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): **November 19, 2013 (November 13, 2013)**

iStar Financial Inc.
(Exact name of registrant as specified in its charter)

Maryland	**1-15371**	**95-6881527**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification Number)

1114 Avenue of the Americas, 39th Floor New York, New York	**10036**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: **(212) 930-9400**

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

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

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

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

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

o 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.
ITEM 2.03 Creation of a Direct Financial Obligation.

On November 19, 2013, iStar Financial Inc. (the "Company") completed the sale of $200,000,000 aggregate principal amount of 1.50% Convertible Senior Notes due 2016 (the "Notes") pursuant to a purchase agreement, dated November 13, 2013 (the "Purchase Agreement"), between the Company and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as the representative of the other initial purchasers named therein (the "Initial Purchasers"). The Notes were issued pursuant to a supplement indenture, dated November 19, 2013 (the "Supplemental Indenture"), between the Company and U.S. Bank National Association, as the trustee. The Notes are unsecured, senior obligations of the Company and rank equally in right of payment with all of the Company's existing and future unsecured, unsubordinated indebtedness.

The Notes will bear interest at an annual rate of 1.50% and mature on November 15, 2016. The Company will pay interest on the Notes on each May 15 and November 15, commencing on May 15, 2014.

Upon the occurrence of a Fundamental Change (as defined in the Supplemental Indenture), each holder of the Notes will have the right to require the Company to purchase all or a portion of such holder's Notes at a purchase price equal to 100% of the principal amount thereof, plus accrued interest.

Each holder of the Notes may convert such holder's Notes at any time prior to the close of business on November 14, 2016. The Notes are convertible at an initial conversion rate of 57.8369 shares per $1,000 principal amount of Notes, which is equal to a conversion price of approximately $17.29 per share, subject to adjustment. If a holder of the Notes elects to convert such Notes in connection with a Make-Whole Fundamental Change (as defined in the Supplemental Indenture), such holder may also be entitled to receive a make-whole premium upon conversion in certain circumstances. The Company does not have the right to redeem the Notes at its option.

Copies of the Purchase Agreement, the Supplemental Indenture, the Global Note, the Company's press release announcing the offering of the Notes and the Company's press release announcing the pricing of the Notes are attached hereto as Exhibits 1.1, 4.1, 4.2, 99.1 and 99.2 respectively, and incorporated by

reference herein. The foregoing is not a complete description of such agreements or the terms of the Notes. For a complete description of the Notes, please see the full text of the Supplemental Indenture and the Notes.

ITEM 9.01 Financial Statements and Exhibits.

1.1 Purchase Agreement, dated November 13, 2013, by and among the Company and Merrill Lynch, Pierce, Fenner & Smith Incorporated and the other several initial purchasers named therein, relating to the Notes.

4.1 Supplemental Indenture, dated November 19, 2013, between iStar Financial Inc. and U.S. Bank National Association, as the trustee.

4.2 1.50% Convertible Senior Notes due 2016 — Rule 144A Global Note.

99.1 Press Release dated November 13, 2013 announcing the offering of the Notes.

99.2 Press Release dated November 13, 2013 announcing the pricing of the Notes.

SIGNATURES

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

iSTAR FINANCIAL INC.

Date: November 19, 2013

By: /s/ Jay Sugarman
Jay Sugarman
Chairman and Chief Executive Officer

Date: November 19, 2013

By: /s/ David M. DiStaso
David M. DiStaso
Chief Financial Officer

EXHIBIT INDEX

Exhibit Number	Description
1.1	Purchase Agreement, dated November 13, 2013, by and among the Company and Merrill Lynch, Pierce, Fenner & Smith Incorporated and the other several initial purchasers named therein, relating to the Notes.
4.1	Supplemental Indenture, dated November 19, 2013, between iStar Financial Inc. and U.S. Bank National Association, as the trustee.
4.2	1.50% Convertible Senior Notes due 2016 — Rule 144A Global Note.
99.1	Press Release dated November 13, 2013 announcing the offering of the Notes.
99.2	Press Release dated November 13, 2013 announcing the pricing of the Notes.

Exhibit 1.1

Execution Copy

PURCHASE AGREEMENT

November 13, 2013

MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED
As Representative of the Initial Purchasers

c/o Merrill Lynch, Pierce, Fenner & Smith
Incorporated
One Bryant Park
New York, New York 10036

Ladies and Gentlemen:

Introductory. iStar Financial Inc., a Maryland corporation (the "**Company**"), confirms its agreement with Merrill Lynch, Pierce, Fenner & Smith Incorporated ("**Merrill Lynch**") and the other several initial purchasers named in Schedule A hereto (collectively, the "**Initial Purchasers**"), with respect to (i) the sale by the Company and the purchase by the Initial Purchasers, acting severally and not jointly, of the respective principal amounts set forth in such Schedule A of $175,000,000 aggregate principal amount of the Company's 1.50% Convertible Senior Notes due 2016 (the "**Initial Securities**") and (ii) 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 $25,000,000 aggregate principal amount of its 1.50% Convertible Senior Notes due 2016 (the "**Option Securities**" and, together with the Initial Securities, the "**Securities**"). Merrill Lynch has agreed to act as the representative of the several Initial Purchasers (the "**Representative**") in connection with the offering and sale of the Securities.

The Securities will be issued pursuant to an indenture, dated as of February 5, 2001, between the Company and US Bank Trust National Association, as trustee (the "**Trustee**") (the "**Base Indenture**"), as amended by the Twenty-fifth Supplemental Indenture, to be dated as of the Closing Date (as defined in Section 2 hereof) between the Company and the Trustee (such supplemental indenture, together with the Base Indenture, the "**Indenture**"). The Securities will be convertible, upon the terms and conditions set forth in the Indenture, into shares of common stock, par value $0.001 per share, of the Company (the "**Common Stock**"). The Securities will be issued only in book-entry form in the name of Cede & Co., as nominee of The Depository Trust Company (the "**Depositary**") pursuant to a letter of representations, to be dated on or before the Closing Date, among the Company, the Trustee and the Depositary.

This Agreement, the Securities and the Indenture are referred to herein as the "**Transaction Documents**."

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 in the Pricing Disclosure Package (as defined below) and agrees that the Initial Purchasers may resell, subject to the conditions set forth herein, all or a portion of the Securities to purchasers (the "**Subsequent Purchasers**") on the terms set forth in the Pricing Disclosure Package (the first time when sales of the Securities are made is referred to as the "**Time of Sale**"(which for purposes of this Agreement is 4:25 p.m., New York City time, on the date hereof)). The Securities are to be offered and sold to or through the Initial Purchasers without being registered with the Securities and Exchange Commission (the "**Commission**") under the Securities Act of 1933, as amended (the "**Securities Act**," which term, as used herein, includes the rules and regulations of the Commission promulgated thereunder), 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 Securities Act or if an exemption from the registration requirements of the Securities Act is available (including the exemption afforded by Rule 144A ("**Rule 144A**") of the rules and regulations promulgated under the Securities Act.

The Company has prepared and delivered to each Initial Purchaser copies of a Preliminary Offering Memorandum, dated November 13, 2013 (the "**Preliminary Offering Memorandum**"), and has prepared and delivered to each Initial Purchaser copies of a Pricing Supplement, dated November 13, 2013 (the "**Pricing Supplement**"), describing the terms of the Securities, each for use by such Initial Purchaser in connection with its solicitation of offers to purchase the Securities. The Preliminary Offering Memorandum and the Pricing Supplement are herein referred to as the "**Pricing Disclosure Package**." Promptly after this Agreement is executed and delivered, the Company will prepare and deliver to each Initial Purchaser a final offering memorandum dated the date hereof (the "**Final Offering Memorandum**").

All references herein to the terms "Pricing Disclosure Package" and "Final Offering Memorandum" shall be deemed to mean and include all information filed under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**," which term, as used herein, includes the rules and regulations of the Commission promulgated thereunder) prior to the Time of Sale and incorporated by reference in the Pricing Disclosure Package (including the Preliminary Offering Memorandum) or the Final Offering Memorandum (as the case may be), and all references herein to the terms "amend," "amendment" or "supplement" with respect to the Final Offering Memorandum shall be deemed to mean and include all information filed under the Exchange Act after the Time of Sale and incorporated by reference in the Final Offering Memorandum.

The Company hereby confirms its agreements with the Initial Purchasers as follows:

SECTION 1. **Representations and Warranties**. The Company hereby represents, warrants and covenants to each Initial Purchaser that, as of the date hereof and as of the Closing Date and any Date of Delivery (as defined below):

(a) **No Registration Required.** Subject to compliance by the Initial Purchasers with the representations and warranties set forth in Section 2 hereof and with the procedures set forth in Section 7 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 and the Final Offering Memorandum to register the Securities under the Securities Act or to qualify the Indenture under the Trust Indenture Act of 1939, as amended (the "**Trust Indenture Act**," which term, as used herein, includes the rules and regulations of the Commission promulgated thereunder).

(b) **No Integration of Offerings or General Solicitation.** None of the Company, its affiliates (as such term is defined in Rule 501 under the Securities Act) (each, an "**Affiliate**"), or any person acting on its or any of their behalf (other than the Initial Purchasers, as to whom the Company makes no representation or warranty) has, directly or indirectly, solicited any offer to buy or offered to sell, or will, directly or indirectly, solicit any offer to buy or offer to sell, any security which is or would be integrated with the sale of the Securities in a manner that would require the Securities to be registered under the Securities Act. None of the Company, its Affiliates, or any person acting on its or any of their behalf (other than the Initial Purchasers, as to whom the Company makes no representation or warranty) has engaged or will engage, in connection with the offering of the Securities, in any form of general solicitation or general advertising within the meaning of Rule 502 under the Securities Act.

(c) **Eligibility for Resale under Rule 144A.** The Securities are eligible for resale pursuant to Rule 144A and will not be, at the Closing Date or any Date of Delivery, of the same class as securities listed on a national securities exchange registered under Section 6 of the Exchange Act or quoted in a U.S. automated interdealer quotation system.

(d) **The Pricing Disclosure Package and Offering Memorandum.** Neither the Pricing Disclosure Package, as of the Time of Sale, nor the Final Offering Memorandum, as of its date or (as amended or supplemented in accordance with Section 3(a), as applicable) as of the Closing Date and any Date of Delivery, contains or represents an untrue statement of a material fact 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; provided that this representation, warranty and agreement shall not apply to statements in or omissions from the Pricing Disclosure Package, the Final Offering Memorandum or any amendment or supplement thereto made in reliance upon and in conformity with information furnished to the Company in writing by any Initial Purchaser through the Representative expressly for use in the Pricing Disclosure Package, the Final Offering Memorandum or amendment or supplement thereto, as the case may be. The Pricing Disclosure Package contains, and the Final Offering Memorandum will contain, all the information specified in, and meeting the requirements of, Rule 144A.

(e) **Company Additional Written Communications.** The Company has not used, authorized, approved or distributed and will not use, authorize, approve or distribute any written communication that constitutes an offer to sell or solicitation of an offer to buy the Securities other than (i) the Pricing Disclosure Package, (ii) the Final Offering Memorandum and (iii) any electronic road show or other written

communications, in each case used in accordance with Section 3(a). Each such communication by the Company or its agents and representatives pursuant to clause (iii) of the preceding sentence (each, a "**Company Additional Written Communication**"), when taken together with the Pricing Disclosure Package, did not as of the Time of Sale, and at the Closing Date and at any Date of Delivery will not, contain any 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; provided that this representation, warranty and agreement shall not apply to statements in or omissions from each such Company Additional Written Communication made in reliance upon and in conformity with information furnished to the Company in writing by any Initial Purchaser through the Representative expressly for use in any Company Additional Written Communication.

(f) **Incorporated Documents.** The documents incorporated or deemed to be incorporated by reference in the Pricing Disclosure Package and the Final Offering Memorandum at the time they were or hereafter are filed with the Commission (collectively, the "**Incorporated Documents**") complied and will comply in all material respects with the requirements of the Exchange Act. Each such Incorporated Document, when taken together with the Pricing Disclosure Package, did not as of the Time of Sale, and at the Closing Date and at any Date of Delivery will not, contain any 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.

(g) **The Purchase Agreement.** This Agreement has been duly authorized, executed and delivered by the Company.

(h) **Authorization of the Securities and the Common Stock.** The Securities to be purchased by the Initial Purchasers from the Company will, on the Closing Date and on any Date of Delivery, be in the form contemplated by the Indenture, have been duly authorized for issuance and sale pursuant to this Agreement and the Indenture and, at the Closing Date and at any Date of Delivery, will have been duly executed by the Company and, when authenticated in the manner provided for in the Indenture and delivered against payment of the purchase price therefor, 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, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors or by general equitable principles and will be entitled to the benefits of the Indenture. The 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; no holder of such shares will be subject to personal liability by reason of being such a holder; 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.

