon exercise of a holder's conversion right and such failure continues for 5 days;
- failure by us to comply with our obligations under "—Consolidation, Merger and Sale of Assets";
- failure by us to comply with our notice obligations under "—Repurchase at the Option of the Holder Upon a Fundamental Change";
- failure by us for 50 days after written notice from the trustee, at the direction of the holders, or the holders of at least 25% principal amount of the notes then outstanding has been received by us to comply with any of our other agreements contained in the notes or indenture relating to the notes;
- default under any agreements, indentures or instruments under which we or any of our significant subsidiaries, as defined in Article 1, Rule 1-02 of Regulation S-X, then has outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed having a principal amount in excess of $5,000,000 in the aggregate of the Company and/or any such subsidiary, whether such indebtedness now exists or shall hereafter be created, and such default results in such indebtedness being accelerated or otherwise becoming due and owing prior to its scheduled maturity or such default constitutes a failure to pay at least $5,000,000 of such indebtedness when due and payable (after the expiration of any applicable grace period) at its stated maturity, upon required repurchase, upon declaration or otherwise; provided, that any such event of default shall be deemed cured and not continuing upon payment of such indebtedness or rescission of such declaration;
- one or more judgments, orders or decrees for the payment of money in excess of $5,000,000, either individually or in the aggregate, shall be entered against us or any of our significant subsidiaries and shall not be discharged, bonded, paid, stayed, waived, subject to a negotiated settlement or subject to insurance within 60 days after (A) the date on which the right to appeal thereof has expired if no such appeal has commenced or (B) the date on which all rights to appeal have been extinguished; or
- certain events of bankruptcy, insolvency or reorganization of the Company or any of our significant subsidiaries.

The indenture provides that if an event of default occurs and is continuing, the trustee by notice to us, at the direction of the holders of the notes, or the holders of at least 25% in aggregate principal amount of the outstanding notes by notice to us 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, if any, on all notes to be due and payable. In case of certain events of bankruptcy, insolvency or reorganization involving us, 100% of the principal of and accrued and unpaid interest, if any, on the notes automatically will become due and payable. Upon such a declaration, such principal and accrued and unpaid interest will be due and payable immediately.

Notwithstanding the foregoing, the indenture will provide that, to the extent elected by us, the sole remedy for an event of default relating to the failure to comply with the reporting obligations in the indenture, which are described below under "—Reports," will, for the 365 days after the occurrence of such an event of default, consist exclusively of the right to receive additional interest on the notes at an annual rate equal to 0.50% of the principal amount of the notes. This additional interest will be payable in the same manner and on the same dates as the stated interest payable on the notes. The additional interest will accrue on all outstanding notes from, and including, the date on which an event of default relating to a failure to comply with the reporting obligations in the indenture first occurs to, but not including, the 365th day thereafter (or such earlier date on which the event of default relating to the

reporting obligations shall have been cured or waived). On such 365th day (or earlier, if an event of default relating to the reporting obligations is cured or waived prior to such 365th day), such additional interest will cease to accrue and the notes will be subject to acceleration as provided above. If we do not elect to pay additional interest during the continuance of such an event of default, as applicable, in accordance with this paragraph, the notes will be subject to acceleration as provided above.

In order to elect to pay additional interest on the notes as the sole remedy during the first 365 days after the occurrence of an event of default relating to the failure to comply with the reporting obligations in the indenture or the failure to comply with Section 314(a) of the Trust Indenture Act in accordance with the immediately preceding paragraph, we must notify all record holders of notes and the trustee and paying agent of such election on or before the close of business on the date on which such event of default first occurs. If we fail to timely give such notice, the notes will be immediately subject to acceleration as provided above.

The holders of a majority in aggregate principal amount of the notes outstanding, by written notice to us and the trustee, may (i) waive all past defaults (except with respect to nonpayment of principal or interest, including any additional interest, failure to deliver consideration due upon conversion, failure to repurchase any notes when required and failure to pay the redemption price on the date of redemption in connection with our exercising our optional redemption right) and (ii) rescind and annul such declaration and its consequences if:

- rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and
- such declaration is not the result of a failure to deliver consideration due upon conversion, a payment default arising from our failure to repurchase any notes when required or a payment default arising from our failure to pay the redemption price on the date of redemption in connection with our exercising our optional redemption right.

