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): March 13, 2014

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

Delaware	**1-11961**	**76-0423828**
(State or other jurisdiction of incorporation or organization)	(Commission File Number)	(I.R.S. Employer Identification No.)

3040 Post Oak Boulevard, Suite 300
Houston, Texas 77056
(Address, including zip code, of principal executive offices)

Registrant's telephone number, including area code: (713) 332-8400

Not Applicable.
(Former name or former address, if changed since last report)

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

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

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

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

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

Item 1.01 Entry into a Material Definitive Agreement.

On March 13, 2014, Carriage Services, Inc. ("we," "us" or "our") executed a purchase agreement (the "Purchase Agreement") with Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representative of the initial purchasers, collectively referred to herein as the Initial Purchasers, under which we agreed to issue $125.0 million aggregate principal amount of our 2.75% Convertible Subordinated Notes due 2021, (the "notes"), plus up to an additional $18.75 million of notes if the initial purchasers exercised their option to purchase additional notes. On March 14, 2014, the Initial Purchasers exercised this option in full to purchase additional notes. We issued $143.75 million aggregate principal amount of notes to the Initial Purchasers on March 19, 2014. The description of the Purchase Agreement in this report is a summary only, is not necessarily complete, and is qualified by the full text of the Purchase Agreement filed herewith as Exhibit 10.1 and incorporated herein by reference.

We used a portion of the net proceeds from the offering to repurchase an aggregate of approximately $54.3 million in principal amount of our existing convertible junior subordinated debentures in individually negotiated purchases at an average price of $50.70 per $50 in principal amount.

The Notes and the Indenture

The notes are governed by an indenture dated as of March 19, 2014 between Wilmington Trust, National Association, as Trustee and us (the "Indenture"). The description of the notes and the Indenture in this report is a summary only and is qualified by the full text of the Indenture filed herewith as Exhibit 4.1 and incorporated herein by reference.

The notes bear interest at a rate of 2.75% per annum. Interest on the notes accrues from March 19, 2014 and is payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2014. We will pay additional interest, if any, under the circumstances described in the Indenture.

The notes will mature on March 15, 2021, unless earlier converted or purchased by us. Holders may convert their notes at their option at any time prior to December 15, 2020 if one or more of the following conditions has been satisfied: (1) during any fiscal quarter (and only during such fiscal quarter) commencing after March 31, 2014, if, for at least 20 trading days, (whether or not consecutive) during the 30 consecutive trading day period ending on the last trading day of the immediately preceding fiscal quarter, the last reported sale price of our common stock for such trading day is greater than or equal to 130% of the applicable conversion price on such trading day; (2) during the five consecutive business day period immediately following any five consecutive trading day period (the "measurement period"), in which, for each trading day of the measurement period, the "trading price" (as defined in the Indenture) per $1,000 principal amount of notes for such trading day was less than 98% of the product of the last reported sale price of our common stock for such trading day and the applicable conversion rate on such trading day; or (3) upon the occurrence of specified corporate transactions described in the Indenture. Holders may also convert their notes at their option at any time beginning on December 15, 2020, and ending at the close of business on the business day immediately preceding the maturity date.

Upon conversion, we will satisfy our conversion obligation by paying cash up to the aggregate principal amount of the note being converted and pay or deliver, as the case may be, cash, shares of our common stock or a combination thereof, at our election, in respect of the remainder, if any, of our conversion obligation in excess of the principal amount of the note being converted. Notwithstanding the foregoing, the number of shares we deliver per $1,000 principal amount of converted notes in respect of any VWAP trading day will be subject to the NYSE share cap as described in the Indenture. We will not be required to pay any cash in lieu of the shares that we do not deliver as a result of the NYSE share cap.

The initial conversion rate of the notes is 44.3169 shares of our common stock per $1,000 principal amount of notes, equivalent to an initial conversion price of approximately $22.56 per share of common stock. The conversion rate is subject to adjustment upon the occurrence of certain events as described in the Indenture.

If we undergo a "fundamental change" (as defined in the Indenture), subject to certain conditions, a holder will have the option to require us to purchase all or a portion of its notes for cash. The fundamental change purchase price will equal 100% of the principal amount of the notes to be purchased, plus any accrued and unpaid interest, if any, to, but excluding, the fundamental change purchase date.

We may not redeem the notes at our option prior to their maturity on March 15, 2021.

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

The information under Item 1.01 is incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities.

The information under Item 1.01 is incorporated herein by reference.

Item 8.01 Other Events.

On March 13, 2014, we announced the pricing of our private offering of $125.0 million aggregate principal amount of the notes to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"), with a 30-day option to the initial purchasers to purchase up to an additional $18.75 million aggregate principal amount of the notes. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated by reference into this Item 8.01.

On March 17, 2014, we announced that we called for redemption all of our outstanding 7% Convertible Junior Subordinated Debentures due 2029 (the "Debentures") held by Carriage Services Capital Trust ("Carriage Trust") for redemption on April 16, 2014 at a price of $50 per $50 principal amount of the Debentures being redeemed, plus accrued and unpaid interest to the redemption date. In connection with our redemption of the Debentures, Carriage Trust will redeem its outstanding 7% Convertible Preferred Securities, Term Income Deferrable Equity Securities (the "TIDES") at an equivalent redemption price on the same redemption date.

On March 19, 2014, we announced the closing of our private offering of $143.75 million aggregate principal amount of the notes, including the notes sold pursuant to the exercise of the initial purchasers' option, that were offered to qualified institutional buyers pursuant to Rule 144A under the Securities Act. A copy of the press release is attached hereto as Exhibit 99.2 and is incorporated by reference into this Item 8.01.

The press releases filed as Exhibits 99.1 and 99.2 shall not constitute offers to sell or solicitations of offers to buy, nor shall there be any sale of these securities in any state in which the offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such state.

Item 9.01 Financial Statements And Exhibits.

(d) Exhibits. The following are furnished as part of this current report on Form 8-K:

Exhibit No.	Description of Exhibit
4.1	Indenture, dated as of March 19, 2014, by and among Carriage Services, Inc. and Wilmington Trust, National Association, as Trustee.
10.1	Purchase Agreement dated March 13, 2014 by and among Carriage Services, Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representative of the Initial Purchasers named in Schedule A thereto.
99.1	Press Release, dated March 13, 2014
99.2	Press Release, dated March 19, 2014

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, Carriage Services, Inc. has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

CARRIAGE SERVICES, INC.

Date: March 19, 2014 By: /s/ L. William Heiligbrodt

L. William Heiligbrodt
Executive Vice President and Secretary
(Principal Financial Officer)

EXHIBIT INDEX

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CARRIAGE SERVICES, INC.

AS ISSUER

2.75% CONVERTIBLE SUBORDINATED NOTES DUE 2021

INDENTURE

DATED AS OF MARCH 19, 2014

WILMINGTON TRUST, NATIONAL ASSOCIATION

AS TRUSTEE

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INDENTURE dated as of March 19, 2014 between Carriage Services, Inc., a Delaware corporation, as issuer (**"Company"**), and Wilmington Trust, National Association, as trustee (**"Trustee"**).

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Company's 2.75% Convertible Subordinated Notes due 2021:

ARTICLE I.
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 Definitions.

"Additional Interest" means all amounts that may be payable pursuant to Section 4.02(b) and Section 6.01(c), as applicable.

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

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

"Board of Directors" means the board of directors of the Company or a committee of such board duly authorized to act for it.

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

"Business Day" means any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or obligated by law or executive order to close or be closed.

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

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

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

"Common Stock" means the shares of the common stock of the Company, par value $0.01 per share, existing on the Original Issuance Date, subject to Section 10.06 hereof.

"Company" means the party named as such in the first paragraph of this Indenture until a successor or assign replaces it pursuant to the applicable provisions hereof and, thereafter, means the successor or assign.

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

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

"Corporate Trust Office" means the office of the Trustee within the continental United States at which at any particular time its corporate trust business is administered, which office as of the date of this instrument is located at 1100 North Market Street, Rodney Square North, Wilmington, Delaware 19890, or, in the case of any of such offices or agency, such other address as the Trustee may designate from time to time by notice to the Company.

"Credit Facility" means the secured bank credit facility, comprised of a $125 million revolving credit facility and a $130 million term loan, issued under the credit agreement, dated August 30, 2012, among the Company, as the borrower, and Bank of America, N.A., as the administrative agent, and the other lenders party thereto, together with the related documents thereto (including, without limitation, any guarantee agreements and security documents), and any amendments, supplements, modifications, extensions, replacements, renewals, restatements, refundings or refinancings thereof and indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that extend, replace, refund, refinance, renew or defease any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof.

"Daily Conversion Value" means, for each of the 25 consecutive VWAP Trading Days in the Observation Period for a Note, one twenty-fifth (1/25th) of the product of (i) the applicable Conversion Rate on such VWAP Trading Day and (ii) the Daily VWAP on such VWAP Trading Day.

"Daily Net Settlement Amount" means, for each of the 25 consecutive VWAP Trading Days in the relevant Observation Period:

(a) if the Company does not make a Cash Settlement Election, in accordance with Section 10.03(b)(i), a number of shares of the Common Stock equal to (i) the difference between the Daily Conversion Value and $40, divided by (ii) the Daily VWAP for such Trading Day;

(b) if the Company elects a Cash Percentage of 100%, cash in an amount equal to the difference between the Daily Conversion Value and $40; or

(c) if the Company elects a Cash Percentage of less than 100%, (i) cash equal to the product of (x) the difference between the Daily Conversion Value and $40 and (y) the Cash Percentage, plus (ii) a number of shares of the Common Stock equal to the product of (x) (A) the difference between the Daily Conversion Value and $40, divided by (B) the Daily VWAP for such Trading Day and (y) 100% minus the Cash Percentage.

19 **"Daily Settlement Amount"** means, for each of the 25 consecutive VWAP Trading Days in the relevant Observation Period:

(a) cash equal to the lesser of (i) $40 and (ii) the Daily Conversion Value; and

(b) if the Daily Conversion Value exceeds $40, the Daily Net Settlement Amount.

20 **"Daily VWAP"** means, for any of the 25 consecutive VWAP Trading Days in the Observation Period for a Note, the per share volume-weighted average price of the Common Stock as displayed under the heading "Bloomberg VWAP" on Bloomberg page "CSV <equity> AQR" (or any successor thereto if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or if such volume-weighted average price is unavailable, the market value of one share of the Common Stock on such VWAP Trading Day, determined, if practicable, using a volume-weighted average method, by an independent, nationally recognized investment banking firm retained by the Company for this purpose). The Daily VWAP shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

"Default" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"**Designated Senior Debt"** means (a) any Indebtedness outstanding under the Credit Facility and (b) any other Senior Debt the principal amount of which is $25.0 million or more and that has been designated by the Company as Designated Senior Debt.

"DTC" mean The Depository Trust Company.

"Ex-Dividend Date" means, with respect to any issuance, dividend or distribution, the first date on which shares of Common Stock trade on the Relevant Stock Exchange, regular way, without the right to receive such issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of the Common Stock on the Relevant Stock Exchange (in the form of due bills or otherwise) as determined by the Relevant Stock Exchange.

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

"Fundamental Change" means an event that shall be deemed to have occurred any time after the Original Issuance Date when any of the following occurs:

(a) consummation of any transaction (other than a transaction referred to in clause (b) below (without regard to the proviso therein)) as a result of which a "person" or "group" within the meaning of Section 13(d) of the Exchange Act 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;

(b) the consummation of (A) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) pursuant to which the Common Stock would be converted into, or exchanged for, stock, other securities or other property or assets; (B) any share exchange, consolidation, merger or similar event involving the Company pursuant to which the Common Stock will be converted into, or exchanged for, cash, securities or other property; or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one or more of the Company's wholly owned Subsidiaries (any such consolidation, merger, transaction or series of transactions being referred to for purposes of this clause (b) as an **"event"**); *provided* that any such event described in clause (B) above where the holders of all classes of the Company's Voting Stock immediately prior to such event own, directly or indirectly, more than 50% of the Voting Stock of the continuing or surviving Person or transferee or the parent thereof immediately after such event and such holders' proportional voting power immediately after such event vis-à-vis each other with respect to the securities they receive in such event will be in substantially the same proportions as their respective voting power vis-à-vis each other immediately prior to such event shall not constitute a Fundamental Change under this clause (b);

(c) the holders of the Common Stock approve any plan or proposal for the Company's liquidation or dissolution; or

(d) the Common Stock (or other Reference Property into which the Notes are convertible at such time) ceases to be listed or admitted for trading on any Permitted Exchange for more than 15 consecutive days, or the announcement by any Permitted Exchange on which the Common Stock (or such other Reference Property) is then listed or admitted for trading that the Common Stock (or such other Reference Property) will no longer be so listed or admitted for trading for more than 15 consecutive days, unless the Common Stock (or such other Reference Property) has been accepted for listing or admitted for trading on another Permitted Exchange within such period.

Notwithstanding the foregoing, a transaction or a series of transactions as set forth in clause (a) or clause (b) above shall not constitute a "Fundamental Change" if at least 90% of the consideration received or to be received by holders of the Common Stock (excluding cash payments for fractional shares) in connection with such transaction or transactions consists of shares of Common Stock traded on a Permitted Exchange, and as a result of such transaction or transactions, such consideration will constitute Reference Property for the Notes pursuant to Section 10.06.

"GAAP" means generally accepted accounting principles in the United States of America as in effect and, to the extent optional, adopted by the Company from time to time, consistently applied.

"Global Note" means a permanent Global Note that is in the form of the Note attached hereto as Exhibit A and that is deposited with and registered in the name of the Depositary or the nominee of the Depositary.

"Global Securities Legend" means a legend set forth in Exhibit A.

"Holder" or **"Holders"** means a Person or Persons in whose name a Note is registered in the Register.

"Indebtedness" means, with respect to any specified Person, any Indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

(a) in respect of borrowed money; or

(b) evidenced by or issued in exchange for bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof),

if and to the extent any of the preceding items (other than letters of credit) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP.

"Indenture" means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof.

"Initial Purchasers" means the several initial purchasers named in Schedule A of the Purchase Agreement.

"Last Reported Sale Price" of the Common Stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the last bid price and the last ask price or, if more than one in either case, the average of the average last bid prices and the average last ask prices) on such date as reported in composite transactions for the Relevant Stock Exchange, without regard to after-hours or extended market trading; *provided* that if the Common Stock is not listed for trading on any securities exchange or market on the relevant date, the **"Last Reported Sale Price"** of the Common Stock shall equal the average of the last quoted bid and ask prices for the Common Stock in the over-the-counter market on such date as reported by OTC Markets Group Inc. or a similar organization; *provided*, *further*, that if the Common Stock is not so quoted on such date, the **"Last Reported Sale Price"** will be the average of the mid-point of the last bid prices and the last ask prices for the Common Stock on such date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose.

"Make-Whole Fundamental Change" means any Fundamental Change (as defined herein, but without regard to the *proviso* in clause (b) of such definition but, for the avoidance of doubt, subject to the paragraph immediately following clause (d) of such definition).

"Maturity Date" means March 15, 2021.

"Notes" means any of the Company's 2.75% Convertible Subordinated Notes due 2021 issued under this Indenture.

"NYSE Share Cap" means, initially, 1.0272 shares of the Common Stock per $1,000 principal amount of Notes, which was based on an amount equal to (i) 19.99% of the number of shares of the Common Stock outstanding as of March 12, 2014, divided by (ii) the product of (A) the aggregate principal amount of Notes issued on the Original Issuance Date and (B) 25 (which is the number of VWAP Trading Days in an Observation Period); *provided*, that, the "NYSE Share Cap" shall be subject to adjustment in the same manner and at the same time as the Conversion Rate in connection with any transaction or event described in Section 10.05(a).

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Observation Period" means, with respect to any converted Note:

if the Conversion Date for such Note occurs prior to the 30th Scheduled Trading Day immediately preceding the Maturity Date, the 25 consecutive VWAP Trading Day period beginning on, and including, the second Scheduled Trading Day after such Conversion Date; and

if the Conversion Date for such Note occurs on or after the 30th Scheduled Trading Day immediately preceding the Maturity Date, the 25 consecutive VWAP Trading Day period beginning on, and including, the 27th Scheduled Trading Day immediately preceding the Maturity Date.

"Offering Memorandum" means the final offering memorandum for the initial offering and sale of the Notes, dated March 13, 2014.

"Officer" means, with respect to any Person, the Chairman of the Board (if an executive officer), the Chief Executive Officer, the General Counsel, the President, any Executive Vice President, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice President of such Person.

"Officer's Certificate", when used with respect to the Company, means a written certificate (i) containing the information specified in Sections 14.02 and 14.03, signed in the name of the Company by any Officer, and delivered to the Trustee; or (ii) if given pursuant to Section 4.03 or Section 6.01(b), signed by any Officer of the Company, which certificate need not contain the information specified in Sections 14.02 and 14.03.

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

"Opinion of Counsel" means a written opinion containing the information specified in Sections 14.02 and 14.03, from legal counsel. The counsel may be an employee of, or counsel to, the Company who is reasonably satisfactory to the Trustee.

"Original Issuance Date" means the date of original issuance of the Notes.

"Permitted Exchange" means the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or any successor thereto).

"Permitted Junior Securities" means:

(a) Equity Interests in the Company or any of its Subsidiaries; and

(b) debt securities that are subordinated to all Senior Debt and any debt securities issued in exchange for Senior Debt to substantially the same extent as, or to a greater extent than, the Notes are subordinated to Senior Debt under this Indenture.

"Person" means any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

"Purchase Agreement" means that certain purchase agreement, dated as of March 13, 2014, by and between Merrill Lynch, Pierce, Fenner & Smith Incorporated, for itself and as representative of the Initial Purchasers, and the Company.

"Relevant Stock Exchange" means the New York Stock Exchange or, if the Common Stock is not then listed on the New York Stock Exchange, the principal other United States national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a United States national or regional securities exchange, the principal other market on which the Common Stock is then traded.

"**Representative**" means the indenture trustee or other trustee, agent or representative in respect of any Designated Senior Debt; *provided* that if, and for so long as, any Designated Senior Debt lacks such a representative, then the Representative for such Designated Senior Debt shall at all times constitute the holders of a majority in outstanding principal amount of such Designated Senior Debt in respect of any Designated Senior Debt.

"**Restricted Securities Legend**" means a legend in the form set forth in Exhibit A, or any other substantially similar legend indicating the restricted status of the Notes under Rule 144.

"Restricted Stock Legend" means a legend in the form set forth in Exhibit B, or any other substantially similar legend indicating the restricted status of any shares of Common Stock issued upon conversion of the Notes under Rule 144.

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

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

"Scheduled Free Trade Date" means the one year anniversary of the Original Issuance Date.

"Scheduled Trading Day" means (i) a day that is scheduled to be a Trading Day on the Relevant Stock Exchange, or (ii) if the Common Stock is not listed or admitted for trading on any exchange or market, a Business Day.

"SEC" means the Securities and Exchange Commission.

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

"**Senior Debt**" means all of the Company's Indebtedness under the Credit Facility, any other Indebtedness of the Company now existing or incurred in the future, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the Notes, and all Obligations with respect to any of the foregoing.

Notwithstanding the foregoing, "Senior Debt" shall not include:

(i) any liability for federal, state, local or other taxes owed or owing by the Company;

(ii) any intercompany Indebtedness of the Company or any of its Subsidiaries to the Company or any of its Affiliates;

(iii) any trade payables;

(iv) Indebtedness which is classified as non-recourse in accordance with GAAP or any unsecured claim arising in respect thereof by reason of the application of section 1111(b)(1) of the Bankruptcy Code; or

(v) the Company's existing 7% convertible junior subordinated debentures due 2029, which shall rank equally with the Notes.

"Significant Subsidiary" means, with respect to any Person, a Subsidiary that is a "significant subsidiary" of such Person within the meaning of Rule 1-02(w) of Regulation S-X promulgated under the Exchange Act.

"Stated Maturity" means, with respect to any installment of interest or principal (including any sinking fund payment) on any series of Indebtedness, the date on which payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for their payment.

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

"TIA" means the Trust Indenture Act of 1939, as amended on or before the Original Issuance Date, *provided, however,* that if the TIA is amended after such date, TIA means, to the extent required by any such amendment, the TIA as so amended.

"Trading Day" means (i) a day on which (a) trading in the Common Stock generally occurs on the Relevant Stock Exchange and (b) a Last Reported Sale Price for the Common Stock is available, or (ii) if the Common Stock is not listed or traded on any exchange or other market, a Business Day.

"Trading Price" per $1,000 principal amount of the Notes on any date of determination means the average (per $1,000 principal amount of Notes) of the secondary market bid quotations obtained by the Company for $5,000,000 principal amount of Notes at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers selected by the Company; *provided* that, if three such bids cannot reasonably be obtained by the Company but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can reasonably be obtained by the Company, that one bid shall be used; *provided*, *further*, that (i) if the Company cannot reasonably obtain at least one bid for $5,000,000 principal amount of the Notes from an independent nationally recognized securities dealer, then the Trading Price per $1,000 principal amount of Notes shall be deemed to be less than 98% of the Intrinsic Value of the Notes for such determination date and (ii) if the Company does not obtain bids when required under Section 10.01(b)(ii)(A) or the Company fails to determine the Trading Price, the Trading Price per $1,000 principal amount of the Notes shall be deemed to be less than 98% of the Intrinsic Value of the Notes on each day of such failure.

"Trust Officer" means any officer within the Corporate Trust Office of the Trustee (or any successor group of the Trustee) located at the Corporate Trust Office of the Trustee with direct responsibility for the administration of this Indenture and also means, with respect to a particular corporate trust matter hereunder, and for the purposes of Section 7.01(c)(ii) and the proviso in Section 7.05 shall also include any other officer of the Trustee to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

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

"Uniform Commercial Code" means the New York Uniform Commercial Code as in effect from time to time.

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

"VWAP Market Disruption Event" means (i) the Relevant Stock Exchange fails to open for trading or (ii) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled

Trading Day for the Common Stock for more than a one half-hour period in the aggregate during regular trading hours, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the Relevant Stock Exchange or otherwise) in the Common Stock or in any options contracts or future contracts relating to the Common Stock.

"VWAP Trading Day" means (i) a day on which (a) there is no VWAP Market Disruption Event and (b) trading in the Common Stock generally occurs on the Relevant Stock Exchange or (ii) if the Common Stock (or any other security for which a Daily VWAP must be determined) is not so listed or traded, a Business Day.

Section 1.02 Other Definitions.

Term Section:	**Defined in Section:**
"Act"	1.04
"Additional Shares"	10.07(a)
"Cash Merger"	10.07(e)
"Cash Percentage"	10.03(b)(i)
"Cash Settlement Election"	10.03(b)(i)
"Clause A Distribution"	10.05(c)
"Clause B Distribution"	10.05(c)
"Clause C Distribution"	10.05(c)
"Company's Filing Obligations"	6.01(c)
"Consummation Time"	10.05(e)
"Conversion Agent"	2.04
"Conversion Date"	10.02(b)
"Conversion Excess Obligation"	10.03(b)(i)
"Conversion Obligation"	10.01(a)
"Conversion Rate"	10.01(a)
"Defaulted Interest"	11.02
"Depositary"	2.02(a)
"Distributed Property"	10.05(c)(i)
"Effective Date"	10.05(a)
"Event of Default"	6.01(a)
"Expiration Date"	10.05(e)
"Fundamental Change Notice"	3.02
"Fundamental Change Notice Date"	3.02
"Fundamental Change Purchase Date"	3.01
"Fundamental Change Purchase Notice"	3.03(a)
"Fundamental Change Purchase Price"	3.01
"Initial Dividend Threshold"	10.05(d)
"Interest Payment Date"	11.01
"Intrinsic Value"	10.01(b)(ii)
"Make-Whole Fundamental Change Effective Date"	10.07(a)
"Maximum Conversion Rate"	10.07(d)
"Measurement Period"	10.01(b)(ii)

Term Section:	**Defined in Section:**
"Notice of Conversion"	10.02(a)
"Paying Agent"	2.04
"Payment Blockage Notice"	13.03(a)(ii)
"Record Date"	11.01
"Reference Property"	10.06(a)(iv)
"Register"	2.04
"Registrar"	2.04
"Required NYSE Stockholder Approval"	10.03(c)
"Resale Restriction Termination Date"	2.06(e)(ii)
"Restricted Notes"	2.06(e)(i)
"Sale Price Condition"	10.01(b)(i)
"Settlement Amount"	10.03(a)
"Settlement Method"	10.03(b)(i)
"Settlement Method Notice"	10.03(b)(iv)
"Share Exchange Event"	10.06(a)
"Special Record Date"	11.02(a)
"Specified Corporate Transaction"	10.01(b)(iv)
"Specified Corporate Transaction Notice"	10.01(b)(iv)
"Spin-Off"	10.05(c)(ii)
"Stock Price"	10.07(b)
"Successor Company"	5.01(a)
"Temporary Notes"	2.09
"Trading Price Condition"	10.01(b)(ii)
"Trigger Event"	10.05(c)
"Unit of Reference Property"	10.06(a)
"Valuation Period"	10.05(c)(ii)

Section 1.03 Rules of Construction.

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it and shall be construed in accordance with GAAP;

(c) **"or"** is not exclusive;

(d) **"including," "includes"** and **"include"** shall be deemed to be followed by the words "without limitation";

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

(f) unless the context otherwise requires, any reference to an "Article," a "Section" or an "Exhibit" refers to an Article, a Section or an Exhibit, as the case may be, of this Indenture;

(g) words in the singular include the plural, and words in the plural include the singular;

(h) all references to $, dollars, cash payments or money refer to United States currency; and

(i) unless the context requires otherwise, all references to payments of interest on the Notes shall include Additional Interest, if any, payable in accordance with the terms of Sections 4.02 or 6.01, as applicable.

Section 1.04 Acts of Holders. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee or to the Company, as applicable. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the **"Act"** of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 1.04. Notwithstanding anything herein to the contrary, evidence of consents, waivers, demands or other actions with respect to a Global Note shall be sufficient if done in accordance with Applicable Procedures.

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

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

(iii) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed,

such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the Close of Business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Notes shall be computed as of such record date; *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

ARTICLE II.
THE NOTES

Section 2.01 Designation and Amount. The Notes shall be designated as the "2.75% Convertible Subordinated Notes due 2021." The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is initially limited to $143,750,000, subject to Section 2.14 and except for Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes to the extent expressly permitted hereunder.

Section 2.02 Form and Dating. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A, which is a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage (*provided* that any such notation, legend or endorsement required by usage is in a form acceptable to the Company). 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. Except as otherwise expressly permitted in this Indenture, all Notes shall have the same terms and be considered part of the same class of securities for all purposes. Notwithstanding any differences among them, all Notes issued under this Indenture shall vote and consent together on all matters as one class.

(a) *Initial Notes*. The Notes initially shall be issued in the form of one Global Note that shall be deposited with the Trustee at its Corporate Trust Office, as custodian for the Depositary and registered in the name of DTC or the nominee thereof (DTC, or any successor thereto, being hereinafter referred to as the **"Depositary"**), duly executed by the Company and authenticated by the Trustee as hereinafter provided.

(b) *Global Notes in General*. Each Global Note shall represent the outstanding Notes as shall be specified therein and each Global Note shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, purchases by the Company and conversions.

Any adjustment of the aggregate principal amount of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee in accordance with instructions given by the Holder thereof as required by Section 2.11 hereof and shall be made on the records of the Trustee and the Depositary. Payment of the principal, accrued and unpaid interest, if any, or payment of the Fundamental Change Purchase Price on the Global Note shall be

made to the Holder of such Note on the date of payment, unless a record date or other means of determining Holders eligible to receive payment is provided for herein.

(c) *Book-Entry Provisions*. This Section 2.02(c) shall apply only to Global Notes deposited with or on behalf of the Depositary. The Company shall execute and the Trustee shall, in accordance with Section 2.03, authenticate and deliver Global Notes that (i) shall be registered in the name of the Depository or the nominee of the Depositary and (ii) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary's instructions.

(d) *Legends*. Each Global Note shall bear the Global Securities Legend set forth in Exhibit A unless otherwise directed by the Company.

Section 2.03 Execution and Authentication. The Notes shall be executed on behalf of the Company by any Officer. The signature of the Officer on the Notes may be manual or facsimile. If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

At any time, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, and the Trustee, in accordance with such Company Order, shall authenticate and deliver such Notes.

A Note shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

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

The Trustee may appoint authenticating agents. The Trustee may at any time after the Original Issuance Date appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so, except any Notes issued pursuant to Section 2.07 hereof. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent shall have the same right to deal with the Company as the Trustee with respect to such matters for which it has been appointed.

Section 2.04 Registrar, Paying Agent and Conversion Agent. The Company shall maintain within the continental United States an office or agency where Notes may be presented for registration of transfer or for exchange (**"Registrar"**), an office or agency in where Notes may be presented for payment (**"Paying Agent"**), an office or agency where Notes may be presented for conversion (**"Conversion Agent"**). The Registrar shall keep a register for the recordation of, and shall record, the names and addresses of Holders of the Notes, the Notes held by each Holder and the transfer, exchange and conversion of Notes (the **"Register"**). The entries in the Register shall

be conclusive, and the parties may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Holder hereunder for all purposes of this Indenture. The Company may have one or more co-registrars, one or more additional paying agents and one or more additional conversion agents. The term Paying Agent includes any such additional paying agents. The term Conversion Agent includes any such additional conversion agents.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent, Conversion Agent or co-registrar not a party to this Indenture, which (i) shall implement the provisions of this Indenture relating to such agent and (ii) in the case of the Paying Agent, shall include the provisions set forth in Section 4.05. The Company shall promptly notify the Trustee of the name and address of any such agent, and of any change therein. If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, any presentations and surrenders required to be made by, or at the office of, any such agent may be made or served at the Corporate Trust Office or in accordance with Section 14.01; *provided* that the Trustee shall be entitled to appropriate compensation therefor pursuant to Section 7.06. The Company may act as Paying Agent, Registrar, Conversion Agent or co-registrar.