(i) **Authorization of the Indenture.** The Indenture has been duly authorized by the Company and, at the Closing Date and at any Date of Delivery, will have been duly executed and delivered by the Company and, assuming due authorization, execution and delivery by the other parties hereto, 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, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors or by general equitable principles.

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

(k) **No Material Adverse Change.** Except as otherwise disclosed in the Pricing Disclosure Package and the Final Offering Memorandum (exclusive of any amendment or supplement thereto), subsequent to the respective dates as of which information is given in the Pricing Disclosure Package and the Final Offering Memorandum (exclusive of any amendment or supplement thereto): (i) neither the Company nor any of its subsidiaries has sustained any material loss or interference with their respective businesses or properties from fire, flood, hurricane, accident or other calamity, whether or not covered by insurance, or from any labor dispute or any legal or governmental proceeding, and there has been no materially adverse change, or development involving a prospective materially adverse change, in the condition (financial or otherwise), management, earnings, property, business affairs or business prospects, stockholders' equity, net worth or results of operations of the Company or any of its subsidiaries, taken as a whole (any such change is called a "**Material Adverse Change**"); (ii) the Company and its subsidiaries, considered as one entity, have not incurred any material liability or obligation, indirect, direct or contingent, not in the ordinary course of business nor entered into any material transaction or agreement not in the ordinary course of business; and (iii) except for regular quarterly dividends paid on the outstanding preferred stock of the Company, there has been no dividend or distribution of any kind declared, paid or made by the Company or repurchase or redemption by the Company of any class of capital stock.

(l) **Independent Accountants.** PricewaterhouseCoopers LLP, who have certified certain financial statements of the Company and its consolidated subsidiaries and delivered their report with respect to the audited consolidated financial statements and schedules included or incorporated in the Pricing Disclosure Package and the Final Offering Memorandum, are independent registered public accountants with respect to the Company and its subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board and as required by the Securities Act.

(m) **Preparation of the Financial Statements.** The consolidated financial statements and schedules of the Company and its consolidated subsidiaries included or incorporated in the Pricing Disclosure Package and the Final Offering Memorandum were prepared in accordance with generally accepted accounting principles ("**GAAP**") consistently applied throughout the periods involved (except as otherwise noted therein or in the Pricing Disclosure Package and the Final Offering Memorandum) and they present fairly, in all material respects, the financial condition of the Company as at the dates at which they were prepared and the results of operations of the Company in respect of the periods for which they were prepared. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Pricing Disclosure Package and the Final Offering Memorandum fairly present the information called for in all material respects and have been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(n) **Statistical Data and Forward-Looking Statements.** The statistical and market-related data and forward-looking statements included in the Pricing Disclosure Package and the Final Offering Memorandum are based on or derived from sources that the Company and its subsidiaries believe to be reliable and accurate in all material respects and represent their good faith estimates that are made on the basis of data derived from such sources.

(o) **Incorporation and Good Standing of the Company and its Subsidiaries.** The Company has been duly incorporated and is validly existing as a corporation in good standing under the law of its jurisdiction of incorporation with full power and authority to own, lease and operate its properties and assets and conduct its business as described in the Pricing Disclosure Package and the Final Offering Memorandum, is duly qualified to transact business and is in good standing in each jurisdiction in which its ownership, leasing or operation of its properties or assets or the conduct of its business requires such qualification, except where the failure to be so qualified does not amount to a material liability or disability to the Company and its subsidiaries, taken as a whole, and has full power and authority to execute and perform its obligations under the Transaction Documents; each subsidiary of the Company is duly organized and validly existing and in good standing under the laws of its jurisdiction of organization and is duly qualified to transact business and is in good standing in each jurisdiction in which its ownership, leasing or operation of its properties or assets or the conduct of its business requires such qualification, except where the failure to be so qualified does not amount to a material liability or disability to the Company and its subsidiaries, taken as a whole, and each has full power and authority to own, lease and operate its properties and assets and conduct its business as described in the Pricing Disclosure Package and the Final Offering Memorandum; all of the issued and outstanding shares of capital stock of each of the Company's subsidiaries have been duly authorized and are fully paid and nonassessable and, except as otherwise set forth in the Pricing Disclosure Package and the Final Offering Memorandum (including the equity interests in the Company's subsidiaries that have been pledged to lenders under the Company's secured indebtedness disclosed in the Pricing Disclosure Package and the Final Offering Memorandum), such shares held by the Company are owned beneficially

by the Company free and clear of any security interests, liens, encumbrances, equities or claims.

(p) **Capitalization.** The Company has an authorized, issued and outstanding capitalization as set forth in the Pricing Disclosure Package and the Final Offering Memorandum under the caption "Capitalization" (other than for subsequent issuances of capital stock, if any, pursuant to employee benefit plans described in the Pricing Disclosure Package and the Final Offering Memorandum or upon exercise of outstanding options described in the Pricing Disclosure Package and the Final Offering Memorandum). All of the issued shares of capital stock of the Company have been duly authorized and validly issued and are fully paid and nonassessable. Except for the shares of capital stock of each of the subsidiaries owned by the Company and such subsidiaries, neither the Company nor any such subsidiary owns any shares of stock or any other equity securities of any corporation or has any equity interest in any firm, partnership, association or other entity, except in entities in which the Company has made an investment in its ordinary course of business or as a result of the enforcement of rights and remedies of the Company, or as otherwise described in or contemplated by the Pricing Disclosure Package and the Final Offering Memorandum.

(q) **Dividends and Other Distributions**. No subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, making any other distribution on such subsidiary's capital stock, repaying to the Company any loans or advances to

such subsidiary from the Company or transferring any of such subsidiary's property or assets to the Company or any other subsidiary of the Company, in each case except for restrictions upon the occurrence of a default or failure to meet financial covenants or conditions under existing agreements or restrictions that require a subsidiary to service its debt obligations before making dividends, other distributions or advancements in respect of its capital stock.

(r) **Non-Contravention of Existing Instruments; No Further Authorizations or Approvals Required.** Neither the Company nor any of its subsidiaries is (i) in violation of its charter, bylaws or other constitutive document or (ii) in default (or, with the giving of notice or lapse of time, would be in default) ("**Default**") under any indenture, mortgage, loan or credit agreement, note, contract, franchise, lease or other 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 property or assets of the Company or any of its subsidiaries is subject (each, an "**Existing Instrument**"), except, in the case of clause (ii) above, for such Defaults as would not, individually or in the aggregate, result in a Material Adverse Change. The execution, delivery and performance of the Transaction Documents by the Company, the issuance and delivery of the Securities and the issuance and delivery of the Common Stock issuable upon the conversion of the Securities, and consummation of the transactions contemplated hereby and thereby and by the Pricing Disclosure Package and the Final Offering Memorandum (i) have been duly authorized by all necessary corporate action and will not result in any violation of the provisions of the charter, bylaws or other constitutive document of the Company or any subsidiary, (ii) will not conflict with or constitute a breach of, or Default or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or

imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, or require the consent of any other party to, any Existing Instrument, except for such conflicts, breaches, Defaults, liens, charges or encumbrances as would not, individually or in the aggregate, result in a Material Adverse Change or materially adversely affect the consummation by the Company of the transactions contemplated hereby, and (iii) will not result in any violation of any law, administrative regulation or administrative or court decree applicable to the Company or any subsidiary. On and as of the date hereof, no event has occurred or is continuing which constitutes, or with notice or lapse of time would constitute, an Event of Default (as defined in the Indenture). No consent, approval, authorization or other order of, or registration or filing with, any court or other governmental or regulatory authority or agency is required for the execution, delivery and performance of the Transaction Documents by the Company to the extent a party thereto, the issuance and delivery of the Securities or the issuance and delivery of the Common Stock issuable upon the conversion of the Securities, or consummation of the transactions contemplated hereby and thereby and by the Pricing Disclosure Package and the Final Offering Memorandum, except such as have been obtained or made by the Company and are in full force and effect under the Securities Act, applicable securities laws of the several states of the United States or provinces of Canada. As used herein, a "**Debt Repayment Triggering Event**" means any event or condition which gives, or with the giving of notice or lapse of time would give, 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.

(s) **No Material Actions or Proceedings.** No legal or governmental proceedings are pending or threatened to which the Company or any of its subsidiaries is a party or to which the property of the Company or any of its subsidiaries is subject that are required to be described in a prospectus pursuant to the Securities Act that are not described in the Pricing Disclosure Package and the Final Offering Memorandum.

(t) **Intellectual Property Rights.** Except as otherwise disclosed in the Pricing Disclosure Package and the Final Offering Memorandum, the Company and its subsidiaries own or possess, or can acquire on reasonable terms, all material patents, patent applications, trademarks, service marks, trade names, licenses, know-how, copyrights, trade secrets and proprietary or other confidential information necessary to operate the business now operated by them, and neither the Company nor any such subsidiary has received any notice of infringement of or conflict with asserted rights of any third party with respect to any of the foregoing which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Change.

(u) **All Necessary Permits, etc.** Except as otherwise disclosed in the Pricing Disclosure Package and the Final Offering Memorandum, the Company and its subsidiaries possess all consents, licenses, certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to conduct their respective businesses, and neither the Company nor any such subsidiary has

received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a constitute a Materially Adverse Change, or constitute a development involving a prospective Material Adverse Change.

(v) **Title to Properties.** Except as otherwise disclosed in the Pricing Disclosure Package and the Final Offering Memorandum (including liens granted in favor of lenders under the Company's secured indebtedness disclosed in the Pricing Disclosure Package and the Final Offering Memorandum), the Company and each of its subsidiaries have good and marketable title in fee simple to all items of real property and marketable title to all personal property owned by each of them, in each case free and clear of any security interests, liens, encumbrances, equities, claims and other defects, except such as do not materially and adversely affect the value of such property and do not interfere with the use made or proposed to be made of such property by the Company or such subsidiary, and any real property and buildings held under lease by the Company or any such subsidiary are held under valid, subsisting and enforceable leases, with such exceptions as are not material and do not interfere with the use made or proposed to be made of such property and buildings by the Company or such subsidiary.

(w) **Tax Law Compliance.** The Company is organized in conformity with the requirements for qualification as a real estate investment trust ("**REIT**") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended, including the regulations and published interpretations thereunder (the "**Code**"), and its proposed method of operation as described in the Pricing Disclosure Package and the Final Offering Memorandum will enable it to continue to meet the requirements for taxation as a REIT under the Code. The Company has filed all foreign, federal, state and local tax returns that are required to be filed or has requested extensions thereof (except in any case in which the failure so to file would not have a materially adverse effect on the Company and its subsidiaries, taken as a whole) and has paid all taxes required to be paid by it and any other assessment, fine or penalty levied against it (except in any case in which the failure to so pay would not result in a a Material

Adverse Change), to the extent that any of the foregoing is due and payable, except for any such assessment, fine or penalty that is currently being contested in good faith or as described in or contemplated by the Pricing Disclosure Package and the Final Offering Memorandum.

(x) **Company Not an "Investment Company."** The Company is not an "investment company" and, after giving effect to the offering of the Securities and the application of the proceeds therefrom, will not be an "investment company," as such term is defined in the Investment Company Act of 1940, as amended (the "**Investment Company Act**").

(y) **Insurance**. The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; neither the Company nor any such subsidiary has been refused any insurance coverage sought or applied for; and neither the Company nor any such subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such

coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not result in a Material Adverse Change, except as described in or contemplated by the Pricing Disclosure Package and the Final Offering Memorandum.

(z) **No Price Stabilization or Manipulation.** Neither the Company nor any of its affiliates has taken, nor will the Company or any of its affiliates take, directly or indirectly, any action which is designed, or would be expected, to cause or result in, or which has constituted the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(aa) **Solvency.** No receiver or liquidator (or similar person) has been appointed in respect of the Company or any subsidiary of the Company or in respect of any part of the assets of the Company or any subsidiary of the Company, except in connection with non-performing assets held by the Company and its subsidiaries; no resolution, order of any court, regulatory body, governmental body or otherwise, or petition or application for an order, has been passed, made or presented for the winding up of the Company or any subsidiary of the Company or for the protection of the Company or any such subsidiary from its creditors; and the Company has not, and no subsidiary of the Company has, stopped or suspended payments of its debts, become unable to pay its debts or otherwise become insolvent. Immediately after the completion of the offering of the Securities (after giving effect to the consummation of the offering and the issuance of the Securities), the Company will be Solvent. As used herein, the term "**Solvent**" means, with respect to any person, that the fair saleable value of such person's assets exceeds the indebtedness of such person.

(bb) **Compliance with Sarbanes-Oxley.** The Company and its subsidiaries and their respective officers and directors are in compliance with the applicable provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations of the Commission promulgated thereunder.