If any portion of the amount payable on the notes upon acceleration is considered by a court to be unearned interest (through the allocation of the value of the instrument to the embedded warrant or otherwise), the court could disallow recovery of any such portion.

Subject to the provisions of the indenture relating to the duties of the trustee, if an event of default occurs and is continuing, the trustee will be under no obligation to exercise any of the rights or powers under the indenture at the request or direction of any of the holders unless such holders have offered to the trustee indemnity or security reasonably satisfactory to it against any loss, liability or expense. Except to enforce the right to receive payment of principal or interest, including additional interest, if any, when due, no holder may pursue any remedy with respect to the indenture or the notes unless:

- such holder has previously given the trustee written notice that an event of default is continuing;
- holders of at least 25% in principal amount of the outstanding notes have requested the trustee to pursue the remedy;
- such holders have offered the trustee security or indemnity satisfactory to it against any loss, liability or expense;
- the trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and
- the holders of a majority in principal amount of the outstanding notes have not given the trustee a direction that in the opinion of the trustee, is inconsistent with such request within such 60-day period.

Subject to certain restrictions, the holders of a majority in principal amount of the outstanding notes are given the right to direct the time, method and place of conducting any proceeding for a remedy available to the trustee or of exercising any trust or power conferred on the trustee. The indenture will provide that if an event of default has occurred and is continuing, the trustee will be required in the exercise of its powers to use the degree of care that a prudent person would use in the conduct of its own affairs. The trustee, however, may refuse to follow any direction that conflicts with law or the indenture or that the trustee determines is unduly prejudicial to the rights of any other holder or that would involve the trustee in personal liability. Prior to taking any action under the indenture, 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 such action.

The indenture will provide that if a default occurs and is continuing and is actually known to the trustee, the trustee must send to each holder notice of the default within 90 days after it occurs or, if later, promptly after the trustee obtains knowledge thereof. Except in the case of a default in the payment of principal of or interest on any note, the trustee may withhold notice if and so long as the trustee in good faith determines that withholding notice is in the interests of the holders. In addition, we will be required to deliver to the trustee, within 120 days after the end of each fiscal year, a certificate indicating whether the signers thereof know of any default that occurred during the previous year. We also will be required to deliver to the trustee, within 30 days after the occurrence thereof, written notice of any events which would constitute certain defaults, their status and what action we are taking or propose to take in respect thereof.

MODIFICATION AND AMENDMENT

Changes Requiring Majority Approval

Subject to certain exceptions described below under "—Changes Requiring Approval of Each Affected Holder," the indenture (including the terms and conditions of the notes) may be amended with the written consent or affirmative vote of the holders of at least a majority in aggregate 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), without prior notice to any other holder.

CHANGES REQUIRING APPROVAL OF EACH AFFECTED HOLDER

Without the consent of each holder of an outstanding note affected, we may not amend the indenture to:

- make any change in the percentage of principal amount of notes whose holders must consent to an amendment, supplement or waiver or to make any change in this provision for modification;
- reduce any rate of interest or extend the time for payment of interest on the notes;
- reduce the principal amount of, or the repurchase price or redemption price with respect to, the notes, or change their final stated maturity;
- make payments on the notes payable in currency other than as originally stated in the notes;
- impair the holder's right to institute suit for the enforcement of any payment on the notes;
- adversely affect the ranking of the notes as our senior unsecured indebtedness;
- waive a continuing default or event of default regarding any payment on the notes;
- adversely affect the repurchase provisions of the notes; or

- adversely affect the conversion provisions of the notes.

CHANGES REQUIRING NO APPROVAL

We may amend or supplement the indenture or waive any provision of it without the consent of any holders of notes in some circumstances, including:

- to cure any ambiguity, omission, defect or inconsistency that does not adversely affect holders of the notes;
- to provide for the assumption of our obligations under the indenture by a successor upon any merger, consolidation or asset transfer permitted under the indenture and to provide for conversion of the notes into reference property;
- to provide any security for or add guarantees with respect to the notes;
- to comply with any requirement of the SEC in connection with the qualification of the indenture under the Trust Indenture Act;
- to add covenants that would benefit the holders of notes or to surrender any rights we have under the indenture;
- to provide for a successor trustee in accordance with the terms of the indenture or to otherwise comply with any requirement of the indenture;
- to provide for the issuance of additional notes, to the extent that we deem such amendment necessary or advisable in connection with such issuance; provided that no such amendment or supplement may impair the rights or interests of any holder of the outstanding notes;
- to increase the conversion rate;
- to add events of default with respect to the notes;
- to add circumstances under which we will pay additional interest on the notes;
- to make any change that does not adversely affect the rights of any holder of outstanding notes; or
- to conform the provisions of the indenture to the “Description of notes” section in this prospectus supplement, which shall be evidenced by an Officer’s Certificate of the Company to that effect.