The Company initially appoints the Trustee as the Paying Agent, the Conversion Agent, and the Registrar, in connection with the Notes, and the Corporate Trust Office to be such office or agency of the Company for the aforesaid purposes. The Company may at any time rescind the designation of the Paying Agent, Conversion Agent or the Registrar or approve a change in the location through which any of them acts; *provided* that the Paying Agent, Conversion Agent and Registrar must be located within the continental United States.

Section 2.05 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee, promptly after each Record Date, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

Section 2.06 Transfer and Exchange.

(a) Subject to Section 2.11 hereof, upon surrender for registration of transfer of any Note, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Holder or such Holder's attorney-in-fact duly authorized in writing, at the office or agency of the Company-designated Registrar or co-Registrar pursuant to Section 2.04, (i) the Company shall execute, and the Trustee (or any authenticating agent) shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denomination or denominations, of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture and (ii) the Registrar shall record the information required pursuant to Section 2.04 regarding the designated transferee or transferees in the Register. No service charge shall be imposed by the Company, the Trustee, the Registrar, any co- Registrar or the Paying Agent for any registration of transfer or exchange of Notes, but the Company may require a Holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required in connection therewith as a result of the name of the Holder of new Notes issued upon such exchange or registration of transfer being different from the name of the Holder of the old Notes surrendered for registration of transfer or exchange.

The Company shall not be required to make, and the Registrar need not register, transfers or exchanges of any Note (x) surrendered for conversion or (y) in respect of which a Fundamental Change Purchase Notice has been given and not validly withdrawn by the Holder thereof in accordance with the terms of this Indenture (except, in the case of a Note to be converted or purchased in part by the Company, the portion of such Note not to be so converted or purchased).

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

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

(d) Any Registrar appointed pursuant to Section 2.04 shall provide to the Trustee such information as the Trustee may reasonably require in connection with the delivery by such Registrar of Notes upon transfer or exchange of Notes.

(e) *Transfer Restrictions*.

(i) Every Note that bears or is required under this Section 2.06(e) to bear the Restricted Securities Legend (the **"Restricted Notes"**) shall be subject to the restrictions on transfer set forth in this Section 2.06(e) and such legend unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Company, and the Holder of each such Restricted Note, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer. If a request is made to remove the Restricted Securities Legend from any Restricted Note prior to the Resale Restriction Termination Date, the legend shall not be removed unless there is delivered to the Company and the Registrar such certificates, legal opinions and other information as they may reasonably require confirming that such Notes, upon such transfer, will not be "restricted" within the meaning of Rule 144. In such a case, upon (1) provision of such certificates, legal opinions and/or other information, or (2) notification by the Company to the Trustee and Registrar of the sale of such Note pursuant to a registration statement that is effective at the time of such sale, the Trustee, pursuant to a Company Order, shall authenticate and deliver a Note that does not bear the Restricted Securities Legend.

(ii) Except as provided elsewhere in this Indenture, until the later of (x) the date that is one year after the Original Issuance Date or such shorter period of time as permitted by Rule 144 or any successor provision thereto and (y) such other date as may be required by applicable law (such date the **"Resale Restriction Termination Date"**), any certificate evidencing such Notes (and all securities issued in exchange therefor or substitution thereof, other than Common Stock, if any, issued upon conversion thereof, which shall bear the Restricted Stock Legend, if applicable) shall bear the Restricted Securities Legend unless (I) such Notes have been transferred (1) under a registration statement that has been declared effective under the Securities Act, or (2) in accordance with Rule 144, or (II) such

requirement is waived by the Company. The Company shall notify the Trustee of any Resale Restriction Termination Date. From and after the Resale Restriction Termination Date, the restrictions specified in the Restricted Securities Legend shall be deemed eliminated.

(iii) No transfer of any Restricted Note will be registered by the Registrar unless the applicable box on the Form of Transfer Certificate attached to such Restricted Note has been checked and such certificates, legal opinions and other information as reasonably required by the Registrar or Company confirming that the applicable condition to transfer has been satisfied have been provided.

(f) *Legends on the Common Stock.* Except as provided elsewhere in this Indenture (including, without limitation, Section 2.06(i) below), until the later of (x) the Scheduled Free Trade Date and (y) the date that is three months after the holder of such shares of Common Stock ceases to be an Affiliate of the Company (if applicable), any stock certificate representing shares of the Common Stock issued upon conversion of any Notes shall bear the Restricted Stock Legend unless (A) such Notes or such Common Stock, as applicable, has been transferred (i) under a registration statement that has been declared effective under the Securities Act; or (ii) in accordance with Rule 144 under the Securities Act or (B) such requirement is waived by the Company.

(g) The Company shall not permit any of its Affiliates to sell any Note or Common Stock issued upon the conversion of a Note, unless upon such resale such security will no longer be a "restricted security" (as defined in Rule 144 under the Securities Act). If the Restricted Securities Legend is removed from the face of a Note and the Note is subsequently held by an Affiliate of the Company, the Restricted Securities Legend shall be reinstated.

(h) Any Note (or security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of such Note for exchange to the Registrar in accordance with the provisions of this Section 2.06, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the Restricted Securities Legend and shall not be assigned a restricted CUSIP number. The Company shall be entitled to instruct the custodian for the Depositary (or its nominee) in writing to so surrender any Global Note as to which such restrictions on transfer shall have expired in accordance with their terms for exchange, and, upon such instruction, such custodian shall so surrender such Global Note for exchange; and any new Global Note so exchanged therefor shall not bear the Restricted Securities Legend and shall not be assigned a restricted CUSIP number.

(i) Notwithstanding anything contained herein to the contrary, neither the Trustee nor the Registrar shall be responsible for ascertaining whether any transfer complies with the registration provisions of or exemptions from the Securities Act, applicable state securities laws, ERISA (or, in the case of a governmental plan or a church plan (as described in ERISA Sections 3(32) and 3(33), respectively) any substantially similar federal, state or local law), the Code or the Investment Company Act of 1940, as amended.

(j) Any shares of Common Stock delivered upon the conversion of any Note to any Person that is not, and for at least three months has not been, an Affiliate of the Company shall be issued without any Restricted Stock Legend if (x) such conversion occurs after the Scheduled Free Trade Date or (y) such Note otherwise does not, or would not be required hereunder to, bear the Restricted Securities Legend.

Section 2.07 Replacement Notes. If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that such Note has been lost, destroyed or stolen and the Holder provides evidence of the loss, theft or destruction reasonably satisfactory to the Company and the Trustee, the Company shall issue, and the Trustee shall authenticate, a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met and the Holder satisfies any other reasonable requirements of the Trustee. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond reasonably sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss that any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

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

Every new Note issued pursuant to this Section 2.07 in exchange for any mutilated Note, or in lieu of any destroyed, lost or stolen Note, shall constitute an original additional contractual obligation of the Company and any other obligor upon the Notes, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of (and shall be subject to all the limitations set forth in) this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

Section 2.08 Outstanding Notes. Notes outstanding at any time include and are limited to all Notes authenticated by the Trustee except (i) Notes cancelled by the Trustee or required to be delivered to the Trustee for cancellation in accordance with Section 2.10, (ii) Notes, or portions thereof, the principal of which has become due and payable on the Maturity Date, on a Fundamental Change Purchase Date or otherwise, and in respect of which monies in the necessary amount shall have been deposited in trust with the Trustee or with any Paying Agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent), (iii) Notes, or portions thereof, that have been converted pursuant to Article X and that are required to be cancelled pursuant to Section 2.10 and (iv) Notes repurchased by the Company, directly or indirectly, whether by the Company or its Subsidiaries, pursuant to Section 2.14 (other than Notes repurchased pursuant to cash-settled swaps or other derivatives). For the purpose of determining whether the Holders of the requisite principal amount of Notes have given or concurred in any request, demand, authorization, direction, notice, consent, waiver or other action hereunder (including, without limitation, determinations pursuant to Articles VI and IX) only outstanding Notes shall be considered in any such determination. In addition, for the purpose of any such determination, Notes that are owned by the Company, by any Subsidiary thereof or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Subsidiary thereof shall be disregarded and deemed not to be outstanding for the purpose of any such determination; *provided* that for the purposes of determining

whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action only Notes that a Trust Officer knows are so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as outstanding for the purposes of this Section 2.08 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to so act with respect to such Notes and that the pledgee is not the Company, a Subsidiary thereof or a Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or a Subsidiary thereof. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 2.09 Temporary Notes. Until Certificated Notes are ready for delivery, the Company may execute and the Trustee or an authenticating agent appointed by the Trustee shall, upon written request of the Company, authenticate and deliver temporary Notes (printed or lithographed) (**"Temporary Notes"**). Temporary Notes shall be issuable in any authorized denomination, and substantially in the form of Certificated Notes but with such omissions, insertions and variations as may be appropriate for temporary Notes, all as may be determined by the Company. Every such Temporary Note shall be executed by the Company and authenticated by the Trustee or such authenticating agent upon the same conditions and in substantially the same manner, and with the same effect, as the Certificated Notes. Without unreasonable delay the Company will prepare, execute and deliver to the Trustee or such authenticating agent Certificated Notes (other than any Global Note) and thereupon any or all Temporary Notes (other than any Global Note) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 2.04 and the Trustee or such authenticating agent shall authenticate and deliver in exchange for such Temporary Notes an equal aggregate principal amount of Certificated Notes. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the Temporary Notes shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Certificated Notes authenticated and delivered hereunder.

Section 2.10 Cancellation. The Company shall cause all Notes surrendered for the purpose of payment, repurchase (including pursuant to Section 3.01 or Section 2.14, other than Notes repurchased pursuant to cash-settled swaps or other derivatives), registration of transfer or exchange or conversion, if surrendered to any Person other than the Trustee (including any of the Company's agents, Subsidiaries or Affiliates), to be delivered to the Trustee for cancellation. All Notes delivered to the Trustee shall be canceled promptly by it, and no Notes shall be authenticated in exchange therefor except as expressly permitted by any of the provisions of this Indenture. The Trustee shall cancel Notes in accordance with its customary procedures and, after such cancellation, shall deliver a certificate of such disposition to the Company, at the Company's written request in a Company Order.

Section 2.11 Persons Deemed Owners. Prior to due presentment of a Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Note is registered in the Register as the owner of such Note for the purpose of receiving payment of principal, interest, if any, or payment of the Fundamental Change Purchase Price, for the purpose of conversion and for all other purposes whatsoever, subject to Section 2.06(i), Section 2.08 and Section 2.12(a)(ii), whether or not such Note be overdue, and

neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 2.12 Transfer of Notes.

(a) Notwithstanding any other provisions of this Indenture or the Notes, (A) any transfer of a Global Note, in whole or in part, shall be made only in accordance with Sections 2.06 and 2.12(a)(i); and (B) any exchange of a beneficial interest in a Global Note for a Certificated Note shall comply with Sections 2.06 and 2.12(a)(ii). All such transfers and exchanges shall comply with the Applicable Procedures to the extent so required.

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

(ii) *Restrictions on Exchange of a Beneficial Interest in a Global Note for a Certificated Note*. Unless the Company and the applicable Holder otherwise agree, a Certificated Note will be issued and delivered:

(A) to each Person that DTC identifies as a beneficial owner of the related Notes only if (a) DTC notifies the Company that it is unwilling or unable to continue as Depositary for the Global Notes and a successor Depositary is not appointed by the Company within 90 days of such notice; or (b) DTC ceases to be registered as a clearing agency under the Exchange Act and a successor Depositary is not appointed by the Company within 90 days of such cessation; or

(B) if an Event of Default has occurred and is continuing, to each beneficial owner who requests that its beneficial interests in the Notes be exchanged for Certificated Notes.

In connection with the exchange of an entire Global Note for Certificated Notes pursuant to this Section 2.12(a)(ii), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and upon Company Order the Trustee shall authenticate and deliver, to each beneficial owner identified by DTC in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Certificated Notes of authorized denominations.

(b) Upon receipt by the Registrar of instructions from the Holder of a Global Note pursuant to Section 2.12(a) above directing the Registrar to (x) issue one or more Certificated Notes in the amounts specified to the owner of a beneficial interest in such Global Note and (y) debit or cause to be debited an equivalent amount of beneficial interest in such Global Note, subject to the Applicable Procedures:

(i) the Registrar shall notify the Company and the Trustee of such instructions and identify the owner of and the amount of such beneficial interest in such Global Note;

(ii) the Company shall promptly execute, and upon Company Order, the Trustee shall authenticate and deliver, to such beneficial owner Certificated Note(s) in an equivalent amount to such beneficial interest in such Global Note; and

(iii) the Registrar shall decrease such Global Note by such amount in accordance with the foregoing.

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

(i) Upon receipt by the Trustee of a Certificated Note, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with written instructions directing the Trustee to make, or to direct the Registrar to make, an adjustment on its books and records with respect to such Global Note to reflect an increase in the aggregate principal amount of the Notes represented by the Global Note, such instructions to contain information regarding the Depositary account to be credited with such increase, then the Trustee shall cancel such Certificated Note and cause, or direct the Registrar to cause, in accordance with the standing instructions and procedures existing between the Depositary and the Registrar, the aggregate principal amount of Notes represented by the Global Note to be increased by the aggregate principal amount of the Certificated Note to be exchanged, and shall credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Global Note equal to the principal amount of the Certificated Note so cancelled. If no Global Notes are then outstanding, the Company shall issue and the Trustee shall authenticate, upon written order of the Company in the form of an Officer's Certificate, a new Global Note in the appropriate principal amount.

(ii) None of the Trustee, the Paying Agent, the Registrar or the Conversion Agent shall have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among DTC participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(iii) None of the Trustee, the Paying Agent, the Registrar or the Conversion Agent shall have any responsibility or obligation to any beneficial owner in a Global Note, a DTC participant or other Person with respect to the accuracy of the records of DTC or its nominee or of any DTC participant, with respect to any ownership interest in the Notes or with respect to the delivery to any DTC participant, beneficial owner or other Person (other than DTC) of any notice or the payment of any amount, under or with respect to such Notes. All notices

and communications to be given to the Holders and all payments to be made to Holders under the Notes and this Indenture shall be given or made only to or upon the order of the registered Holders (which shall be DTC or its nominee in the case of the Global Note). The rights of beneficial owners in the Global Note shall be exercised only through DTC subject to the Applicable Procedures. The Trustee, the Paying Agent, the Registrar and the Conversion Agent shall be entitled to rely and shall be fully protected in relying upon information furnished by DTC with respect to its members, participants and any beneficial owners. The Trustee, the Paying Agent, the Registrar and the Conversion Agent shall be entitled to deal with DTC, and any nominee thereof, that is the registered Holder of any Global Note for all purposes of this Indenture relating to such Global Note (including the payment of principal and interest and the giving of instructions or directions by or to the owner or holder of a beneficial ownership interest in such Global Note) as the sole holder of such Global Note and shall have no obligations to the beneficial owners thereof. None of the Trustee, the Paying Agent, the Registrar or the Conversion Agent shall have any responsibility or liability for any acts or omissions of DTC with respect to such Global Note, for the records of any such Depositary, including records in respect of beneficial ownership interests in respect of any such Global Note, for any transactions between the DTC and any DTC participant or between or among DTC, any such DTC participant and/or any holder or owner of a beneficial interest in such Global Note, or for any transfers of beneficial interests in any such Global Note.

(iv) Notwithstanding the foregoing, with respect to any Global Note, nothing herein shall prevent the Company, the Trustee, or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by DTC (or its nominee), as a Holder, with respect to such Global Note or shall impair, as between DTC and owners of beneficial interests in such Global Note, the operation of customary practices governing the exercise of the rights of DTC (or its nominee) as Holder of such Global Note.

Section 2.13 CUSIP and ISIN Numbers.

(a) The Company, in issuing the Notes, shall use restricted CUSIP, ISIN or other similar numbers for such Notes (if then generally in use) until such time as the Restricted Securities Legend is removed therefrom. At such time as the legend is removed from such Notes, the Company will use an unrestricted CUSIP number for such Note, but only with respect to the Notes where so removed. The Company and the Trustee may use CUSIP, ISIN or other similar numbers in notices as a convenience to Holders; *provided*, *however*, that neither the Company nor the Trustee shall have any responsibility for any defect in the CUSIP, ISIN or other similar number that appears on any Note, check, advice of payment or notice, and 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 action taken in connection with such a notice shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee in the event of any change in the CUSIP, ISIN or other similar numbers.

(b) Until such time as the Restricted Stock Legend is no longer required to be borne by any shares of Common Stock issued upon the conversion of the Notes pursuant to Section 2.06(f) or otherwise, any shares of Common Stock issued upon conversion of the Notes shall bear a restricted CUSIP number. At such time as the Restrictive Stock Legend is no longer required to be borne by any shares of Common Stock issued upon the conversion of the Notes pursuant to Section 2.06(f) or otherwise, any shares of Common Stock issued upon conversion of the Notes shall bear an unrestricted CUSIP number.

Section 2.14 Additional Notes; Repurchases. The Company may, without the consent of the Holders and notwithstanding Section 2.01, reopen this Indenture and issue additional Notes with the same terms as the Notes initially issued hereunder (other than as to interest accrual dates and transfer restrictions) in an unlimited aggregate principal amount, *provided* that if any such additional Notes are not fungible with the Notes initially issued hereunder for U.S. federal income tax purposes, such additional Notes shall have a separate CUSIP number. Prior to the issuance of any such additional Notes, the Company shall deliver to the Trustee a Company Order and an Officer's Certificate, which shall cover such matters, in addition to those required by Section 14.03, as the Trustee shall reasonably request. In addition, upon the reasonable request of the Trustee, the Company shall furnish to the Trustee an Opinion of Counsel which shall cover the matters required by Section 14.03. The Company may, to the extent permitted by law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or its Subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash settled swaps or other derivatives.

ARTICLE III.
FUNDAMENTAL CHANGE PURCHASE RIGHT

Section 3.01 Fundamental Change Permits Holders to Require Company to Purchase Notes.

If a Fundamental Change occurs at any time, each Holder shall have the right, at its option, to require the Company to purchase for cash any or all of its Notes, or any portion of the principal amount thereof, that is equal to $1,000 or an integral multiple of $1,000 in excess thereof, on a date (the **"Fundamental Change Purchase Date"**) specified by the Company in the Fundamental Change Purchase Notice for such Fundamental Change and that is not less than 20 Business Days nor more than 35 Business Days immediately following the date on which the Company delivers the Fundamental Change Purchase Notice for such relevant Fundamental Change, at a price (the **"Fundamental Change Purchase Price"**) equal to 100% of the principal amount of the Note to be purchased, plus accrued and unpaid interest, if any, to, but excluding, the Fundamental Change Purchase Date; *provided, however*, that if the Fundamental Change Purchase Date occurs after a Record Date for the payment of interest, and on or prior to the corresponding Interest Payment Date, the Company shall pay the full amount of accrued and unpaid interest payable on such Interest Payment Date, if any, to the Holder of record of such Note on such Record Date and the Fundamental Change Purchase Price shall instead be equal to 100% of the principal amount of such Note.

Section 3.02 Fundamental Change Purchase Right Notice. On or before the 5th Business Day immediately following the occurrence of a Fundamental Change, the Company shall deliver written notice to each Holder, the Trustee and the Paying Agent of such Fundamental Change and the resulting purchase right (the **"Fundamental Change Notice,"** and the date of such mailing, the **"Fundamental Change Notice Date"**). Such Fundamental Change Notice shall state:

(a) the events causing the relevant Fundamental Change and whether or not such event also constitutes a Make-Whole Fundamental Change;

(b) the date of such Fundamental Change;

(c) the last date on which a Holder may exercise its right to require the Company to purchase such Holder's Notes under this Article III;

(d) the Fundamental Change Purchase Price;

(e) the Fundamental Change Purchase Date;

(f) the name and address of the Paying Agent and the Conversion Agent, if applicable;

(g) the Conversion Rate in effect on the Fundamental Change Notice Date and, if applicable, any adjustment that will be made to the Conversion Rate for a Holder that converts its Notes in connection with such Make-Whole Fundamental Change pursuant to Section 10.07;

(h) that the Fundamental Change Purchase Price for any Notes as to which a Fundamental Change Purchase Notice has been duly tendered and not withdrawn will be paid on the later of the Fundamental Change Purchase Date and the time of book-entry transfer or delivery of such Notes;

(i) that payment may be collected only if the Notes to be purchased are surrendered to the Paying Agent;

(j) the procedures the Holder must follow to exercise its right to require the Company to purchase such Holder's Notes under this Article III and the procedures that a Holder must follow to convert its Note pursuant to Article X;

(k) the conversion rights of the Notes, including an explanation that a condition to conversion has been satisfied;

(l) that any Holder may convert Notes with respect to which a Fundamental Change Purchase Notice has been given only if such Holder validly withdraws such Fundamental Change Purchase Notice in accordance with the terms of this Indenture;

(m) the procedures for withdrawing a Fundamental Change Purchase Notice;

(n) that unless the Company defaults in making payment of such Fundamental Change Purchase Price on the Notes surrendered for purchase by the Company, interest, if any, on Notes for which a Fundamental Change Purchase Notice has been validly given and not withdrawn will cease to accrue on and after the Fundamental Change Purchase Date;

(o) the CUSIP, ISIN or other similar numbers, if any, assigned to such Notes; and

(p) such other information as the Company reasonably determines is appropriate to include therein.

Section 3.03 Fundamental Change Purchase Notice.

(a) To exercise its purchase right upon the occurrence of a Fundamental Change under Section 3.01, a Holder or beneficial owner of a Note, as the case may be, must (i) deliver, on or before the Business Day immediately preceding the Fundamental Change Purchase Date, the Notes to be purchased, duly endorsed for transfer, together with the duly completed "Form of Fundamental Change Purchase Notice" on the reverse side of the Notes that such Holder is tendering for purchase (such notice, a **"Fundamental Change Purchase Notice"**) to the Paying Agent if the Notes that such Holder is delivering for purchase are Certificated Notes, or (ii) comply with the Applicable Procedures if the Notes (or portions thereof) being delivered for purchase are Global Notes. The Fundamental Change Purchase Notice must state:

(i) if the Notes being delivered for purchase are Certificated Notes, the certificate numbers of such Notes;

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

(iii) that such Notes shall be purchased by the Company pursuant to the terms and conditions specified in this Article III and the Notes.

(b) In the case of Certificated Notes, unless and until the Paying Agent receives a validly endorsed and delivered Fundamental Change Purchase Notice, together with any Notes to which such Fundamental Change Purchase Notice pertains, in a form that conforms with the description contained in such Fundamental Change Purchase Notice in all material aspects, the Holder submitting the Notes shall not be entitled to receive the Fundamental Change Purchase Price for such Notes. Global Notes must be tendered for purchase in accordance with Applicable Procedures to be entitled to receive the Fundamental Change Purchase Price.

(c) After delivering a Fundamental Change Purchase Notice to the Paying Agent, a Holder may withdraw such Fundamental Change Purchase Notice (in whole or in part) by delivering to the Paying Agent a written notice of withdrawal at any time prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Purchase Date. Such notice of withdrawal shall state:

(i) the principal amount of any Notes with respect to which the Fundamental Change Purchase Notice is to be withdrawn, which must equal $1,000 or an integral multiple thereof;

(ii) if the Notes to be withdrawn are Certificated Notes, the certificate numbers of the Notes to be withdrawn; and

(iii) the principal amount, if any, which amount must equal $1,000 or an integral multiple thereof, that remains subject to the original Fundamental Change Purchase Notice.

In the case of a Global Note, the beneficial owner of an interest therein who has surrendered such interest for repurchase pursuant to this Article III must comply with Applicable Procedures to withdraw such repurchase request.

Section 3.04 Effect of Fundamental Change Purchase Notice.

(a) If a Holder validly delivers to the Paying Agent a Fundamental Change Purchase Notice (together with all necessary endorsements) with respect to a Note, such Holder may no longer convert such Note unless and until such Holder validly withdraws such Fundamental Change Purchase Notice in accordance with Section 3.03(c) above.

(b) Upon the Paying Agent's receipt of (x) a valid Fundamental Change Purchase Notice (together with all necessary endorsements) and (y) the Notes to which such Fundamental Change Purchase Notice pertains, the Holder of the Notes to which such Fundamental Change Purchase Notice pertains shall be entitled, except to the extent such Holder has validly withdrawn such Fundamental Change Purchase Notice in accordance with Section 3.03(c) above, to receive the Fundamental Change Purchase Price with respect to such Notes promptly on the later of (i) the Fundamental Change Purchase Date and (ii) if the Notes are Certificated Notes, the date of delivery of such Notes to the Paying Agent, or, if the Notes are Global Notes, the date of book-entry transfer.

(c) If, on the Fundamental Change Purchase Date, the Paying Agent holds money sufficient to pay the Fundamental Change Purchase Price of all of the Notes for which the Holders thereof have tendered and not validly withdrawn a Fundamental Change Purchase Notice in accordance with Section 3.03 above:

(i) such Notes shall cease to be outstanding and interest shall cease to accrue thereon (whether or not book-entry transfer of such Notes is made or whether or not such Notes are delivered to the Paying Agent, as the case may be); and

(ii) all other rights of the Holders with respect to the tendered Notes shall terminate (other than the right to receive payment of the Fundamental Change Purchase Price upon delivery or transfer of the Notes).

Section 3.05 Deposit of Fundamental Change Purchase Price. Prior to 11:00 a.m., New York City time, on the Fundamental Change Purchase Date, the Company shall deposit with the Trustee or with the Paying Agent (or, if the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 4.05(b)) an amount of cash (in immediately available funds if deposited on such Business Day), sufficient to pay the aggregate Fundamental Change Purchase Price of all the Notes or portions thereof which are to be purchased as of the Fundamental Change Purchase Date. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent

appointed by the Company), payment for Notes surrendered for purchase (and not withdrawn prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Purchase Date) will be made on the later of (i) the Fundamental Change Purchase Date (*provided* the Holder has satisfied the conditions in Section 3.03) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 3.03 by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Register; *provided, however*, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee.

Section 3.06 Notes Purchased in Part. Any Certificated Note that is to be purchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney-in-fact 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 which is not purchased, or in the case of a Global Note, the Company shall instruct the Registrar to decrease such Global Note by the principal amount of the purchased portion of the Note surrendered.

Section 3.07 Covenant to Comply with Securities Laws Upon Purchase of Notes. In connection with any offer to purchase Notes under this Article III, the Company shall, if required, (a) comply with the provisions of the tender offer rules under the Exchange Act that may then be applicable, (b) file a Schedule TO or any other required schedule under the Exchange Act, and (c) otherwise comply with all applicable U.S. federal and state securities laws, in each case so as to permit the rights and obligations under this Article III to be exercised in the time and in the manner specified herein.

Section 3.08 Repayment to the Company. To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 3.05 exceeds the aggregate Fundamental Change Purchase Price of the Notes or portions thereof which the Company is obligated to purchase as of the Fundamental Change Purchase Date, then, unless otherwise agreed in writing with the Company, promptly after the Business Day following the Fundamental Change Purchase Date, the Paying Agent shall, subject to Section 7.06, return any such excess to the Company.

Section 3.09 Covenant Not to Purchase Notes Upon Certain Events of Default.

(a) Notwithstanding anything to the contrary in this Article III, the Company shall not purchase any Notes under this Article III if there has occurred and is continuing an Event of Default with respect to the Notes, unless the payment by the Company of the Fundamental Change Purchase Price will cure such Event of Default.

(b) If a Fundamental Change Purchase Notice is tendered and, on the Fundamental Change Purchase Date, such Fundamental Change Purchase Notice has not been validly withdrawn in accordance with Section 3.03(c) above, and, pursuant to this Section 3.09, the Company is not

permitted to purchase Notes, the Paying Agent will deem withdrawn such Fundamental Change Purchase Notice.

(c) If a Holder tenders a Note for purchase pursuant to this Article III and, on the Fundamental Change Purchase Date, pursuant to this Section 3.09, the Company is not permitted to purchase such Note, the Paying Agent will (i) if such Note is a Certificated Note, return such Note to such Holder, and (ii) if such Note is held in book-entry form, in compliance with the Applicable Procedures, deem to be cancelled any instructions for book-entry transfer of such Note.

ARTICLE IV.

COVENANTS

Section 4.01 Payment of Notes.

(a) The Company shall promptly make all payments on the Notes on the dates, in the manner and as otherwise required under the Notes or this Indenture. If the Company is required to pay any amounts of cash to the Trustee, the Paying Agent or the Conversion Agent, such amounts of cash shall be deposited by the Company with the Trustee, the Paying Agent or the Conversion Agent by 11:00 a.m., New York City time, on the required date. Interest on Certificated Notes shall be payable (i) to a Holder of a Certificated Note having an aggregate principal amount of $5,000,000 or less, by check mailed to such Holder at its address as it appears in the Register and (ii) to a Holder of a Certificated Note having an aggregate principal amount of more than $5,000,000, either by check mailed to such Holder or, upon written application by such Holder to the Registrar prior to the relevant Record Date, by wire transfer in immediately available funds to such Holder's account within the United States, which application shall remain in effect until the Holder notifies, in writing, the Registrar to the contrary. The Company shall make all payments of principal and interest on Global Notes in immediately available funds to the Depositary or its nominee, in accordance with Applicable Procedures.