(cc) **Company's Accounting System.** The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (v) transactions are executed in accordance with management's general or specific authorizations; (w) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (x) access to assets is permitted only in accordance with management's general or specific authorization; (y) the recorded balance for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (z) interactive data in eXtensible Business Reporting Language incorporated by reference in the Pricing Disclosure Package and the Final Offering Memorandum is prepared in accordance with the Commission's rules and guidelines applicable thereto. Since the date of the filing of the Company's Annual Report on Form 10-K for the year ended December 31, 2012, the Company has not advised its auditors, and the audit committee of the board of directors of the Company have not been advised, of (i) any significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and

report financial data nor any material weaknesses in internal controls; or (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls. Since the date of the filing of the Company's Annual Report on Form 10-K for the year ended December 31, 2012, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies and material weaknesses.

(dd) **Disclosure Controls and Procedures.** The Company has established and maintains disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) that are adequate and effective and designed to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to its chief executive officer and chief financial officer by others within those entities.

(ee) **Compliance with and Liability Under Environmental Laws.** Except as otherwise disclosed in the Pricing Disclosure Package and the Final Offering Memorandum or as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change (A) the Company and each of its subsidiaries is in compliance with and not subject to any known liability under applicable Environmental Laws (as defined below), (B) the Company and each of its subsidiaries has made all filings and provided all notices required under any applicable Environmental Law, (C) there is no civil, criminal or administrative action, suit, demand, claim, hearing, notice of violation, investigation, proceeding, notice or demand letter or request for information pending or, to the best knowledge of the Company, threatened against the Company or any of its subsidiaries under any Environmental Law, (D) no lien, charge, encumbrance or restriction has been recorded under any Environmental Law with respect to any assets, facility or property owned, operated or leased by the Company or any of its subsidiaries, (E) neither the Company nor any of its subsidiaries has received notice that it has been identified as a potentially responsible party under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("**CERCLA**"), or any comparable law, (F) no property owned or operated by the Company or any of its subsidiaries is (i) listed or, to the best knowledge of the Company, proposed for listing on the National Priorities List under CERCLA or (ii) listed in the Comprehensive Environmental Response, Compensation and Liability Information System List promulgated pursuant to CERCLA, or on any comparable list maintained by any governmental authority, (G) neither the Company nor any of its subsidiaries is subject to any order, decree or agreement requiring, or otherwise obligated or required to perform any response or corrective action under any Environmental Law, (H) there are no past or present actions, occurrences or operations which could reasonably be expected to prevent or interfere with compliance

by the Company with any applicable Environmental Law or to result in liability under any applicable Environmental Law. For purposes of this Agreement, "**Environmental Laws**" means the common law and all applicable foreign, federal, provincial, state and local laws or regulations, codes, orders, decrees, judgments or injunctions issued, promulgated, approved or entered thereunder, relating to pollution or protection of public or employee health and safety or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or

subsurface strata), including, without limitation, laws relating to (i) emissions, discharges, releases or threatened releases of Hazardous Materials (as defined below) into the environment, (ii) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Materials and (iii) underground and aboveground storage tanks and related piping, and emissions, discharges, releases or threatened releases therefrom. "**Hazardous Material**" means any pollutant, contaminant, waste, chemical, substance or constituent, including, without limitation, petroleum or petroleum products subject to regulation or which can give rise to liability under any Environmental Laws.

(i) **Pensions.** The Company and each of its subsidiaries are in compliance in all material respects with all presently applicable provisions of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("**ERISA**"); no "reportable event" (as defined in ERISA) has occurred with respect to any "pension plan" (as defined in ERISA) for which the Company would reasonably be expected to have any liability; the Company has not incurred and does not expect to incur liability under (x) Title IV of ERISA with respect to termination of, or withdrawal from, any "pension plan" or (y) Sections 412 or 4971 of the Code; and each "pension plan" for which the Company would have any liability that is intended to be qualified under Section 401(a) of the Code has received a determination letter from the Internal Revenue Service to the effect that it is so qualified in all material respects and nothing has occurred, whether by action or by failure to act, which would cause the plan to not be adversely affected by such determination.

(ff) **Labor.** No labor dispute with the employees of the Company or any of its subsidiaries exists or is threatened or imminent that could result in a Material Adverse Change, except as described in or contemplated by the Pricing Disclosure Package and the Final Offering Memorandum.

(gg) **Related Party Transactions.** No relationship, direct or indirect, exists between or among any of the Company or any affiliate of the Company, on the one hand, and any director, officer, member, stockholder, customer or supplier of the Company or any affiliate of the Company, on the other hand, which is required by the Securities Act to be disclosed in a registration statement on Form S-1 which is not so disclosed in the Pricing Disclosure Package and the Final Offering Memorandum. There are no outstanding loans, advances (except advances for business expenses in the ordinary course of business) or guarantees of indebtedness by the Company or any affiliate of the Company to or for the benefit of any of the officers or directors of the Company or any affiliate of the Company or any of their respective family members.

(hh) **No Unlawful Contributions or Other Payments.** Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate 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, its subsidiaries 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.

(ii) **No Conflict with 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 applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any governmental agency (collectively, the "**Money Laundering Laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(jj) **No Conflict with Sanctions Laws.** Neither the Company nor any of its subsidiaries nor, 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. Treasury Department, the U.S. Department of Commerce, the U.S. Department of State (collectively, "**Sanctions**"), nor is the Company or any of its subsidiaries located, organized or resident in a country or territory that is the subject of Sanctions. The Company will not, directly or indirectly, use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person, (i) to fund any activities of or business with any person that, at the time of such funding, is the subject of Sanctions, or is in Burma/Myanmar, Cuba, Iran, Libya, North Korea, Sudan, Syria or in any other country or territory, that, at the time of such funding, is the subject of Sanctions, or (ii) in any other manner that will result in a violation by any person (including any person participating in the offering, whether as underwriter, advisor, investor or otherwise) of Sanctions.

Any certificate signed by an officer of the Company and delivered to the Initial Purchasers or to counsel for the Initial Purchasers shall be deemed to be a representation and warranty by the Company to each Initial Purchaser as to the matters set forth therein.

SECTION 2. **Purchase, Sale and Delivery of the Securities.**

(a) **The Initial Securities.** The Company agrees to issue and sell to the Initial Purchasers, severally and not jointly, all of the Initial Securities, and, subject to the conditions set forth herein, the Initial Purchasers agree, severally and not jointly, to purchase from the Company the aggregate principal amount of Initial Securities set forth opposite their names on Schedule A, at a purchase price of 98.0% of the principal amount thereof payable on the Closing

Date, in each case, on the basis of the representations, warranties and agreements herein contained, and upon the terms and conditions herein set forth.

(b) **The Option Securities**. In addition, on the basis of the representations, warranties and agreements 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 a purchase price of 98.0% of the principal amount thereof. The option hereby granted may be exercised for 30 days after the date hereof and may be exercised in whole or in part at any time from time to time 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 Date. 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) **The Closing Date and Dates of Delivery.** Delivery of certificates for the Initial Securities to be purchased by the Initial Purchasers and payment therefor shall be made at the offices of Simpson Thacher & Bartlett LLP (or such other place as may be agreed to by the Company and Merrill Lynch) at 9:00 a.m., New York City time, on November 19, 2013, or such other time and date as Merrill Lynch shall designate by notice to the Company (the time and date of such closing are called the "**Closing Date**"). The Company hereby acknowledges that circumstances under which Merrill Lynch may provide notice to postpone the Closing Date as originally scheduled include, but are in no way limited to, any determination by the Company or the Initial Purchasers to recirculate to investors copies of an amended or supplemented Offering Memorandum or a delay as contemplated by the provisions of Section 17 hereof.

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.

(d) **Delivery of the Securities.** The Company shall deliver, or cause to be delivered, to the Trustee for the accounts of the several Initial Purchasers certificates for the Initial Securities at the Closing Date, and Option Securities at the applicable Date of Delivery, against the irrevocable release of a wire transfer of immediately available funds for the amount of the purchase price therefor. The certificates for the Securities shall be in such denominations and registered in the name of Cede & Co., as nominee of the Depositary, and shall be made available for inspection on the business day preceding the Closing Date or Date of Delivery, as the case may be, at a location in New York City, as Merrill Lynch may designate. Time shall be of the

essence, and delivery at the time and place specified in this Agreement is a further condition to the obligations of the Initial Purchasers.

SECTION 3. **Covenants and Agreements.** The Company further covenants and agrees with each Initial Purchaser that:

(a) **Preparation of Final Offering Memorandum; Initial Purchasers' Review of Proposed Amendments and Supplements and Company Additional Written Communications.** As promptly as practicable following the Time of Sale and in any event not later than the second business day following the date hereof, the Company will prepare and deliver to the Initial Purchasers the Final Offering Memorandum, which shall consist of the Preliminary Offering Memorandum as modified only by the information contained in the Pricing Supplement. The Company will not amend or supplement the Final Offering Memorandum prior to the Closing Date or any Date of Delivery unless the Representative shall previously have been furnished a copy of the proposed amendment or supplement at least two business days prior to the proposed use or filing, and shall not have reasonably objected to such amendment or supplement. Before making, preparing, using, authorizing, approving or distributing any Company Additional Written Communication, the Company will furnish to the Representative a copy of such written communication for review and will not make, prepare, use, authorize, approve or distribute any such written communication to which the Representative reasonably objects.

(b) **Amendments and Supplements to the Final Offering Memorandum and Other Securities Act Matters.** If at any time prior to the Closing Date (i) any event shall occur or condition shall exist as a result of which the Pricing Disclosure Package, as then amended or supplemented, would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading or (ii) it is necessary to amend or supplement any of the Pricing Disclosure Package to comply with law, the Company will immediately notify the Initial Purchasers thereof and forthwith prepare and (subject to Section 3(a) hereof) furnish to the Initial Purchasers such amendments or supplements to any of the Pricing Disclosure Package as may be necessary so that the statements in any of the Pricing Disclosure Package as so amended or supplemented will not, in the light of the circumstances under which they were made, be misleading or so that any of the Pricing Disclosure Package will comply with all applicable law. If, prior to the completion of the placement of the Securities by the Initial Purchasers with the Subsequent Purchasers, any event shall occur or condition exist as a result of which the Final Offering Memorandum, as then amended or supplemented, would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if in the reasonable judgment of the Company, the Representative or counsel for the Initial Purchasers it is otherwise necessary to amend or supplement the Final Offering Memorandum to comply with law, the Company agrees to promptly prepare (subject to Section 3 hereof), and furnish at its own expense to the Initial Purchasers, amendments or supplements to the Final Offering Memorandum so that the statements in the Final Offering Memorandum as so amended or supplemented will not, in the light of the circumstances at the Closing Date or at the Date of Delivery and at the time of sale of Securities, be misleading or so that the Final Offering Memorandum, as amended or supplemented, will comply with all applicable law.

The Company hereby expressly acknowledges that the indemnification and contribution provisions of Sections 8 and 9 hereof are specifically applicable and relate to each offering memorandum, registration statement, prospectus, amendment or supplement referred to in this Section 3.

(c) **Copies of the Pricing Disclosure Package and Final Offering Memorandum.** The Company agrees to furnish the Initial Purchasers, without charge, as many copies of the Pricing Disclosure Package and the Final Offering Memorandum and any amendments and supplements thereto as they shall reasonably request.

(d) **Blue Sky Compliance.** The Company shall cooperate with the Representative and counsel for the Initial Purchasers to qualify or register (or to obtain exemptions from qualifying or registering) all or any part of the Securities for offer and sale under the securities laws of the several states of the United States, the provinces of Canada or any other jurisdictions designated by the Representative, shall comply with such laws and shall continue such qualifications, registrations and exemptions in effect so long as required for the distribution of the Securities. The Company shall not be required to qualify as a foreign corporation or to take any action that would subject it to general service of process in any such jurisdiction where it is not presently qualified or where it would be subject to taxation as a foreign corporation. The Company will advise the Representative promptly of the suspension of the qualification or registration of (or any such exemption relating to) the Securities for offering, sale or trading in any jurisdiction or any initiation or threat of any proceeding for any such purpose, and in the event of the issuance of any order suspending such qualification, registration or exemption, the Company shall use its commercially reasonable efforts to obtain the withdrawal thereof as soon as practicable.

(e) **Use of Proceeds.** The Company shall apply the net proceeds from the sale of the Securities sold by it in the manner described under the caption "Use of Proceeds" in the Pricing Disclosure Package.

(f) **The Depositary.** The Company will cooperate with the Initial Purchasers and use its best efforts to permit the Securities to be eligible for clearance and settlement through the facilities of the Depositary.