The consent of the holders of the notes is not necessary under the indenture to approve the particular form of any proposed amendment. It is sufficient if such consent approves the substance of the proposed amendment. After an amendment under the indenture becomes effective, we are required to mail to the holders of the notes a notice briefly describing such amendment. However, with respect to amendments that do not require the consent of holders of notes, the failure to give such notice to all the holders of the notes, or any defect in the notice, will not impair or affect the validity of the amendment.

NOTES NOT ENTITLED TO CONSENT

Any notes held by us or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with us shall be disregarded (from both the numerator and the denominator) for purposes of determining whether the holders of the requisite aggregate principal amount of the outstanding notes have consented to a modification, amendment or waiver of the terms of the indenture.

DISCHARGE

We may satisfy and discharge our obligations under the indenture by delivering to the trustee all outstanding notes for cancellation or, when all outstanding notes have become due and payable, by depositing with the trustee or delivering to the holders, as applicable, cash and/or shares of common stock sufficient to pay all amounts due at maturity.

REPURCHASE AND CANCELLATION

We may, to the extent permitted by law, repurchase any notes in the open-market or by tender offer at any price or by private agreement. Neither we nor our affiliates may resell such securities unless such resale is registered under the Securities Act or such resale is pursuant to an exemption from the registration requirements of the Securities Act that results in such securities not being "restricted securities," as such term is defined in Rule 144(a)(3) under the Securities Act. Any notes repurchased by us may, at our option, be surrendered to the trustee for cancellation. Any notes surrendered for cancellation may not be reissued or resold and will be promptly cancelled.

INFORMATION CONCERNING THE TRUSTEE

We have appointed Wells Fargo Bank, National Association, the trustee under the indenture, as paying agent, conversion agent, bid solicitation agent, notes registrar and custodian for the notes. The trustee or its affiliates may also provide other services to us in the ordinary course of their business. The indenture contains certain limitations on the rights of the trustee, if it or any of its affiliates is then our creditor, to obtain payment of claims in certain cases or to realize on certain property received on any claim as security or otherwise. The trustee and its affiliates will be permitted to engage in other transactions with us. However, if the trustee or any affiliate continues to have any conflicting interest and a default occurs with respect to the notes, the trustee must eliminate such conflict or resign.

NO STOCKHOLDER RIGHTS FOR HOLDERS OF NOTES

Holders of the notes, as such, will not have any rights as our stockholders (including, without limitation, voting rights and rights to receive any dividends or other distributions on our common stock).

COMPLIANCE WITH NASDAQ STOCKHOLDER APPROVAL RULES

We will not take any voluntary action that would result in an adjustment pursuant to any of the provisions described in clauses (2) through (5) of "—Conversion Rate Adjustments," "—Adjustment to Conversion Rate Upon Conversion Upon Make-Whole Fundamental Changes" and "—Redemption of Notes at the Company's Option—Optional Redemption by the Company" without complying, if applicable, with the stockholder approval rules of the NASDAQ Global Stock Market (including NASDAQ Market Rule 5635, which requires stockholder approval of certain issuances of our common stock) or any similar rule of any other stock exchange on which our common stock is listed at the relevant time.

REPORTS

So long as any notes are outstanding, we will be required to deliver to the trustee, within 15 calendar days after we would have been required to file with the SEC (giving effect to any grace period provided

by Rule 12b-25 under the Exchange Act), copies of our 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 we are required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. Documents filed by us with the SEC via its EDGAR system (or any successor thereto) will be deemed to be filed with the trustee as of the time such documents are so filed. In the event we are at any time no longer subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, we shall continue to provide the trustee with reports containing substantially the same information as would have been required to be filed with the SEC had we continued to have been subject to such reporting requirements. In such event, such reports shall be provided at the times we would have been required to provide reports had we continued to have been subject to such reporting requirements. We also shall comply with the other provisions of Section 314(a) of the Trust Indenture Act and will furnish to holders, beneficial owners and prospective purchasers of the notes or shares of common stock issuable upon conversion of the notes, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act; provided, however, that the trustee shall have no responsibility whatsoever to determine whether such filings or postings have been made.