(b) The Company shall make any required interest payments, if any, to the Person in whose name each Note is registered at the Close of Business on the Record Date for such interest payment. The principal, accrued and unpaid interest, if any, or payment of the Fundamental Change Purchase Price shall be considered paid on the applicable date due if on such date the Trustee or the Paying Agent holds, in accordance with this Indenture, cash sufficient to pay all such amounts then due.

Section 4.02 SEC and Other Reports.

(a) The Company shall file with the Trustee within 15 days after the same are required to be filed with the SEC, copies of any documents or reports that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act). Any such document or report that the Company

files with the SEC via the SEC's EDGAR system shall be deemed to be filed with the Trustee for purposes of this Section 4.02(a) at the time such documents are filed via the EDGAR system.

(b) If, at any time during the period beginning on, and including, the date which is six months after the Original Issuance Date until the Scheduled Free Trade Date, the Company fails to timely file any report that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act (other than reports on Form 8-K), or the Notes are not otherwise freely tradeable by Holders other than the Company's Affiliates (as a result of restrictions pursuant to U.S. securities laws), the Company shall pay Additional Interest on the Notes, which shall accrue at a rate of 0.50% *per annum*, from and including the later of the date six months after the Original Issuance Date and the first date on which such failure to file exists or the Notes are not freely tradeable, as the case may be, until the earlier of (i) the Scheduled Free Trade Date and (ii) the date on which such failure to file has been cured (if applicable) and the Notes are freely tradeable.

(c) The Company will use its reasonable best efforts to remove the Restrictive Securities Legend on the Notes and have an unrestricted CUSIP number assigned to the Notes (other than the Notes held by Affiliates of the Company) as of the Scheduled Free Trade Date.

(d) Any Additional Interest payable in accordance with this Section 4.02, together with any Additional Interest payable as a result of the Company's election pursuant to Section 6.01, shall not in the aggregate exceed a combined rate of 0.50% *per annum*.

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

(i) If the Company is required to pay Additional Interest to Holders pursuant to clause (b) above, the Company shall provide an Officer's Certificate to the Trustee (and if the Trustee is not the Paying Agent, to the Paying Agent) to that effect, which shall be delivered in accordance with Section 14.01 no later than three Business Days prior to the date on which any such Additional Interest is scheduled to be paid and shall make explicit reference to this Indenture, the Notes and the Company. Such Officer's Certificate shall set forth the amount of Additional Interest to be paid by the Company on such payment date and direct the Trustee (or, if the Trustee is not the Paying Agent, to the Paying Agent) to make payment to the extent it receives funds from the Company to do so. Unless and until the Trustee receives such an Officer's Certificate, subject to Section 6.01(c), the Trustee may assume without inquiry that no such Additional Interest is payable.

(j) Delivery of any such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute actual or constructive knowledge or notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

Section 4.03 Compliance Certificate. Within 120 days after the end of each fiscal year (beginning with the fiscal year ending December 31, 2014) of the Company, the Company shall deliver to the Trustee at its Corporate Trust Office in accordance with Section 14.01, making specific

reference to this Indenture, the Notes and the Company, an Officer's Certificate indicating whether each signer thereof knows of any Default that occurred during the previous year and, if so, shall specify each such Default and the nature and status thereof of which it may have knowledge and what action the Company is taking or proposes to take in respect thereof.

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

Section 4.05 Provisions as to Paying Agent.

(a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 4.05:

(i) that it will hold all sums held by it as such agent for the payment of the principal (including the Fundamental Change Purchase Price, if applicable) of, and accrued and unpaid interest on, the Notes in trust for the benefit of the Holders of the Notes;

(ii) that it will give the Trustee prompt notice of any failure by the Company to make any payment of the principal (including the Fundamental Change Purchase Price, if applicable) of, and accrued and unpaid interest on, the Notes when the same shall be due and payable; and

(iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal (including the Fundamental Change Purchase Price, if applicable) of, or accrued and unpaid interest on, the Notes, deposit with the Paying Agent a sum sufficient to pay such principal (including the Fundamental Change Purchase Price, if applicable) or accrued and unpaid interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of any failure to take such action; *provided* that if such deposit is made on the due date, such deposit must be received by the Paying Agent by 11:00 a.m., New York City time, on such date.

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

(c) Anything in this Section 4.05 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any

other reason, pay, cause to be paid or deliver to the Trustee all sums or amounts held in trust by the Company or any Paying Agent hereunder as required by this Section 4.05, such sums or amounts to be held by the Trustee upon the trusts herein contained and upon such payment or delivery by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability but only with respect to such sums or amounts.

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

Section 4.06 Delivery of Certain Information. If, at any time, the Company is not subject to the reporting requirements of the Exchange Act, the Company shall, so long as any of the Notes or any shares of Common Stock issuable upon conversion thereof will, at such time, constitute "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, upon the request of any Holder, beneficial owner or prospective purchaser of the Notes or any shares of Common Stock issuable upon the conversion of Notes, promptly furnish to such Holder, beneficial owner or prospective purchaser the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of the Notes or such shares of Common Stock pursuant to Rule 144A, as such rule may be amended from time to time.

ARTICLE V.
CONSOLIDATION, MERGER AND SALE OF ASSETS

Section 5.01 Company May Consolidate, Merge or Sell Its Assets on Certain Terms. The Company shall not consolidate with, merge with or into or enter into, or convey, transfer or lease all or substantially all of the property and assets of the Company and its Subsidiaries, taken as a whole, to any Person, unless:

(a) the resulting, surviving or transferee Person (the **"Successor Company"**) is a corporation organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia, and such Successor Company (if other than the Company)

expressly assumes, by a supplemental indenture executed and delivered to the Trustee, all of the Company's obligations under the Notes and under this Indenture;

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

(c) the Company or the Successor Company (if other than the Company) shall have delivered to the Trustee an Officer's Certificate stating that:

(i) each of (x) such consolidation, merger, conveyance, transfer or lease and (y) such supplemental indenture complies with this Article V; and

(ii) all conditions precedent relating to such transaction provided herein have been complied with.

For purposes of this Section 5.01, any conveyance, transfer or lease of properties and assets of one or more Subsidiaries of the Company that would, if the Company had held such properties and assets directly, have constituted the conveyance, transfer or lease of substantially all of the Company's properties and assets shall be treated as such hereunder.

Section 5.02 Successor Corporation to be Substituted. Upon any such consolidation, merger (or similar transaction), conveyance or transfer (but not upon a lease) and the assumption by the Successor Company, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of, accrued and unpaid interest, if any, on all of the Notes, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Company, such Successor Company shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the party of the first part. Such Successor Company thereupon may cause to be signed, and may issue in its own name, any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. Upon any such consolidation, merger (or similar transaction), conveyance or transfer (but not upon a lease), the Person named as the "Company" in the first paragraph of this Indenture or any successor that shall thereafter have become such in the manner prescribed in this Article V may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture.

In case of any such consolidation, merger (or similar transaction), conveyance, transfer or lease, changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

ARTICLE VI.
DEFAULTS AND REMEDIES

Section 6.01 Events of Default.

(a) Each of the following events shall be an **"Event of Default"**:

(i) the Company defaults in the payment of interest on any Note when the same becomes due and payable and such default continues for a period of 30 days (whether or not such payment is prohibited by Article XIII);

(ii) the Company defaults in the payment of the principal of any Note when the same becomes due and payable at the Maturity Date, upon declaration of acceleration, upon any Fundamental Change Purchase Date or otherwise (whether or not such payment is prohibited by Article XIII);

(iii) the failure by the Company to deliver the consideration due upon the conversion of any Notes and such default continues for a period of 5 days;

(iv) the failure by the Company to give a Fundamental Change Notice in accordance with Section 3.02, a notice of a Make-Whole Fundamental Change in accordance with Section 10.07 or a Specified Corporate Transaction Notice in accordance with Section 10.01(b)(iv), in each case, at the time, in the manner, and with the contents set forth in, such section;

(v) the failure by the Company to comply with its obligations under Article V hereof;

(vi) the default by the Company in the performance of, or the breach of any other covenant or agreement of the Company in, the Notes or this Indenture (other than a covenant or agreement in respect of which a default or breach is specifically addressed in Sections 6.01(a)(i) through 6.01(a)(v) above) and such default or breach continues for a period of 60 calendar days after written notice of such default is delivered to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes then outstanding;

(vii) a default by the Company or any of its Subsidiaries under any mortgage, indenture or instrument under which there is issued, or by which there is secured or evidenced, any indebtedness of the Company and/or any of its Subsidiaries for money borrowed in excess of $15 million in the aggregate, whether such indebtedness exists as of the Original Issuance Date or is thereafter created, which default (1) results in such indebtedness becoming or being declared due and payable or (2) constitutes a failure to pay the principal or interest of any such indebtedness when due and payable at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise, and, in each case,

such indebtedness is not paid or discharged or such default covered or waived within 30 days;

(viii) a final judgment for the payment of $15 million or more (excluding any amounts covered by insurance) rendered against the Company or any Subsidiary of the Company, which judgment is not discharged or stayed within 60 days after (1) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (2) the date on which all rights to appeal have been extinguished;

(ix) the Company or any then-current Significant Subsidiary thereof shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to the Company or any such Significant Subsidiary 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 such Significant Subsidiary or any substantial part of its 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 then-current Significant Subsidiary thereof seeking liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary 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 such Significant Subsidiary or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 30 consecutive days.

(b) Within the 30 days immediately following the occurrence of an Event of Default or any Default, the Company shall deliver to the Trustee at its Corporate Trustee Office, in accordance with Section 14.01, written notice thereof in the form of an Officer's Certificate describing each Event of Default or Default that has occurred and is continuing and its status and explaining what action the Company is taking or proposes to take in respect thereof, which notice shall make explicit reference to this Indenture, the Notes and the Company.

(c) Notwithstanding anything to the contrary in the Notes or elsewhere in this Indenture, except as provided in Section 4.02(b), at the election of the Company, the sole remedy of Holders for an Event of Default relating to the failure by the Company to comply with its obligation to file reports, information or documents with the Trustee pursuant to Section 4.02(a) (the **"Company's Filing Obligations"**) shall, (i) for the first 90 days after the occurrence of such an Event of Default, consist exclusively of the right to receive Additional Interest at a rate equal to 0.25% *per annum* on the principal amount of the Notes then outstanding, and (ii) for the 90 days immediately following such initial 90-day period, consist exclusively of the right to receive Additional Interest at a rate equal to 0.50% *per annum* on the principal amount of the Notes then outstanding. Such Additional Interest shall not, together with any Additional Interest that the Company is required to pay under Section 4.02(b), exceed 0.50% *per annum*. If the Company makes such election to pay Additional Interest, such Additional Interest shall be payable in arrears on each Interest Payment Date following

the date on which such Event of Default first occurred in the same manner as stated interest payable on the Notes. On the 181st day following the date on which such Event of Default first occurred (if the failure to comply with the Company's Filing Obligations is not cured or waived prior to such 181st day), the Notes shall be subject to acceleration as provided in Section 6.02. The provisions contained in this Section 6.01(c) shall not affect the rights of Holders in the event of the occurrence of any other Event of Default. If the Company does not elect to pay Additional Interest upon an Event of Default in accordance with this Section 6.01(c), the Notes shall be subject to acceleration as provided in Section 6.02. In order to elect to pay Additional Interest as the sole remedy for the first 180 days after the occurrence of an Event of Default relating to the failure by the Company to comply with the Company's Filing Obligations, the Company must notify, in the manner provided for in Section 14.01, the Paying Agent, the Trustee and all Holders of the Notes of such election at any time on or before the date on which such Event of Default otherwise would occur (which notice shall include a statement as to the date from which Additional Interest is payable and, in the case of the Trustee, shall be delivered to its Corporate Trust Office and shall make explicit reference to this Indenture, the Notes and the Company). Unless and until a Trust Officer receives at the Corporate Trust Office such notice, the Trustee may assume without inquiry that no Additional Interest is payable. Upon failure by the Company to timely give such notice to pay such Additional Interest, or if the Company has provided such notice but has failed to pay such Additional Interest, the Notes shall be immediately subject to acceleration as provided in Section 6.02. If Additional Interest has been paid by the Company directly to the Persons entitled to it, the Company shall deliver to the Trustee a certificate setting forth the particulars of such payment.

Section 6.02 Acceleration. If an Event of Default (other than an Event of Default specified in Section 6.01(a)(ix) or Section 6.01(a)(x) with respect to the Company) occurs and is continuing, and in each and every such case, except for any Notes the principal of which shall have already become due and payable, either the Trustee, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, by notice to the Company and the Trustee, may declare 100% of the principal amount of, and accrued and unpaid interest on, all of the Notes then outstanding, to be due and payable immediately, and upon such a declaration, the same shall be immediately due and payable. If an Event of Default specified in Section 6.01(a)(ix) or Section 6.01(a)(x) occurs with respect to the Company, 100% of the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding shall, automatically and without any notice or other action by the Trustee or any Holder, be and become immediately due and payable, to the fullest extent permitted by applicable law. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, by written notice to the Trustee and the Company, and without notice to any other Holder, may rescind any acceleration of the Notes if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) all existing Events of Default, other than the nonpayment of the principal of and interest on the Notes that have become due solely by such acceleration, have been cured or waived. Any such rescission shall not affect any subsequent Default or impair any right consequent thereon.

Section 6.03 Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, accrued and unpaid interest, if any, or payment of the Fundamental Change Purchase Price on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

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

Section 6.04 Waiver of Past Defaults. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, by written notice to the Trustee and the Company and without notice to any other Holder, may waive any Default, except with respect to (a) any failure by the Company to pay the principal of or accrued interest on the Notes (including the Fundamental Change Purchase Price, if applicable), (b) any failure by the Company to comply with its obligations to purchase Notes when required to do so under Article III, (c) any failure by the Company to deliver any consideration due upon conversion or (d) any failure by the Company to comply with any covenant or provision of this Indenture or the Notes that under Section 9.02 cannot be modified or amended without the consent of each Holder. Any such waiver shall not affect any subsequent or other Default or impair any right consequent thereon.

Section 6.05 Control by Majority. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee; *provided* that (i) the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder or would involve the Trustee in personal liability and (ii) for the avoidance of doubt, the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Subject to Article VII, if an Event of Default has occurred and is continuing, the Trustee shall be under no obligation to exercise any of its rights or powers hereunder at the request or direction of any of the Holders unless such Holders have offered to the Trustee indemnity or security reasonably satisfactory to the Trustee against any loss, liability or expense caused by taking such action.

Section 6.06 Limitation on Suits. Except to enforce its rights to receive payment of principal or interest (including the Fundamental Change Purchase Price, if applicable) when due, to receive payment or delivery of the consideration due upon conversion and as provided in Section 6.07, no Holder may institute any proceeding, judicial or otherwise, with respect to this Indenture or the Notes, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Holder shall have previously given to the Trustee written notice that an Event of Default has occurred and is continuing;

(b) the Holders of at least 25% in aggregate principal amount of the Notes at the time outstanding shall have made a written request to the Trustee to take such action;

(c) such Holder or Holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee against the costs and other liabilities of compliance with such written request;

(d) the Trustee shall not have complied with such written request during the first 60 days after receiving such notice, request and offer of security or indemnity; and

(e) during such 60-day period, the Holders of a majority in aggregate principal amount of the outstanding Notes shall not have given the Trustee a direction that is inconsistent with such written request.

A Holder may not use this Indenture to prejudice the rights of any other Holder or to obtain a preference or priority over any other Holder.

Section 6.07 Rights of Holders to Receive Payment; Suit Therefor. Payments of the Fundamental Change Purchase Price, cash due upon conversion (if any), and principal and interest that are not made when due shall accrue interest *per annum* at the then-applicable interest rate from the required payment date expressed in this Indenture, to the extent lawful.

Section 6.08 Collection Suit by Trustee. If an Event of Default specified in Section 6.01(a)(i) or Section 6.01(a)(ii) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount then due and owing (together with interest on any unpaid interest, if any, to the extent lawful) and the amounts provided for in Section 7.06.

Section 6.09 Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, if the Trustee 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 its counsel, and any other amounts due the Trustee under Section 7.06. Nothing in this 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, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 Priorities. Any monies collected by the Trustee pursuant to this Article VI with respect to the Notes and any other monies or property distributable in respect of the Company's obligations under this Indenture following an Event of Default specified in Section 6.01(a)(ix) or Section 6.01(a)(x) with respect to the Company shall be applied in the following order:

FIRST: to the Trustee (including any predecessor trustee) for amounts due under Section 7.06;

SECOND: to Holders for amounts due and unpaid on the Notes for principal, accrued and unpaid interest, if any, payment of the Fundamental Change Purchase Price and the cash deliverable upon conversion of Notes then submitted for conversion, as the case may be, ratably, without preference or

priority of any kind, according to such amounts due and payable on the Notes; and

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

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10.

Section 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in aggregate principal amount of the Notes at the time outstanding.

Section 6.12 Waiver of Stay or Extension Laws. The Company (to the extent it may lawfully do so) agrees that it shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE VII.
TRUSTEE

Section 7.01 Duties of Trustee.

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

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

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith or negligence on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; *provided, however*, that the Trustee will examine the certificates and opinions to determine whether they conform to the requirements set forth

in this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts, statements, opinions or conclusions stated therein).

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

(i) this sub-section (c) does not limit the effect of the remainder of this Section 7.01;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof, or exercising any trust or power conferred upon the Trustee under this Indenture absent negligence or willful misconduct.

(d) All monies received by the Trustee shall, until delivered to the applicable Holders as herein provided, be held in trust in a non-interest bearing account for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers. The Trustee shall not be required to give any bond or surety in respect of the performance of its powers or duties hereunder.

(f) Whether herein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VII, and the provisions of this Article VII shall apply to the Trustee, Registrar, Paying Agent and Conversion Agent.

(g) The Trustee shall not be deemed to have notice or be charged with knowledge of any Default or Event of Default, other than a failure by the Company to make any payment hereunder when due, unless (i) written notice of such Default or Event of Default from the Company or any Holder is received by a Trust Officer of the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture or (ii) a Trust Officer shall have actual knowledge thereof.

Section 7.02 Rights of Trustee.

(a) The Trustee may conclusively rely upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in any such resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document. The Trustee may, however, in its discretion make such further inquiry or investigation into such

facts or matters as it may see fit and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole expense of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(b) Before the Trustee acts or refrains from acting (except in connection with an application for authorization of Notes pursuant to Section 2.03) at the direction of the Company, it may require an Officer's Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officer's Certificate or Opinion of Counsel and may conclusively rely upon such Officer's Certificate or Opinion of Counsel.

(c) The Trustee may act through agents, attorneys or custodians and shall not be responsible for the misconduct or negligence of any agent, attorney or custodian appointed with due care hereunder.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture; *provided*, *however*, that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel of its own selection, and the written advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as a duty unless so specified herein.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders, unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee in accordance with such Section.

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

employed to act hereunder, including, without limitation, the Registrar, Paying Agents and Conversion Agent.

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

(j) Anything in this Indenture notwithstanding, in no event shall the Trustee be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to loss of profit), even if the Trustee has been advised as to the likelihood of such loss or damage and regardless of the form of action.

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

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

Section 7.04 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity, sufficiency, priority or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Company in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication. The Trustee shall have no duty to monitor or investigate the Company's compliance with or the breach of, or cause to be performed or observed, any representation, warranty, or covenant, or agreement of any Person, other than the Trustee, made in this Indenture.

Section 7.05 Notice of Defaults. If a Default or Event of Default occurs and is continuing and is known to a Trust Officer, the Trustee shall mail to each Holder written notice of such Default or Event of Default within 90 days after it occurs, or if later, a Trustee Officer has knowledge of such Default or Event of Default; *provided* that except in the case of a Default described in Section 6.01(a)(i), Section 6.01(a)(ii) or Section 6.01(a)(iii), the Trustee may withhold the notice (except in payment on the Notes or the failure to convert the Notes in accordance with this Indenture) if and so long as a committee of Trust Officers of the Trustee in good faith determines that withholding the notice is in the interests of the Holders.

Section 7.06 Compensation and Indemnity.

(a) The Company shall pay to the Trustee from time to time such compensation as shall be agreed upon from time to time in writing for all services rendered by it hereunder in any capacity. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable out-of-pocket fees and expenses incurred or made by it, including costs of collection, in addition to the

compensation for its services. Such expenses shall include the reasonable compensation, fees and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts and of all Persons not regularly in its employ. The Company shall fully indemnify the Trustee in any capacity under this Indenture and any other document or transaction entered into in connection herewith against any and all loss, liability, claim, damage or expense (including reasonable attorneys' fees and expenses) incurred by it in connection with the acceptance and administration of this trust and the performance of its duties hereunder in any capacity, including the costs and expenses of defending itself against any claim (whether asserted by the Company, any Holder or any other Person). The Company need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct or negligence. All indemnifications and releases from liability granted hereunder to the Trustee shall extend to its officers, directors, employees, agents, attorneys, custodians, successors and assigns.

(b) To secure the Company's payment obligations under this Section 7.06, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay the principal, accrued and unpaid interest, if any, or payment of the Fundamental Change Purchase Price on particular Notes.

(c) The Company's payment obligations pursuant to this Section 7.06 shall survive the resignation or removal of the Trustee and the discharge of this Indenture. If the Trustee incurs expenses (including the reasonable charges and expenses of its counsel) after the occurrence of a Default specified in Section 6.01(a)(ix) or Section 6.01(a)(x) with respect to the Company, the expenses are intended to constitute expenses of administration under applicable bankruptcy laws.

(d) "Trustee" for purposes of this Section shall include any predecessor Trustee; provided, *however*, that the negligence, willful misconduct or bad faith of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

(e) The provisions of this Section shall survive the satisfaction and discharge of the Indenture, the termination for any reason of this Indenture, and the resignation or removal of the Trustee.

Section 7.07 Replacement of Trustee.

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

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

(iii) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.10 and shall fail to resign after written request therefor by the Company or by any such Holder, or

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

(c) The Holders of a majority in aggregate principal amount of the Notes at the time outstanding may at any time remove the Trustee and nominate a successor Trustee that shall be deemed appointed as successor Trustee, unless within ten days after notice to the Company of such nomination the Company objects thereto, in which case the Trustee so removed or any Holder, upon the terms and conditions and otherwise as specified in clause (a) above, may petition any court of competent jurisdiction for an appointment of a successor Trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor Trustee pursuant to any of the provisions of this Section 7.07 shall become effective upon acceptance of appointment by the successor Trustee as provided in Section 7.08.

Section 7.08 Acceptance by Successor Trustee. Any successor Trustee appointed as provided in Section 7.07 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor Trustee, the Trustee ceasing to act shall, upon payment of any amounts then due it pursuant to the provisions of Section 7.06, execute and deliver an instrument transferring to such successor Trustee all the rights and powers of the Trustee so ceasing to act. Upon request of any such successor Trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Trustee all such rights and powers. Any Trustee ceasing to act shall, nevertheless, retain a lien prior to the Notes on all money or property held or collected by the Trustee, other than money or property held in trust to pay the principal, accrued and unpaid interest, if any, or payment

of the Fundamental Change Purchase Price on particular Notes, to secure any amounts then due it pursuant to the provisions of Section 7.06.

No successor Trustee shall accept appointment as provided in this Section 7.08 unless at the time of such acceptance such successor Trustee shall be eligible under the provisions of Section 7.10.

Upon acceptance of appointment by a successor Trustee as provided in this Section 7.08, each of the Company and the successor Trustee, at the written direction and at the expense of the Company shall mail or cause to be mailed notice of the succession of such Trustee hereunder to the Holders at their addresses as they shall appear on the Register. If the Company fails to mail such notice within ten days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Company.

Section 7.09 Successor Trustee by Merger.

(a) If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets (including administration of this Indenture) to, another corporation or banking association, the resulting, surviving or transferee corporation or banking association without any further act shall be the successor Trustee; *provided* that if such successor Trustee is not eligible to act as Trustee pursuant to Section 7.10, such successor Trustee shall promptly resign pursuant to Section 7.07.

(b) In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any such successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee.

Section 7.10 Eligibility; Disqualification. The Trustee must be a Person who is eligible to act as an indenture trustee under the TIA and must have a combined capital and surplus of at least $50,000,000. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Article.

ARTICLE VIII.
DISCHARGE OF INDENTURE

Section 8.01 Discharge of Liability on Notes. When (a) the Company delivers to the Registrar all outstanding Notes (other than Notes replaced pursuant to Section 2.09) for cancellation or (b) all outstanding Notes have become due and payable, whether at the Maturity Date, any Fundamental Change Purchase Date, upon conversion or otherwise, and the Company irrevocably deposits with the Trustee or delivers to the Holders, as applicable, cash (and/or, if applicable, shares of Common Stock solely to satisfy outstanding conversions) sufficient to pay, or, if applicable, satisfy the Company's Conversion Obligation with respect to, all amounts due and owing on all outstanding Notes (other than Notes replaced pursuant to Section 2.09), and, in either case, the Company pays all other sums payable hereunder by the Company with respect to the outstanding Notes, then this Indenture shall, subject to Section 7.06, cease to be of further effect with respect to the Notes or any Holders. At the cost and expense of the Company, the Trustee shall acknowledge satisfaction and discharge of this Indenture with respect to the Notes on demand of the Company accompanied by an Officer's Certificate and an Opinion of Counsel.

ARTICLE IX.
AMENDMENTS

Section 9.01 Without Consent of Holders. The Company and the Trustee may amend or supplement this Indenture or the Notes without the consent of any Holder to:

(a) cure any ambiguity, omission, defect or inconsistency in this Indenture or in the Notes in a manner that does not adversely affect the Holders in any material respect;

(b) conform the terms of this Indenture or the Notes to the "Description of Notes" section of the Offering Memorandum;

(c) upon the occurrence of a Share Exchange Event, solely (i) provide that the Notes are convertible into Reference Property, subject to Section 10.03, and (ii) effect the related changes to the terms of the Notes required by Section 10.06, in each case, in accordance with Section 10.06;

(d) provide for the assumption by a Successor Company of the obligations of the Company under this Indenture pursuant to Article V;

(e) add guarantees with respect to the Notes;

(f) secure the Notes;

(g) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred upon the Company; or

(h) make any change that does not adversely affect the rights of any Holder.

Section 9.02 With Consent of Holders. With the written consent 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, the Notes), by Act of such Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, may amend or supplement this Indenture or the Notes or

may prospectively waive compliance with any provisions of the Notes or this Indenture; *provided*, *however*, that, without the consent of each Holder of an outstanding Note affected thereby, no amendment or supplement to this Indenture or the Notes may:

(a) reduce the percentage in aggregate principal amount of Notes whose Holders must consent to an amendment of this Indenture;

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

(c) reduce the principal amount or change the Stated Maturity of any Note;

(d) make any change that impairs or adversely affects the conversion rights of any Notes under Article X hereof or reduces the consideration due upon conversion;

(e) reduce the Fundamental Change Purchase Price of any Note or amend or modify in any manner adverse to the Holders the Company's obligation to make such payments;

(f) make any Note payable in a currency other than that stated in the Note;

(g) change the subordination or ranking of the Notes in a manner adverse to the Holders;

(h) impair the right of any Holder to receive payment of the principal of, and interest on, such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes; or

(i) make any change to this *proviso* in Section 9.02 or to Section 6.04.

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

Section 9.03 Execution of Supplemental Indentures. Upon the request of the Company, the Trustee shall sign any supplemental indenture authorized pursuant to this Article IX if the amendment contained therein does not adversely affect the rights, duties, liabilities or immunities under this Indenture of the Trustee. If the supplemental indenture adversely affects the Trustee's rights, duties, liabilities or immunities under this Indenture, then the Trustee may, but need not, sign such supplemental indenture. In executing any supplemental indenture hereto, the Trustee shall be provided with, and (subject to the provisions of Section 7.01) shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel stating that such supplemental indenture is authorized and permitted under this Indenture and that all conditions precedent thereto are satisfied.

Section 9.04 Notices of Supplemental Indentures. After an amendment or supplement to this Indenture or the Notes pursuant to Section 9.01 or Section 9.02 becomes effective, the Company shall mail to each Holder a written notice briefly describing such amendment or supplement to this

Indenture. The failure to deliver such written notice, or any defect in such written notice, shall not impair or affect the validity of such amendment or supplement to this Indenture.

Section 9.05 Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article IX, (a) this Indenture shall be modified in accordance therewith, (b) such supplemental indenture shall form a part of this Indenture for all purposes, and (c) every Holder of Notes theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 9.06 Notation on or Exchange of Notes. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article IX may, and shall, if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for outstanding Notes.

ARTICLE X.
CONVERSIONS

Section 10.01 Conversion Privilege and Consideration.