(g) **Additional Issuer Information.** Prior to the completion of the placement of the Securities (including any Option Securities) by the Initial Purchasers with the Subsequent Purchasers, the Company shall file, on a timely basis, with the Commission all reports and documents required to be filed under Section 13 or 15 of the Exchange Act. Additionally, at any time when the Company is not subject to Section 13 or 15 of the Exchange Act, for the benefit of holders and beneficial owners from time to time of the Securities, the Company shall furnish, at its expense, upon request, to holders and beneficial owners of Securities and prospective purchasers of Securities information ("**Additional Issuer Information**") satisfying the requirements of Rule 144A(d).

(h) **No Integration.** The Company agrees that it will not and will cause its Affiliates not to make any offer or sale of securities of the Company of any class if, as a result of the doctrine of "integration" referred to in Rule 502 under the Securities Act, such offer or sale would render invalid (for the purpose of (i) the sale of the Securities by the Company to the Initial Purchasers, (ii) the resale of the Securities by the Initial Purchasers to Subsequent Purchasers or (iii) the resale of the Securities by such Subsequent Purchasers to others) the exemption from the registration requirements of the Securities Act provided by Section 4(2) thereof or by Rule 144A or by Regulation S thereunder or otherwise.

(i) **No General Solicitation.** The Company agrees that it will not and will not permit any of its Affiliates or any other person acting on its or their behalf (other than the Initial Purchasers, as to which no covenant is given) to solicit offers for, or offer or sell, the Securities by means of any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D or in any manner involving a public offering within the meaning of Section 4(a)(2) of the Securities Act.

(j) **No Restricted Resales.** The Company will not, and will not permit any of its affiliates (as defined in Rule 144 under the Securities Act) to resell any of the Securities that have been reacquired by any of them.

(k) **Legended Securities.** Each certificate for a Security will bear the legend contained in "Transfer Restrictions" in the Preliminary Offering Memorandum for the time period and upon the other terms stated in the Preliminary Offering Memorandum.

(l) **Agreement Not To Offer or Sell Additional Securities.** During a period of 60 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 Securities 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 Pricing Disclosure Package and the Final Offering Memorandum, (C) any shares of Common Stock or restricted stock units issued or options to purchase Common Stock granted pursuant to employee benefit plans of the Company approved by the Board of Directors of the Company, (D) any shares of Common Stock issued pursuant to any non-employee director stock plan or dividend reinvestment plan referred to in the Pricing Disclosure Package and the Final Offering Memorandum, or (E) any shares of Common Stock issued in mergers, acquisitions or other business combinations. Notwithstanding the foregoing, if (1) during the last 17 days of the 60-day restricted period the Company issues an earnings release or material news or a material event relating to the Company occurs or (2) prior to the

expiration of the 60-day restricted period, the Company announces that it will issue an earnings release or becomes aware that material news or a material event will occur during the 16-day period beginning on the last day of the 60-day restricted period, the restrictions imposed in this clause (i) shall continue to apply until the expiration of the 18-day period beginning on the date of the issuance of the earnings release or the occurrence of the material news or material event, unless Merrill Lynch waives, in writing, such extension.

The Representative on behalf of the several Initial Purchasers, may, in its sole discretion, waive in writing the performance by the Company of any one or more of the foregoing covenants or extend the time for their performance.

SECTION 4. **Payment of Expenses.** The Company agrees to pay all costs, fees and expenses incurred in connection with the performance of its obligations hereunder and in connection with the transactions contemplated hereby, including, without limitation, (i) all expenses incident to the issuance and delivery of the Securities (including all printing and engraving costs) to the Initial Purchasers and of the Common Stock issuable upon conversion of the Securities, (ii) all necessary issue, transfer and other stamp taxes in connection with the issuance and sale of the Securities to the Initial Purchasers, (iii) all fees and expenses of the Company's counsel, independent public or certified public accountants and other advisors, (iv) all costs and expenses incurred in connection with the preparation, printing, filing, shipping and distribution of the Pricing Disclosure Package and the Final Offering Memorandum (including financial statements and exhibits), and all amendments and supplements thereto, and the Transaction Documents, (v) all filing fees, attorneys' fees and expenses incurred by the Company or the Initial Purchasers in connection with qualifying or registering (or obtaining exemptions from the qualification or registration of) all or any part of the Securities for offer and sale under the securities laws of the several states of the United States, the provinces of Canada or other jurisdictions designated by the Initial Purchasers, including, without limitation, the cost of preparing, printing and mailing preliminary and final blue sky or legal investment memoranda and any related supplements to the Pricing Disclosure Package or the Final Offering Memorandum, (vi) the fees and expenses of the Trustee, including the fees and disbursements of counsel for the Trustee in connection with the Indenture, the Securities and the transfer agent and/or registrar for the Common Stock issuable upon conversion of the Securities, (vii) any fees payable in connection with the rating of the Securities with the ratings agencies, (viii) any filing fees incident to, and any reasonable fees and disbursements of counsel to the Initial Purchasers in connection with the review by FINRA, if any, of the terms of the sale of the Securities, (ix) the fees and expenses incurred in connection with the listing of the Common Stock issuable upon conversion of the Securities on the New York Stock Exchange ("**NYSE**"), (x) all fees and expenses (including reasonable fees and expenses of counsel) of the Company in connection with approval of the Securities by the Depositary for "book-entry" transfer, and the performance by the Company of its other obligations under this Agreement and (xi) all expenses incident to the "road show" for the offering of the Securities. Except as provided in this Section 4 and Sections 6, 8 and 9 hereof, the Initial Purchasers shall pay their own expenses, including the fees and disbursements of their counsel.

SECTION 5. **Conditions of the Obligations of the Initial Purchasers.**

(i) **Conditions to Purchase of Initial Securities** The obligations of the several Initial Purchasers to purchase and pay for the Initial Securities as provided herein on the Closing Date shall be subject to the accuracy of the representations and warranties on the part of the Company set forth in Section 1 hereof as of the date hereof and as of the Closing Date as though then made and to the timely performance by the Company of its covenants and other obligations hereunder, and to each of the following additional conditions:

(a) **Accountants' Comfort Letter.** On the date hereof, the Initial Purchasers shall have received from PricewaterhouseCoopers LLP, the independent registered public accounting firm for the Company, a "comfort letter" dated the date hereof addressed to the Initial Purchasers, in form and substance satisfactory to the Representative, covering the financial information in the Pricing Disclosure Package and other customary matters. In addition, on the Closing Date, the Initial Purchasers shall have received from such accountants a "bring-down comfort letter" dated the Closing Date addressed to the Initial Purchasers, in form and substance satisfactory to the Representative, in the form of the "comfort letter" delivered on the date hereof, except that (i) it shall cover the financial information in the Final Offering Memorandum and any amendment or supplement thereto and (ii) procedures shall be brought down to a date no more than 3 days prior to the Closing Date.

(b) **No Material Adverse Change or Ratings Agency Change.** For the period from and after the date of this Agreement and prior to the Closing Date:

(i) in the judgment of the Representative there shall not have occurred any Material Adverse Change; and

(ii) there shall not have occurred any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded the Company or any of its subsidiaries or any of their securities or indebtedness by any "nationally recognized statistical rating organization" as such term is defined for purposes of Section 3(a)(62) of the Exchange Act.

(c) **Opinion of Counsel for the Company.** On the Closing Date the Initial Purchasers shall have received the favorable opinion of (i) Clifford Chance US LLP, counsel for the Company, dated as of such Closing Date, the form of which is attached as Exhibit A and (ii) Venable LLP, Maryland counsel for the Company, dated as of such Closing Date, the form of which is attached as Exhibit B.

(d) **Opinion of Counsel for the Initial Purchasers.** On the Closing Date the Initial Purchasers shall have received the favorable opinion of Simpson Thacher & Bartlett LLP, counsel for the Initial Purchasers, dated as of such Closing Date, with respect to such matters as may be reasonably requested by the Initial Purchasers.

(e) **Officers' Certificate.** On the Closing Date, the Initial Purchasers shall have received a written certificate executed by the Chairman of the Board, Chief

Executive Officer or Chief Investment Officer of the Company and the Chief Financial Officer or Chief Accounting Officer of the Company, dated as of the Closing Date, to the effect set forth in Section 5(i)(b)(ii) hereof, and further to the effect that:

(i) for the period from and after the date of this Agreement and prior to the Closing Date there has not occurred any Material Adverse Change;

(ii) the representations, warranties and covenants of the Company set forth in Section 1 hereof are true and correct as of the Closing Date with the same force and effect as though expressly made on and as of the Closing Date; and

(iii) the Company has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Date.

(f) **Indenture.** The Company shall have executed and delivered the Indenture, in form and substance reasonably satisfactory to the Initial Purchasers, and the Initial Purchasers shall have received executed copies thereof.

(g) **Listing.** At the Closing Date, the Common Stock issuable upon conversion of the Securities shall have been approved for listing on the NYSE, subject only to official notice of issuance.

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

(i) **Additional Documents.** On or before the Closing Date, the Initial Purchasers and counsel for the Initial Purchasers shall have received such information, documents and opinions as they may reasonably require for the purposes of enabling them to pass upon the issuance and sale of the Initial Securities as contemplated herein, or in order to evidence the accuracy of any of the representations and warranties, or the satisfaction of any of the conditions or agreements, herein contained.

(ii) **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, on the relevant Date of Delivery, the Representative shall have received:

(a) **Accountants' Comfort Letter.** On such Date of Delivery, the Initial Purchasers shall have received from PricewaterhouseCoopers LLP, the independent registered public accounting firm for the Company, a "bring-down comfort letter" dated such Date of Delivery addressed to the Initial Purchasers, in form and substance satisfactory to the Representative, substantially in the same form and substance as the "comfort letter" delivered on the date hereof pursuant to Section 5(i)(a) hereof, except that (i) it shall cover the financial information in the Final Offering Memorandum and

any amendment or supplement thereto and (ii) procedures shall be brought down to a date no more than 3 days prior to such Date of Delivery.

(b) **No Material Adverse Change or Ratings Agency Change.** For the period from and after the date of this Agreement and prior to such Date of Delivery:

(i) in the judgment of the Representative there shall not have occurred any Material Adverse Change; and

(ii) there shall not have occurred any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded the Company or any of its subsidiaries or any of their securities or indebtedness by any "nationally recognized statistical rating organization" as such term is defined for purposes of Section 3(a)(62) of the Exchange Act.

(c) **Opinion of Counsel for the Company.** On such Date of Delivery, the Initial Purchasers shall have received the favorable opinion of (i) Clifford Chance US LLP, counsel for the Company, dated as of such Date of Delivery, the form of which is attached as Exhibit A and (ii) Venable LLP, Maryland counsel for the Company, dated as of such Date of Delivery, the form of which is attached as Exhibit B.

(d) **Opinion of Counsel for the Initial Purchasers.** On such Date of Delivery, the Initial Purchasers shall have received the favorable opinion of Simpson Thacher & Bartlett LLP, counsel for the Initial Purchasers, dated as of such Date of Delivery, with respect to such matters as may be reasonably requested by the Initial Purchasers.

(e) **Officers' Certificate.** On such Date of Delivery, the Initial Purchasers shall have received a written certificate executed by the Chairman of the Board, Chief Executive Officer or Chief Investment Officer of the Company and the Chief Financial Officer or Chief Accounting Officer of the Company, dated as of such Date of Delivery, to the effect set forth in Section 5(ii)(b)(ii) hereof, and further to the effect that:

(iii) for the period from and after the date of this Agreement and prior to such Date of Delivery there has not occurred any Material Adverse Change;

(iv) the representations, warranties and covenants of the Company set forth in Section 1 hereof are true and correct as of such Date of Delivery with the same force and effect as though expressly made on and as of such Date of Delivery; and

(v) the Company has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to such Date of Delivery.

(g) **Additional Documents.** On or before such Date of Delivery, the Initial Purchasers and counsel for the Initial Purchasers shall have received such information, documents and opinions as they may reasonably require for the purposes of enabling them to pass upon the issuance and sale of the Option Securities as contemplated herein, or in order to evidence the accuracy of any of the representations and warranties, or the satisfaction of any of the conditions or agreements, herein contained.

If any condition specified in this Section 5 is not satisfied when and as required to be satisfied, 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 Date, 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 Date 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 that Sections 4, 6, 8, 9, 14 and 16 hereof shall at all times be effective and shall survive such termination.

SECTION 6. **Reimbursement of Initial Purchasers' Expenses.** If this Agreement is terminated by the Representative pursuant to Section 5 or 10 hereof, including if the sale to the Initial Purchasers of the Securities on the Closing Date is not consummated because of any refusal, inability or failure on the part of the Company to perform any agreement herein or to comply with any provision hereof (other than by reason of a default of one or more of the initial purchasers), the Company agrees to reimburse the Initial Purchasers, severally, upon demand for all out-of-pocket expenses that shall have been reasonably incurred by the Initial Purchasers in connection with the proposed purchase and the offering and sale of the Securities, including, without limitation, fees and disbursements of counsel, printing expenses, travel expenses, postage, facsimile and telephone charges.