GOVERNING LAW

The indenture provides that it and the notes will be governed by, and construed in accordance with, the laws of the State of New York without regard to conflict of law principles thereof.

CALCULATIONS IN RESPECT OF NOTES

We will be responsible for making all calculations called for under the notes. These calculations include, but are not limited to, determinations of the last reported sale prices of our common stock, the settlement period and settlement period trading days, the daily conversion values, if applicable, the settlement amount, the conversion rate of the notes and accrued interest payable on the notes. We will make all these calculations in good faith and, absent manifest error, our calculations will be final and binding on holders of notes. We will provide a schedule of our 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 our calculations without independent verification. The trustee will forward our calculations to any holder of notes upon the request of that holder.

FORM, DENOMINATION AND REGISTRATION

The notes will be issued:

- in fully registered form;
- without interest coupons; and
- in minimum denominations of $1,000 principal amount and whole multiples of $1,000.

GLOBAL NOTES, BOOK-ENTRY FORM

The notes will be initially issued in the form of one or more registered notes in global form, without interest coupons (the “global notes”). Upon issuance, each of the global notes will be deposited with the trustee as custodian for DTC and registered in the name of Cede & Co., as nominee of DTC.

Ownership of beneficial interests in a global note will be limited to persons who have accounts with DTC ("DTC participants") or persons who hold interests through DTC participants. We expect that under procedures established by DTC:

- upon deposit of a global note with DTC's custodian, DTC will credit portions of the principal amount of the global note to the accounts of the DTC participants designated by the underwriters; and
- ownership of beneficial interests in a global note will be shown on, and transfer of ownership of those interests will be effected only through, records maintained by DTC (with respect to interests of DTC participants) and the records of DTC participants (with respect to other owners of beneficial interests in the global note).

Beneficial interests in global notes may not be exchanged for notes in physical, certificated form except in the limited circumstances described below.

All interests in the global notes will be subject to the operations and procedures of DTC. We provide the following summary of those operations and procedures solely for the convenience of investors. The operations and procedures of DTC are controlled by that settlement system and may be changed at any time. Neither we nor the underwriters are responsible for those operations or procedures.

DTC has advised us that it is:

- a limited purpose trust company organized under the laws of the State of New York;
- a "banking organization" within the meaning of the New York State Banking Law;
- a member of the Federal Reserve System;
- a "clearing corporation" within the meaning of the Uniform Commercial Code; and
- a "clearing agency" registered under Section 17A of the Exchange Act.

DTC was created to hold securities for its participants and to facilitate the clearance and settlement of securities transactions between its participants through electronic book-entry changes to the accounts of its participants. DTC's participants include securities brokers and dealers, including the underwriters; banks and trust companies; clearing corporations and other organizations. Indirect access to DTC's system is also available to others such as banks, brokers, dealers and trust companies; these indirect participants clear through or maintain a custodial relationship with a DTC participant, either directly or indirectly. Investors who are not DTC participants may beneficially own securities held by or on behalf of DTC only through DTC participants or indirect participants in DTC.

So long as DTC's nominee is the registered owner of a global note, that nominee will be considered the sole owner or holder of the notes represented by that global note for all purposes under the indenture. Except as provided below, owners of beneficial interests in a global note:

- will not be entitled to have notes represented by the global note registered in their names;
- will not receive or be entitled to receive physical, certificated notes; and
- will not be considered the owners or holders of the notes under the indenture for any purpose, including with respect to the giving of any direction, instruction or approval to the trustee under the indenture.

As a result, each investor who owns a beneficial interest in a global note must rely on the procedures of DTC to exercise any rights of a holder of notes under the indenture (and, if the investor is not a participant or an indirect participant in DTC, on the procedures of the DTC participant through which the investor owns its interest).

Payments of principal and interest with respect to the notes represented by a global note will be made by the paying agent to DTC's nominee as the registered holder of the global note. Neither we nor the paying agent will have any responsibility or liability for the payment of amounts to owners of beneficial interests in a global note, for any aspect of the records relating to or payments made on account of those interests by DTC, or for maintaining, supervising or reviewing any records of DTC relating to those interests.