(a) Subject to and upon compliance with the provisions of this Indenture, a Holder shall have the right, at such Holder's option, to convert the principal amount of its Notes, or any portion of such principal amount that is equal to $1,000 or an integral multiple thereof, (%3) subject to satisfaction of one or more of the conditions described in Section 10.01(b), prior to the Close of Business on the Business Day immediately preceding December 15, 2020 during the periods set forth in Section 10.01(b), and (%3) irrespective of the conditions described in Section 10.01(b), on or after December 15, 2020 and prior to the Close of Business on the Business Day immediately preceding the Maturity Date, in each case, based on an initial conversion rate of 44.3169 shares of Common Stock (subject to adjustment as provided in this Article X, the **"Conversion Rate"**) per $1,000 principal amount of Notes (subject to the settlement provisions of Section 10.03, the **"Conversion Obligation"**). In no event may the Notes be converted after the Close of Business on the Business Day immediately preceding the Maturity Date.

(b) (i) Prior to the Close of Business on the Business Day immediately preceding December 15, 2020, a Holder may surrender all of a portion of its Notes for conversion during any fiscal quarter (and only during such fiscal quarter) commencing after March 31, 2014, if, for at least 20 Trading Days (whether or not consecutive) during the 30 consecutive Trading Day period ending on the last Trading Day of the immediately preceding fiscal quarter, the Last Reported Sale Price of the Common Stock on such Trading Day is greater than or equal to 130% of the applicable Conversion Price on such Trading Day (such condition, the **"Sale Price Condition"**). If the Sale Price Condition has been met, the Company shall notify Holders in writing of its satisfaction and of the resulting right of Holders to convert their Notes within one Business Day of the Sale Price Condition being met.

(ii) Prior to the Close of Business on the Business Day immediately preceding December 15, 2020, a Holder may surrender all of a portion of its Notes for conversion

during the five consecutive Business Day period immediately following any five consecutive Trading Day period (the **"Measurement Period"**) in which, for each Trading Day of such Measurement Period, the Trading Price per $1,000 principal amount of Notes (as determined following a request by a Holder in accordance with the procedures set forth in this Section 10.01(b)(ii) and the definition of "Trading Price" in Section 1.01), was less than 98% of the product of (x) the Last Reported Sale Price of the Common Stock on such Trading Day and (y) the applicable Conversion Rate on such Trading Day (such product, the **"Intrinsic Value,"** and such condition, the **"Trading Price Condition**"). The Trading Prices shall be in accordance with the definition of Trading Price in Section 1.01. The Company shall provide written notice to the Conversion Agent of the three independent nationally recognized securities dealers selected by the Company pursuant to the definition of "Trading Price" in Section 1.01, along with appropriate contact information for each.

(A) The Company shall have no obligation to determine the Trading Price of the Notes unless a Holder of Notes (x) provides the Company with reasonable evidence that the Trading Price per $1,000 principal amount of Notes for the immediately following Trading Day would be less than 98% of the Intrinsic Value of the Notes for such Trading Day and (y) requests that the Company determine the Trading Price of the Notes.

(B) Upon receipt from a Holder of such evidence and such a request, the Company shall determine the Trading Price of the Notes beginning on the next Trading Day and on each successive Trading Day until a Trading Day occurs in which the Trading Price per $1,000 principal amount of Notes for such Trading Day is greater than or equal to 98% of the Intrinsic Value of the Notes for such Trading Day.

(C) If the Trading Price Condition has been met on any Trading Day, the Company shall notify in writing the Holders of its satisfaction and of their resulting right to convert their Notes on such Trading Day. If, on any Trading Day after the Trading Price Condition has been met, the Company determines that the Trading Price per $1,000 principal amount of Notes for such Trading Day is greater than or equal to 98% of the Intrinsic Value of the Notes for such Trading Day, the Company shall promptly so notify the Holders that the Trading Price Condition is no longer met.

(iii) If, prior to the Close of Business on December 15, 2020, the Company elects to:

(A) issue to all or substantially all holders of its Common Stock any rights, options or warrants (other than pursuant to a stockholder rights plan) entitling them, for a period of not more than 60 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of the Common Stock, at a price per share of Common Stock less than the average of the Last Reported Sale Prices of the Common Stock for the ten consecutive Trading Day period ending on, and

including, the Trading Day immediately preceding the date of announcement of such issuance; or

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

then, in each case, at least 30 Scheduled Trading Days prior to the Ex-Dividend Date for such issuance or distribution, the Company shall mail written notice to the Holders describing such issuance or distribution, the Holders' rights to convert their Notes in accordance with this Section 10.01(b)(iii), the Conversion Rate in effect on the date the Company mails such notice, any adjustments to the Conversion Rate that must be made as a result of such issuance or distribution, and the effective date for any such adjustments. Once the Company has given such notice, a Holder may surrender all or a portion of its Notes for conversion at any time until the earlier of (x) the Close of Business on the Business Day immediately preceding such Ex-Dividend Date and (y) the Company's announcement that such issuance or distribution will not take place (even if the Notes are not otherwise convertible at such time). Notwithstanding this Section 10.01(b)(iii), Holders of the Notes will not be permitted to so surrender the Notes for conversion if such Holders are entitled to participate (solely as a result of holding the Notes), at the same time and on the same terms as holders of the Common Stock, in such issuance or distribution without having to convert the Notes as if they held a number of shares of Common Stock equal to the Conversion Rate, multiplied by the principal amount (expressed in thousands) of Notes held by such Holder.

(iii) If, prior to the Close of Business on December 15, 2020, a Fundamental Change, a Make-Whole Fundamental Change or Share Exchange Event occurs, regardless of whether the Holders would have the right to require the Company to purchase their Notes pursuant to Article III, (any such event, a "**Specified Corporate Transaction**"), the Company shall mail written notice (a **"Specified Corporate Transaction Notice"**) of such Specified Corporate Transaction to the Holders within five Business Day of the occurrence of such transaction or event. The Specified Corporate Transaction Notice shall describe:

(A) the transaction or event;

(B) the effective date of such transaction or event;

(C) the Holders' right to convert their Notes in accordance with this Section 10.01(b)(iv);

(D) the Conversion Rate in effect on the date the Company mails such Specified Corporate Transaction Notice;

(E) whether an adjustment to the Conversion Rate is expected to be made pursuant to Section 10.05 as a result of such transaction or event and the formula for determining such adjustment;

(F) whether the relevant transaction or event constitutes a Share Exchange Event, and, if so, that the Notes will become convertible into Reference Property, subject to the settlement provisions of the Indenture;

(G) whether the relevant transaction or event constitutes a Fundamental Change, and, if so, that Holders will have the right to require the Company to purchase their Notes pursuant to Article III; and

(H) whether the relevant transaction or event constitutes a Make-Whole Fundamental Change, and, if so, that the Conversion Rate will be increased under Section 10.07 for Notes converted in connection with such Make-Whole Fundamental Change.

Upon the Company's delivery of a Specified Corporate Transaction Notice, a Holder may surrender all or a portion of its Notes for conversion at any time until the 35th Trading Day immediately following the effective date of such transaction, or, if such transaction constitutes a Fundamental Change, the Business Day immediately preceding the related Fundamental Change Purchase Date.

Section 10.02 Conversion Procedure.

(a) To convert a Note or portion thereof, a Holder or beneficial owner, as the case may be, must (i) in the case of a Global Note, (a) comply with the procedures of the Depositary then in effect for converting a beneficial interest in a Global Note and (b) if required, pay all funds required under Section 10.02(g) and Section 10.02(h) below, and (ii) in the case of a Certificated Note, (a) complete and manually sign the conversion notice in the form attached to such Certificated Note (a **"Notice of Conversion"**) or a facsimile of the Notice of Conversion, (b) deliver the Notice of Conversion, which is irrevocable, and the Certificated Note to the Conversion Agent, (c) if required, furnish appropriate endorsements and transfer documents, (d) if required, pay all funds required under Section 10.02(h) below, and (e) if required, pay all funds required under Section 10.02(g) below.

(b) A Note shall be deemed to have been converted at the Close of Business on the first Business Day (the **"Conversion Date"**) on which (i) the Holder thereof satisfies all of the requirements set forth in Section 10.02(a) with respect to such Note and (ii) the conversion of such Note is not otherwise prohibited by Section 3.04(a) hereof.

(c) Upon the conversion of a Note, the Conversion Agent, as promptly as possible, and in no event later than one Business Day immediately following the Conversion Date for the Note, will provide the Company with notice of the conversion of the Note, and the Company, as promptly as possible, and in no event later than two Business Days after such Conversion Date, will notify the Trustee, if other than the Conversion Agent, of the conversion of the Note.

(d) If a Holder converts the entire principal amount of a Note, such Person will no longer be a Holder of such Note, except that such Holder shall have the right hereunder to receive the consideration due upon conversion and as provided in Section 10.02(g).

(e) If a Holder surrenders only a portion of a Certificated Note for conversion, promptly after the Conversion Date for such portion, the Company shall execute and the Trustee shall authenticate and deliver to such Holder, a new Certificated Note in an authorized denomination equal to the aggregate principal amount of the unconverted portion of the surrendered Note. Upon the conversion of an interest in a Global Note, the Trustee shall promptly make a notation on the "Schedule of Exchanges of Notes" of such Global Note as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing upon any conversion of a Note effected through any Conversion Agent other than the Trustee.

(f) If any shares of Common Stock are to be delivered upon the conversion of a Note, the converting Holder (or its designee) shall be treated as the holder of record of such shares as of the last VWAP Trading Day of the relevant Observation Period for such Note.

(g) Notwithstanding Section 10.03(f), if a Holder converts its Note after the Close of Business on a Record Date but prior to the Open of Business on the Interest Payment Date corresponding to such Record Date, the Holder of such Note at the Close of Business on such Record Date shall receive the interest payment payable on such Note on such corresponding Interest Payment Date, notwithstanding the conversion. Any Note converted during the period beginning at the Close of Business on any Record Date and ending at the Open of Business on the Interest Payment Date corresponding to such Record Date must be accompanied by funds equal to the amount of interest payable on such Note on such corresponding Interest Payment Date; *provided, however,* that no such payment need be made: (i) for a Note surrendered for conversion after the Close of Business on the Record Date immediately preceding the Maturity Date, (ii) if the Company has specified a Fundamental Change Purchase Date that is after such Record Date and on or prior to such corresponding Interest Payment Date, or (iii) to the extent of any Defaulted Interest, if any Defaulted Interest exists at the time of conversion with respect to such Note. For the avoidance of doubt, the Company shall pay interest on the Maturity Date on all Notes converted after the Record Date immediately preceding the Maturity Date, and converting Holders shall not be required to pay to the Company equivalent interest amounts.

(h) If a Holder converts a Note, the Company shall pay any documentary, stamp or similar issue or transfer tax due on the issue of any shares of Common Stock upon such conversion; *provided* that if such tax is due because such converting Holder requested that such shares of Common Stock be issued in a name other than such Holder's name, such Holder shall pay such tax.

Section 10.03 Settlement Upon Conversion.

(a) Except as provided in Section 10.07(e), upon conversion of any Note, the Company shall deliver to a converting Holder, in respect of each $1,000 principal amount of Notes being converted, an amount of cash and a number of shares of Common Stock, if any, equal to the sum of the Daily Settlement Amounts for each VWAP Trading Day in the Observation Period for such

Note (the "**Settlement Amount**"), together with cash in lieu of any fractional shares. The Company shall deliver the Settlement Amount due in respect of the Conversion Obligation for any such Note to the converting Holder on the third Business Day immediately following the last VWAP Trading Day of the Observation Period.

(b)

(i) Except as provided in Section 10.07(e), upon conversion of any Note, the Company shall satisfy the Daily Net Settlement Amount included in any Daily Settlement Amount by delivering cash, shares of Common Stock or a combination thereof, at the Company's election, (each of these settlement methods a "**Settlement Method**"). For purposes of this provision, the Company's obligation in respect of the Daily Net Settlement Amounts is referred to as the "**Conversion Excess Obligation**."

(ii) If the Company elects to satisfy all or any portion of the Conversion Excess Obligation in cash (the "**Cash Settlement Election**"), the Company will notify holders of the percentage of the Conversion Excess Obligation to be paid in cash (the "**Cash Percentage**").

(iii) Any Cash Settlement Election shall be the same for all conversions occurring on or after the 30th Scheduled Trading Day immediately preceding the Maturity Date. Otherwise, the Company will not have any obligation to settle conversions occurring on different Conversion Dates using a particular Settlement Method Notice, and the Company may make a Cash Settlement Election with respect to certain Conversion Dates and not with respect to other Conversion Dates.

(vi) If the Company elects the Cash Settlement Election, the Company shall deliver a notice, which shall specify the Cash Percentage, (the **"Settlement Method Notice"**) in respect of any Conversion Date or any of the periods described below, as the case may be:

(A) by written notice to all Holders of Notes, the Trustee and the Conversion Agent on or prior to the 30th Scheduled Trading Day immediately preceding the Maturity Date, in the case of any conversion occurring on or after such date; or

(B) by written notice to the converting Holder, the Trustee and the Conversion Agent, prior to the Close of Business on the second Scheduled Trading Day following the relevant Conversion Date, in the case of any other conversion.

(v) If the Company does not timely deliver a Settlement Method Notice prior to the deadline set forth in Section 10.03(b)(iv), a Cash Settlement Election will not apply with respect to such conversion, and the Company will settle the Company's Conversion Excess Obligation by delivering shares of Common Stock with respect to the Daily Net Settlement Amounts.

(vi) The Daily Settlement Amounts and the Daily Conversion Values shall be determined by the Company promptly following the last day of the Observation Period. The Trustee and the Conversion Agent (if other than the Trustee) shall have no responsibility for any such determination.

(vii) The Company shall not deliver any fractional share of Common Stock upon conversion of the Notes. Instead, the Company will deliver, in lieu of such fraction of a share, an amount of cash equal to the product of such fraction of a share and the Daily VWAP on the last day of the relevant Observation Period. The Company will determine the number of fractional shares for which the Company will deliver cash by aggregating all of the Notes that a holder has surrendered for conversion on a Conversion Date.

(c) Notwithstanding this Section 10.03, and regardless of whether the Company then has a class of securities listed on the New York Stock Exchange, the number of shares of Common Stock included in the Daily Net Settlement Amount on any VWAP Trading Day will not exceed the NYSE Share Cap unless, prior to such VWAP Trading Day, the Company received the requisite approval from the Company's stockholders in accordance with the New York Stock Exchange Rule 312.03 (the "**Required NYSE Stockholder Approval**") to permit issuance upon conversion of the Notes of such shares. If the Company receives the Required NYSE Stockholder Approval on any day, the Company shall so notify Holders, the Trustee and the Conversion Agent in writing prior to the Close of Business on such day. The Company shall not pay any cash in lieu of any shares of Common Stock that would have been included in a Daily Net Settlement Amount that are not delivered as a result of the NYSE Share Cap. The Company shall not be required to seek to obtain the Required NYSE Stockholder Approval for the issuance of Common Stock upon conversion of the Notes.

(d) The Company shall not make any distribution of cash or other property on Common Stock or take any other action that would result in an adjustment to the Conversion Rate under Section 10.05(b), Section 10.05(c), Section 10.05(d) or Section 10.05(e) if, following such adjustment, the Conversion Rate would be greater than 44.3169 shares per $1,000 principal amount of Notes (as adjusted in connection with stock splits, reverse stock splits and stock dividends, as described in Section 10.05(a)), unless the Company has received the Required NYSE Stockholder Approval.

(e) If a Holder surrenders more than one Note for conversion on a single Conversion Date, the Settlement Amount the Company will deliver pursuant to Section 10.03(a) or Section 10.03(b)(vii) shall be determined based on the total principal amount of Notes so surrendered by such Holder.

(f) If a Holder converts a Note, except as set forth in Section 10.02(g), (i) such Holder shall not receive any separate cash payment (in addition to the Conversion Obligation) for accrued and unpaid interest on such Note and (ii) the Company's delivery to such converting Holder of the Conversion Obligation shall be deemed to satisfy in full the Company's obligation to pay to such Holder (A) the principal amount of such converted Note and (B) accrued and unpaid interest, if any, to, but excluding, the relevant Conversion Date. As a result, subject to Section 10.02(g), accrued and unpaid interest, if any, on a converted Note to, but excluding, the relevant Conversion Date shall be deemed to be paid in full rather than cancelled, extinguished or forfeited. Upon a conversion

of Notes, subject to Section 10.02(g), accrued and unpaid interest, if any, shall be deemed to be paid first out of the cash paid upon such conversion, if any.

(g) *Notices*.

(i) On the first Business Day immediately following the last VWAP Trading Day of the Observation Period for each Conversion Date, the Company shall deliver written notice to the Trustee stating (1) the aggregate principal amount of Notes that were converted on such Conversion Date, (2) the aggregate amount of cash and the aggregate number of shares of Common Stock that the Company is obligated to deliver to settle all of the Notes converted on such Conversion Date, and (3) the Daily Conversion Values or Daily Net Settlement Amounts, as the case may be, for each VWAP Trading Day of the Observation Period for such Conversion Date.

Section 10.04 Covenants Relating to Underlying Shares.

(a) The Company shall, until all Notes cease to be outstanding and any consideration due upon conversion has been paid or delivered, as the case may be, reserve out of its authorized but unissued shares of Common Stock that have not been reserved for other purposes a number of shares of Common Stock, in the aggregate, equal to the product of the Maximum Conversion Rate and the aggregate principal amount of Notes then outstanding (expressed in thousands of dollars), to permit the conversion of the Notes.

(b) The Company covenants that any shares of Common Stock delivered upon conversion of the Notes shall be duly and validly issued and fully paid and nonassessable, and shall be free from preemptive rights and shall be free of any lien or adverse claim or from any taxes or charges with respect to the issue thereof.

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

(d) In addition, the Company will cause any such shares of Common Stock to be listed on any stock exchange on which the Common Stock is then listed and will comply with any stock exchange rules applicable to the Notes and/or the Common Stock issuable upon conversion of the Notes.

Section 10.05 Adjustments to the Conversion Rate. The Conversion Rate shall be adjusted from time to time by the Company as described in this Section 10.05, except that the Company shall not make any adjustments to the Conversion Rate for any Holder that participates (as a result of holding the Notes, and at the same time as the holders of the Common Stock participate) in any of the transactions described below as if such Holder held, for each $1,000 principal amount of Notes held, a number of shares of the Common Stock equal to the applicable Conversion Rate, without having to convert its Notes.

(a) *Dividends, Distributions, Splits and Combinations.* If the Ex-Dividend Date occurs for any issuance by the Company of solely shares of the Common Stock as a dividend or distribution on all or substantially all of the shares of the Common Stock, or if the Company effects a share split or a share combination of the Common Stock, the Conversion Rate shall 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-Dividend Date of such dividend or distribution, or immediately prior to the Open of Business on the Effective Date of such share split or combination, as the case may be;

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

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

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

Any adjustment made under this Section 10.05(a) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution or the effective date for such share split or combination, as the case may be. If any dividend or distribution of the type described in this Section 10.05(a) is declared but not so paid or made, then the Conversion Rate shall immediately be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution to the Conversion Rate that would then be in effect had such dividend or distribution not been declared or announced. The "**Effective Date**" shall be, with respect to a share split or combination, the first date on which the shares of the Common Stock trade in the applicable exchange or in the applicable market, regular way, reflecting the relevant share split or share combination, as applicable.

(b) *Adjustment for Rights Issue.* If the Ex-Dividend Date occurs for any issuance by the Company to all or substantially all holders of the Common Stock of any rights, options or warrants entitling the holders of such rights, options or warrants for a period of not more than 60 calendar days after the announcement date of such issuance to subscribe for or purchase shares of the Common Stock, at a price per share less than the average of the Last Reported Sale Prices of the Common Stock for the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, the Conversion Rate shall be adjusted based on the following formula:

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

where:

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

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

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

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

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

Any adjustment made under this Section 10.05(b) shall be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the Open of Business on the Ex-Dividend Date for such issuance. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants, the Conversion Rate shall be readjusted, as of the date of such expiration, to the Conversion Rate that would then be in effect had the adjustment made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so issued, the Conversion Rate shall immediately be readjusted, as of the scheduled issuance date, to equal the Conversion Rate that would then be in effect had the relevant adjustment pursuant to this Section 10.05(b) not occurred.

For purposes of this Section 10.05(b) and Section 10.01(b)(iii)(A), in determining whether any issued rights, options or warrants entitle the holders of the Common Stock to subscribe for or purchase shares of the Common Stock at a price per share less than the average of the Last Reported Sale Prices of the Common Stock for each Trading Day in the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration that the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) *Non-Cash Distributions*.

(x) If the Ex-Dividend Date occurs for a distribution by the Company of shares of its Capital Stock, evidences of its indebtedness, other assets or property of the Company or rights, options or warrants to acquire its Capital Stock or other securities to all or substantially all holders of the Common Stock, excluding (A) dividends or distributions (including subdivisions) and rights, options or warrants, in each case, which are described in Section 10.05(a) or Section 10.05(b); (B) dividends or distributions paid exclusively in cash, which are described in Section 10.05(e); (C) distributions of Reference Property in a transaction described in Section 10.06; and (D) Spin-Offs which are described in Section 10.05(c)(ii) (any of such shares of Capital Stock, evidences of indebtedness, other assets or property or rights, options or warrants to acquire Capital Stock or other securities, the **"Distributed Property"**), then the Conversion Rate shall 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-Dividend Date for such distribution;

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

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

FMV = the fair market value, as determined by the Board of Directors, of the Distributed Property distributed with respect to each outstanding share of the Common Stock as of the Open of Business on the Ex-Dividend Date for such distribution.

Notwithstanding the foregoing, if "SP_0" (as defined above) minus "FMV" (as defined above) is less than $1.00, in lieu of the foregoing adjustment, each Holder shall receive, for each $1,000 principal amount of Notes held, at the same time and upon the same terms as holders of the Common Stock, the amount and kind of Distributed Property that such Holder would have received as if such Holder had owned a number of shares of the Common Stock equal to the Conversion Rate in effect on the record date for such distribution.

Any adjustment made under this Section 10.05(c)(i) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, or if any rights, options or warrants are not exercised before their expiration date, the Conversion Rate shall immediately be readjusted, as of the date the Board of Directors

determines not to make or pay such distribution or as of such expiration date, as the case may be, to be the Conversion Rate that would then be in effect had such distribution not been declared or to the extent such rights or warrants are not exercised, as applicable.

(ii) With respect to an adjustment pursuant to this Section 10.05(c), if the relevant dividend or other distribution consists of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company that are listed for trading or quoted (or will be listed or quoted upon consummation of the spin-off) on a U.S. national securities exchange (a "**Spin-Off**"), the Conversion Rate shall be increased based on the following formula:

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

where:

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for the Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on the Ex-Dividend Date for the Spin-Off;

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 (determined by reference to the definition of Last Reported Sale Price as set forth in Section 1.01 as if references therein to Common Stock were to such Capital Stock or similar equity interest) over the first ten consecutive Trading Day period immediately following, but excluding, the effective date for the Spin-Off (such period, the **"Valuation Period"**); and

MP_0 = the average of the Last Reported Sale Prices of the Common Stock over the Valuation Period.

Notwithstanding the foregoing, (A) if the last VWAP Trading Day of the Observation Period for any conversion occurs on or after the effective date for the Spin-Off, but less than ten Trading Days immediately following, and including, the effective date for the Spin-Off, references within this Section 10.05(c)(ii) to ten Trading Days shall be deemed replaced, for purposes of calculating the affected Daily Settlement Amounts in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the effective date for the Spin-Off to, and including, the last VWAP Trading Day of such Observation Period, and (B) for purposes of determining the Conversion Rate applicable to any conversion for which the Conversion Date occurs during the ten Trading Days commencing on the effective date for any Spin-Off, references within this Section 10.05(c)(ii) to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the effective date for such Spin-Off to, but excluding, the relevant Conversion Date.

Any adjustment made pursuant to this Section 10.05(c)(ii) shall become effective as of the Open of Business on the Ex-Dividend Date for the Spin-Off. If such Spin-Off is subsequently cancelled and does not become effective, the Conversion Rate shall be readjusted, as of the date of such cancellation, to be the Conversion Rate that would have been in effect if such Spin-Off had not been declared.

For purposes of this Section 10.05(c) (and subject in all respect to Section 10.05(i)), rights, options or warrants distributed by the Company to all holders of its Common Stock entitling them to subscribe for or purchase shares of the Company's Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events **("Trigger Event")**: (A) are deemed to be transferred with such shares of the Common Stock; (B) are not exercisable; and (C) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this Section 10.05(c) (and no adjustment to the Conversion Rate under this Section 10.05(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 10.05(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 10.05(c) was made, (1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 10.05(a), Section 10.05(b) and this Section 10.05(c), if any dividend or distribution to which this Section 10.05(c) is applicable also includes one or both of:

(i) a dividend or distribution of shares of Common Stock to which Section 10.05(a) is applicable (the **"Clause A Distribution"**); or

(ii) a dividend or distribution of rights, options or warrants to which Section 10.05(b) is applicable (the **"Clause B Distribution"**),

then (1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 10.05(c) is applicable (the **"Clause C Distribution"**) and any Conversion Rate adjustment required by this Section 10.05(c) with respect to such Clause C Distribution shall then be made, and (2) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Conversion Rate adjustment required by Section 10.05(a) and Section 10.05(b) with respect thereto shall then be made, except that, if determined by the Company (I) the "Ex-Dividend Date" of the Clause A Distribution and the Clause B Distribution shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (II) any shares of Common Stock included in the Clause A Distribution or Clause B Distribution shall be deemed not to be "outstanding immediately prior to the Open of Business on such Ex-Dividend Date or effective date" within the meaning of Section 10.05(a) or "outstanding immediately prior to the Open of Business on such Ex-Dividend Date" within the meaning of Section 10.05(b).

(d) *Adjustment for Cash Distributions.* If the Ex-Dividend Date occurs for any cash dividend or distribution by the Company to all or substantially all holders of the outstanding Common Stock, other than regular quarterly cash dividends that do not exceed $0.025 per share (such threshold, the "**Initial Dividend Threshold**"), the Conversion Rate shall be adjusted based on the following formula:

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

where:

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

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

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

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

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

The Initial Dividend Threshold is subject to adjustment in a manner inversely proportional to adjustments to the Conversion Rate, other than any adjustment provided for in this Section 10.05(d).

If "SP_0" (as defined above) minus "C" (as defined above) is less than $1.00, in lieu of the foregoing adjustment, each Holder shall receive, for each $1,000 principal amount of Notes held, at the same time and upon the same terms as holders of the Common Stock, the amount of cash such Holder would have received if such Holder had owned a number of shares of the Common Stock equal to the Conversion Rate in effect on the record date for such distribution.

Any adjustment made under this Section 10.05(d) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be immediately readjusted, as of the date the Board of Directors determines not to make or pay such distribution, to be the Conversion Rate that would then be in effect had the related Ex-Dividend Date not occurred.

(g) *Adjustment for Tender Offers or Exchange Offers.* If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period commencing on, and including, the Trading Day next 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 shall be increased based on the following formula:

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

where:

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 Close of Business on the Expiration Date;

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

OS_0 = the number of shares of Common Stock outstanding immediately prior to the time (the "**Consummation Time**") such tender or exchange offer is consummated (prior to giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange pursuant to such tender offer or exchange offer);

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

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

The adjustment to the Conversion Rate under this Section 10.05(e) shall be given effect at the Close of Business on the Expiration Date. If the Expiration Date is less than ten Trading Days prior to, and including, the last VWAP Trading Day of the Observation Period in respect of any conversion, references within this Section 10.05(e) to ten Trading Days shall be deemed replaced, for purposes of calculating the affected Daily Settlement Amounts in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, and including, the last VWAP Trading Day of such Observation Period. For purposes of determining the Conversion Rate applicable to any conversion during the ten Trading Day period commencing on the Trading Day next succeeding the Expiration Date, references within this Section 10.05(e) to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, but excluding, the relevant Conversion Date.

(f) *Holder Participation in Adjustment Events.* Notwithstanding the provisions set forth in clauses (a) through (e) above, if any adjustment to the Conversion Rate pursuant to such provisions becomes effective on any Ex-Dividend Date or Effective Date and a Holder that has converted its Notes would

(i) receive shares of Common Stock based on an adjusted Conversion Rate, and

(ii) be a record holder of such shares of Common Stock on the record date for the dividend, distribution or event giving rise to such adjustment,

then, in lieu of receiving shares of Common Stock at such an adjusted Conversion Rate, such Holder shall receive a number of shares of Common Stock, if any, upon conversion based on an unadjusted Conversion Rate and shall participate in the related dividend, distribution or other event giving rise to such adjustment.

(g) *Adjustments Not Yet Effective.* If, in the case of any conversion of a Note, on any VWAP Trading Day during the Observation Period corresponding to the Conversion Date for such Note, shares of Common Stock are deliverable as part of the Daily Settlement Amount for such VWAP Trading Day, and

(i) the Ex-Dividend Date for any issuance, dividend or distribution, the Effective Date for any share split or combination or the Expiration Date for any tender or exchange offer by the Company that, in each case, would require an adjustment to the Conversion

Rate pursuant to Section 10.05(a), (b), (c), (d) or (e) occurs prior to the Company's delivery of such shares of Common Stock to the converting Holder;

(ii) the applicable Conversion Rate for such VWAP Trading Day will not reflect such adjustment; and

(iii) the shares of Common Stock that the Company shall deliver to the converting Holder with respect to such VWAP Trading Day are not entitled to participate in the relevant event (because such shares were not held by such Holder on the related Ex-Dividend Date, Effective Date, Expiration Date or otherwise),

then the Company shall adjust the number of shares of Common Stock deliverable to such Holder as part of the Daily Settlement Amount for such VWAP Trading Day in a manner that appropriately reflects the relevant distribution, transaction or event.