SECTION 7. **Offer, Sale and Resale Procedures.** (a) Each of the Initial Purchasers, on the one hand, and the Company, on the other hand, hereby 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 Pricing Disclosure Package and the Final Offering Memorandum. The Company has not entered into any contractual arrangement, other than this Agreement, with respect to the distribution of the Securities or the Common Stock issuable upon conversion of the Securities 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 Securities Act) 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 "Transfer Restrictions" in the Pricing Disclosure Package and the Final Offering Memorandum for the time period and upon the other terms stated therein.

(b) **Representations 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 Securities Act. Each Initial Purchaser understands that the offered Securities have not been and will not be registered under the Securities 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 Securities 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 Securities 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 Securities Act 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 Securities Act, (B) are being sold to them without registration under the Securities Act in reliance on Rule 144A or in accordance with another exemption from registration under the Securities Act, as the case may be, and (C) may not be offered, sold or otherwise transferred except (1) to the Company, (2) pursuant to a registration statement that has become effective under the Securities Act, (3) to a person whom the seller reasonably believes to be a Qualified Institutional Buyer in compliance with Rule 144A under the Securities Act or (4) pursuant to 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).

SECTION 8. **Indemnification.**

(a) **Indemnification of the Initial Purchasers.** The Company agrees to indemnify and hold harmless each Initial Purchaser, its affiliates, directors, officers and employees, and each person, if any, who controls any Initial Purchaser within the meaning of the Securities Act and the Exchange Act against any loss, claim, damage, liability or expense, as incurred, to which such Initial Purchaser, affiliate, director, officer, employee or controlling person may become subject, under the Securities Act, the Exchange Act or other federal or state statutory law or regulation, or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of the Company or as otherwise permitted by paragraph (d)), insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Offering Memorandum, the Pricing Supplement, any Company Additional Written Communication or the Final Offering Memorandum (or any amendment or supplement thereto), 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; and to reimburse each Initial Purchaser and each such affiliate, director, officer, employee or controlling person for any and all expenses (including the fees and disbursements of counsel chosen by Merrill Lynch) as such expenses are reasonably incurred by such Initial Purchaser or such affiliate, director, officer, employee or controlling person in connection with investigating, defending, settling,

compromising or paying any such loss, claim, damage, liability, expense or action; provided, however, that the foregoing indemnity agreement shall not apply, with respect to an Initial Purchaser, to any loss, claim, damage, liability or expense to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with written information furnished to the Company by such Initial Purchaser through the Representative expressly for use in the Preliminary Offering Memorandum, the Pricing Supplement, any Company Additional Written Communication or the Final Offering Memorandum (or any amendment or supplement thereto). The indemnity agreement set forth in this Section 8(a) shall be in addition to any liabilities that the Company may otherwise have.

(b) **Indemnification of the Company.** Each Initial Purchaser agrees, severally and not jointly, to indemnify and hold harmless the Company, its affiliates, directors, officers and employees and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act, against any loss, claim, damage, liability or expense, as incurred, to which the Company or any such director or controlling person may become subject, under the Securities Act, the Exchange Act, or other federal or state statutory law or regulation, or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of such Initial Purchaser or as otherwise permitted by paragraph (d)), insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon any untrue statement or alleged untrue

statement of a material fact contained in the Preliminary Offering Memorandum, the Pricing Supplement, any Company Additional Written Communication or the Final Offering Memorandum (or any amendment or supplement thereto), 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, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Preliminary Offering Memorandum, the Pricing Supplement, any Company Additional Written Communication or the Final Offering Memorandum (or any amendment or supplement thereto), in reliance upon and in conformity with written information furnished to the Company by such Initial Purchaser through the Representative expressly for use therein; and to reimburse the Company and each such director or controlling person for any and all expenses (including the fees and disbursements of counsel) as such expenses are reasonably incurred by the Company or such director or controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action. The Company hereby acknowledges that the only information that the Initial Purchasers through the Representative have furnished to the Company expressly for use in the Preliminary Offering Memorandum, the Pricing Supplement, any Company Additional Written Communication or the Final Offering Memorandum (or any amendment or supplement thereto) are the statements set forth in the fifth, seventh (third and fourth sentences) and eleventh paragraphs under the caption “Plan of Distribution” in the Preliminary Offering Memorandum and the Final Offering Memorandum. The indemnity agreement set forth in this Section 8(b) shall be in addition to any liabilities that each Initial Purchaser may otherwise have.

(c) **Notifications and Other Indemnification Procedures**. Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party

under this Section 8, notify the indemnifying party in writing of the commencement thereof; provided that the failure to so notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party under this Section 8 except to the extent that it has been materially prejudiced by such failure (through the forfeiture of substantive rights and defenses) and shall not relieve the indemnifying party from any liability that the indemnifying party may have to an indemnified party other than under this Section 8. In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in and, to the extent that it shall elect, jointly with all other indemnifying parties similarly notified, by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party; provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of such indemnifying party’s election so to assume the defense of such action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 8 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the immediately preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel (together with local counsel (in each jurisdiction)), which shall be selected by Merrill Lynch (in the case of counsel representing the Initial Purchasers or their related persons), representing the indemnified parties who are parties to such action) or (ii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party.

(d) **Settlements.** The indemnifying party under this Section 8 shall not be liable for any settlement of any proceeding effected without its written consent, which will not be unreasonably withheld, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party against any loss, claim, damage, liability or expense by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by this Section 8, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or consent to the entry of judgment in any pending or threatened action, suit or proceeding in respect of which any indemnified party is or

could have been a party and indemnity was or could have been sought hereunder by such indemnified party, unless such settlement, compromise or consent (i) includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such action, suit or proceeding and (ii) does not include any statements as to or any findings of fault, culpability or failure to act by or on behalf of any indemnified party.

SECTION 9. **Contribution.** If the indemnification provided for in Section 8 hereof is for any reason held to be unavailable to or otherwise insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount paid or payable by such indemnified party, as incurred, as a result of any losses, claims, damages, liabilities or expenses referred to therein (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) above 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 the Initial Purchasers, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities 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, and the total discount received by the Initial Purchasers bear to the aggregate initial offering price of the Securities. 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, on the one hand, or the Initial Purchasers, on the other hand, and the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in Section 8 hereof, any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim. The provisions set forth in Section 8 hereof with respect to notice of commencement of any action shall apply if a claim for contribution is to be made under this Section 9; provided, however, that no additional notice shall be required with respect to any action for which notice has been given under Section 8 hereof for purposes of indemnification.

The Company and the Initial Purchasers agree that it would not be just and equitable if contribution pursuant to this Section 9 were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 9.

Notwithstanding the provisions of this Section 9, no Initial Purchaser shall be required to contribute any amount in excess of the discount received by such Initial Purchaser in connection

with the Securities distributed by it. No person guilty of fraudulent misrepresentation (within the meaning of Section 11 of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Initial Purchasers' obligations to contribute pursuant to this Section 9 are several, and not joint, in proportion to their respective commitments as set forth opposite their names in Schedule A. For purposes of this Section 9, each affiliate, director, officer and employee of an Initial Purchaser and each person, if any, who controls an Initial Purchaser within the meaning of the Securities Act and the Exchange Act shall have the same rights to contribution as such Initial Purchaser, and each director of the Company, and each person, if any, who controls the Company with the meaning of the Securities Act and the Exchange Act shall have the same rights to contribution as the Company.

SECTION 10. **Termination of this Agreement.** Prior to the Closing Date, this Agreement may be terminated by the Representative by notice given to the Company if at any time: (i) trading or quotation in any of the Company's securities shall have been suspended or limited by the Commission or by the NYSE, or trading in securities generally on either the NASDAQ Stock Market or the NYSE shall have been suspended or limited, or minimum or maximum prices shall have been generally established on any of such quotation system or stock exchange by the Commission or FINRA; (ii) a general banking moratorium shall have been declared by any of federal or New York authorities; (iii) there shall have occurred any outbreak or escalation of national or international hostilities or any crisis or calamity, or any change in the United States or international financial markets, or any substantial change or development involving a prospective substantial change in United States' or international political, financial or economic conditions, as in the judgment of the Representative is material and adverse and makes it impracticable or inadvisable to proceed with the offering sale or delivery of the Securities in the manner and on the terms described in the Pricing Disclosure Package or to enforce contracts for the sale of securities; (iv) in the judgment of the Representative there shall have occurred any Material Adverse Change; or (v) the Company shall have sustained a loss by strike, fire, flood, earthquake, accident or other calamity of such character as in the judgment of the Representative is reasonably likely to interfere materially with the conduct of the business and operations of the Company regardless of whether or not such loss shall have been insured. Any termination pursuant to this Section 10 shall be without liability on the part of (i) the Company to any Initial Purchaser, except that the Company shall be obligated to reimburse the expenses of the Initial Purchasers pursuant to Sections 4 and 6 hereof, (ii) any Initial Purchaser to the Company, or (iii) any party hereto to any other party except that the provisions of Sections 8 and 9 hereof shall at all times be effective and shall survive such termination.

SECTION 11. **Representations and Indemnities to Survive Delivery.** The respective indemnities, agreements, representations, warranties and other statements of the Company, its officers and the several Initial Purchasers set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of any Initial Purchaser, the Company or any of their partners, officers or directors or any controlling person, as the case may be, and will survive delivery of and payment for the Securities sold hereunder and any termination of this Agreement.

SECTION 12. **Notices.** All communications hereunder shall be in writing and shall be mailed, hand delivered, couriered or facsimiled and confirmed to the parties hereto as follows:

If to the Initial Purchasers:

Merrill Lynch, Pierce, Fenner & Smith
Incorporated
One Bryant Park
New York, New York 10036
Facsimile: (646) 855-3073
Attention: Syndicate Department

with a copy to:

Facsimile: (212) 230-8730
Attention: ECM Legal

If to the Company:

iStar Financial Inc.
1114 Avenue of the Americas
New York, New York 10036
Facsimile: (212) 930-930 9494
Attention: Chief Executive Officer
General Counsel

with a copy to

Clifford Chance US LLP
31 West 52 Street
New York, New York 10019
Facsimile: (212) 878-8375
Attention: Kathleen Werner

Any party hereto may change the address or facsimile number for receipt of communications by giving written notice to the others.

SECTION 13. **Successors.** This Agreement will inure to the benefit of and be binding upon the parties hereto, and to the benefit of the indemnified parties referred to in Sections 8 and 9 hereof, and in each case their respective successors, and no other person will have any right or obligation hereunder. The term "successors" shall not include any Subsequent Purchaser or other purchaser of the Securities as such from any of the Initial Purchasers merely by reason of such purchase.

SECTION 14. **Authority of the Representative.** Any action by the Initial Purchasers hereunder may be taken by Merrill Lynch on behalf of the Initial Purchasers, and any such action taken by Merrill Lynch shall be binding upon the Initial Purchaers.

SECTION 15. **Partial Unenforceability.** The invalidity or unenforceability of any section, paragraph or provision of this Agreement shall not affect the validity or enforceability of

any other section, paragraph or provision hereof. If any section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

SECTION 16. **Governing Law Provisions.** THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED IN SUCH STATE WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES THEREOF.

SECTION 17. **Default of One or More of the Several Initial Purchasers.** If any one or more of the several Initial Purchasers shall fail or refuse to purchase Securities that it or they have agreed to purchase hereunder on the Closing Date or a Date of Delivery, as the case may be, and the aggregate number of Securities which such defaulting Initial Purchaser or Initial Purchasers agreed but failed or refused to purchase does not exceed 10% of the aggregate number of the Securities to be purchased on such date, the other Initial Purchasers shall be obligated, severally, in the proportions that the number of Securities set forth opposite their respective names on Schedule A bears to the aggregate number of Securities set forth opposite the names of all such non-defaulting Initial Purchasers, or in such other proportions as may be specified by the Initial Purchasers with the consent of the non-defaulting Initial Purchasers, to purchase the Securities which such defaulting Initial Purchaser or Initial Purchasers agreed but failed or refused to purchase on the Closing Date or Date of Delivery, as the case may be. If any one or more of the Initial Purchasers shall fail or refuse to purchase Securities and the aggregate number of Securities with respect to which such default occurs exceeds 10% of the aggregate number of Securities to be purchased on the Closing Date or Date of Delivery, as the case may be, and arrangements satisfactory to the Initial Purchasers and the Company for the purchase of such Securities are not made within 48 hours after such default, this Agreement shall terminate without liability of any party to any other party except that the provisions of Sections 4, 6, 8 and 9 hereof shall at all times be effective and shall survive such termination. In any such case either the Initial Purchasers or the Company shall have the right to postpone the Closing Date or Date of Delivery, as the case may be, but in no event for longer than seven days in order that the required changes, if any, to the Final Offering Memorandum or any other documents or arrangements may be effected.