Payments by participants and indirect participants in DTC to the owners of beneficial interests in a global note will be governed by standing instructions and customary industry practice and will be the responsibility of those participants or indirect participants and DTC.

Transfers between participants in DTC will be effected under DTC's procedures and will be settled in same-day funds.

CERTIFICATED NOTES

Notes in physical, certificated form will be issued and delivered to each person that DTC identifies as a beneficial owner of the related notes only if:

- DTC notifies us at any time that it is unwilling or unable to continue as depositary for the global notes and a successor depositary is not appointed within 90 calendar days;
- DTC ceases to be registered as a clearing agency under the Exchange Act and a successor depositary is not appointed within 90 calendar days;
- we, at our option, notify the trustee that we elect to cause the issuance of certificated notes, subject to DTC's procedures; or
- certain other events provided in the indenture should occur.

Exhibit 10.3

FIRST AMENDMENT TO AMENDED AND RESTATED PLAIN ENGLISH GROWTH CAPITAL LOAN AND SECURITY AGREEMENT

This First Amendment to Amended and Restated Plain English Growth Capital Loan and Security Agreement (this "Amendment") is made and entered into as of June 29, 2012, by and between AGRI-ENERGY, LLC, a Delaware limited liability company ("Agri-Energy" or "You"), and TRIPLEPOINT CAPITAL LLC, a Delaware limited liability company ("TriplePoint" or "Us"; together with Agri-Energy, the "Parties").

RECITALS

A. Agri-Energy and TriplePoint have entered into that certain Amended and Restated Plain English Growth Capital Loan and Security Agreement dated as of October 20, 2011 (including all annexes, exhibits and schedules thereto, and as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), pursuant to which TriplePoint has provided loans and other financial accommodations to or for the benefit of Agri-Energy upon the terms and conditions contained therein. Unless otherwise defined herein, capitalized terms or matters of construction defined or established in the Loan Agreement shall be applied herein as defined or established therein.

B. Agri-Energy has requested that TriplePoint amend the Loan Agreement and TriplePoint is willing to do so subject to the terms and conditions of this Amendment.

NOW, THEREFORE, in consideration of the premises and of the covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

AGREEMENT

1. Ratification and Incorporation of Loan Agreement and Other Loan Documents; Additional Acknowledgements. Except as expressly modified under this Amendment, (a) Agri-Energy hereby acknowledges, confirms and ratifies all of the terms and conditions set forth in, and all of its respective obligations under, the Loan Agreement and the other Loan Documents and (b) all of the terms and conditions set forth in the Loan Agreement and the other Loan Documents are incorporated herein by this reference as if set forth in full herein. Agri-Energy represents that as of the date hereof, it has no offset, defense, counterclaim, dispute or disagreement of any kind or nature whatsoever with respect to the amount of the Secured Obligations. Agri-Energy hereby reaffirms the granting of all Liens previously granted pursuant to the Loan Documents to secure all Advances.

2. Amendments to Loan Agreement. Agri-Energy and TriplePoint hereby agree, effective upon and subject to, (i) with respect to Sections 2(g) and (h) below, the satisfaction of each of the conditions to effectiveness set forth in Section 5 below, and (ii) with respect to Sections 2(a) through (f), the occurrence of the Convertible Notes Closing Date (as defined below), as follows:

(a) The subsection titled "**Optional Interest-Only Periods – Part 1 Commitment Amount**" contained in Section 9 of the Loan Agreement is hereby deleted.

(b) The subsection titled "**Optional Interest-Only Periods – Part 2 and 3 Commitment Amount**" contained in Section 9 of the Loan Agreement is hereby deleted.

(c) The subsection titled "**Dividends and Distributions**" contained in Section 12 of the Loan Agreement is hereby amended by deleting the text "and" appearing before clause (c) and adding the following text immediately after clause (c) and before the proviso:

> ", (d) You and Your Subsidiaries may make dividends or distributions, directly or indirectly, to any Parent for the purpose of allowing Gevo, Inc. to purchase or pay Cash in lieu of fractional shares of common Stock arising out of the conversion of convertible securities (including the Convertible Notes (or any Refinancing Indebtedness in respect thereof) or Permitted Conversions),

and (e) You may and Your Subsidiaries may make dividends or distributions, directly or indirectly, to any Parent for the purpose of allowing Gevo, Inc. to (i) pay regularly scheduled interest when due and owing on the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof), together with fees, costs and expenses from time to time owing in connection with the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof), (ii) to make Permitted Conversions, and (iii) to make payments to the indenture trustee in respect of the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof) of reasonable and customary compensation and to reimburse for reasonable fees, costs and expenses for its services as the indenture trustee and for disbursements and advances made by it in such capacity."