(h) *Other Adjustments.* Whenever any provision of this Indenture requires the Company to calculate the Daily VWAP, Daily Settlement Amounts, the Daily Net Settlement Amounts or Last Reported Sale Prices over a span of multiple days, the Company shall make appropriate adjustments to such prices to account for any adjustment to the Conversion Rate that becomes effective, or any event that would require an adjustment to the Conversion Rate where the Ex-Dividend Date, Effective Date or Expiration Date of the event occurs, at any time during the period over which such Last Reported Sale Prices are to be calculated.

(i) *Rights Plans.* To the extent that the Company has a rights plan in effect upon conversion of any Note, each share of Common Stock issued upon such conversion (x) shall be entitled to receive the number of rights, if any, associated with one share of Common Stock under such rights plan, and (y) shall, if issued in certificated form, bear such legends, if any, as may be required under such rights plan; *provided*, *however*, that if prior to the Conversion Date for such Note, the rights have separated from the Common Stock in accordance with the provisions of the applicable rights plan, the converting Holder shall not be entitled to receive such rights upon conversion, and at the time of such separation, the Conversion Rate shall be adjusted in accordance with Section 10.05(c) as if the Company made a distribution of Distributed Property to the holders of the Common Stock; *provided*, *further*, that such adjustment shall be subject to readjustment upon the expiration, termination or redemption of such separated rights in accordance with Section 10.05(c).

(j) *Voluntary Increases*. In addition to those adjustments required by clauses (a), (b), (c), (d) and (e) of this Section 10.05, and to the extent permitted by applicable law and any applicable stock exchange rules, from time to time, (i) the Company may increase the Conversion Rate of the Notes by any amount for a period of at least 20 Business Days if the Board of Directors determines that such increase would be in the best interest of the Company and (ii) the Company may (but is not required to) increase the Conversion Rate to avoid or diminish income tax to holders of the Common Stock or rights to purchase shares of the Common Stock in connection with a dividend or distribution of shares (or rights to acquire shares) or a similar event; *provided*, that the Company shall not take any action that would result in adjustment of the Conversion Rate, pursuant to this Section 10.05(j), that would result in a reduction of the Conversion Price to less than the par value per share of the Common Stock.

(k) *No Other Adjustments*. Except as expressly stated herein, the Conversion Rate shall not be subject to adjustment as a result of any issuance of shares of Common Stock or 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.

(l) *No Decreases in the Conversion Rate.* Notwithstanding anything to the contrary in clauses (a) through (e) above, if the application of the formulas set forth therein would result in a decrease in the Conversion Rate, no adjustment to the Conversion Rate shall be made, other than as a result of a reverse share split or share combination; *provided* that in the case of an increase in the Conversion Rate in connection with any Spin-Off, distribution on the Common Stock or issuance of rights, options or warrants to holders of Common Stock, such increase may be reversed, to the extent expressly set forth herein, on account of the cancellation of such Spin-Off, such distribution not being paid or made or the expiration of such rights, options or warrants.

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

Section 10.06 Effect of Reclassification, Consolidation, Merger or Sale.

(a) In the case of:

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

(ii) any consolidation, merger, combination or similar transaction involving the Company;

(iii) any sale, lease or other transfer to a third party of substantially all of the consolidated assets of the Company and its Subsidiaries; or

(iv) any statutory share exchange,

in each case, as a result of which the Common Stock will be converted into, or exchanged for, stock, other securities or other property or assets (including cash or any combination thereof) (any such event, a **"Share Exchange Event"** and any such stock, other securities or other property or assets, **"Reference Property,"** and the amount of Reference Property that a holder of one share of the Common Stock immediately prior to such Share Exchange Event would have been entitled to receive upon the occurrence of such Share Exchange Event, a **"Unit of Reference Property"**), then the

Company or the successor or purchasing company, as the case may be, shall execute with the Trustee a supplemental indenture providing that, at and after the effective time of such Share Exchange Event, the Notes shall become convertible into Reference Property; *provided* that, at and after the effective time of such Share Exchange Event, the amount of cash (if any) and the number of Units of Reference Property (if any) that the Company shall deliver upon conversion of a Note shall be determined pursuant to Section 10.03, except that for any VWAP Trading Day during the relevant Observation Period (A) to the extent practicable, the Daily VWAP for such VWAP Trading Day in a manner determined in good faith by the Company or the successor or purchasing company shall be calculated based on the value of a Unit of Reference Property on such VWAP Trading Day in a manner determined in good faith by the Company or the successor or purchasing company and (B) in lieu of each share of Common Stock that the Company would otherwise be obligated to deliver on such VWAP Trading Day, the Company shall deliver a Unit of Reference Property.

If a Share Exchange Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then the amount and kind of Reference Property used to calculate the Daily VWAP shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election. The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

Such supplemental indenture described in the second immediately preceding paragraph shall provide for anti-dilution and other adjustments that are as nearly equivalent as possible to the adjustments provided for in this Article X as determined in good faith by the Company or the successor or purchasing company. If the Reference Property in respect of any Share Exchange Event includes shares of stock, securities or other property or assets of a Person other than the Company or, in the case of a transaction described in Article V, the Successor Company, then such supplemental indenture shall also be executed by such other Person.

(b) If the Company executes a supplemental indenture pursuant to this Section 10.06, as promptly as practicable, the Company shall file with the Trustee an Officer's Certificate briefly describing such Share Exchange Event, the composition of a Unit of Reference Property for such Share Exchange Event, any adjustment to be made with respect thereto and that all conditions precedent to such Share Exchange Event under this Indenture have been complied with. Any failure to deliver such Officer's Certificate shall not affect the legality or validity of such supplemental indenture. The Company shall also issue a press release containing such information and shall make such press release available on its website.

(c) The Company shall not become a party to any Share Exchange Event unless its terms are consistent with this Section 10.06. None of the foregoing provisions shall affect the right of a holder of Notes to convert its Notes as set forth in Section 10.02 and Section 10.01 prior to the effective date of such Share Exchange Event.

(d) The provisions of this Section 10.06 shall apply successively to successive Share Exchange Events.

Section 10.07 Adjustment to Conversion Rate Upon Certain Transactions.

(a) If a Make-Whole Fundamental Change occurs and a Holder elects to convert its Notes in connection with such Make-Whole Fundamental Change, the Company shall, in the circumstances described in this Section 10.07, increase the Conversion Rate for such Note by the number of additional shares of Common Stock (the **"Additional Shares"**) determined under this Section 10.07. For the purposes of this Section 10.07, a conversion of Notes shall be deemed to be "in connection with" a Make-Whole Fundamental Change if the Conversion Date occurs during the period beginning on, and including, the date on which such Make-Whole Fundamental Change occurs or becomes effective (such date, the **"Make-Whole Fundamental Change Effective Date"**) and ending on, and including, the Business Day immediately preceding the earliest of (i) the 35th Scheduled Trading Day immediately following the Make-Whole Fundamental Change Effective Date, (ii) the related Fundamental Change Purchase Date, if such Make-Whole Fundamental Change is also a Fundamental Change, and (iii) the Business Day immediately preceding the Maturity Date. If, prior to the Close of Business on December 15, 2020, a Make-Whole Fundamental Change occurs, regardless of whether Holders would have the right to require the Company to purchase their Notes as described in Article III, the Company will notify in writing the Holders within five Business Days after the occurrence of such transaction or event. Upon delivery of such written notice, a Holder may surrender all or a portion of its Notes for conversion until the 35th Trading Day immediately following the effective date of such transaction.

(b) The number of Additional Shares by which the Conversion Rate shall be increased for a Note converted in connection with a Make-Whole Fundamental Change shall be determined by reference to the table in clause (d) below, based on the relevant Make-Whole Fundamental Change Effective Date and the stock price paid (or deemed paid) in the Fundamental Change, as determined pursuant to clause (e) below (such stock price, the **"Stock Price"**).

(c) The Stock Prices set forth in the column headings of the table in clause (d) below shall be adjusted as of any date on which the Conversion Rate is adjusted pursuant to Section 10.05. The adjusted Stock Prices shall equal the Stock Prices in effect immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate in effect immediately prior to the adjustment giving rise to the Stock Price adjustment, and the denominator of which is the Conversion Rate in effect immediately after such adjustment. The number of Additional Shares set forth in the table in clause (d) below shall be adjusted at the same time and in the same manner as the Conversion Rate is adjusted pursuant to Section 10.05.

(d) The following table sets forth the Stock Prices and Make-Whole Fundamental Change Effective Dates and the number of Additional Shares, if any, by which the Conversion Rate will be increased for a Holder that converts its Note in connection with a Make-Whole Fundamental Change having such Make-Whole Fundamental Change Effective Date and Stock Price:

	Stock Price											
Make-Whole Fundamental Change Effective Date	**$17.03**	**$18.50**	**$20.00**	**$22.56**	**$25.00**	**$27.50**	**$30.00**	**$35.00**	**$40.00**	**$50.00**	**$60.00**	**$70.00**
March 19, 2014	14.4030	12.2526	10.5171	8.3047	6.8027	5.6645	4.8068	3.6201	2.8539	1.9396	1.4362	1.1074
March 15, 2015	14.4030	12.2526	10.5095	8.1566	6.5808	5.4046	4.5307	3.3491	2.6073	1.7472	1.2932	0.9971
March 15, 2016	14.4030	12.2526	10.4372	7.9267	6.2698	5.0568	4.1730	3.0108	2.3080	1.5258	1.1269	0.8709
March 15, 2017	14.4030	12.2526	10.2470	7.5615	5.8239	4.5814	3.6996	2.5838	1.9425	1.2715	0.9387	0.7276
March 15, 2018	14.4030	12.1896	9.8272	6.9595	5.1554	3.9090	3.0576	2.0406	1.4986	0.9777	0.7272	0.5681
March 15, 2019	14.4030	11.6168	9.0387	5.9848	4.1505	2.9544	2.1917	1.3684	0.9805	0.6584	0.4990	0.3940
March 15, 2020	14.4030	10.5634	7.6609	4.3772	2.5971	1.5938	1.0583	0.6077	0.4611	0.3329	0.2583	0.2055
March 15, 2021	14.4030	9.7371	5.6831	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

In the event that the exact Stock Price or Make-Whole Fundamental Change Effective Date for a Make-Whole Fundamental Change is not set forth in the table above:

(i) if the Stock Price is between two prices listed in the table or the Make-Whole Fundamental Change Effective Date is between two Make-Whole Fundamental Change Effective Dates listed in the table, the applicable number of Additional Shares shall be determined by a straight-line interpolation between the number of Additional Shares set forth for the higher and lower Stock Prices and the earlier and later Make-Whole Fundamental Change Effective Dates based on a 365-day year, as applicable;

(ii) if the Stock Price is greater than $70.00 per share (subject to adjustment in the same manner and at the same time as the Stock Prices listed in the table), no Additional Shares shall be added to the Conversion Rate; and

(iii) if the Stock Price is less than $17.03 per share (subject to adjustment in the same manner and at the same time as the Stock Prices listed in the table), no Additional Shares shall be added to the Conversion Rate.

Notwithstanding anything to the contrary in this Section 10.07, in no event shall the Conversion Rate exceed 58.7199 shares per $1,000 principal amount of Notes, subject to adjustment at the same time and in the same manner as the Conversion Rate pursuant to Section 10.05 (the **"Maximum Conversion Rate"**).

(e) With respect to any Make-Whole Fundamental Change:

(i) that is described in clause (b) of the definition Fundamental Change and in which the holders of Common Stock receive only cash in consideration for their shares (a **"Cash Merger"**), notwithstanding anything to the contrary in Section 10.03, the Company shall satisfy its Conversion Obligation with respect to any Note converted at any time following such Cash Merger by delivering to the converting Holder, on the third Business Day immediately following the Conversion Date for such Note, an amount of cash, for each $1,000 principal amount of such Note converted, equal to the product of (A) the Conversion Rate in effect on such Conversion Date (as increased by any Additional Shares pursuant to this Section 10.07, if any) and (B) the "Stock Price" with respect to such Cash Merger, which shall be the cash amount paid per share to holders of Common Stock in such Cash Merger; or

(ii) that is not a Cash Merger, (A) the "Stock Price" with respect to such Make-Whole Fundamental Change shall equal the average of the Last Reported Sale Prices of the Common Stock over the five Trading Day period ending on, and including, the Trading Day immediately preceding the related Make-Whole Fundamental Change Effective Date, and (B) for the avoidance of doubt, the Company shall satisfy its Conversion Obligation with respect to any Note converted in connection with such Make-Whole Fundamental Change in accordance with Section 10.03, based on the Conversion Rate as increased by any Additional Shares pursuant to this Section 10.07.

Section 10.08 Disclaimer. None of the Trustee, Registrar, Paying Agent or Conversion Agent shall have any duty to determine when an adjustment under this Article X should be made, how it should be made or what it should be. None of the Trustee, Registrar, Paying Agent or Conversion Agent shall be responsible for determining whether any of a Fundamental Change, a Make-Whole Fundamental Change, a VWAP Market Disruption Event, a Trigger Event or a Share Exchange Event shall have occurred. None of the Trustee, the Registrar, the Paying Agent or Conversion Agent shall have any shall be accountable for and makes any representation as to the validity or value (of the kind or amount) of any shares of Common Stock, of any Reference Property or of any other securities, property or assets issued upon conversion of Notes. None of the Trustee, the Registrar, the Paying Agent or Conversion Agent shall be responsible for (i) any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of Common Stock or stock or share certificates or other securities or property upon the surrender of any Note for the purpose of conversion and (ii) the Company's failure to comply with this Article X.

None of the Trustee, Registrar, Paying Agent or Conversion Agent shall be responsible for calculating the Trading Price, or determining whether any event contemplated by Section 10.01 has occurred which makes the Notes eligible for conversion, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed herein, in making the same and shall be entitled to presume that no such event has occurred until the Company has delivered to the Trustee an Officer's Certificate stating that such event has occurred, on which Officer's Certificate the Trustee may conclusively rely, and the Company agrees to deliver such Officer's Certificate to the Trustee and any such agent immediately after the occurrence of any such event.

Without limiting the generality of the foregoing, none of the Trustee, Registrar, Paying Agent or Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 9.01(c) relating either to the kind or amount of shares of stock or securities or other property or assets (including cash) receivable for Holders upon the conversion of their Notes after any Share Exchange Event or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 7.01, may accept as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officer's Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto.

Each Conversion Agent shall have the same protection under this Section 10.08 as the Trustee, the Registrar and the Paying Agent.

ARTICLE XI.
PAYMENT OF INTEREST

Section 11.01 Payment of Interest. The Company shall pay interest on the Notes at a rate of 2.75% *per annum*, payable semi-annually in arrears on March 15 and September 15 of each year (each, an **"Interest Payment Date"**) or, if any such day is not a Business Day, the immediately following Business Day and no interest on such payment shall accrue in respect of any such delay, commencing September 15, 2014. Interest on the Notes shall accrue from the most recent date to which interest has been paid or duly provided for, or, if no interest has been paid, the Original Issuance Date. Interest on a Note shall be paid to the Holder of record of such Note at the Close of Business on the March 1 or September 1, whether or not a Business Day (each, a **"Record Date"**), immediately preceding the March 15 or September 15 Interest Payment Date, respectively, and shall be computed on the basis of a 360-day year composed of twelve 30-day months.

Section 11.02 Defaulted Interest. Any installment of interest that is payable, but is not punctually paid or duly provided for on any Interest Payment Date (**"Defaulted Interest"**), shall forthwith cease to be payable to the Holders in whose names the Notes were registered on the Record Date applicable to such installment of interest. Defaulted Interest (including any interest on such Defaulted Interest) may be paid by the Company, at its election, as provided in Section 11.02(a) or Section 11.02(b).

(a) The Company may elect to make payment of any Defaulted Interest (including any interest on such Defaulted Interest) to the Holders in whose names the Notes are registered at the Close of Business on a special record date for the payment of such Defaulted Interest (a **"Special Record Date"**), 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 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 (including any interest on 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 Holders entitled to such Defaulted Interest (including any interest on such Defaulted Interest) as provided in this Section 11.02(a). Thereupon the Company shall fix a Special Record Date for the payment of such Defaulted Interest (including any interest on such Defaulted Interest), which shall be not more than 15 calendar days and not less than ten calendar days prior to the date of the proposed payment and not less than ten calendar days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee of such Special Record Date and shall cause notice of the proposed payment of such Defaulted Interest (including any interest on such Defaulted Interest) and the Special Record Date therefor to be sent by first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the registration books of the Registrar, not less than ten calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest (including any interest on such Defaulted Interest) and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest (including any interest on such Defaulted Interest) shall be paid to the Holders in whose names the Notes are registered at the Close of Business on such Special Record Date and shall no longer be payable pursuant to Section 11.02(b).

(b) Alternatively, the Company may make payment of any Defaulted Interest (including any interest on such Defaulted Interest) in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Section 11.02(b), such manner of payment shall be deemed practicable by the Trustee.

Section 11.03 Interest Rights Preserved. Subject to the foregoing provisions of this Article XI and, to the extent applicable, Section 2.06 and Section 2.07, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

ARTICLE XII.
MEETINGS OF HOLDERS

Section 12.01 Purpose of Meetings. A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article XII for any of the following purposes:

(a) to give any notice to the Company or to the Trustee or to give any directions to the Trustee permitted under this Indenture, or to consent to the waiving of any Default or Event of Default hereunder or rescind any acceleration, or to take any other action authorized to be taken by Holders pursuant to any of the provisions of Article VI;

(b) to remove the Trustee and nominate a successor Trustee pursuant to the provisions of Article VII;

(c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Article IX; or

(d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Notes under any other provision of this Indenture or under applicable law.

Section 12.02 Call of Meetings by Trustee. The Trustee may at any time call a meeting of Holders to take any action specified in Section 12.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of the Holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting and the establishment of any record date pursuant to Section 1.04, shall be mailed to Holders of such Notes at their addresses as they shall appear on the Register. Such notice may also be mailed to the Company. Such notices shall be mailed not less than twenty nor more than sixty days prior to the date fixed for the meeting.

Section 12.03 Regulations. Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders, in regard to proof of the holding of Notes and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies,

certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit.

ARTICLE XIII.
SUBORDINATION

Section 13.01 Agreement to Subordinate. The Company agrees, and each Holder by accepting a Note agrees, that notwithstanding any payment Obligations set forth herein, payments of principal of, premium on, if any, and interest on the Notes is subordinated in right of payment, to the extent and in the manner provided in this Article XIII, to the prior payment in full of all Senior Debt of the Company, including Senior Debt created, incurred, assumed or guaranteed after the date of this Indenture, and that the subordination is for the benefit of and enforceable by the holders of such Senior Debt.

Section 13.02 Liquidation, Dissolution, Bankruptcy. The holders of Senior Debt will be entitled to receive payment in full of all Obligations due in respect of such Senior Debt (including interest after the commencement of any bankruptcy proceeding at the rate specified in the applicable Senior Debt) before the Holders of Notes will be entitled to receive any payment with respect to the Notes (except that Holders of Notes may receive and retain Permitted Junior Securities and payments made from the deposits described in Section 8.01), in the event of any distribution to creditors of the Company:

(a) in a liquidation or dissolution of the Company;

(b) in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property;

(c) in an assignment for the benefit of the Company's creditors; or

(d) in any marshaling of the Company's assets and liabilities.

Section 13.03 Default on Senior Debt of Guarantor.

(a) The Company may not make any payment or distribution to the Trustee or any Holder in respect of Obligations with respect of the Notes and may not acquire from the Trustee or any Holder any Notes for cash or property (except that Holders of Notes may receive and retain Permitted Junior Securities and payments made from the deposits described in Section 8.01) if:

(i) a payment default on Designated Senior Debt occurs and is continuing; or

(ii) any other default occurs and is continuing on any series of Designated Senior Debt that permits holders of that series of Designated Senior Debt to accelerate its Stated Maturity and the Trustee receives a notice of such default (a "**Payment Blockage Notice**") from the Company or the holders of any Designated Senior Debt.

(b) The Company may and shall resume payments on and distributions in respect of the Notes and may acquire them upon the earlier of:

(i) in the case of a payment default, upon the date on which such default is cured or waived; and

(ii) in the case of a nonpayment default, upon the earlier of the date on which such nonpayment default is cured or waived or 179 days after the date on which the applicable Payment Blockage Notice is received, unless the Stated Maturity of any Designated Senior Debt has been accelerated,

if this Indenture otherwise permits such payment, distribution or acquisition at the time of such payment, distribution or acquisition.

(c) No new Payment Blockage Notice may be delivered unless and until:

(i) at least 360 days have elapsed since the delivery of the immediately prior Payment Blockage Notice; and

(ii) all scheduled payments of principal of, premium on, if any, and interest, if any, on, the Notes that have come due have been paid in full in cash.

(d) No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee will be, or be made, the basis for a subsequent Payment Blockage Notice unless such default has been cured or waived for a period of not less than 90 days.

Section 13.04 Acceleration of Payment of Notes. If payment of the Notes is accelerated because of an Event of Default, the Company or Trustee shall promptly notify the holders of the Designated Senior Debt of the Company (or their Representatives) of the acceleration.

Section 13.05 When Distribution Must Be Paid Over. If the Trustee or any Holder of the Notes receives any payment of any Obligations with respect to the Notes (except that Holders of Notes may receive and retain Permitted Junior Securities and payments made from the deposits described in Section 8.01) when:

(i) the payment is prohibited by this Article XIII; and

(ii) the Trustee or the Holder has actual knowledge that the payment is prohibited,

the Trustee or the Holder, as the case may be, will hold the payment in trust for the benefit of the holders of Senior Debt. Upon the proper written request of the holders of Senior Debt, the Trustee or the Holder, as the case may be, shall deliver the amounts in trust to the holders of Senior Debt or their Representative.

Section 13.06 Subrogation. After all Senior Debt of the Company is paid in full and until the Notes are paid in full, Holders shall be subrogated to the rights of holders of such Senior Debt to receive distributions applicable to such Senior Debt. A distribution made under this Article XIII to holders of such Senior Debt that otherwise would have been made to Holders is not, as between the Company and Holders, a payment by the Company on such Senior Debt.

Section 13.07 Relative Rights. This Article XIII defines the relative rights of Holders and holders of Senior Debt of the Company. Nothing in this Indenture shall:

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

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

(c) prevent the Trustee or any Holder from exercising its available remedies upon a Default, subject to the rights of holders of Senior Debt of the Company to receive distributions otherwise payable to Holders.

Section 13.08 Subordination May Not Be Impaired by the Company. No right of any holder of Senior Debt of the Company to enforce the subordination of the Indebtedness evidenced by the Notes shall be impaired by any act or failure to act by the Company or by its failure to comply with this Indenture.

Section 13.09 Rights of Trustee and Paying Agents.

Notwithstanding anything in this Article XIII, the Trustee or the Paying Agent may continue to make payments on the Notes and shall not be charged with knowledge of the existence of facts that would prohibit the making of any such payments to or by the Trustee unless and until, not less than two Business Days prior to the date of such payment, the Trust Officer receives written notice satisfactory to it that payments may not be made under this Article XIII. The Company, a Representative or a holder of Senior Debt of the Company may give the notice; *provided*, *however*, that, if an issue of Senior Debt of the Company has a Representative, only the Representative may give the notice.

The Trustee in its individual or any other capacity may hold Senior Debt of the Company with the same rights it would have if it were not Trustee. The Paying Agent may do the same with like rights. The Trustee shall be entitled to all the rights set forth in this Article XIII with respect to any Senior Debt of the Company that may at any time be held by it, to the same extent as any other holder of Senior Debt; and nothing in Article VII shall deprive the Trustee of any of its rights as such holder. Nothing in this Article XIII shall apply to claims of, or payments to, the Trustee under or pursuant to Section 7.06.

Section 13.10 Distribution or Notice to Representative. Whenever a distribution is to be made or a notice given to holders of Senior Debt of the Company, the distribution may be made and the notice given to their Representative (if any).

Section 13.11 Not to Prevent Events of Default or Limit Rights to Accelerate. The failure to make any payment pursuant to the Notes by reason of any provision in this Article XIII shall not be construed as preventing the occurrence of a Default. Nothing in this Article XIII shall have any effect on the right of the Holders or the Trustee to accelerate the maturity of the Notes.

Section 13.12 Trustee Entitled to Rely. Upon any payment or distribution pursuant to this Article XIII, the Trustee and the Holders shall be entitled to rely (a) upon any order or decree of a court of competent jurisdiction in which any proceedings of the nature referred to in Section 11.02 are pending, (b) upon a certificate of the liquidating trustee or Agent or other Person making such payment or distribution to the Trustee or to the Holders or (c) upon a certificate of the Representative of the holders of Senior Debt of the Company or, if there is no Representative, the holders of Senior Debt of the Company for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of Senior Debt and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article XIII. In the event that the Trustee determines, in good faith, that evidence is required with respect to the right of any Person as a holder of Senior Debt of the Company to participate in any payment or distribution pursuant to this Article XIII, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of such Senior Debt held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and other facts pertinent to the rights of such Person under this Article XIII, and, if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment. The provisions of Sections 7.01 and 7.02 shall be applicable to all actions or omissions of actions by the Trustee pursuant to this Article XIII.

Section 13.13 Trustee to Effectuate Subordination. Each Holder by accepting a Note authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to acknowledge or effectuate the subordination between the Holders and the holders of Senior Debt of the Company as provided in this Article XIII and appoints the Trustee as attorney-in-fact for any and all such purposes.

Section 13.14 Trustee Not Fiduciary for Holders of Senior Debt of the Company. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt of the Company and shall not be liable to any such holders if it shall mistakenly pay over or distribute to Holders or the Company or any other Person, money or assets to which any holders of such Senior Debt shall be entitled by virtue of this Article XIII or otherwise.

Section 13.15 Reliance by Holders of Senior Debt of the Company on Subordination Provisions. Each Holder by accepting a Note acknowledges and agrees that the foregoing subordination provisions are, and are intended to be, an inducement and a consideration to each holder of any Senior Debt of the Company, whether such Senior Debt was created or acquired before or after the issuance of the Notes, to acquire and continue to hold, or to continue to hold, such Senior Debt and such holder of Senior Debt shall be deemed conclusively to have relied on, and is a third party beneficiary of, such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Senior Debt.

ARTICLE XIV.
MISCELLANEOUS

Section 14.01 Notices. Any request, demand, authorization, notice, waiver, consent or communication shall be in writing and delivered in person or by recognized overnight courier or

mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission or other similar means of unsecured electronic methods to the following:

if to the Company:

Carriage Services, Inc.
3040 Post Oak Boulevard, Suite 300
Houston, Texas 77056
Attn: L. William Heiligbrodt

if to the Trustee in any of its roles hereunder:

Wilmington Trust, National Association
Rodney Square North
1100 North Market Street
Wilmington, DE 19890
Attn: Michael H. Wass

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

Any notice or communication given to a Holder shall be mailed to the Holder, by first-class mail, postage prepaid, at the Holder's address as it appears on the registration books of the Registrar and shall be deemed given on the date of such mailing; *provided*, that any notice in respect of a Global Note shall be sufficient if given in accordance with the Applicable Procedures.

Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, upon actual receipt by the addressee. Any notice required to be delivered hereunder by the Company to the Trustee shall be delivered in the manner set forth in this Section 14.01 and the Company shall promptly confirm actual receipt thereof by the Trustee.

Notwithstanding any other provision of this Indenture or any Note, where this Indenture or any Note provides for notice of any event to a Holder of a Global Note (whether by mail or otherwise), such notice shall be sufficiently given if given to the Depositary for such Note (or its designee) pursuant to the applicable procedures of the Depositary.

If the Company mails a notice or communication to the Holders, including any notice to Holders pursuant to Article X, it shall, at the same time, mail a copy to the Trustee and each of the Registrar, Paying Agent and Conversion Agent.

If the Company is required under this Indenture to give a notice to the Holders, in lieu of delivering such notice to the Holders, the Company may deliver such notice to the Trustee and cause the Trustee to have delivered such notice to the Holders on or prior to the date on which the Company would otherwise have been required to deliver such notice to the Holders. In such a case, the

Company shall also cause the Trustee to mail a copy of the notice to each of the Registrar, Paying Agent and Conversion Agent at the same time it mails the notice to the Holders.

Section 14.02 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officer's Certificate stating that, in the opinion of the signer, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent relating to the proposed action (to the extent of legal conclusions) have been complied with; provided that no such Opinion of Counsel shall be required to be delivered in connection with the issuance of the Notes that are issued on the Original Issuance Date.

Section 14.03 Statements Required in Certificate or Opinion. Each Officer's Certificate or Opinion of Counsel with respect to compliance with a covenant or condition (except for such Officer's Certificate required to be delivered pursuant to Section 4.03 or Section 6.01(b)) provided for in this Indenture shall include:

a statement that each individual making such Officer's Certificate or Opinion of Counsel has read such covenant or condition;

(c) a brief statement as to the nature and scope of the examination or investigation upon which the statements or judgments contained in such Officer's Certificate or Opinion of Counsel are based;

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

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

Section 14.04 Severability Clause. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, then (to the extent permitted by law) the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 14.05 Governing Law. THIS INDENTURE AND EACH NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 14.06 No Recourse Against Others. A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Notes or this Indenture or for any claim based on, in respect of or by reason of such obligations or

their creation. By accepting a Note, each Holder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes.