As used in this Agreement, the term "**Initial Purchaser**" shall be deemed to include any person substituted for a defaulting Initial Purchaser under this Section 17. Any action taken under this Section 17 shall not relieve any defaulting Initial Purchaser from liability in respect of any default of such Initial Purchaser under this Agreement.

SECTION 18. **No Advisory or Fiduciary Responsibility.** The Company acknowledges and agrees that: (i) the purchase and sale of the Securities pursuant to this Agreement, including the determination of the 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, and the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions

contemplated by this Agreement; (ii) in connection with each transaction contemplated hereby and the process leading to such transaction each Initial Purchaser is and has been acting solely as a principal and is not the agent or fiduciary of the Company, or its respective affiliates, stockholders, creditors or employees or any other party; (iii) no Initial Purchaser has assumed or will assume an advisory or fiduciary responsibility in favor of the Company with respect to any of the transactions contemplated hereby or the process leading thereto (irrespective of whether such Initial Purchaser has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement; (iv) the several 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 the several Initial Purchasers have no obligation to disclose any of such interests by virtue of any fiduciary or advisory relationship; and (v) the Initial Purchasers have not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby, and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent itdeemed appropriate.

This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the several Initial Purchasers, or any of them, with respect to the subject matter hereof. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that the Company may have against the several Initial Purchasers with respect to any breach or alleged breach of fiduciary duty.

SECTION 19. **General Provisions.** This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. This Agreement may be executed in two or more counterparts, each one of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by telecopier, facsimile or other electronic transmission (i.e., a "pdf" or "tif") shall be effective as delivery of a manually executed counterpart thereof. This Agreement may not be amended or modified unless in writing by all of the parties hereto, and no condition herein (express or implied) may be waived unless waived in writing by each party whom the condition is meant to benefit. The section headings herein are for the convenience of the parties only and shall not affect the construction or interpretation of this Agreement.

If the foregoing is in accordance with your understanding of our agreement, kindly sign and return to the Company the enclosed copies hereof, whereupon this instrument, along with all counterparts hereof, shall become a binding agreement in accordance with its terms.

Very truly yours,

ISTAR FINANCIAL INC.

By: /s/ David DiStaso
Name: David DiStaso
Title: Chief Financial Officer

The foregoing Purchase Agreement is hereby confirmed and accepted by the Initial Purchasers as of the date first above written.

MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED

Acting on behalf of itself
and as the Representative of
the several Initial Purchasers

By: MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED

By: /s/ Prasanth B. Rao-Kathi
Name: Prasanth B. Rao-Kathi
Title: Managing Director

Exhibit 4.1

Execution Version

iSTAR FINANCIAL INC.

1.50% CONVERTIBLE SENIOR NOTES DUE 2016

TWENTY-FIFTH SUPPLEMENTAL

INDENTURE

Dated as of November 19, 2013

U.S. BANK NATIONAL
ASSOCIATION

Trustee

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SUPPLEMENTAL INDENTURE dated as of November 19, 2013 between iStar Financial Inc., a Maryland corporation (the "Company"), and U.S. Bank National Association, a national banking association, as trustee (the "Trustee").

The Company has heretofore delivered to the Trustee a Base Indenture, dated as of February 5, 2001, a form of which has been filed with the Securities and Exchange Commission under the Securities Act as an exhibit to the Company's Registration Statement on Form S-3 (Registration No. 333-142539), providing for the issuance from time to time of debt securities of the Company.

The Board of Directors of the Company has duly adopted resolutions authorizing the Company to execute and deliver this Supplemental Indenture and to issue the Notes governed hereby.

The Company and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Notes:

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01. Definitions.

"Additional Interest" has the meaning set forth in Section 3.04(a). All references herein to "interest" include any Additional Interest.

"Additional Notes" means additional Notes (other than the Initial Notes) issued under this Supplemental Indenture in accordance with Section 2.02, as part of the same series as the Initial Notes.

"Affiliate" means, with respect to any specified Person, any other Person who, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such specified Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative of the foregoing.

"Agent" means any Registrar, co-registrar, Paying Agent or additional paying agent.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary that apply to such transfer or exchange.

"Bankruptcy Law" means Title 11, United States Code, as amended, or any similar United States federal or state law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization or relief of debtors or any amendment to, succession to or change in any such law.

"Base Indenture" means the indenture dated as of February 5, 2001 between the Company and the Trustee as amended or supplemented from time to time after the date hereof.

"Board of Directors" means, as to any Person, the board of directors of such Person or any duly authorized committee thereof.

"Board Resolution" means, with respect to any Person, a copy of a resolution certified by the Secretary or an Assistant Secretary of such Person to have been duly adopted by the Board of Directors of such Person and to be in full force and effect on the date of such certification, and delivered to the Trustee.

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

"Capital Stock" means:

(a) with respect to any Person that is a corporation, any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of corporate stock, including each class of Common Stock and Preferred Stock of such Person; and

(b) with respect to any Person that is not a corporation, any and all partnership, membership or other equity interests of such Person.

"Change of Control" means the occurrence of one or more of the following events:

(a) the acquisition by any "person," including any syndicate or group deemed to be a "person" under Section 13(d)(3) of the Exchange Act, of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions of shares of the Company's Capital Stock entitling that person to exercise 50% or more of the total voting power of all shares of the Company's capital stock entitled to vote generally in elections of directors;

(b) any (i) recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Common Stock would be converted into, or converted for, stock, other securities, other property or assets or (ii) share exchange, consolidation, or merger with or into, any other Person or any merger of another Person into the Company, or (iii) conveyance, transfer, sale, lease or other disposition of all or substantially all of the Company's and its Subsidiaries' properties and assets to another Person; provided that any transaction pursuant to which holders of all classes of the Company's Capital Stock immediately prior to a transaction that is a share exchange, consolidation or merger have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of the Capital Stock of the continuing or surviving entity entitled to vote

generally in the election of directors of the continuing or surviving entity immediately after the transaction in substantially the same proportions as such entitlement immediately prior to such transaction shall not be a Change of Control pursuant to this clause (b);

(c) the Company's stockholders pass a resolution approving a plan of liquidation or dissolution; or

(d) Continuing Directors cease to constitute at least a majority of the Board of Directors.

However, a Change of Control will not be deemed to have occurred if, in the case of a merger or consolidation, at least 90% of the consideration (excluding cash payments for fractional shares and cash payments pursuant to dissenters' appraisal rights) received or to be received in connection with such merger or consolidation constituting a Change of Control consists of shares of common stock traded or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their

respective successors), or which will be so traded or quoted when issued or converted in connection with such Change in Control, and as a result of such transaction or transactions, such consideration becomes the Reference Property for the Notes in accordance with Section 9.11.

"Charter" means the Charter of the Company, as the same may be amended, supplemented or restated from time to time, and including any successor thereto or, if the Company shall at any time be an entity other than a corporation, the organizational or governing documents of such other entity.

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

"Code" means the Internal Revenue Code of 1986, as amended, or any successor statute thereto.

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

"Common Stock" means the shares of common stock of the Company, par value $0.001 per share, as they exist on the date of this Supplemental Indenture or any other shares of Capital Stock of the Company into which the Common Stock shall be reclassified or changed.

"Company" means iStar Financial Inc. and any and all successors thereto that become a party to this Supplemental Indenture in accordance with its terms.

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

"Continuing Director" means a director who either was a member of the Board of Directors on November 19, 2013 or who becomes a member of the Board of Directors subsequent to that date and whose election, appointment or nomination for election by the Company's stockholders is duly approved by a majority of the Continuing Directors on the Company's Board of Directors at the time of such approval, either by a specific vote or by approval of the proxy statement issued by the Company on behalf of the entire Board of Directors in which such individual is named as nominee for director. Solely for purposes of this definition, the phrase "or a committee of such board duly authorized to act for it hereunder" of the definition of "Board of Directors" will not apply.

"Conversion Price" per share of Common Stock as of any day means the result obtained by dividing (a) $1,000 by (b) the then applicable Conversion Rate.

"Conversion Rate" means the rate at which shares of Common Stock shall be delivered upon conversion, which rate shall be initially 57.8369 shares of Common Stock for each $1,000 principal amount of Notes, as adjusted from time to time pursuant to the provisions of this Supplemental Indenture.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 11.02 or such other address as to which the Trustee may give notice to the Company.

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

"Default" means an event or condition the occurrence of which is, or with the lapse of time or the giving of notice or both would be, an Event of Default.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06, in the form of Exhibit A except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 as the Depositary with respect to the Notes, and any and all successors thereto appointed as depositary hereunder and having become such pursuant to the applicable provision of this Supplemental Indenture.

"Dollars" and "$" means the lawful money of the United States.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any successor statute or statutes thereto and the rules and regulations promulgated thereunder.

"Form of Fundamental Change Repurchase Notice" shall mean the "Form of Fundamental Change Repurchase Notice" attached to the Form of Note attached hereto as Exhibit A.

"Free Trade Date" means the date that is one year after the last date of original issuance of the Notes.

"Freely Tradable" means, with respect to the Notes and the shares of Common Stock issuable upon conversion of the Notes, that such Notes or such shares of Common Stock: (a) are eligible to be sold by a Person who has not been an Affiliate of the Company during the preceding three months without any volume or manner of sale restrictions under the Securities Act, (b) do not bear a Restricted Securities Legend or Restricted Stock Legend and (c) with respect to Global Notes only, are identified by an unrestricted CUSIP number in the facilities of the Depositary.

"Fundamental Change" means the occurrence of either a Change of Control or a Termination of Trading.

"Fundamental Change Effective Date" means the date on which any Fundamental Change becomes effective.

"Fundamental Change Repurchase Price" of any Note, means 100% of the principal amount of the Note to be repurchased plus unpaid interest, if any, accrued and unpaid to, but excluding, the Fundamental Change Repurchase Date; provided that if the Fundamental Change Repurchase Date is after a Regular Record Date and on or prior to the corresponding Interest Payment Date, the Fundamental Change Repurchase Price shall not include any accrued and unpaid interest.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States. For the avoidance of doubt, revenues, expenses, gains and losses that are included in results of discontinued operations because of the application of SFAS No. 144 will be treated as revenues, expenses, gains and losses from continuing operations.

"Global Note Legend" means the legend set forth in Exhibit A which is required to be placed on all Global Notes issued under this Supplemental Indenture.

"Global Note" means the Global Note, in the form of Exhibit B, issued in accordance with Section 2.01 or 2.06.

"Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America, and for the payment of which the United States pledges its full faith and credit.

"Holder" means a Person in whose name a Note is registered on the Registrar's books.

"Indenture" means the Base Indenture together with this Supplemental Indenture.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Notes" means the $200 million principal amount of 1.50% Convertible Senior Notes due 2016 of the Company issued on the Issue Date.

"Interest Payment Date" means November 15 and May 15 of each year, commencing May 15, 2014.

"Issue Date" means November 19, 2013, the date of original issuance of the Initial Notes.

"Last Reported Sale Price" of the Common Stock on any date means the closing sale price per share of the Common Stock (or if no closing sale price is reported, the average of the bid and ask prices per share or, if more than one in either case, the average of the average bid and the average ask prices per share) on such date reported in composite transactions for the primary exchange or quotation system on which the Common Stock is then traded or quoted. If the Common Stock is not so traded or quoted on the relevant date, the "Last Reported Sale Price" shall be the last quoted bid price for the Common Stock in the over-the-counter market on the relevant date as reported by Pink OTC Markets Inc. or a similar organization. If the Common Stock is not so quoted, the "Last Reported Sale Price" shall be the average of the mid-point of the last bid and ask prices for the Common Stock on such date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose.

"Lien" means any lien, mortgage, deed of trust, pledge, security interest, charge or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof and any agreement to give any security interest).

"Make-Whole Fundamental Change" means any event which is a Change of Control (other than pursuant to clauses (iii) and (iv)) and, if applicable, where more than 10% of the consideration (excluding cash payments for fractional shares and cash payments pursuant to dissenters' appraisal rights) received or to be received by the Company's shareholders in connection with such Fundamental Change consists of cash or assets other than common stock traded or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors).

"Make-Whole Fundamental Change Effective Date" means the date on which any Make-Whole Fundamental Change becomes effective.

"Market Disruption Event" means (a) a failure by the primary exchange or quotation system on which the Common Stock trades or is quoted to open for trading during its regular trading session or (b) the occurrence or existence, prior to 1:00 p.m., New York City time, on any Trading Day for the Common Stock, of an aggregate one half-hour period of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options, contracts or future contracts relating to the Common Stock.

"Maturity" when used with respect to the Notes means the date on which the principal of the Notes becomes due and payable as therein provided or as provided in this Supplemental Indenture whether by declaration of acceleration, purchase or otherwise.