(d) The subsection titled "**Transactions with Affiliates**" contained in Section 12 of the Loan Agreement is hereby amended by deleting the text "and" appearing before subclause (g)(iv) therein and adding the following text after subclause (g)(iv):

"and, (v) any payments or dividends permitted by the subsection titled "Dividends and Distributions" in this Section 12."

(e) Section 12 is hereby amended by adding the following subsection at the end thereof:

Prepayment of Secured Obligations. No coupon make-whole payment shall be made in cash under the Convertible Note Documents prior to payment in full (other than unasserted contingent indemnification Secured Obligations) of all remaining outstanding Secured Obligations, including (i) all accrued and unpaid interest calculated as of the date of such prepayment and (ii) the End of Term Payment; provided, however, that, anything contained herein to the contrary notwithstanding, the foregoing shall not apply to any coupon make-whole payments made by the issuance of Stock of Parent, including any Permitted Conversion.

(f) Section 14 of the Loan Agreement is hereby amended by adding the following subsection:

Convertible Notes. The making of any payment by Gevo, Inc. of the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof) other than (a) regularly scheduled interest payments, together with any fees, costs and expenses from time to time owing on the Convertible Notes (or any Refinancing Indebtedness in respect thereof), (b) Permitted Conversions, (c) payments to the indenture trustee with respect to the Convertible Note Indebtedness (or any Refinancing Indebtedness in respect thereof) of reasonable and customary compensation for its services as the indenture trustee and the reimbursement of reasonable fees, costs, and expenses incurred by it and disbursements and advances made by it in such capacity, and (d) payments of the Convertible Note Indebtedness with proceeds of any Refinancing Indebtedness.

(g) The definition of "Gevo Loan Agreement" contained in Section 21 of the Loan Agreement is hereby amended and restated in its entirety as follows:

"**Gevo Loan Agreement"** means that certain Plain English Growth Capital Loan and Security Agreement entered into by and between Us and Gevo, Inc. dated as of August 5, 2010, as amended, restated, supplemented or otherwise modified from time to time.

(h) Section 21 of the Loan Agreement is hereby amended by adding the following definitions in the appropriate alphabetical order:

"**Convertible Notes**" means the convertible promissory notes issued by Gevo, Inc. from time to time pursuant to the Convertible Note Indenture, as amended, restated, replaced, extended, refinanced, or otherwise modified from time to time.

"**Convertible Notes Closing Date**" means the first date on which a Convertible Note is issued.

"**Convertible Note Documents**" means the Convertible Note Indenture, the Convertible Notes, and all other documents, instruments and agreements evidencing or governing the Convertible Notes or providing for any other right in respect thereof, as amended, modified, supplemented or restated from time to time in accordance with the terms of the Convertible Note Indenture.

"**Convertible Note Indebtedness**" means the Indebtedness incurred by Gevo, Inc. under the Convertible Note Documents in an aggregate principal amount not to exceed $75,000,000.

"**Convertible Note Indenture**" means the Indenture, dated as of July 2012, governing the Convertible Notes, by and among Gevo, as Issuer and the Trustee, as such is amended, restated, supplemented, replaced or refinanced or otherwise modified from time to time in accordance with the terms thereof, and as permitted by this Agreement.

"**First Amendment**" means that certain First Amendment to Amended and Restated Plain English Growth Capital Loan and Security Agreement dated as of June 29, 2012, by and between You and Us.

"**Permitted Conversion**" means, with respect to the Convertible Note Indebtedness or any amounts payable under the terms of any Convertible Note Documents (including any coupon make whole payment) (or any Refinancing Indebtedness in respect thereof), the (a) the conversion of all or any portion of such Indebtedness or such amounts payable under the terms of any Convertible Note Documents (including any coupon make whole payment) into common Stock of Parent in accordance with the terms of the documents governing the Convertible Notes and (b) the making of cash payments in lieu of issuing fractional shares in connection with any conversion described in clause (a) above.