Section 14.07 Calculations.

Except as otherwise provided herein, the Company shall be responsible for making all calculations called for under this Indenture and under the Notes. These calculations include, but are not limited to, determinations of the Last Reported Sale Prices of the Common Stock, Daily VWAPs, Daily Settlement Amounts, Daily Net Settlement Amounts, Daily Conversion Values, Cash Percentage, Stock Prices, Trading Prices, accrued interest payable on the Notes and the Conversion Rate in effect on any Conversion Date.

The Company shall make these calculations in good faith and, absent manifest error, such calculations will be final and binding on Holders. The Company shall provide to each of the Trustee and the Conversion Agent a schedule of its calculations, and each of the Trustee and Conversion Agent is entitled to rely conclusively upon the accuracy of such calculations without independent verification. The Trustee shall forward the Company's calculations to any Holder upon the request of such Holder.

All calculations shall be made to the nearest cent or to the nearest $1/10{,}000^{th}$ of a share, as the case may be.

Section 14.08 Successors. All agreements of the Company, the Trustee, the Registrar, the Paying Agent and the Conversion Agent in this Indenture and the Notes shall bind their respective successors.

Section 14.09 Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile or electronic format *(i.e.*, "pdf" or "tif") transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or electronic format (*i.e.*, "pdf" or "tif") shall be deemed to be their original signatures for all purposes.

Section 14.10 Table of Contents; Headings. The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 14.11 Force Majeure. The Trustee, Registrar, Paying Agent, and Conversion Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of such person (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

Section 14.12 Submission to Jurisdiction. The Company (a) agrees that any suit, action or proceeding against it arising out of or relating to this Indenture or the Notes, as the case may be, may be instituted in any U.S. federal court with applicable subject matter jurisdiction sitting in The City of New York; (b) waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, and any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum; and (c) submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding.

Section 14.13 Legal Holidays. If any Interest Payment Date, the Maturity Date or any Fundamental Change Purchase Date occurs on a day that is not a Business Day, the payment required to be made on such day shall be postponed until the immediately following Business Day, and no interest on such payment shall accrue in respect of such delay.

Section 14.14 No Security Interest Created. Except as provided in Section 7.06, nothing in this Indenture or in the Notes, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 14.15 Benefits of Indenture. Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Conversion Agent, any authenticating agent, any Registrar and their successors hereunder or the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

[*Remainder of Page Intentionally Left Blank*]

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

CARRIAGE SERVICES, INC.

By: /s/ L. William Heiligbrodt
Name: L. William Heiligbrodt
Title: Executive Vice President and Secretary

WILMINGTON TRUST, NATIONAL ASSOCIATION, as Trustee

By: /s/ Michael H. Wass
Name: Michael H. Wass
Title: Assistant Vice President

[FORM OF FACE OF NOTE]

[*INCLUDE THE FOLLOWING LEGEND FOR GLOBAL NOTES ONLY (THE "GLOBAL SECURITIES LEGEND"):*]

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

[*Include the following legend on all Notes that are Restricted Notes (the "**Restricted Securities Legend**"):*]

[THE SALE OF THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, PRIOR TO THE "RESALE RESTRICTION TERMINATION DATE" (AS DEFINED BELOW), THIS NOTE AND ANY COMMON STOCK ISSUABLE UPON CONVERSION OF THIS NOTE MAY NOT BE OFFERED, RESOLD OR OTHERWISE TRANSFERRED, EXCEPT:

(a) TO CARRIAGE SERVICES, INC. (THE "COMPANY") OR ANY SUBSIDIARY THEREOF;

(b) PURSUANT TO, AND IN ACCORDANCE WITH, A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT AT THE TIME OF SUCH TRANSFER; OR

(c) UNDER ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (INCLUDING, IF AVAILABLE, THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT).

THE "RESALE RESTRICTION TERMINATION DATE" MEANS THE LATER OF: (1) THE DATE THAT IS ONE YEAR AFTER THE LAST ISSUE DATE OF THE ORIGINAL ISSUANCE OF THE NOTES OR SUCH SHORTER PERIOD OF TIME PERMITTED BY RULE 144 OR ANY SUCCESSOR PROVISION THERETO; AND (2) SUCH OTHER DATE AS MAY BE REQUIRED BY APPLICABLE LAW.

WITH RESPECT TO ANY TRANSFER PURSUANT TO THE FOREGOING CLAUSE (c), PRIOR TO THE RESALE RESTRICTION TERMINATION DATE, THE COMPANY AND THE

TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THEY MAY REASONABLY REQUIRE AND MAY RELY UPON TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.]

CARRIAGE SERVICES, INC.

2.75% CONVERTIBLE SUBORDINATED NOTE DUE 2021

No. [ ] [Initially][1] $[ ]

CUSIP No. 143905 AL1

Carriage Services, Inc., a corporation duly organized and validly existing under the laws of the State of Delaware (the "**Company**," which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to [CEDE & CO.][2] [ ][3], or registered assigns, the principal sum of $[__] [or such other amount as may be set forth in the "Schedule of Exchanges of Notes" attached hereto][4] [of $[ ]][5], on March 15, 2021.

This Note shall bear interest on the unpaid principal amount at the rate of 2.75% per year. Interest shall accrue from [March 19, 2014][6], or from the most recent date to which interest had been paid or provided for. Interest is payable semi-annually in arrears on each March 15 and September 15, commencing on [September 15, 2014][7], to Holders of record at the close of business on the preceding March 1 and September 1 (whether or not such day is a Business Day), respectively. Additional Interest will be payable under the circumstances set forth in the within-mentioned Indenture, and any reference to interest on, or in respect of, any Note therein shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to the Indenture and any express mention of the payment of Additional Interest in any provision therein shall not be construed as excluding Additional Interest in those provisions thereof where such express mention is not made. Notes surrendered for conversion as shall not be entitled to payment of principal or, except as specifically provided in the Indenture, interest.

Payments of the Fundamental Change Purchase Price, cash due upon conversion, principal and interest that are not made when due shall accrue interest *per annum* at the then-applicable interest rate from the required payment date, in each case, to the extent lawful.

The Company shall pay the principal of and interest on this Note, so long as such Note is a Global Note, in immediately available funds to the Depositary or its nominee, as the case may be, as the registered Holder of such Note. As provided in and subject to the provisions of the

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[1] Include if a global note.

[2] Include if a global note.

[3] Include if a physical note.

[4] Include if a global note.

[5] Include if a physical note.

[6] Include if initial notes.

[7] Include if initial notes.

Indenture, the Company shall pay the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated the Trustee as its Paying Agent and Registrar in respect of the Notes and its agency within the continental United States, as a place where Notes may be presented for payment or for registration of transfer.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall be construed in accordance with and governed by the laws of the State of New York.

In the case of any conflict between this Note and the Indenture, the provisions of the Indenture shall control and govern.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually by the Trustee or a duly authorized authenticating agent under the Indenture.

[*Remainder of Page Intentionally Left Blank*]

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

CARRIAGE SERVICES, INC.

By: _____
Name:
Title:

Dated:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

WILMINGTON TRUST, NATIONAL ASSOCIATION
as Trustee, certifies that this is one of the Notes described in the within-named Indenture.

By: _____
Authorized Signatory

[FORM OF REVERSE OF NOTE]

CARRIAGE SERVICES, INC.

This Note is one of a duly authorized issue of Notes of the Company, designated as its 2.75% Convertible Subordinated Notes due 2021 (the "**Notes**"), initially issued in an aggregate principal amount of $143,750,000, issued under and pursuant to an Indenture dated as of March 19, 2014 (the "**Indenture**"), between the Company and Wilmington Trust, National Association, as Trustee (the "**Trustee**"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders of the Notes. Additional Notes may be issued in an unlimited aggregate principal amount, subject to certain conditions specified in the Indenture. If there is any inconsistency between this Note and the Indenture, the terms of the Indenture shall govern.

In case an Event of Default, as defined in the Indenture, shall have occurred and be continuing, the principal of, and interest on, all Notes may be declared, by either the Trustee or Holders of at least 25% in aggregate principal amount of Notes then outstanding, and upon said declaration shall become, due and payable, in the manner, with the effect and subject to the conditions and certain exceptions set forth in the Indenture.

Subject to the terms and conditions of the Indenture, the Company will make all payments and deliveries in respect of the Fundamental Change Purchase Price on the Fundamental Change Purchase Date and the principal amount on the Maturity Date, as the case may be, to the Holder who surrenders a Note to a Paying Agent to collect such payments in respect of the Note. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

The Indenture contains provisions permitting the Company and the Trustee in certain circumstances, without the consent of the Holders of the Notes, and in certain other circumstances, with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, evidenced as in the Indenture provided, to execute supplemental indentures modifying the terms of the Indenture and the Notes as described therein. It is also provided in the Indenture that, subject to certain exceptions, the Holders of a majority in aggregate principal amount of the Notes at the time outstanding may on behalf of the Holders of all of the Notes waive any past Default or Event of Default under the Indenture and its consequences.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay and deliver, if applicable, the principal (including the Fundamental Change Purchase Price, if applicable) of, accrued and unpaid interest on, and the consideration due upon conversion of, this Note at the place, at the respective times, at the rate and in the lawful money herein prescribed.

The Notes are issuable in registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture,

Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations, without payment of any service charge but, if required by the Company or Trustee, with payment of a sum sufficient to cover any transfer or similar tax that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange of Notes being different from the name of the Holder of the old Notes surrendered for such exchange. The Trustee (or, if applicable, such other entity appointed as Registrar in accordance with the terms of the Indenture) need not transfer or exchange any Notes in respect of which a Fundamental Change Purchase Notice has been given and not withdrawn (except, in the case of a Note to be repurchased in part, the portion of the Note not to be repurchased).

Upon the occurrence of a Fundamental Change, the Holder has the right, subject to the terms and conditions set forth in the Indenture, at such Holder's option, to require the Company to purchase for cash all of such Holder's Notes or any portion thereof (in principal amounts of $1,000 or integral multiples thereof) on the Fundamental Change Purchase Date at a price equal to the Fundamental Change Purchase Price.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the Close of Business on the Business Day immediately preceding the Maturity Date, to convert any Notes or portion thereof that is $1,000 or an integral multiple thereof, into cash up to the aggregate principal amount of the Notes being converted, and cash, shares of Common Stock or a combination therefor, at the Company's election, in respect of the remainder, if any, of the Company's conversion obligation over the principal amount being converted, as specified in the Indenture.

The rights of holders of Notes to receive payments on the Notes are subordinated to the rights of holders of Senior Debt as provided in Article XIII of the Indenture.

Terms used in this Note and defined in the Indenture are used herein as therein defined.

ABBREVIATIONS

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

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entireties

JT TEN = joint tenants with right of survivorship and not as tenants in common

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

SCHEDULE OF EXCHANGES OF NOTES

CARRIAGE SERVICES, INC.
275% CONVERTIBLE SUBORDINATED NOTES DUE 2021

The initial principal amount of this Global Note is DOLLARS ($[ ]). The following increases or decreases in this Global Note have been made:

Date of exchange	Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Custodian

[8]Include if a global note.

[FORM OF NOTICE OF CONVERSION]

To: Carriage Services, Inc.

The undersigned registered owner of this Note hereby exercises the option to convert this Note, or the portion hereof (that is $1,000 principal amount or an integral multiple thereof) below designated, into cash up to the aggregate principal amount of the Notes being converted, and cash, shares of Common Stock or a combination therefor, at the Company's election, in respect of the remainder, if any, of the Company's conversion obligation over the principal amount being converted, in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and any shares of Common Stock issuable and deliverable upon such conversion, together with any cash for any fractional share, and any Notes representing any unconverted principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock or any portion of this Note not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies this Note.

Dated: __ __

__

Signature(s)

Signature Guarantee

Signature(s) must be guaranteed
by an eligible Guarantor Institution
(banks, stock brokers, savings and
loan associations and credit unions)
with membership in an approved
signature guarantee medallion program pursuant to
Securities and Exchange Commission Rule 17Ad-15 if
shares of Common Stock are to be issued, or Notes are to
be delivered, other than to and in the name of the
registered holder.

Fill in for registration of shares if
to be issued, and Notes if to
be delivered, other than to and in the
name of the registered holder:

(Name)

(Street Address)

(City, State and Zip Code)
Please print name and address

Principal amount to be converted (if less than all):
$,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

Social Security or Other Taxpayer
Identification Number

[FORM OF FUNDAMENTAL CHANGE PURCHASE NOTICE]

To: Carriage Services, Inc.

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

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

Dated: _____

_____
Signature(s)

_____
Social Security or Other Taxpayer
Identification Number

Principal amount to be repaid (if less than all): $,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

ATTACHMENT 3

[FORM OF TRANSFER CERTIFICATE]

2.75% CONVERTIBLE SUBORDINATED NOTES DUE 2021

TRANSFER CERTIFICATE

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

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

☐ To Carriage Services, Inc. or a subsidiary thereof; or

☐ Pursuant to a registration statement that is effective under the Securities Act of 1933, as amended, at the time of such transfer; or

☐ Pursuant to and in compliance with Rule 144A under the Securities Act of 1933, as amended; or

☐ Pursuant to and in compliance with Rule 144 under the Securities Act of 1933, as amended, or any other available exemption from the registration requirements of the Securities Act of 1933, as amended.

In connection with a transfer pursuant to the fourth clause above, by its execution below, the undersigned hereby acknowledges and agrees that, prior to effecting the transfer requested hereby, the Company and/or the Trustee may reasonably require additional certifications, legal opinions and other documents and information to confirm that such condition to transfer (as indicated in the preceding sentence) has been satisfied.

Dated: _____

_____

_____

Signature(s)

_____

Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stockbrokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.

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

EXHIBIT B

RESTRICTED STOCK LEGEND

THE SALE OF THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND ACCORDINGLY, PRIOR TO THE "RESALE RESTRICTION TERMINATION DATE" (AS DEFINED BELOW), THIS SECURITY MAY NOT BE OFFERED, RESOLD, OR OTHERWISE TRANSFERRED, EXCEPT:

(a) TO CARRIAGE SERVICES, INC. (THE "COMPANY") OR ANY SUBSIDIARY THEREOF;

(b) PURSUANT TO, AND IN ACCORDANCE WITH, A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT AT THE TIME OF SUCH TRANSFER; OR

(c) UNDER ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (INCLUDING, IF AVAILABLE, THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT).

THE "RESALE RESTRICTION TERMINATION DATE" MEANS THE LATER OF: (1) THE DATE THAT IS ONE YEAR AFTER THE LAST ISSUE DATE OF THE ORIGINAL ISSUANCE OF THE COMPANY'S 2.75% CONVERTIBLE SUBORDINATED NOTES DUE 2021 OR SUCH SHORTER PERIOD OF TIME PERMITTED BY RULE 144 OR ANY SUCCESSOR PROVISION THERETO; AND (2) SUCH OTHER DATE AS MAY BE REQUIRED BY APPLICABLE LAW.

WITH RESPECT TO ANY TRANSFER PURSUANT TO THE FOREGOING CLAUSE (c), PRIOR TO THE RESALE RESTRICTION TERMINATION DATE, THE COMPANY AND THE COMPANY'S TRANSFER AGENT RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THEY MAY REASONABLY REQUIRE AND MAY RELY UPON TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

CARRIAGE SERVICES, INC.

$125,000,000

2.75% CONVERTIBLE SUBORDINATED NOTES DUE 2021 PURCHASE AGREEMENT

Dated: March 13, 2014

Carriage Services, Inc.

$125,000,000

2.75% Convertible Subordinated Notes due 2021

PURCHASE AGREEMENT

March 13, 2014

Merrill Lynch, Pierce, Fenner & Smith
Incorporated

as Representative of the several Initial Purchasers

c/o Merrill Lynch, Pierce, Fenner & Smith
Incorporated

One Bryant Park
New York, New York 10036

Ladies and Gentlemen:

Carriage Services, Inc., a Delaware corporation (the "Company"), confirms its agreement (this "Agreement") with Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") and each of the other Initial Purchasers named in Schedule A hereto (collectively, the "Initial Purchasers," which term shall also include any initial purchaser substituted as hereinafter provided in Section 11 hereof), for whom Merrill Lynch is acting as representative (in such capacity, the "Representative"), with respect to (i) the issue and sale by the Company and the purchase by the Initial Purchasers, acting severally and not jointly, of the respective principal amounts set forth in said Schedule A of $125,000,000 aggregate principal amount of the Company's 2.75% Convertible Subordinated Notes due 2021 (the "Initial Securities") and the grant by the Company to the Initial Purchasers, acting severally and not jointly, of the option to purchase all or any part of an additional $18,750,000 aggregate principal amount of its 2.75% Convertible Subordinated Notes due 2021 (the "Option Securities" and, together with the Initial Securities, the "Securities") to cover overallotments. The Securities are to be issued pursuant to an indenture, dated as of March 19, 2014 (the "Indenture"), between the Company and Wilmington Trust, National Association, as trustee (the "Trustee").

The Company understands that the Initial Purchasers propose to make an offering of the Securities on the terms and in the manner set forth herein and agrees that the Initial Purchasers may resell, subject to the conditions set forth herein, all or a portion of the Securities to purchasers ("Subsequent Purchasers") at any time after this Agreement has been executed and delivered. The Securities are to be offered and sold through the Initial Purchasers without being registered under the Securities Act of 1933, as amended (the "1933 Act"), in reliance upon exemptions therefrom. Pursuant to the terms of the Securities and the Indenture, investors that acquire Securities may only resell or otherwise transfer such Securities if such Securities are hereafter registered under the 1933 Act or if an exemption from the registration requirements of the 1933 Act is available (including the exemption afforded by Rule 144A ("Rule 144A") of the rules and regulations promulgated under the 1933 Act (the "1933 Act Regulations") by the Securities and Exchange Commission (the "Commission")).

The Company has prepared and delivered to each Initial Purchaser copies of a preliminary offering memorandum dated March 12, 2014 prior to the Applicable Time (as defined below) (the "Preliminary Offering Memorandum") and has prepared and will deliver to each Initial Purchaser, within

two Business Days of the date hereof, copies of a final offering memorandum dated March 13, 2014 (the "Final Offering Memorandum"), each for use by such Initial Purchaser in connection with its solicitation of purchases of, or offering of, the Securities. "Offering Memorandum" means, with respect to any date or time referred to in this Agreement, the most recent offering memorandum (whether the Preliminary Offering Memorandum or the Final Offering Memorandum, or any amendment or supplement to either such document), including exhibits thereto and any documents incorporated therein by reference, which has been prepared and delivered by the Company to the Initial Purchasers, in the case of the Preliminary Offering Memorandum prior to the Applicable Time, in connection with their solicitation of purchases of, or offering of, the Securities. The Company has also prepared a final term sheet reflecting the final terms of the Securities, in the form set forth in Schedule B hereto (the "Final Term Sheet"), and delivered such Final Term Sheet to the Initial Purchasers in connection with their solicitation of purchases of, or offering of, the Securities. The Company agrees that, unless it obtains the prior written consent of the Representative, it will not make any offer relating to the Securities by any written materials other than the Offering Memorandum and the Issuer Written Information. "Issuer Written Information" means (i) any writing intended for general distribution to investors as evidenced by its being specified in Schedule C hereto, including the Final Term Sheet, and (ii) any "road show" that is a "written communication" within the meaning of the 1933 Act. "General Disclosure Package" means the Preliminary Offering Memorandum and any Issuer Written Information specified on Schedule C hereto and issued at or prior to 7:30 P.M., New York City time, on March 13, 2014 or such other time as agreed by the Company and Merrill Lynch (such date and time, the "Applicable Time").

All references in this Agreement to financial statements and schedules and other information which is "contained," "included" or "stated" in the Offering Memorandum (or other references of like import) shall be deemed to mean and include all such financial statements and schedules and other information which are incorporated by reference in the Offering Memorandum; and all references in this Agreement to amendments or supplements to the Offering Memorandum shall be deemed to mean and include the filing of any document under the Securities Exchange Act of 1934 (the "1934 Act") which is incorporated by reference in the Offering Memorandum.

SECTION 1. Representations and Warranties.

(a) *Representations and Warranties by the Company*. The Company represents and warrants to each Initial Purchaser as of the date hereof, the Applicable Time, the Closing Time (as defined below) and any Date of Delivery (as defined below), and agrees with each Initial Purchaser, as follows:

(i) General Disclosure Package; Rule 144A Eligibility. The Company hereby confirms that it has authorized the use of the General Disclosure Package, including the Preliminary Offering Memorandum and the Final Term Sheet, and the Final Offering Memorandum in connection with the offer and sale of the Securities by the Initial Purchasers. The Securities are eligible for resale pursuant to Rule 144A and will not be, at the Closing Time, of the same class as securities listed on a national securities exchange registered under Section 6 of the 1934 Act, or quoted in a U.S. automated interdealer quotation system.

(ii) No Registration Required; No General Solicitation. Subject to compliance by the Initial Purchasers with the representations and warranties of the Initial Purchasers and the procedures set forth in Section 6 hereof, it is not necessary in connection with the offer, sale and delivery of the Securities to the Initial Purchasers and to each Subsequent Purchaser in the manner contemplated by this Agreement, the General Disclosure Package and the Final Offering Memorandum to register the Securities under the 1933 Act or to qualify the Indenture under the Trust Indenture Act of 1939, as amended (the "1939 Act"). None of the Company, its Affiliates (as defined below) or any person acting on its or any of their behalf (other than the Initial

Purchasers, as to whom the Company makes no representation) has engaged, in connection with the offering of the offered Securities, in any form of general solicitation or general advertising within the meaning of Rule 502(c) under the 1933 Act Regulations.

(iii) Accurate Disclosure. As of the Applicable Time, neither (A) the General Disclosure Package nor (B) any Issuer Written Information other than the items specified on Schedule C, when considered together with the General Disclosure Package, included an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Final Offering Memorandum, as of its date, at the Closing Time or at any Date of Delivery does not and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The documents incorporated or deemed to be incorporated by reference in the General Disclosure Package and the Final Offering Memorandum, when read together with the other information in the General Disclosure Package or the Final Offering Memorandum, as the case may be, did not as of the Applicable Time, and will not as of the Closing Time contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

The representations and warranties in this subsection shall not apply to statements in or omissions from the General Disclosure Package or the Final Offering Memorandum made in reliance upon and in conformity with written information furnished to the Company by any Initial Purchaser through Merrill Lynch expressly for use therein. For purposes of this Agreement, the only information so furnished shall be the information in the first paragraph under the heading "Plan of Distribution−Price Stabilization, Short Positions" in the Offering Memorandum (collectively, the "Initial Purchaser Information").

(iv) Incorporation of Documents by Reference. The documents incorporated or deemed to be incorporated by reference in the Offering Memorandum, when they became effective or at the time they were or hereafter are filed with the Commission, complied and will comply in all material respects with the requirements of the 1934 Act and the rules and regulations of the Commission under the 1934 Act (the "1934 Act Regulations").

(v) Independent Accountants. The accountants who certified the financial statements and supporting schedules included in the Offering Memorandum are independent public accountants with respect to the Company and its consolidated subsidiaries as required by the 1933 Act, the 1933 Act Regulations, the 1934 Act, the 1934 Act Regulations and the Public Company Accounting Oversight Board.

(vi) Financial Statements; Non-GAAP Financial Measures. The financial statements included or incorporated by reference in the General Disclosure Package and the Final Offering Memorandum, together with the related schedules and notes, present fairly in all material respects the financial position of the Company and its consolidated subsidiaries at the dates indicated and the statement of operations, stockholders' equity and cash flows of the Company and its consolidated subsidiaries for the periods specified; said financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved in all material respects. The supporting schedules, if any, present fairly in accordance with GAAP the information required to be stated therein. The selected financial data and the summary financial information included in the Offering Memorandum present fairly in all material respects the information shown therein and

have been compiled on a basis consistent with that of the audited financial statements included therein. All disclosures contained in the General Disclosure Package or the Final Offering Memorandum, or incorporated by reference therein, regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply with Regulation G of the 1934 Act and Item 10 of Regulation S-K of the 1933 Act, to the extent applicable in all material respects. The interactive data in eXtensible Business Reporting Language incorporated by reference in the General Disclosure Package and the Final Offering Memorandum fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(vii) No Material Adverse Change in Business. Except as otherwise stated therein, since the respective dates as of which information is given in the General Disclosure Package or the Final Offering Memorandum, (A) there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (B) there have been no transactions entered into by the Company or any of its subsidiaries, other than those in the ordinary course of business, which are material with respect to the Company and its subsidiaries considered as one enterprise, and
(C) except for regular quarterly dividends on the Company's common stock, par value $0.01 per share (the "Common Stock") and the Company's outstanding preferred stock, par value $0.01 per
share, in each case in amounts per share that are consistent with past practice, there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its
capital stock.

(viii) Good Standing of the Company. The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Delaware and has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the General Disclosure Package and the Final Offering Memorandum and to enter into and perform its obligations under this Agreement; and the Company is duly qualified as a foreign corporation to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect.

(ix) Good Standing of Subsidiaries. Each "significant subsidiary" of the Company (as such term is defined in Rule 1-02 of Regulation S-X) (each, a "Subsidiary" and, collectively, the "Subsidiaries") has been duly organized and is validly existing as a corporation, partnership or limited liability company, as the case may be, in good standing under the laws of the jurisdiction of its incorporation or organization, has corporate or similar power and authority to own, lease and operate its properties and to conduct its business as described in the General Disclosure Package and the Final Offering Memorandum and is duly qualified as a foreign corporation, partnership or limited liability company, as the case may be, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing would not result in a Material Adverse Effect. Except as otherwise disclosed in the General Disclosure Package and the Final Offering Memorandum, all of the issued and outstanding capital stock, limited partner interests or membership interests, as applicable, of each Subsidiary has been duly authorized and validly issued, is fully paid and non-assessable and is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity. None of the outstanding shares of capital stock, limited partner interests or membership interests, as

applicable, of any Subsidiary was issued in violation of the preemptive or similar rights of any securityholder of such Subsidiary. The Company does not own or control, directly or indirectly, any corporation, association or other entity other than the subsidiaries listed in Exhibit 21 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2013.

(x) Capitalization. The authorized, issued and outstanding shares of capital stock of the Company are as set forth in the General Disclosure Package and the Final Offering Memorandum in the column entitled "Actual" under the caption "Capitalization" (except for subsequent issuances, if any, pursuant to this Agreement, pursuant to reservations, agreements or employee benefit plans referred to in the General Disclosure Package and the Final Offering Memorandum or pursuant to the exercise of convertible securities or options referred to in the General Disclosure Package and the Final Offering Memorandum).

(xi) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Company.

(xii) Authorization of the Indenture. The Indenture has been duly authorized by the Company and, when duly executed and delivered by the Company and the Trustee, will constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

(xiii) Authorization of the Securities and the Common Stock. The Securities have been duly authorized and, at the Closing Time, will have been duly executed by the Company and, when authenticated, issued and delivered in the manner provided for in the Indenture and delivered against payment of the purchase price therefor as provided in this Agreement, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law), and will be in the form contemplated by, and entitled to the benefits of, the Indenture. The shares of Common Stock issuable upon conversion of the Securities (the "Underlying Common Stock") have been duly authorized and reserved for issuance upon such conversion by all necessary corporate action and such shares, when issued upon such conversion, will be validly issued and will be fully paid and non-assessable; no holder of the Underlying Common stock will be subject to personal liability by reason of being such a holder; and the issuance of the Underlying Common Stock upon such conversion will not be subject to the preemptive or other similar rights of any securityholder of the Company.

(xiv) Description of the Securities, the Common Stock and the Indenture. The Securities and the Indenture will conform in all material respects to the respective statements relating thereto contained in the General Disclosure Package and the Final Offering Memorandum. The Common Stock conforms to all statements relating thereto contained or incorporated by reference in the General Disclosure Package and the Final Offering Memorandum and such description conforms to the rights set forth in the instruments defining the same.

(xv) Registration Rights. There are no persons with registration rights or other similar rights to have any securities registered for sale or sold by the Company under the 1933 Act.

(xvi) Absence of Violations, Defaults and Conflicts. Neither the Company nor any of its subsidiaries is (A) in violation of its charter, by-laws or similar organizational document, (B) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound or to which any of the properties or assets of the Company or any subsidiary is subject (collectively, "Agreements and Instruments"), except for such defaults that would not, singly or in the aggregate, result in a Material Adverse Effect, or (C) in violation of any law, statute, rule, regulation, judgment, order, writ or decree of any arbitrator, court, governmental body, regulatory body, administrative agency or other authority, body or agency having jurisdiction over the Company or any of its subsidiaries or any of their respective properties, assets or operations (each, a "Governmental Entity"), except for such violations that would not, singly or in the aggregate, result in a Material Adverse Effect. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and in the General Disclosure Package and the Final Offering Memorandum (including the issuance and sale of the Securities and the use of the proceeds from the sale of the Securities as described therein under the caption "Use of Proceeds") and compliance by the Company with its obligations hereunder have been duly authorized by all necessary corporate action and do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any properties or assets of the Company or any subsidiary pursuant to, the Agreements and Instruments (except for such conflicts, breaches, defaults or Repayment Events or liens, charges or encumbrances that would not, singly or in the aggregate, result in a Material Adverse Effect), nor will such action result in any violation of the provisions of the charter, by-laws or similar organizational document of the Company or any of its subsidiaries or any law, statute, rule, regulation, judgment, order, writ or decree of any Governmental Entity. As used herein, a "Repayment Event" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(xvii) Absence of Labor Dispute. No labor dispute with the employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or any subsidiary's principal suppliers, manufacturers, customers or contractors, which, in either case, would result in a Material Adverse Effect.