"Non-Recourse Indebtedness" means any of the Company's or any of its Subsidiaries' indebtedness that is:

(a) specifically advanced to finance the acquisition of investment assets and secured only by the assets to which such indebtedness relates without recourse to the Company or any of its Subsidiaries (other than subject to such customary carve-out matters for which the Company or its Subsidiaries acts as a guarantor in connection with such indebtedness, such as fraud, misappropriation and misapplication, unless, until and for so long as a claim for payment or performance has been made thereunder (which has not been satisfied) at which time the obligations with respect to any such customary carve-out shall not be considered Non-Recourse Indebtedness, to the extent that such claim is a liability of the Company for GAAP purposes);

(b) advanced to any of the Company's Subsidiaries or group of its Subsidiaries formed for the sole purpose of acquiring or holding investment assets against, which a loan is obtained that is made without recourse to, and with no cross-collateralization against, the Company or any of the Company's Subsidiaries' other assets (other than subject to such customary carve-out matters for which the Company or its Subsidiaries acts as a guarantor in connection with such indebtedness, such as fraud, misappropriation and misapplication, unless, until and for so long as a claim for payment or performance has been made thereunder (which has not been satisfied) at which time the obligations with respect to any such customary carve-out shall not be considered Non-Recourse Indebtedness, to the extent that such claim is a liability of the Company for GAAP purposes) and upon complete or partial liquidation of which the loan must be correspondingly completely or partially repaid, as the case may be; or

(c) specifically advanced to finance the acquisition of real property and secured by only the real property to which such indebtedness relates without recourse to the Company or any of its Subsidiaries (other than subject to such customary carve-out matters for which the Company or its Subsidiaries acts as a guarantor in connection with such indebtedness, such as fraud, misappropriation and misapplication, unless, until and for so long as a claim for payment or performance has been made thereunder (which has not been satisfied) at which time the obligations with respect to any such customary carve-out shall not be considered Non-Recourse Indebtedness, to the extent that such claim is a liability of the Company for GAAP purposes).

"Notes" means, collectively, the Initial Notes and/or Additional Notes, as amended or supplemented from time to time in accordance with the terms hereof, that are issued pursuant to this Supplemental Indenture.

"Offering Memorandum" means the final offering memorandum for the offering and sale of the Notes dated November 13, 2013.

"Officer" means, with respect to any Person, the President, Chief Executive Officer, Chief Investment Officer, any Vice President, Chief Operating Officer, Treasurer, Secretary or the Chief Financial Officer of such Person.

"Officers' Certificate" means, with respect to any Person, a certificate signed by two Officers of such Person; provided, however, that every Officers' Certificate with respect to compliance with a covenant or condition provided for in this Supplemental Indenture shall include (a) a statement that the Officers making or giving such Officers' Certificate have read such condition and any definitions or other provisions contained in this Supplemental Indenture relating thereto and (b) a statement as to whether, in the opinion of the signers, such conditions have been complied with.

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

"Opinion of Counsel" means an opinion from legal counsel that meets the requirements of Section 11.05. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"Participant" means, with respect to the Depositary, a Person who has an account with the Depositary.

"Person" means an individual, partnership, corporation, unincorporated organization, trust or joint venture, or a governmental agency or political subdivision thereof.

"Preferred Stock" of any Person means any Capital Stock of such Person that has preferential rights to any other Capital Stock of such Person with respect to dividends or redemptions or upon liquidation.

"Regular Record Date" means the May 1 and November 1, as the case may be, immediately preceding the related Interest Payment Date.

"Responsible Officer" means, when used with respect to the Trustee, any vice president, assistant vice president, assistant treasurer, trust officer or any other officer within the corporate trust department of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also shall mean, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge and familiarity with the particular subject and who shall have direct responsibility for the administration of this Supplemental Indenture.

"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 A, or any other substantially similar legend indicating the restricted status of the shares of Common Stock under Rule 144.

"Rights" means any common stock or preferred stock purchase right or warrant, as the case may be, that all or substantially all shares of Common Stock may be entitled to receive under a Rights Plan.

"Rights Plan" means any common stock or preferred stock rights plan or any similar plan in effect as of the date of this Supplemental Indenture or adopted by the Company after the date hereof or any replacement or successor rights plan.

"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.

"Securities Act" means the Securities Act of 1933, as amended, or any successor statute or statutes thereto, and the rules and regulations of the Commission promulgated thereunder.

"Significant Subsidiary," with respect to any Person, means any Subsidiary of such Person that satisfies the criteria for a "significant subsidiary" set forth in Rule 1.02(w) of Regulation S-X under the Exchange Act.

"Stock Price" means the price paid or deemed to be paid per share of the Common Stock in connection with a Make-Whole Fundamental Change, subject to adjustment and as determined pursuant to Section 9.02(a).

"Subsidiary," with respect to any Person, means:

(a) any corporation of which the outstanding Capital Stock having at least a majority of the votes entitled to be cast in the election of directors under ordinary circumstances shall at the time be owned, directly or indirectly, by such Person; or

(b) any other Person of which at least a majority of the voting interest under ordinary circumstances is at the time, directly or indirectly, owned by such Person.

"Supplemental Indenture" means this Supplemental Indenture, as amended or supplemented from time to time.

"Termination of Trading" means the Common Stock (or other common stock into which the Notes are then convertible) ceases to be listed or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors).

"Trading Day" means a day during which trading in the Common Stock generally occurs on the primary exchange or quotation system on which the Common Stock is then traded or quoted and there is no Market Disruption Event or, if the Common Stock is not then so traded or quoted, on the principal other market on which the Common Stock is then traded. If the Common Stock is not so traded, "Trading Day" means a Business Day.

"Trustee" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Supplemental Indenture and thereafter means the successor serving hereunder.

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

Section 1.02. Other Definitions.

Term	Defined in Section
"Acceleration Notice"	5.02
"Agent Members"	2.07
"Authentication Order"	2.02
"Conversion Agent"	2.03
"Conversion Date"	9.03
"DTC"	2.03
"Event of Default"	5.01
"Ex-Dividend Date"	9.07
"Expiration Date"	9.07
"Expiration Time"	9.09
"Fundamental Change Company Notice"	10.01
"Fundamental Change Repurchase Date"	10.01
"Fundamental Change Repurchase Notice"	10.01
"Make-Whole Fundamental Change Notice"	9.02
"Make-Whole Fundamental Change Premium"	9.02
"Paying Agent"	2.03
"QIBs"	2.01
"Reference Property"	9.11
"Register"	2.03
"Registrar"	2.03
"Restricted Notes"	2.06
"Spin-Off"	9.07
"Surviving Entity"	4.01
"transfer"	2.06
"Trigger Event"	9.07
"Valuation Period"	9.07

Section 1.03. Incorporation by Reference of Trust Indenture Act. Whenever this Supplemental Indenture refers to a provision of the Trust Indenture Act, the provision is incorporated by reference in and made a part of this Supplemental Indenture.

All terms used in this Supplemental Indenture that are defined by the Trust Indenture Act, defined by Trust Indenture Act reference to another statute or defined by Commission rule under the Trust Indenture Act have the meanings so assigned to them.

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

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

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

(c) "or" is not exclusive;

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

(e) provisions apply to successive events and transactions;

(f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the Commission from time to time; and

(g) all references to interest or any other amount payable on or with respect to the Notes shall be deemed to include any Additional Interest.

ARTICLE II

THE NOTES

Section 2.01. Form and Dating.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Notes shall be in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof.

(b) The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Supplemental Indenture and the Company, and the Trustee, by their execution and delivery of this Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note or the Base Indenture conflicts or is inconsistent with the express provisions of this Supplemental Indenture, the provisions of this Supplemental Indenture shall govern and be controlling.

(c) Initial Notes. The Notes initially shall be offered and sold only to qualified institutional buyers as defined in Rule 144A ("QIBs") in reliance on Rule 144A and shall be issued in the form of Global Notes that shall be deposited with the Trustee at the Corporate Trust Office of the Trustee, as custodian for the Depositary and registered in the name of the Depositary or the nominee thereof, duly executed by the Company and authenticated by the Trustee as hereinafter provided.

(d) Legends.

(i) Each Global Note shall bear the Global Note Legend unless otherwise directed by the Company.

(ii) Each Restricted Note shall bear the Restricted Securities Legend. Each Note that bears or is required to bear the Restricted Securities Legend shall be subject to the restrictions on transfer set forth therein, and each Holder of such Note, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer.

(iii) Every stock certificate representing the shares of Common Stock issued in the circumstances described in Section 2.06(g) hereof shall bear the Restricted Stock Legend unless removed in accordance with the provisions of Section 2.06(j) or otherwise at the direction of the Company.

(e) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A attached hereto (including, in each case, the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each 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, repurchases and conversions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with written instructions given by the Holder thereof as required by Section 2.06 hereof.

(f) Book-Entry Provisions. Participants and Indirect Participants shall have no rights either under this Supplemental Indenture or under any Global Note with respect to such Global Note held on their behalf by the custodian for the Depositary, and the Company, the Trustee and any agent of the Company or the Trustee shall be entitled to treat the Depositary as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any Agent from giving effect to any written certification, proxy or other authorization furnished by the Depositary or impair, as between the Depositary and its Participants, the operation of customary practices of the Depositary governing the exercise of the rights of an owner of a beneficial interest in any Global Note.

Section 2.02. Execution and Authentication. One or more Officers shall sign the Notes on behalf of the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be valid until authenticated by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Supplemental Indenture.

The Trustee shall, upon receipt of a written order of the Company signed by one or more Officers (an "Authentication Order"), authenticate Notes for original issue on the Issue Date in aggregate principal amount not to exceed $200,000,000. The Trustee shall authenticate Additional Notes thereafter (so long as permitted by the terms of this Supplemental Indenture) for original issue upon receipt of one or more Authentication Orders in aggregate principal amount as specified in such order (other than as provided in Section 2.08); provided that if any Additional Notes are not fungible with the Notes for U.S. federal income tax purposes, such Additional Notes shall be issued as a separate series under this Supplemental Indenture and shall have a separate CUSIP number from the Notes. Each such Authentication Order shall specify the amount of Notes to be authenticated, whether the Notes are to be Initial Notes or Additional Notes and whether the Notes are to be issued as Definitive Notes or Global Notes or such other information as the Trustee shall reasonably request.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Supplemental Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

Section 2.03. Registrar, Paying Agent and Conversion Agent. The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange or purchase ("Registrar") and an office or agency where Notes may be presented for payment ("Paying Agent") and an office or agency where Notes may be presented for conversion ("Conversion Agent"). The Registrar shall keep a register of the Notes (the "Register") and of their transfer, exchange, purchase and conversion. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent and the term "Conversion Agent" includes any additional Conversion Agent. The Company may change any Paying Agent, Registrar or Conversion Agent without notice to any Holder. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Supplemental Indenture. If the Company fails to appoint or maintain another entity as Registrar, Paying Agent or Conversion Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent, Registrar or Conversion Agent.

The Company initially appoints The Depository Trust Company ("DTC") to act as Depositary with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar, Paying Agent and Conversion Agent and to act as Custodian with respect to the Global Notes.

Section 2.04. Paying Agent and Conversion Agent To Hold Money in Trust. The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the

Paying Agent for the payment of principal or interest on the Notes, and will notify the Trustee in writing of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) shall have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Notes.

The Company shall require each Registrar other than the Trustee to agree in writing that the Registrar will hold in trust for the benefit of Holders or the Trustee all shares of Common Stock or Reference Property held by the Registrar for the delivery in respect of converted Notes, and will notify the Trustee in writing of any default by the Company in making delivery of such shares of Common Stock or Reference Property. While any such default continues, the Trustee may require a Registrar to pay all shares of Common Stock and/or Reference Property held by it to the Trustee. The Company at any time may require a Registrar to deliver all shares of Common Stock and Reference Property held by it to the Trustee. Upon delivery over to the Trustee, the Registrar (if other than the Company or a Subsidiary) shall have no further liability for such shares of Common Stock or Reference Property. If the Company or a Subsidiary acts as Registrar, it shall segregate and hold in a separate trust fund for the benefit of the Holders all shares of Common Stock and Reference Property held by it as Registrar. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Registrar for the Notes.

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 all Holders and shall otherwise comply with Trust Indenture Act §312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each Interest Payment 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 the Holders and the Company shall otherwise comply with Trust Indenture Act §312(a).

Section 2.06. Transfer and Exchange.

(a) Subject to Section 2.07 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 2.03, (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 Supplemental Indenture and (ii) the Registrar shall record the information required pursuant to Section 2.03 or this Section 2.06 regarding the designated transferee or transferees in the Register. The Company shall not charge a service charge for any registration of transfer or exchange, but the Company may require payment of a sum

sufficient to pay all taxes, assessments or other governmental charges that may be imposed in connection with the registration of, transfer or exchange of the Notes from the Holder requesting such transfer or exchange.