"**Refinancing Indebtedness**" means any extension, refinancing, modification, amendment, renewal, or restatement of the Convertible Note Indebtedness so long as (a) such extension, refinancing, modification, renewal, amendment or restatement does not result in an increase in the principal amount of the Indebtedness evidenced by the Convertible Note Indebtedness so extended, refinanced, modified, renewed, amended or restated, by more than any accrued and unpaid interest at the time of such extension, refinancing, modification, amendment or restatement, and reasonable premiums paid thereon, and other reasonable fees, costs and expenses incurred in connection with such extension, refinancing, modification, amendment or restatement, (b) such extension, refinancing, modification, amendment, renewal, or restatement does not result in a shortening of the average weighted maturity (measured as of the refinancing, renewal, or extension) of the Convertible Note Indebtedness so refinanced, renewed, or extended, nor are they on terms or conditions that are or could reasonably be expected to be adverse to the interests of TriplePoint other than in any immaterial respect, and (c) the Convertible Note Indebtedness that is refinanced, renewed, or extended is not recourse to any Person that is liable on account of the Secured Obligations other than those Persons which were obligated with respect to the Indebtedness that was refinanced, renewed, or extended.

"**Trustee**" means Wells Fargo Bank, National Association, in the capacity as the "Trustee" (as such term is defined in the Convertible Note Indenture) and any other Person acting in similar capacity under any amendment, restatement, supplement, replacement or refinancing thereof.

3. Representations and Warranties. Agri-Energy hereby represents and warrants to TriplePoint that each of the representations and warranties contained in Section 11 of the Loan Agreement are true and correct in all material respects as of the date hereof, except such representations and warranties that relate expressly to an earlier date, in which case they are true and correct in all material respects as of such earlier date, in each case, after giving effect to this Amendment.

4. Covenant. On or prior to the first date on which any Convertible Note is issued, You shall pay to TriplePoint a fully-earned amendment fee in the amount of $550,000.

5. Conditions to Effectiveness. The effectiveness of this Amendment is subject to satisfaction of each of the following conditions:

(a) receipt by TriplePoint of this Amendment duly executed by Agri-Energy and TriplePoint;

(b) receipt by TriplePoint of (i) the Second Amendment to Plain English Growth Capital Loan and Security Agreement duly executed by Gevo, Inc. and TriplePoint, (ii) the Second Amendment to Plain English Security Agreement duly executed by Gevo, Inc. and TriplePoint, and (iii) a secretary's certificate signed by Agri-Energy's corporate secretary, together with copies of resolutions of the Board of Governors of Agri-Energy or other authorizing documents, in form and substance reasonably satisfactory to TriplePoint and its counsel, authorizing the execution and delivery of this Amendment; and

(c) the absence of any Defaults or Events of Default as of the date hereof.

6. Entire Agreement. This Amendment, together with the Loan Agreement and the other Loan Documents, is the entire agreement between the parties hereto with respect to the subject matter hereof. This Amendment supersedes all prior and contemporaneous oral and written agreements and discussions with respect to the subject matter hereof.

7. Recitals. The recitals to this Amendment shall constitute a part of the agreement of the parties hereto.

8. Applicable Law. This Amendment has been made, executed and delivered in the State of California and will be governed and construed for all purposes in accordance with the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

9. Consent To Jurisdiction And Venue. All judicial proceedings arising in or under or related to this Amendment may be brought in any state or federal court of competent jurisdiction located in the State of California. By execution and delivery of this Amendment, each Party hereto generally and unconditionally: (a) consents to personal jurisdiction in San Mateo County, State of California; (b) waives any objection as to jurisdiction or venue in San Mateo County, State of California; (c) agrees not to assert any defense based on lack of jurisdiction or venue in the aforesaid courts; and (d) irrevocably agrees to be bound by any judgment rendered thereby in connection with this Amendment.