(xviii) Absence of Proceedings. Except as disclosed in the General Disclosure Package and the Final Offering Memorandum, there is no action, suit, proceeding, inquiry or investigation before or brought by any Governmental Entity now pending or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries, which might result in a Material Adverse Effect, or which might materially and adversely affect their respective properties or assets or the consummation of the transactions contemplated in this Agreement or the performance by the Company of its obligations hereunder; and the aggregate of all pending legal or governmental proceedings to which the Company or any such subsidiary is a party or of which any of their respective properties or assets is the subject which are not described in the General Disclosure Package and the Final Offering Memorandum, including ordinary routine litigation incidental to the business, could not result in a Material Adverse Effect.

(xix) Absence of Further Requirements. No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any Governmental Entity is necessary or required for the performance by the Company of its obligations hereunder, in connection with the offering, issuance or sale of the Securities hereunder or the consummation of the transactions contemplated by this Agreement or for the due execution, delivery and performance of the Indenture by the Company, except such as have been already obtained.

(xx) Possession of Licenses and Permits. The Company and its subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, "Governmental Licenses") issued by the appropriate Governmental Entities necessary to conduct the business now operated by them, except where the failure so to possess would not, singly or in the aggregate, result in a Material Adverse Effect. The Company and its subsidiaries are in compliance with the terms and conditions of all Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, result in a Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not, singly or in the aggregate, result in a Material Adverse Effect. Neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(xxi) Title to Property. The Company and its subsidiaries have good and marketable title to all real property owned by them and good title to all other properties owned by them, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind except such as (A) are described in the General Disclosure Package and the Final Offering Memorandum or (B) do not, singly or in the aggregate, materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company or any of its subsidiaries; and all of the leases and subleases material to the business of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries holds properties described in the General Disclosure Package and the Final Offering Memorandum, are in full force and effect, and neither the Company nor any such subsidiary has any notice of any claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or such subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease, except for any such claim which would not result in a Material Adverse Effect.

(xxii) Possession of Intellectual Property. The Company and its subsidiaries own or possess, or can acquire on reasonable terms, adequate patents, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property (collectively, "Intellectual Property") necessary to carry on the business now operated by them, and neither the Company nor any of its subsidiaries has received any notice or is otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interest of the Company or any of its subsidiaries therein, and which infringement or conflict (if the subject of any unfavorable decision, ruling or finding) or invalidity or inadequacy, singly or in the aggregate, would result in a Material Adverse Effect.

(xxiii) Environmental Laws. Except as described in the General Disclosure Package and the Final Offering Memorandum or would not, singly or in the aggregate, result in a Material Adverse Effect, (A) neither the Company nor any of its subsidiaries is in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products, asbestos-containing materials or mold (collectively, "Hazardous Materials") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "Environmental Laws"), (B) the Company and its subsidiaries have all permits, authorizations and approvals required under any applicable Environmental Laws and are each in compliance with their requirements, (C) there are no pending or, to the Company's knowledge threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or any of its subsidiaries and (D) there are no events or circumstances that would reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or Governmental Entity, against or affecting the Company or any of its subsidiaries relating to Hazardous Materials or any Environmental Laws.

(xxiv) Accounting Controls and Disclosure Controls. The Company and each of its subsidiaries maintain effective internal control over financial reporting (as defined under Rule 13-a15 and 15d-15 under the 1934 Act Regulations) and a system of internal accounting controls sufficient to provide reasonable assurances that (A) transactions are executed in accordance with management's general or specific authorization; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (E) the interactive data in eXtensible Business Reporting Language incorporated by reference in the General Disclosure Package and the Final Offering Memorandum fairly presents the information called for in all material respects and is prepared in accordance with the Commission's rules and guidelines applicable thereto. Except as described in the General Disclosure Package and the Final Offering Memorandum, since the end of the Company's most recent audited fiscal year, there has been (1) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (2) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. The Company and each of its subsidiaries maintain an effective system of disclosure controls and procedures (as defined in Rule 13a-15 and Rule 15d-15 under the 1934 Act Regulations) that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the 1934 Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and is accumulated and communicated to the Company's management, including its principal executive officer or officers and principal financial officer or officers, as appropriate, to allow timely decisions regarding disclosure.

(xxv) Compliance with the Sarbanes-Oxley Act. There is and has been no failure on the part of the Company or, to the Company's knowledge, any of the Company's directors or executive officers, in their capacities as such, to comply in all material respects with any

provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith, including Section 402 related to loans and Sections 302 and 906 related to certifications.

(xxvi) Payment of Taxes. The Company and its subsidiaries have filed all other tax returns that are required to have been filed by them pursuant to applicable foreign, state, local or other law except insofar as the failure to file such returns would not result in a Material Adverse Effect, and has paid all taxes due pursuant to such returns or pursuant to any assessment received by the Company and its subsidiaries, except for such taxes, if any, as are being contested in good faith and as to which adequate reserves have been established by the Company. The charges, accruals and reserves on the books of the Company in respect of any income and corporation tax liability for any years not finally determined are adequate to meet any assessments or re- assessments for additional income tax for any years not finally determined, except to the extent of any inadequacy that would not result in a Material Adverse Effect.

(xxvii) Insurance. The Company and its subsidiaries carry or are entitled to the benefits of insurance, with financially sound and reputable insurers, in such amounts and covering such risks as is generally maintained by companies of established repute engaged in the same or similar business, and all such insurance is in full force and effect. The Company has no reason to believe that it or any of its subsidiaries will not be able (A) to renew its existing insurance coverage as and when such policies expire or (B) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not result in a Material Adverse Effect. Neither of the Company nor any of its subsidiaries has been denied any insurance coverage which it has sought or for which it has applied.

(xxviii) Investment Company Act. The Company is not required, and upon the issuance and sale of the Securities as herein contemplated and the application of the net proceeds therefrom as described in the General Disclosure Package and the Final Offering Memorandum will not be required, to register as an “investment company” under the Investment Company Act of 1940, as amended (the “1940 Act”).

(xxix) Absence of Manipulation. Neither the Company nor any affiliate of the Company has taken, nor will the Company or any affiliate take, directly or indirectly, any action which is designed, or would be expected, to cause or result in, or which constitutes, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or to result in a violation of Regulation M under the 1934 Act.

(xxx) Foreign Corrupt Practices Act. None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the “FCPA”), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA and the Company and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance with the FCPA and have

instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xxxi) Money Laundering Laws. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the "Money Laundering Laws"); and no action, suit or proceeding by or before any Governmental Entity involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(xxxii) OFAC. None of the Company or any of its respective subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(xxxiii) Statistical and Market-Related Data. Nothing has come to the attention of the Company that has caused the Company to believe that the statistical and market-related data included in the General Disclosure Package or the Final Offering Memorandum is not based on or derived from sources that are reliable and accurate in all material respects.

(b) *Officer's Certificates*. Any certificate signed by any officer of the Company or any of its subsidiaries delivered to the Representative or to counsel for the Initial Purchasers shall be deemed a representation and warranty by the Company to each Initial Purchaser as to the matters covered thereby.

SECTION 2. Sale and Delivery to Initial Purchasers; Closing.

(a) *Initial Securities*. On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company agrees to sell to each Initial Purchaser, severally and not jointly, and each Initial Purchaser, severally and not jointly, agrees to purchase from the Company, at the price set forth in Schedule A, the aggregate principal amount of Initial Securities set forth in Schedule A, plus any additional principal amount of Initial Securities which such Initial Purchaser may become obligated to purchase pursuant to the provisions of Section 11 hereof, subject to such adjustments as Merrill Lynch in its discretion shall make to ensure that any sales or purchases are in authorized denominations.

(b) *Option Securities*. In addition, on the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company hereby grants an option to the Initial Purchasers, severally and not jointly, to purchase the Option Securities, at the price set forth in Schedule A. The option hereby granted may be exercised for 30 days after the date hereof and may be exercised in whole or in part from time to time only for the purpose of covering overallotments made in connection with the offering and distribution of the Initial Securities upon notice by the Representative to the Company setting forth the amount of Option Securities as to which the several Initial Purchasers are then exercising the option and the time and date of payment and delivery for such Option Securities. Any such time and date of delivery (a "Date of Delivery") shall be determined by the Representative, but shall

not be later than seven full business days after the exercise of said option, nor in any event prior to the Closing Time. If the option is exercised as to all or any portion of the Option Securities, each of the Initial Purchasers, acting severally and not jointly, will purchase that proportion of the total principal amount of Option Securities then being purchased which the number of Initial Securities set forth in Schedule A opposite the name of such Initial Purchaser bears to the total principal amount of Initial Securities, subject in each case to such adjustments as Merrill Lynch in its discretion shall make to ensure that any sales or purchases are in authorized denominations.

(c) *Payment.* Payment of the purchase price for, and delivery of certificates for, the Initial Securities shall be made at the offices of Latham & Watkins LLP, or at such other place as shall be agreed upon by the Representative and the Company, at 9:00 A.M. (New York City time) on the third (fourth, if the pricing occurs after 4:30 P.M. (New York City time) on any given day) business day after the date hereof (unless postponed in accordance with the provisions of Section 11), or such other time not later than ten business days after such date as shall be agreed upon by the Representative and the Company (such time and date of payment and delivery being herein called "Closing Time").

In addition, in the event that any or all of the Option Securities are purchased by the Initial Purchasers, payment of the purchase price for, and delivery of certificates for, such Option Securities shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Representative and the Company, on each Date of Delivery as specified in the notice from Merrill Lynch to the Company.

Payment shall be made to the Company by wire transfer of immediately available funds to a bank account designated by the Company, against delivery to the Representative for the respective accounts of the Initial Purchasers of certificates for the Securities to be purchased by them. It is understood that each Initial Purchaser has authorized the Representative, for its account, to accept delivery of, receipt for, and make payment of the purchase price for, the Initial Securities and the Option Securities, if any, which it has agreed to purchase. Merrill Lynch, individually and not as representative of the Initial Purchasers, may (but shall not be obligated to) make payment of the purchase price for the Initial Securities or the Option Securities, if any, to be purchased by any Initial Purchaser whose funds have not been received by the Closing Time or the relevant Date of Delivery, as the case may be, but such payment shall not relieve such Initial Purchaser from its obligations hereunder.

SECTION 3. Covenants of the Company. The Company covenants with each Initial Purchaser as follows:

(a) *Delivery of Offering Memorandum*. The Company will furnish to each Initial Purchaser, without charge, such number of copies of the Final Offering Memorandum thereto and any amendments or supplements thereto as such Initial Purchaser may reasonably request.

(b) *Notice and Effect of Material Events*. If at any time prior to the completion of resales of the Securities by the Initial Purchasers, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Initial Purchasers or for the Company, to amend or supplement the General Disclosure Package or the Final Offering Memorandum in order that the General Disclosure Package or the Final Offering Memorandum, as the case may be, will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a Subsequent Purchaser, the Company will promptly (A) give the Representative notice of such event and (B) prepare any amendment or supplement as may be necessary to correct such statement or omission and, a reasonable amount of time prior to any proposed use or distribution, furnish the Representative with copies of any such amendment or supplement; provided that the Company shall not use or distribute any

such amendment or supplement to which the Representative or counsel for the Initial Purchasers shall object. The Company will furnish to the Initial Purchasers such number of copies of such amendment or supplement as the Initial Purchasers may reasonably request.

(c) *Reporting Requirements*. Until the completion of resales of the Securities by the Initial Purchasers, the Company will file all documents required to be filed with the Commission pursuant to the 1934 Act within the time periods required by the 1934 Act and the 1934 Act Regulations. The Company has given the Representative notice of any filings made pursuant to the 1934 Act or 1934 Act Regulations within 48 hours prior to the Applicable Time; the Company will give the Representative notice of its intention to make any such filing from the Applicable Time to the Closing Time and will furnish the Representative with copies of any such documents a reasonable amount of time prior to such proposed filing, as the case may be, and will not file, except with respect to any document that counsel has advised the Company is required to be filed under the 1934 Act and that does not relate to the Securities, or use any such document to which the Representative or counsel for the Initial Purchasers shall reasonably object.

(d) *Blue Sky Qualifications*. The Company will use its reasonable best efforts, in cooperation with the Initial Purchasers, to qualify the Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representative may designate and to maintain such qualifications in effect so long as required to complete the distribution of the Securities; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(e) *Use of Proceeds*. The Company will use the net proceeds received by it from the sale of the Securities in the manner specified in the General Disclosure Package and the Final Offering Memorandum under "Use of Proceeds."

(f) *DTCC*. The Company will cooperate with the Initial Purchasers and use its best efforts to permit the offered Securities to be eligible for clearance and settlement through the facilities of The Depository Trust & Clearing Corporation ("DTCC").

(g) *Listing*. The Company will use its reasonable best efforts to effect and maintain the listing of the Underlying Common Stock on the New York Stock Exchange.

(h) *Restriction on Sale of Securities*. During a period of 90 days from the date of the Final Offering Memorandum, the Company will not, without the prior written consent of Merrill Lynch, (i) directly or indirectly, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock or file any registration statement under the 1933 Act with respect to any of the foregoing or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Common Stock, whether any such swap or transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing sentence shall not apply to (A) the Securities to be sold hereunder, (B) any shares of Common Stock issued by the Company upon the exercise of an option or warrant or the conversion of a security outstanding on the date hereof and referred to in the General Disclosure Package and the Final Offering Memorandum, (C) any shares of Common Stock issued or options to purchase Common Stock granted pursuant to existing employee benefit plans of the Company referred to in the General Disclosure Package and the Final Offering Memorandum or (D) any

shares of Common Stock issued pursuant to any non-employee director stock plan or dividend reinvestment plan referred to in the General Disclosure Package and the Final Offering Memorandum.

SECTION 4. Payment of Expenses.

(a) *Expenses*. The Company will pay or cause to be paid all expenses incident to the performance of their obligations under this Agreement, including (i) preparation, issuance and delivery of the Securities to the Initial Purchasers and the Underlying Common Stock and any charges of DTCC in connection therewith, (ii) the fees and disbursements of the Company's counsel, accountants and other advisors, (iii) the qualification of the Securities under securities laws in accordance with the provisions of Section 3(d) hereof, including filing fees and $15,000 for the fees and disbursements of counsel for the Initial Purchasers in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplement thereto, (iv) the preparation, printing and delivery to the Initial Purchasers of copies of each Preliminary Offering Memorandum, any Issuer Written Information, the Final Term Sheet and the Final Offering Memorandum and any amendments or supplements thereto and any costs associated with electronic delivery of any of the foregoing by the Initial Purchasers to investors, (v) all fees and expenses of the Trustee and any expenses of any transfer agent or registrar for the Securities or the Underlying Common Stock, (vi) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the Securities, including without limitation, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and the cost of aircraft and other transportation chartered in connection with the road show, and (vii) the fees and expenses incurred in connection with the listing of the Underlying Common Stock on the New York Stock Exchange.

(b) *Termination of Agreement*. If this Agreement is terminated by the Representative in accordance with the provisions of Section 5 or Section 10(a)(i) or (iii) hereof, the Company shall reimburse the Initial Purchasers for all of their out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Initial Purchasers.

SECTION 5. Conditions of Initial Purchaser s' Obligations. The obligations of the several Initial Purchasers hereunder are subject (i) to the accuracy of the representations and warranties of the Company contained herein or in certificates of any officer of the Company or any of its subsidiaries,
(ii) to the performance by the Company of its covenants and other obligations hereunder, and (iii) to the following further conditions:

(a) *Opinion of Counsel for Company*. At the Closing Time, the Representative shall have received the favorable opinion, dated the Closing Time, of Vinson & Elkins LLP, counsel for the Company, in form and substance satisfactory to counsel for the Initial Purchasers, together with signed or reproduced copies of such letter for each of the other Initial Purchasers to the effect set forth in Exhibit A hereto and to such further effect as counsel to the Initial Purchasers may reasonably request.

(b) *Opinion of Counsel for Initial Purchasers*. At the Closing Time, the Representative shall have received the favorable opinion, dated the Closing Time, of Latham & Watkins LLP, counsel for the Initial Purchasers, together with signed or reproduced copies of such letter for each of the other Initial Purchasers in form and substance satisfactory to the Representative. In giving such opinion such counsel may rely, as to all matters governed by the laws of jurisdictions other than the law of the State of New York, the General Corporation Law of the State of Delaware and the federal securities laws of the United States, upon the opinions of counsel satisfactory to the Representative. Such counsel may also state that, insofar as such opinion involves factual matters, they have relied, to the extent they deem proper, upon

certificates of officers and other representatives of the Company and its subsidiaries and certificates of public officials.

(c) *Officers' Certificate*. At the Closing Time, there shall not have been, since the date hereof or since the respective dates as of which information is given in the General Disclosure Package or the Final Offering Memorandum, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, and the Representative shall have received a certificate of the Chief Executive Officer or the President of the Company and of the chief financial or chief accounting officer of the Company, dated the Closing Time, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties of the Company in this Agreement are true and correct with the same force and effect as though expressly made at and as of the Closing Time and (iii) the Company has complied in all material respects with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Time.

(d) *Accountant's Comfort Letter*. At the time of the execution of this Agreement, the Representative shall have received from KPMG LLP a letter, dated such date, in form and substance satisfactory to the Representative, together with signed or reproduced copies of such letter for each of the other Initial Purchasers containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Offering Memorandum.

(e) *Bring-down Comfort Letter*. At the Closing Time, the Representative shall have received from KPMG LLP a letter, dated as of the Closing Time, to the effect that they reaffirm the statements made in the letter furnished pursuant to subsection (d) of this Section, except that the specified date referred to shall be a date not more than three business days prior to the Closing Time.

(f) *Approval of Listing*. At the Closing Time, the Underlying Common Stock shall have been approved for listing on the New York Stock Exchange, subject only to official notice of issuance.

(g) *Lock-up Agreements*. At the date of this Agreement, the Representative shall have received an agreement substantially in the form of Exhibit B hereto signed by the persons listed on Schedule D hereto.

(h) *Maintenance of Rating*. Since the execution of this Agreement, there shall not have been any decrease in or withdrawal of the rating of any securities of the Company or any of its subsidiaries by any "nationally recognized statistical rating organization" (as defined for purposes of Rule 436(g) under the 1933 Act) or any notice given of any intended or potential decrease in or withdrawal of any such rating or of a possible change in any such rating that does not indicate the direction of the possible change.

(i) *Conditions to Purchase of Option Securities*. In the event that the Initial Purchasers exercise their option provided in Section 2(b) hereof to purchase all or any portion of the Option Securities, the representations and warranties of the Company contained herein and the statements in any certificates furnished by the Company and any of its subsidiaries hereunder shall be true and correct as of each Date of Delivery and, at the relevant Date of Delivery, the Representative shall have received:

(i) Officers' Certificate . A certificate, dated such Date of Delivery, of the President or a Vice President of the Company and of the chief financial or chief accounting officer of the Company confirming that the certificate delivered at the Closing Time pursuant to Section 6(c) hereof remains true and correct as of such Date of Delivery.

(ii) Opinion of Counsel for Company. If requested by the Representative, the favorable opinion of Vinson & Elkins LLP, counsel for the Company, in form and substance satisfactory to counsel for the Initial Purchasers, dated such Date of Delivery, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 6(a) hereof.

(iii) Opinion of Counsel for Initial Purchasers. If requested by the Representative, the favorable opinion of Latham & Watkins LLP, counsel for the Initial Purchasers, dated such Date of Delivery, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(b) hereof.

(iv) Bring-down Comfort Letter. If requested by the Representative, a letter from KPMG LLP, in form and substance satisfactory to the Representative and dated such Date of Delivery, substantially in the same form and substance as the letter furnished to the Representative pursuant to Section 5(d) hereof, except that the "specified date" in the letter furnished pursuant to this paragraph shall be a date not more than three business days prior to such Date of Delivery.

(j) *Additional Documents*. At the Closing Time and at each Date of Delivery (if any), counsel for the Initial Purchasers shall have been furnished with such documents and opinions as they may require for the purpose of enabling them to pass upon the issuance and sale of the Securities as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Securities as herein contemplated shall be satisfactory in form and substance to the Representative and counsel for the Initial Purchasers.

(k) *Termination of Agreement*. If any condition specified in this Section shall not have been fulfilled when and as required to be fulfilled, this Agreement, or, in the case of any condition to the purchase of Option Securities on a Date of Delivery which is after the Closing Time, the obligations of the several Initial Purchasers to purchase the relevant Option Securities, may be terminated by the Representative by notice to the Company at any time at or prior to Closing Time or such Date of Delivery, as the case may be, and such termination shall be without liability of any party to any other party except as provided in Section 4 and except that Sections 1, 7, 8, 9, 14, 15, 16 and 17 shall survive any such termination and remain in full force and effect.

SECTION 6. Subsequent Offers and Resales of the Securities.

(a) *Offer and Sale Procedures*. Each of the Initial Purchasers and the Company hereby establish and agree to observe the following procedures in connection with the offer and sale of the Securities:

(i) Offers and Sales. Offers and sales of the Securities shall be made to such persons and in such manner as is contemplated by the Offering Memorandum. Each Initial Purchaser severally agrees that it will not offer, sell or deliver any of the Securities in any jurisdiction outside the United States except under circumstances that will result in compliance with the applicable laws thereof, and that it will take at its own expense whatever action is required to permit its purchase and resale of the Securities in such jurisdictions. The Company has not entered into any contractual arrangement, other than this Agreement, with respect to the distribution of the Securities or the Underlying Common Stock and the Company will not enter into any such arrangement except as contemplated thereby.

(ii) No General Solicitation. No general solicitation or general advertising (within the meaning of Rule 502(c) under the 1933 Act Regulations) will be used in the United States in connection with the offering or sale of the Securities.

(iii) Legends. Each of the Securities will bear, to the extent applicable, the legend contained in "Notice to Investors" in the General Disclosure Package and the Final Offering Memorandum for the time period and upon the other terms stated therein.

(iv) Minimum Principal Amount. No sale of the Securities to any one Subsequent Purchaser will be for less than U.S. $1,000 principal amount and no Security will be issued in a smaller principal amount.

(b) *Covenants of the Company*. The Company covenants with each Initial Purchaser as follows:

(i) Integration. The Company agrees that it will not and will cause its Affiliates not to, directly or indirectly, solicit any offer to buy, sell or make any offer or sale of, or otherwise negotiate in respect of, securities of the Company of any class if, as a result of the doctrine of "integration" referred to in Rule 502 under the 1933 Act Regulations, such offer or sale would render invalid (for the purpose of (i) the sale of the offered Securities by the Company to the Initial Purchasers, (ii) the resale of the offered Securities by the Initial Purchasers to Subsequent Purchasers or (iii) the resale of the offered Securities by such Subsequent Purchasers to others) the exemption from the registration requirements of the 1933 Act provided by Section 4(2) thereof or by Rule 144A thereunder or otherwise.

(ii) Rule 144A Information. The Company agrees that, in order to render the offered Securities eligible for resale pursuant to Rule 144A, while any of the offered Securities remain outstanding, it will make available, upon request, to any holder of offered Securities or prospective purchasers of Securities the information specified in Rule 144A(d)(4), unless the Company furnishes information to the Commission pursuant to Section 13 or 15(d) of the 1934 Act.

(iii) Restriction on Repurchases. Until the expiration of one year after the original issuance of the offered Securities, the Company will not, and will cause its Affiliates not to, resell any offered Securities which are "restricted securities" (as such term is defined under Rule 144(a)(3)), whether as beneficial owner or otherwise (except as agent acting as a securities broker on behalf of and for the account of customers in the ordinary course of business in unsolicited broker's transactions).

(c) *Representations, Warranties and Agreements of the Initial Purchasers*. Each Initial Purchaser severally and not jointly represents and warrants to, and agrees with, the Company that it is a Qualified Institutional Buyer and an "accredited investor" within the meaning of Rule 501(a) under the 1933 Act Regulations. Each Initial Purchaser understands that the offered Securities have not been and will not be registered under the 1933 Act and may not be offered or sold within the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the 1933 Act. Each Initial Purchaser severally represents and agrees that it has not offered or sold, and will not offer or sell, any offered Securities constituting part of its allotment within the United States except in accordance with Rule 144A or another applicable exemption from the registration requirements of the 1933 Act. Accordingly, neither it nor any person acting on its behalf has made or will make offers or sales of the Securities in the United States by means of any form of general solicitation or general advertising (within the meaning of Regulation D) in the United States. Each Initial Purchaser will take reasonable steps to inform, and cause each of its affiliates (as such term is defined in Rule 501(b) under

the 1933 Act Regulations (each, an "Affiliate")) to take reasonable steps to inform, persons acquiring Securities from such Initial Purchaser or Affiliate, as the case may be, in the United States that the Securities (A) have not been and will not be registered under the 1933 Act, (B) are being sold to them without registration under the 1933 Act in reliance on Rule 144A or in accordance with another exemption from registration under the 1933 Act, as the case may be, and (C) may not be offered, sold or otherwise transferred except (1) to the Company, (2) outside the United States in accordance with Regulation S or (3) inside the United States in accordance with (x) Rule 144A to a person whom the seller reasonably believes is a Qualified Institutional Buyer that is purchasing such Securities for its own account or for the account of a Qualified Institutional Buyer to whom notice is given that the offer, sale or transfer is being made in reliance on Rule 144A or (y) pursuant to another available exemption from registration under the 1933 Act.

SECTION 7. Indemnification.

(a) *Indemnification of Initial Purchasers*. The Company agrees to indemnify and hold harmless each Initial Purchaser, its Affiliates, its selling agents and each person, if any, who controls any Initial Purchaser within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact included in any Preliminary Offering Memorandum, the Final Offering Memorandum, the information contained in the Final Term Sheet, any Issuer Written Information, any "road show" (as defined in Rule 433 under the 1933 Act) not constituting Issuer Written Information or any other information used by or on behalf of the Company in connection with the offer or sale of the Securities (or any amendment or supplement to the foregoing) or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 7(d) below) any such settlement is effected with the written consent of the Company; and

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by Merrill Lynch), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in any Preliminary Offering Memorandum, the Final Offering Memorandum or the information contained in the Final Term Sheet (or any amendment or supplement to the foregoing) in reliance upon and in conformity with the Initial Purchaser Information.

(b) *Indemnification of Company, Directors and Officers*. Each Initial Purchaser severally agrees to indemnify and hold harmless the Company, its directors, its officers and each person, if any,

who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act, against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in any Preliminary Offering Memorandum, the Final Offering Memorandum or the information contained in the Final Term Sheet (or any amendment or supplement to the foregoing) in reliance upon and in conformity with the Initial Purchaser Information.

(c) *Actions against Parties; Notification.* Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 7(a) above, counsel to the indemnified parties shall be selected by Merrill Lynch, and, in the case of parties indemnified pursuant to Section 7(b) above, counsel to the indemnified parties shall be selected by the Company. An indemnifying party may participate at its own expense in the defense of any such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 7 or Section 8 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) *Settlement without Consent if Failure to Reimburse*. If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 7(a)(ii) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

SECTION 8. Contribution. If the indemnification provided for in Section 7 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Initial Purchasers, on the other hand, from the offering of the Securities pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and of the Initial Purchasers, on the other hand, in connection with the statements or omissions which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company, on the one hand, and the Initial Purchasers, on the other hand, in connection with the offering of the Securities pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Securities pursuant to this Agreement (before deducting expenses) received by the Company, on the one hand, and the total underwriting discount received by the Initial Purchasers, on the other hand, bear to the aggregate initial offering price of the Securities as set forth on the cover of the Final Offering Memorandum.

The relative fault of the Company, on the one hand, and the Initial Purchasers, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or by the Initial Purchasers and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and the Initial Purchasers agree that it would not be just and equitable if contribution pursuant to this Section 8 were determined by pro rata allocation (even if the Initial Purchasers were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 8. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 8 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 8, no Initial Purchaser shall be required to contribute any amount in excess of the amount by which the total price at which the Securities purchased by it and distributed to the public were offered to the public exceeds the amount of any damages that such Initial Purchaser has otherwise been required to pay by reason of any such untrue or alleged untrue statement or omission or alleged omission.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 8, each person, if any, who controls an Initial Purchaser within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and each Initial Purchaser's Affiliates and selling agents shall have the same rights to contribution as such Initial Purchaser, and each director of the Company, each officer of the Company, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company. The Initial Purchasers' respective obligations to contribute pursuant to this Section 8 are several in proportion to the aggregate principal amount of Initial Securities set forth opposite their respective names in Schedule A hereto and not joint.

SECTION 9. Representations, Warranties and Agreements to Survive. All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company or any of its subsidiaries submitted pursuant hereto, shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of any Initial Purchaser or its Affiliates or selling agents, any person controlling any Initial Purchaser, its officers or directors or any person controlling the Company and (ii) delivery of and payment for the Securities.

SECTION 10. Termination of Agreement.