10. Mutual Waiver Of Jury Trial; Judicial Reference. Because disputes arising in connection with complex financial transactions are most quickly and economically resolved by an experienced and expert person and the Parties wish applicable state and federal laws to apply (rather than arbitration rules), the Parties desire that their disputes be resolved by a judge applying such applicable laws. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES SPECIFICALLY WAIVES ANY RIGHT THEY MAY HAVE TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, CROSS-CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR ANY OTHER CLAIM (COLLECTIVELY, **"CLAIMS"**) ASSERTED BY YOU AGAINST US OR OUR ASSIGNEE OR BY US OR OUR ASSIGNEE AGAINST YOU. IN THE EVENT THAT THE FOREGOING JURY TRIAL WAIVER IS NOT ENFORCEABLE, ALL CLAIMS, INCLUDING ANY AND ALL QUESTIONS OF LAW OR FACT RELATING THERETO, SHALL, AT THE WRITTEN REQUEST OF ANY PARTY, BE DETERMINED BY JUDICIAL REFERENCE PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE. THE PARTIES SHALL SELECT A SINGLE NEUTRAL REFEREE, WHO SHALL BE A RETIRED STATE OR FEDERAL JUDGE. IN THE EVENT THAT THE PARTIES CANNOT AGREE UPON A REFEREE, THE REFEREE SHALL BE APPOINTED BY THE COURT. THE REFEREE SHALL REPORT A STATEMENT OF DECISION TO THE COURT. NOTHING IN THIS SECTION SHALL LIMIT THE RIGHT OF ANY PARTY AT ANY TIME TO EXERCISE LAWFUL SELF-HELP REMEDIES, FORECLOSE AGAINST COLLATERAL OR OBTAIN PROVISIONAL REMEDIES. THE PARTIES SHALL BEAR THE FEES AND EXPENSES OF THE REFEREE EQUALLY UNLESS THE REFEREE ORDERS OTHERWISE. THE REFEREE SHALL ALSO DETERMINE ALL ISSUES RELATING TO THE APPLICABILITY, INTERPRETATION AND ENFORCEABILITY OF THIS SECTION. THE PARTIES ACKNOWLEDGE THAT THE CLAIMS WILL NOT BE ADJUDICATED BY A JURY. THIS WAIVER EXTENDS TO ALL SUCH CLAIMS, INCLUDING CLAIMS THAT INVOLVE PERSONS OTHER THAN YOU AND US; CLAIMS THAT ARISE OUT OF OR ARE IN ANY WAY CONNECTED TO THE RELATIONSHIP BETWEEN YOU AND US; AND ANY CLAIMS FOR DAMAGES, BREACH OF CONTRACT, SPECIFIC PERFORMANCE OR ANY EQUITABLE OR LEGAL RELIEF OF ANY KIND, ARISING OUT OF THIS AGREEMENT.

11. Signatures. This Amendment may be executed in any number of counterparts, each of which will be deemed an original, but all such counterparts together constitute one and the same instrument. This Amendment may be executed and delivered by facsimile or transmitted electronically in either Tagged Image Format Files ("TIFF") or Portable Document Format ("PDF") and, upon such delivery, the facsimile, TIFF or PDF signature, as applicable, will be deemed to have the same effect as if the original signature had been delivered to the other party.

12. Costs and Expenses. Agri-Energy reaffirms its obligations to pay, in accordance with the terms of Section 20 of the Loan Agreement, all reasonable costs and expenses of TriplePoint in connection with the preparation, negotiation, execution and delivery of this Amendment and all other Loan Documents entered into in connection herewith.

13. Effect. Upon the effectiveness of this Amendment, from and after the date hereof, each reference in the Loan Agreement to "this Agreement," "hereunder," "hereof," or words of like import shall mean and be a reference to the Loan Agreement as amended hereby and each reference in the other Loan Documents to the Loan Agreement, "thereunder," "thereof," or words of like import shall mean and be a reference to the Loan Agreement as amended hereby.

14. Conflict of Terms. In the event of any inconsistency between the provisions of this Amendment and any provision of the Loan Agreement, the terms and provisions of this Amendment shall govern and control.

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IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed and delivered as of the date first above written.

AGRI-ENERGY, LLC

By: /s/ Mark Smith
Name: Mark Smith
Title: Chief Financial Officer

TRIPLEPOINT CAPITAL LLC

By: /s/ Sajal Srivastava
Name: Sajal Srivastava
Title: Chief Operating Officer

[SIGNATURE PAGE TO 1ST AMENDMENT TO AMENDED AND RESTATED PLAIN ENGLISH GROWTH CAPITAL LOAN AND SECURITY AGREEMENT]