(a) *Termination*. The Representative may terminate this Agreement, by notice to the Company, at any time at or prior to the Closing Time (i) if there has been, in the judgment of the Representative, since the time of execution of this Agreement or since the respective dates as of which information is given in the General Disclosure Package or the Final Offering Memorandum, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, or (ii) if there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of the Representative, impracticable or inadvisable to proceed with the completion of the offering or to enforce contracts for the sale of the Securities, or (iii) if trading in any securities of the Company has been suspended or materially limited by the Commission or the New York Stock Exchange, or (iv) if trading generally on the New York Stock Exchange or in the Nasdaq Global Market has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by order of the Commission, the Financial Industry Regulatory Authority, Inc., or any other governmental authority, or (v) a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States, or (vi) if a banking moratorium has been declared by either Federal or New York authorities.

(b) *Liabilities*. If this Agreement is terminated pursuant to this Section, such termination shall be without liability of any party to any other party except as provided in Section 4 hereof, and provided further that Sections 1, 7, 8, 9, 14, 15, 16 and 17 shall survive such termination and remain in full force and effect.

SECTION 11. Default by One or More of the Initial Purchasers. If one or more of the Initial Purchasers shall fail at the Closing Time or a Date of Delivery to purchase the Securities which it or they are obligated to purchase under this Agreement (the "Defaulted Securities"), the Representative shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Initial Purchasers, or any other initial purchasers, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representative shall not have completed such arrangements within such 24-hour period, then:

(i) if the number of Defaulted Securities does not exceed 10% of the aggregate principal amount of the Securities to be purchased on such date, each of the non-defaulting Initial Purchasers shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Initial Purchasers, or

(ii) if the number of Defaulted Securities exceeds 10% of the aggregate principal amount of the Securities to be purchased on such date, this Agreement or, with respect to any Date of Delivery which occurs after the Closing Time, the obligation of the Initial Purchasers to purchase, and the Company to sell, the Option Securities to be purchased and sold on such Date of Delivery, shall terminate without liability on the part of any non-defaulting Initial Purchaser.

No action taken pursuant to this Section shall relieve any defaulting Initial Purchaser from liability in respect of its default.

In the event of any such default which does not result in a termination of this Agreement or, in the case of a Date of Delivery which is after the Closing Time, which does not result in a termination of the obligation of the Initial Purchasers to purchase and the Company to sell the relevant Option Securities, as the case may be, either the (i) Representative or (ii) the Company shall have the right to postpone Closing Time or the relevant Date of Delivery, as the case may be, for a period not exceeding seven days in order to effect any required changes in the General Disclosure Package or the Final Offering Memorandum or in any other documents or arrangements. As used herein, the term "Initial Purchaser" includes any person substituted for an Initial Purchaser under this Section 11.

SECTION 12. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Initial Purchasers shall be directed to Merrill Lynch at One Bryant Park, New York, New York 10036, attention of Syndicate Department, with a copy to ECM Legal; notices to the Company shall be directed to it at Carriage Services, Inc., 3040 Post Oak Boulevard, Suite 300, Houston, Texas 77056, attention of L. William Heiligbrodt.

SECTION 13. No Advisory or Fiduciary Relationship. The Company acknowledges and agrees that (a) the purchase and sale of the Securities pursuant to this Agreement, including the determination of the initial offering price of the Securities and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the several Initial Purchasers, on the other hand, (b) in connection with the offering of the Securities and the process leading thereto, each Initial Purchaser is and has been acting solely as a principal and is not the agent or fiduciary of the Company, any of its subsidiaries or their respective stockholders, creditors, employees or any other party,
(c) no Initial Purchaser has assumed or will assume an advisory or fiduciary responsibility in favor of the Company with respect to the offering of the Securities or the process leading thereto (irrespective of whether such Initial Purchaser has advised or is currently advising the Company or any of its subsidiaries on other matters) and no Initial Purchaser has any obligation to the Company with respect to the offering of the Securities except the obligations expressly set forth in this Agreement, (d) the Initial Purchasers and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and (e) the Initial Purchasers have not provided any legal, accounting, regulatory or tax advice with respect to the offering of the Securities and the Company has consulted its own respective legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

SECTION 14. Parties. This Agreement shall each inure to the benefit of and be binding upon the Initial Purchasers and the Company and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Initial Purchasers and the Company and their respective successors and the controlling persons and officers and directors referred to in Sections 7 and 8 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Initial Purchasers and the Company and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Securities from any Initial Purchaser shall be deemed to be a successor by reason merely of such purchase.

SECTION 15. Trial by Jury. The Company (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates) and each of the Initial Purchasers hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

SECTION 16. GOVERNING LAW. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF, THE STATE OF NEW YORK WITHOUT REGARD TO ITS CHOICE OF LAW PROVISIONS.

SECTION 17. Consent to Jurisdiction; Waiver of Immunity. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby ("Related Proceedings") shall be instituted in (i) the federal courts of the United States of America located in the City and County of New York, Borough of Manhattan or (ii) the courts of the State of New York located in the City and County of New York, Borough of Manhattan (collectively, the "Specified Courts"), and each party irrevocably submits to the exclusive jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court (a "Related Judgment"), as to which such jurisdiction is non-exclusive) of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail to such party's address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum.

SECTION 18. TIME. TIME SHALL BE OF THE ESSENCE OF THIS AGREEMENT. EXCEPT AS OTHERWISE SET FORTH HEREIN, SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

SECTION 19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

SECTION 20. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts , will become a binding agreement among the Initial Purchasers and the Company in accordance with its terms .

Very truly yours,

CARRIAGE SERVICES, INC.

By: _____
Name: L. William Heiligbrodt
Title: Executive Vice President and Secretary

[Signature Page to Purchase Agreement]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Initial Purchasers and the Company in accordance with its terms .

Very truly yours,

CARRIAGE SERVICES, INC.

By:___
Name:
Title:

CONFIRMED AND ACCEPTED,
as of the date first above written:

MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED

By:_____
Name: Claudia RASIONI
Title: Managing Director

For itself and as Representative of the other Initial Purchasers named in Schedule A hereto.

SCHEDULE A

The initial offering price of the Securities shall be 100.00% of the principal amount thereof, plus accrued interest, if any, from the date of issuance of the Initial Securities.

The purchase price to be paid by the Initial Purchasers for the Securities shall be 97.00% of the principal amount thereof.

The interest rate on the Securities shall be 2.75% per annum.

Name of Initial Purchaser		Principal Amount of Securities
Merrill Lynch, Pierce, Fenner & Smith Incorporated	$	87,500,000.00
Raymond James & Associates, Inc.		22,500,000.00
Barrington Research Associates, Inc.		12,500,000.00
Regions Securities LLC		2,500,000.00
Total		125,000,000.00

SCHEDULE B

Final Term Sheet

See Attached.

NY\5751006

Pricing Term Sheet dated March 13, 2014
to Preliminary Offering Memorandum dated March 12, 2014 (the "Preliminary Offering Memorandum")

Carriage Services, Inc.
$125,000,000
2.75% Convertible Subordinated Notes due 2021

The information in this pricing term sheet supplements the Preliminary Offering Memorandum and supersedes the information in the Preliminary Offering Memorandum to the extent inconsistent with the information in the Preliminary Offering Memorandum. In all other respects, this term sheet is qualified in its entirety by reference to the Preliminary Offering Memorandum, including all other documents incorporated by reference therein. Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Offering Memorandum. All references to dollar amounts are references to U.S. dollars.

Issuer: Carriage Services, Inc., a Delaware corporation Ticker/Exchange for Common Stock: CSV/The New York Stock Exchange

Title of Securities: 2.75% Convertible Subordinated Notes due 2021 (the "notes")

Principal Amount: $125,000,000 aggregate principal amount of notes Option to Purchase Additional Notes: $18,750,000 aggregate principal amount of notes Denominations: $1,000 and integral multiples of $1,000 in excess thereof

Maturity: March 15, 2021, unless earlier converted or purchased by us

Fundamental Change: If we undergo a "fundamental change" (as defined in the Preliminary Offering Memorandum under the heading "Description of Notes— Fundamental Change Permits Holders to Require Us to Purchase Notes"), subject to certain conditions, a holder will have the right, at its option, to require us to purchase for cash any or all of its notes. The fundamental change purchase price will equal 100% of the principal amount of the notes to be purchased, plus any accrued and unpaid interest, if any, to, but excluding, the fundamental change purchase date.

Interest: 2.75% per year

Interest will accrue from March 19, 2014 and will be payable semi- annually in arrears on March 15 and September 15 of each year, beginning on September 15, 2014.

Regular Record Dates: March 1 and September 1 of each year

Issue Price: 100.00% of principal, plus accrued interest, if any, from the Settlement Date

Last Reported Sale Price of Our Common Stock on March 13, 2014: $17.03 per share

Initial Conversion Rate: 44.3169 shares per $1,000 principal amount of notes, subject to

adjustment

Initial Conversion Price: Approximately $22.56 per share, subject to adjustment

Conversion Premium: Approximately 32.5% above the last reported sale price of our common stock on March 13, 2014

NYSE Share Cap: Initially, 1.0272 shares of our common stock per $1,000 principal amount of notes, which is equal to (i) 19.99% of the number of shares of our common stock outstanding on the date hereof (the "reference number"), divided by (ii) the product of (A) the aggregate principal amount of notes that would be outstanding if the initial purchasers exercised their option to purchase additional notes in full (expressed in thousands) and (B) 25 (which is the number of VWAP trading days in an observation period (each as defined in the Preliminary Offering Memorandum)); *provided*, that, the NYSE share cap shall be subject to adjustment in the same manner and at the same time as the conversion rate in connection with any transaction or event described in the Preliminary Offering Memorandum in clause (1) under the heading "Description of Notes—Conversion Rate Adjustments"; and *provided*, *further*, that, if the initial purchasers' option to purchase additional notes is not exercised in full prior to its expiration, then, at the time of such expiration, the NYSE share cap shall be automatically increased to be a number of shares equal to (i) the reference number, divided by (ii) the product of (A) the sum of the aggregate principal amount of notes issued on the date of initial issuance of the notes and the aggregate principal amount of notes (if any) issued pursuant to one or more exercises in part of the initial purchasers' option to purchase additional notes (in each case, expressed in thousands) and (B) 25 (which is the number of VWAP trading days in the observation period).

The number of shares we deliver per $1,000 principal amount of converted notes in respect of any VWAP trading day will be subject to the "NYSE share cap" (as defined in the Preliminary Offering Memorandum under the heading "Description of Notes—Conversion Rights—Settlement Upon Conversion"). We will not pay any cash in lieu of the shares, if any, that we would have otherwise been required to deliver in excess of the NYSE share cap.

Sole Book-Running Manager: BofA Merrill Lynch

Joint Lead Manager Raymond James

Co-Managers:Barrington Research

Regions Securities LLC

Pricing Date: March 13, 2014

Trade Date: March 13, 2014

Settlement Date: March 19, 2014

CUSIP Number: 143905 AL1

ISIN: US143905AL17

Net Proceeds of the Offering: Approximately $120.9 million (or approximately $139.0 million if the initial purchasers exercise their option to purchase additional notes in full), after deducting initial purchasers' discounts and commissions and estimated expenses payable by us.

Description of Notes—Conversion Rights—Adjustment to Conversion Rate Upon a Conversion in Connection With a Make- Whole Fundamental Change

The following table sets forth the stock prices and effective dates and the number of additional shares, if any, by which the conversion rate will be increased for a holder that converts a note in connection with a make-whole fundamental change having such effective date and stock price:

	Stock Price											
Effective Date	$17.03	$18.50	$20.00	$22.56	$25.00	$27.50	$30.00	$35.00	$40.00	$50.00	$60.00	$70.00
March 19, 2014	14.4030	12.2526	10.5171	8.3047	6.8027	5.6645	4.8068	3.6201	2.8539	1.9396	1.4362	1.1074
March 15, 2015	14.4030	12.2526	10.5095	8.1566	6.5808	5.4046	4.5307	3.3491	2.6073	1.7472	1.2932	0.9971
March 15, 2016	14.4030	12.2526	10.4372	7.9267	6.2698	5.0568	4.1730	3.0108	2.3080	1.5258	1.1269	0.8709
March 15, 2017	14.4030	12.2526	10.2470	7.5615	5.8239	4.5814	3.6996	2.5838	1.9425	1.2715	0.9387	0.7276
March 15, 2018	14.4030	12.1896	9.8272	6.9595	5.1554	3.9090	3.0576	2.0406	1.4986	0.9777	0.7272	0.5681
March 15, 2019	14.4030	11.6168	9.0387	5.9848	4.1505	2.9544	2.1917	1.3684	0.9805	0.6584	0.4990	0.3940
March 15, 2020	14.4030	10.5634	7.6609	4.3772	2.5971	1.5938	1.0583	0.6077	0.4611	0.3329	0.2583	0.2055
March 15, 2021	14.4030	9.7371	5.6831	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact stock prices and effective dates may not be set forth in the table above, in which case:

- If the stock price is between two stock prices in the table or the effective date is between two effective dates in the table, the number of additional shares will be determined by a straight-line interpolation between the number of additional shares set forth for the higher and lower stock prices and the earlier and later effective dates, as applicable, based on a 365-day year.

- If the stock price is greater than $70.00 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

- If the stock price is less than $17.03 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

Notwithstanding the foregoing, in no event will the conversion rate per $1,000 principal amount of notes exceed 58.7199 shares, subject to adjustment in the same manner as the conversion rate as set forth in the Preliminary Offering Memorandum under the heading “Description of Notes—Conversion Rights—Conversion Rate Adjustments.”

[*Remainder of Page Intentionally Blank*]

This communication is intended for the sole use of the person to whom it is provided by the sender. This material is confidential and is for your information only and is not intended to be used by anyone other than you. This information does not purport to be a complete description of the notes or the offering. This communication does not constitute an offer to sell or the solicitation of an offer to buy any notes in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

The notes and the shares of common stock issuable upon conversion of the notes, if any, have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the "Securities Act"), or any other securities laws, and may not be offered or sold within the United States or any other jurisdiction, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and any other applicable securities laws. The initial purchasers are offering the notes only to qualified institutional buyers (as defined under Rule 144A under the Securities Act) in compliance with Rule 144A under the Securities Act.

The notes and the shares of common stock issuable upon conversion of the notes, if any, are not transferable except in accordance with the restrictions described under "Notice to Investors" in the Preliminary Offering Memorandum.

A copy of the final offering memorandum for the offering of the notes may be obtained by contacting: BofA Merrill Lynch, 222 Broadway, New York, New York 10038, Attention: Prospectus Department; email: dg.prospectus_requests@baml.com.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

SCHEDULE C

Issuer Written Information

Final Term Sheet in the form set forth on Schedule B

SCHEDULE D

List of Persons and Entities Subject to Lock-up

Directors and Executive Officers

David J. DeCarlo Barry K. Fingerhut
Viki Blinderman
L. William Heiligbrodt Donald D. Patteson Jr.
Melvin C.Payne
Richard W. Scott

FORM OF OPINION OF COMPANY'S COUNSEL TO BE DELIVERED PURSUANT TO SECTION 5(b)

(i) The Company is validly existing as a corporation in good standing under the laws of the State of Delaware.

(ii) The Company has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the General Disclosure Package and the Final Offering Memorandum and to enter into and perform its obligations under the Purchase Agreement.

(iii) The Company is duly qualified as a foreign corporation to transact business and is in good standing in each jurisdiction listed on Annex A hereto.

(iv) The authorized capital stock of the Company is as set forth in the General Disclosure Package and the Final Offering Memorandum in the column entitled "Actual" under the caption "Capitalization" .

(v) Each of Carriage Cemetery Services, Inc., Carriage Management Inc. and Carriage Funeral Holdings, Inc. (each, a "Covered Subsidiary") is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, has corporate power and authority to own,
lease and operate its properties and to conduct its business as described in the General Disclosure Package and the Final Offering Memorandum and is duly qualified as a foreign corporation to transact business
and is in good standing in each jurisdiction listed on Annex A hereto.

(vi) The Purchase Agreement has been duly authorized, executed and delivered by the Company.

(vii) The Indenture has been duly authorized, executed and delivered by the Company and (assuming the due authorization, execution and delivery thereof by the Trustee) constitutes a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors and general equitable principles and implied covenants of good faith and fair dealing (regardless of whether enforcement is considered in a proceeding in equity or at law).

(viii) The Securities have been duly authorized, executed, issued and delivered by the Company and, assuming that the Securities have been duly authenticated by the Trustee, constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors and general equitable principles and implied covenants of good faith and fair dealing (regardless of whether enforcement is considered in a proceeding in equity or at law), and will be entitled to the benefits of the Indenture.

(ix) The Securities and the Indenture conform as to legal matters in all material respects to the descriptions thereof under the heading "Description of Notes" contained in the General Disclosure Package and the Final Offering Memorandum.

(x) The Common Stock conforms to all statements relating thereto under the heading "Description of Capital Stock" contained or incorporated by reference in the General Disclosure Package and the Final Offering Memorandum and such description conforms to the rights set forth in the instruments defining the same. The shares of Common Stock issuable upon conversion of the Securities have been duly authorized and reserved for issuance upon such conversion by all necessary corporate action and such shares, when issued upon such conversion, will be validly issued and will be fully paid and non-assessable; and the issuance of such shares upon such conversion will not be subject to the preemptive or other similar rights of any securityholder of the Company under the Company's charter, as amended, or the Delaware General Corporation Law.

(xi) The documents incorporated by reference in the General Disclosure Package and the Final Offering Memorandum (other than the financial statements and supporting schedules included therein or omitted therefrom, as to which we need express no opinion), when they were filed with the Commission, appeared on their face to comply as to form in all material respects with the requirements of the 1934 Act and the rules and regulations of the Commission thereunder.

(xii) The information in the General Disclosure Package and the Final Offering Memorandum under "Certain Federal Income Tax Considerations", to the extent that it constitutes summaries of statutes or laws has been reviewed by us and is accurate in all material respects.

(xiii) Assuming the accuracy of the representations and warranties and the performance of the covenants contained in the Purchase Agreement, it is not necessary in connection with the offer, sale and delivery of the Securities to the Initial Purchasers, or for the initial sale of the Securities to each Subsequent Purchaser, in the manner contemplated by the Purchase Agreement, the General Disclosure Package and the Final Offering Memorandum to register the Securities under the 1933 Act or to qualify the Indenture under the Trust Indenture Act of 1939.

(xiv) No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency, domestic or foreign (other than as may be required under the federal or state securities laws or blue sky laws, as to which we need express no opinion) is necessary or required in connection with the due authorization, execution and delivery of the Purchase Agreement or the due execution, delivery or performance of the Indenture by the Company or for the offering, issuance, sale or delivery of the Securities.

(xv) The execution and delivery of the Purchase Agreement, the Indenture and the Securities and the consummation of the transactions contemplated in the Purchase Agreement, the General Disclosure Package and the Final Offering Memorandum (including the issuance and sale of the Securities do not and will not, whether with or without the giving of notice or lapse of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined in Section 1(a)(xvi) of the Purchase Agreement) under or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any Subsidiary pursuant to any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or any other agreement or instrument filed as an exhibit to the documents incorporated by reference in the General Disclosure Package and the Final Offering Memorandum (except for such conflicts, breaches, defaults or Repayment Events or liens, charges or encumbrances that would not have a Material Adverse Effect), nor will such action result in any violation of the provisions of the charter or by-laws of the Company or any Covered Subsidiary, or any applicable law, statute, rule, regulation, judgment, order, writ or decree, known to us, of any government, government instrumentality or court having jurisdiction over the Company or any Subsidiary or any of their respective properties, assets or operations (except for such conflicts, breaches, defaults of Repayment Events or liens, charges or encumbrances that would not have a Material Adverse Effect). We

express no opinion in this paragraph as to any federal or state securities laws or regulations, blue sky laws or federal or state anti-fraud laws or regulations.

(xvi) The Company is not required, and upon the issuance and sale of the Securities as herein contemplated and the application of the net proceeds therefrom as described in the General Disclosure Package and the Final Offering Memorandum will not be required, to register as an "investment company" under the 1940 Act.

In connection with the preparation of the Offering Memorandum, we participated in conferences with officers and other representatives of the Company, representatives of the independent registered public accountants of the Company, the Representatives and counsel to the Initial Purchasers at which the contents of the General Disclosure Package and the Final Offering Memorandum and related matters were discussed and, although we have not independently verified and are not passing upon and assume no responsibility for the accuracy, completeness or fairness of the statements contained in the General Disclosure Package or the Final Offering Memorandum (other than to the extent specified in paragraphs (ix), (x) and (xii) above), on the basis of such participation no facts have come to our attention that lead us to believe that (i) the General Disclosure Package, at the Applicable Time, included an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; or (ii) the Final Offering Memorandum, as of its date or at the Closing Time, included or includes an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, except for financial statements and schedules and other financial or accounting data included or incorporated by reference therein or omitted therefrom, as to which we need make no statement).

In rendering such opinion, such counsel may rely, as to matters of fact (but not as to legal conclusions), to the extent they deem proper, on certificates of responsible officers of the Company and public officials. Such opinion shall not state that it is to be governed or qualified by, or that it is otherwise subject to, any treatise, written policy or other document relating to legal opinions, including, without limitation, the Legal Opinion Accord of the ABA Section of Business Law (1991).

FORM OF LOCK-UP TO BE DELIVERED PURSUANT TO SECTION 5(g)

March [●], 2014

Merrill Lynch, Pierce, Fenner & Smith
Incorporated,

as Representative of the several Initial Purchasers to be named in the within-mentioned Purchase Agreement

c/o Merrill Lynch, Pierce, Fenner & Smith
Incorporated
One Bryant Park
New York, New York 10036

Re: Proposed Offering by Carriage Services, Inc.

Dear Sirs:

The undersigned understands that Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") proposes to enter into a Purchase Agreement (the "Purchase Agreement") with Carriage Services, Inc., a Delaware corporation (the "Company") providing for the offering of $125,000,000 aggregate principal amount of the Company's 2.75% Convertible Subordinated Notes due 2021 (the "Securities"). In recognition of the benefit that such an offering will confer upon the undersigned as a stockholder and an officer and/or director of the Company, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned agrees with each initial purchaser to be named in the Purchase Agreement that, during the period beginning on the date hereof and ending on the date that is 90 days from the date of the Purchase Agreement (the "Lock-up Period"), the undersigned will not, without the prior written consent of Merrill Lynch, directly or indirectly, (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant for the sale of, or otherwise dispose of or transfer any shares of the Company's common stock, par value $0.01 per share (the "Common Stock"), or any securities convertible into or exchangeable or exercisable for Common Stock, whether now owned or hereafter acquired by the undersigned or with respect to which the undersigned has or hereafter acquires the power of disposition (collectively, the "Lock-Up Securities"), or exercise any right with respect to the registration of any of the Lock-up Securities, or file or cause to be filed any registration statement in connection therewith, under the Securities Act of 1933, as amended, or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Lock-Up Securities, whether any such swap or transaction is to be settled by delivery of Common Stock or other securities, in cash or otherwise.

[The foregoing restrictions shall not apply to the transfer or sale of Common Stock beneficially owned by the spouse of the undersigned as of the date hereof.][1]

The undersigned also agrees and consent to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Lock-Up Securities except in compliance with the foregoing restrictions.

Very truly yours,

Signature:___

Print Name:___

[1] To be included in William Heiligbrodt's lock-up.

Carriage Services, Inc. Announces Pricing of Private Offering of $125 Million of Convertible Subordinated Notes

HOUSTON, March 13, 2014 /PRNewswire/ -- Carriage Services, Inc. (NYSE: CSV) (the “Company”) announced today the pricing of its previously announced private offering of $125,000,000 aggregate principal amount of convertible subordinated notes due 2021 (the “Convertible Notes”). The Convertible Notes were offered to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”). The Company granted a 30-day option to the initial purchasers of the Convertible Notes for up to an additional $18,750,000 aggregate principal amount of the Convertible Notes. The Convertible Notes will be unsecured obligations of the Company and will be subordinated in right of payment to all of the Company’s existing and future senior indebtedness. The Convertible Notes will accrue interest payable semiannually in arrears at a rate of 2.75% per year. Prior to December 15, 2020, the Convertible Notes will be convertible at the option of the holder only upon the occurrence of certain events and during certain periods. Upon conversion, the aggregate principal amount of the Convertible Notes so converted will be paid in cash and any conversion obligation in excess of the aggregate principal amount will be satisfied by the payment or delivery, as the case may be, of cash, shares of the Company's common stock (the “common stock”) or a combination of cash and shares of the Company's common stock, at the Company's election. The Convertible Notes will have an initial conversion rate of 44.3169 shares of the common stock per $1,000 principal amount of the Convertible Notes (which is equal to an initial conversion price of approximately $22.56 per share of the common stock). The Convertible Notes will mature in 2021, unless earlier repurchased or converted in accordance with their terms prior to such date. The Company expects to close the offering on or about March 19, 2014, subject to the satisfaction of customary closing conditions.

The Company expects to use the net proceeds from this offering, estimated at $120.9 million after deducting initial purchasers’ discounts and estimated offering expenses, or $139.0 million if the initial purchasers’ option to purchase additional Convertible Notes is exercised in full, to redeem or repurchase its convertible junior subordinated debentures (or the corresponding trust preferred securities) or any shares of common stock issued upon conversion of such debentures and to repay amounts outstanding under its credit facility.

This press release is neither an offer to sell nor a solicitation of an offer to buy the Convertible Notes or the shares of common stock issuable upon conversion of the Convertible Notes, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such state or jurisdiction.

The Convertible Notes and the common stock issuable upon conversion of the Convertible Notes have not been registered and will not be registered under the Securities Act, or the securities laws of any other jurisdiction, and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. Any offer of the Convertible Notes will be made only by means of a confidential offering memorandum.

Certain statements made herein or elsewhere by, or on behalf of, the Company that are not historical facts are intended to be forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These statements are based on assumptions that the Company believes are reasonable; however, many important factors, as discussed under “Forward-Looking Statements and Cautionary Statements” in the Company's Annual Report on Form 10-K for the year ended December 31, 2013, could cause the Company's results in the future to differ materially from the forward-looking statements made herein and in any other documents or oral presentations made by, or on behalf of, the Company. The Company assumes no obligation to update or publicly release any revisions to forward-looking statements made herein or any other forward-looking statements made by, or on behalf of, the Company.

Carriage Services is a leading provider of deathcare services and merchandise in the United States. Carriage operates 161 funeral homes in 26 states and 31 cemeteries in 10 states.

SOURCE Carriage Services, Inc.

Carriage Services, Inc. Announces Closing of Private Offering of $143,750,000 of Convertible Subordinated Notes

HOUSTON, March 19, 2014 /PRNewswire/ -- Carriage Services, Inc. (NYSE: CSV) (the “Company”) announced today the closing of its previously announced private offering of $125,000,000 aggregate principal amount of convertible subordinated notes due 2021 (the “Convertible Notes”). The Convertible Notes were offered to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”). In addition, the Company announced that the initial purchasers exercised their option in full to purchase an additional $18,750,000 in principal amount of the Convertible Notes, which also closed today. The Convertible Notes will be unsecured obligations of the Company and will be subordinated in right of payment to all of the Company’s existing and future senior indebtedness. The Convertible Notes will accrue interest payable semiannually in arrears at a rate of 2.75% per year. Prior to December 15, 2020, the Convertible Notes will be convertible at the option of the holder only upon the occurrence of certain events and during certain periods. Upon conversion, the aggregate principal amount of the Convertible Notes so converted will be paid in cash and any conversion obligation in excess of the aggregate principal amount will be satisfied by the payment or delivery, as the case may be, of cash, shares of the Company's common stock (the “common stock”) or a combination of cash and shares of the Company's common stock, at the Company's election. The Convertible Notes will have an initial conversion rate of 44.3169 shares of the common stock per $1,000 principal amount of the Convertible Notes (which is equal to an initial conversion price of approximately $22.56 per share of the common stock). The Convertible Notes will mature in 2021, unless earlier repurchased or converted in accordance with their terms prior to such date. The Company expects to close the offering on or about March 19, 2014, subject to the satisfaction of customary closing conditions.

The Company expects to use the net proceeds from this offering, estimated at $139.0 million including the net proceeds resulting from the full exercise of the initial purchasers’ option to purchase additional Convertible Notes, to redeem or repurchase its convertible junior subordinated debentures (or the corresponding trust preferred securities) or any shares of common stock issued upon conversion of such debentures and to repay amounts outstanding under its credit facility.

This press release is neither an offer to sell nor a solicitation of an offer to buy the Convertible Notes or the shares of common stock issuable upon conversion of the Convertible Notes, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such state or jurisdiction.

The Convertible Notes and the common stock issuable upon conversion of the Convertible Notes have not been registered and will not be registered under the Securities Act, or the securities laws of any other jurisdiction, and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. Any offer of the Convertible Notes will be made only by means of a confidential offering memorandum.

Certain statements made herein or elsewhere by, or on behalf of, the Company that are not historical facts are intended to be forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These statements are based on assumptions that the Company believes are reasonable; however, many important factors, as discussed under “Forward-Looking Statements and Cautionary Statements” in the Company's Annual Report on Form 10-K for the year ended December 31, 2013, could cause the Company's results in the future to differ materially from the forward-looking statements made herein and in any other documents or oral presentations made by, or on behalf of, the Company. The Company assumes no obligation to update or publicly release any revisions to forward-looking statements made herein or any other forward-looking statements made by, or on behalf of, the Company.

Carriage Services is a leading provider of deathcare services and merchandise in the United States. Carriage operates 161 funeral homes in 26 states and 31 cemeteries in 10 states.

SOURCE Carriage Services, Inc.