At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations, of a like aggregate principal amount, upon surrender of the Notes to be exchanged, at such office or agency, 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, and documents of identity and title satisfactory to Registrar. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

The Company shall not be required to make, and the Registrar need not register, transfers or exchanges of Notes in respect of which a Fundamental Change Repurchase Notice has been given and not validly withdrawn by the Holder thereof in accordance with the terms of this Supplemental Indenture (except, in the case of Notes to be repurchased in part, the portion of such Notes not to be repurchased).

(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 2.07 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 2.03 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) No Registrar shall be required to make registrations of transfer or exchange of Notes during any periods designated in Paragraph 6 of the form of Note attached as Exhibit B hereto or in this Supplemental Indenture as periods during which such registration of transfers and exchanges need not be made.

(f) *Transfer Restrictions.*

(i) Every Note that bears or is required under this Section 2.06(f) to bear the Restricted Securities Legend required by Section 2.01(d) (the "Restricted Notes ") shall be subject to the restrictions on transfer set forth in this Section 2.06(f) 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. As used in this Section 2.06(f), and Sections 2.06(g), 2.07(b) and 2.07(c),

the term "transfer" encompasses any sale, pledge, transfer, loan, hypothecation or other disposition whatsoever of any Restricted Note. Except as otherwise provided in this Supplemental Indenture with respect to any Restricted Notes (including, without limitation, Section 2.06(i) below) or as permitted under the terms of such Restricted Securities Legend, if a request is made to remove the legend on any Restricted Note, the legend shall not be removed unless there is delivered to the Company and the Registrar such satisfactory evidence that neither the Restricted Securities Legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144A or Rule 144, that such Notes are not "restricted" within the meaning of Rule 144 or that transfers thereof comply with all other applicable securities laws and regulations. In such a case, upon (i) provision of such satisfactory evidence, or (ii) 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 Supplemental Indenture (including, without limitation, Section 2.06(i) below), until the later of (x) the date that is one year after the last date of original issuance of the Notes and (y) the date that is three months after the Holder ceases to be an Affiliate of the Company, 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 such Notes have been transferred (a) to the Company, (b) under a registration statement that has been declared effective under the Securities Act, or (c) under any other available exemption from the registration requirements of the Securities Act pursuant to which the Notes are not required to bear the Restricted Securities Legend.

(iii) No transfer of any Note prior to the Free Trade Date will be registered by the Registrar unless the applicable box on the Form of Transfer Certificate has been checked.

(g) *Legends on the Common Stock.*

(i) Except as provided elsewhere in this Supplemental Indenture (including, without limitation, Section 2.06(j) below), until the later of (x) the date that is one year after the last date of original issuance of the Notes 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, any stock certificate representing shares of the Common Stock issued upon conversion of such Notes shall bear the Restricted Stock Legend unless the Notes or such Common Stock, as applicable, has been transferred (a) to the Company; (b) under a registration statement that has been declared effective under the Securities Act; or (c) under any other available exemption from the registration requirements of the Securities Act pursuant to

which the shares of Common Stock are not required to bear the Restricted Stock Legend.

(ii) Any such shares of Common Stock as to which such restrictions on transfer shall have expired in accordance with their terms may, subject to applicable securities laws and regulations and upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the transfer agent for the Common Stock, be exchanged for a new certificate or certificates for a like aggregate number of shares of Common Stock which shall not bear the Restricted Stock Legend.

(h) The Company shall not permit any Note that is purchased or owned by the Company or any Affiliate thereof to be resold by the Company or such Affiliate unless registered under the Securities Act or resold pursuant to an exemption from the registration requirements of the Securities Act in a transaction that results in such Notes, as the case may be, no longer being "restricted securities" (as defined under Rule 144). If the legend is removed from the face of a Note and the Note is subsequently held by the Company or an Affiliate of the Company, the legend shall be reinstated.

(i) So long as and to the extent that any Notes are represented by one or more Global Notes held by or on behalf of the Depositary only, the Company may cause the removal of the Restricted Securities Legend from such Notes at any time on or after the Free Trade Date by:

(i) providing to the Trustee written notice stating that the Free Trade Date has occurred and instructing the Trustee to remove the Restricted Securities Legend from such Notes;

(ii) providing to the Holders of such Notes written notice that the Restricted Securities Legend has been removed or deemed removed;

(iii) providing to the Trustee and the Depositary written notice to change the CUSIP number for the Notes to the applicable unrestricted CUSIP number; and

(iv) complying with any Applicable Procedures for delegending;

whereupon the Restricted Securities Legend shall be deemed removed from any Global Notes without further action on the part of Holders.

(j) On and after the Free Trade Date, the Company shall also (i) instruct the transfer agent for the Common Stock to remove the Restricted Stock Legend from any shares of Common Stock issued upon conversion of the Notes that bear the Restricted Stock Legend; (ii) notify the holders of any shares of Common Stock issued upon conversion of the Notes (to the extent any shares of Common Stock have been issued upon conversion of the Notes) that such Restricted Stock Legend has been removed; (iii) if relevant, notify the transfer agent for the Common Stock to change the CUSIP number for any shares of Common Stock issued upon conversion of the Notes to the

applicable unrestricted CUSIP number; and (iv) comply with any Applicable Procedures that apply to the delegending of any shares of Common Stock issued upon conversion of a Note.

Section 2.07. Transfer Restrictions.

(a) Notwithstanding any other provisions of this Supplemental Indenture or the Notes, (A) transfers of a Global Note, in whole or in part, shall be made only in accordance with Sections 2.06 and 2.07(a)(i); (B) transfers of a beneficial interest in a Global Note for a Definitive Note shall comply with Sections 2.06 and 2.07(a)(ii), and (C) transfers of a Definitive Note shall comply with Sections 2.06 and 2.07(a)(iii) and (iv) below. All such transfers 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 Supplemental Indenture or the Notes unless and until such Note has been registered in the name of such Person. Nothing in this Section 2.07(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 2.07(a).

(ii) *Restrictions on Transfer of a Beneficial Interest in a Global Note for a Definitive Note*.

(A) A beneficial interest in a Global Note may not be exchanged for a Definitive Note unless:

(1) DTC notifies the Company that it is unwilling or unable to continue as Depositary for such Global Note and a successor Depositary is not appointed by the Company within 90 days of such notice; or

(2) 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, in which case Definitive Notes shall be issued to all owners of beneficial interests in a Global Note in exchange for their beneficial interests.

In connection with the exchange of an entire Global Note for Definitive Notes pursuant to this Section 2.07(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 Definitive Notes of authorized denominations.

(3) An Event of Default has occurred and is continuing, in which case, the owner of a beneficial interest in a Global Note will be entitled to receive a Definitive Note in exchange for its beneficial interest in such Global Note.

(B) Upon receipt by the Registrar of instructions from the Holder of a Global Note directing the Registrar to (x) issue one or more Definitive 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:

(1) 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;

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

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

(iii) *Transfer and Exchange of Definitive Notes*. When Definitive Notes are presented to the Registrar with a request: (x) to register the transfer of such Definitive Notes; or (y) to exchange such Definitive Notes for an equal principal amount of Definitive Notes of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met; provided, however, that the Definitive Notes surrendered for transfer or exchange:

(A) must be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Registrar, duly executed in writing by the Holder thereof or its duly authorized attorney-in-fact; and

(B) so long as such Notes are "restricted securities" (as defined under Rule 144), such Notes are being transferred or exchanged pursuant to an effective registration statement under the Securities Act or pursuant to clause (A), (B) or (C) below, and are accompanied by the following additional information and documents, as applicable:

(1) if such Definitive Notes are being delivered to the Registrar by a Holder for registration in the name of such Holder, without transfer, a certification from such Holder to that effect; or

(2) if such Definitive Notes are being transferred to the Company, a certification from such Holder to that effect; or

(3) if such Definitive Notes are being transferred pursuant to an exemption from registration, (i) a certification from such Holder to that effect (in the form set forth in Exhibit C, if applicable) and (ii) if the Company so requests, an opinion of counsel in form and substance reasonably satisfactory to the Company or any other evidence as to the compliance with the restrictions set forth in the legend thereon that is reasonably satisfactory to the Company.

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

Upon receipt by the Trustee of a Definitive Note, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with:

(A) so long as the Notes are Restricted Notes, certification, in the form set forth in Exhibit C, that such Definitive Note is being transferred to a QIB in accordance with Rule 144A; and

(B) 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 Definitive 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 Definitive 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 Definitive 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 Officers' Certificate, a new Global Note in the appropriate principal amount.

(b) Subject to the succeeding Section 2.07(c), every Note shall be subject to the restrictions on transfer provided in Section 2.06(f), including the delivery of an opinion of counsel, if so required. Whenever any Restricted Note is presented or surrendered for registration of transfer or for exchange for a Note registered in a name other than that of the Holder, such Note must be accompanied by a certificate in substantially the

form set forth in Exhibit C, dated the date of such surrender and signed by the Holder of such Note, as to compliance with such restrictions on transfer. The Registrar shall not be required to accept for such registration of transfer or exchange any Note not so accompanied by a properly completed certificate.

(c) The restrictions imposed by Section 2.06(f) upon the transferability of any Note shall cease and terminate when such Note has been sold pursuant to an effective registration statement under the Securities Act or transferred in compliance with Rule 144. Any Note as to which such restrictions on transfer shall have expired in accordance with their terms or shall have terminated may, upon a surrender of such Note for exchange to the Registrar in accordance with the provisions of this Section 2.07 (accompanied, if such restrictions on transfer have terminated by reason of a transfer in compliance with Rule 144 or any successor provision, by an opinion of counsel having substantial experience in practice under the Securities Act and otherwise reasonably acceptable in form and substance to the Company, addressed to the Company, to the effect that the transfer of such Note has been made in compliance with Rule 144), be exchanged for a new Note, of like tenor and aggregate principal amount, which shall not bear the legends required by Section 2.01(d). The Company shall inform the Trustee upon the occurrence of the Free Trade Date and promptly after a registration statement with respect to the Notes or any shares of Common Stock issued upon conversion of the Notes has been declared effective under the Securities Act. The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the aforementioned opinion of counsel or registration statement.

(d) The provisions of clauses (i), (ii), (iii) and (iv) below shall apply only to Global Notes:

(i) Notwithstanding any other provisions of this Supplemental Indenture or the Notes, a Global Note shall not be exchanged in whole or in part for a Note registered in the name of any Person other than the Depositary or one or more nominees thereof, provided that a Global Note may be exchanged for Notes registered in the name of any Person designated by the Depositary if (A) the Depositary has notified the Company that it is unwilling or unable to continue as Depositary for such Global Note or such Depositary has ceased to be a "clearing agency" registered under the Exchange Act, and a successor Depositary is not appointed by the Company within 90 days or (B) an Event of Default has occurred and is continuing with respect to the Notes. Any Global Note exchanged pursuant to clause (A) above shall be so exchanged in whole and not in part, and any Global Note exchanged pursuant to clause (B) above may be exchanged in whole or, from time to time, in part as directed by the Depositary. Any Note issued in exchange for a Global Note or any portion thereof shall be a Global Note; provided that any such Note so issued that is registered in the name

of a Person other than the Depositary or a nominee thereof shall not be a Global Note.

(ii) Notes issued in exchange for a Global Note or any portion thereof shall be issued in definitive, fully registered form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Note or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Depositary shall designate and shall bear the applicable legends provided for herein. Any Global Note to be exchanged in whole shall be surrendered by the Depositary to the Trustee, as Registrar. With regard to any Global Note to be exchanged in part, either such Global Note shall be so surrendered for exchange or, if the Trustee is acting as custodian for the Depositary or its nominee with respect to such Global Note, the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon any such surrender or adjustment, the Trustee shall authenticate and deliver the Note issuable on such exchange to or upon the order of the Depositary or an authorized representative thereof.

(iii) Subject to the provisions of Section 2.07(e), a Holder may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which such Holder is entitled to take under this Supplemental Indenture or the Notes.

(iv) In the event of the occurrence of any of the events specified in clause (i) above, the Company will promptly make available to the Trustee a reasonable supply of Definitive Notes in definitive, fully registered form, without interest coupons.

(e) Neither any members of, or participants in, the Depositary (collectively, the "Agent Members") nor any other Persons on whose behalf any Agent Member may act shall have any rights under this Supplemental Indenture with respect to any Global Note registered in the name of the Depositary or any nominee thereof, or under any such Global Note, and the Depositary or such nominee, as the case may be, may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and holder of such Global Note for all purposes whatsoever. The Trustee shall have no responsibility or obligation to any Agent Members or any other Person on whose behalf Agent Members may act with respect to (i) any ownership interests in the Global Note, (ii) the accuracy of the records of the Depositary or its nominee (iii) any notice required hereunder or (iv) any payments, under or with respect to, the Global Note. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or such nominee, as the case may be, or impair, as between the Depositary, its Agent Members and any other Person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a holder of any Note. The registered Holder of a Global Note may grant proxies and otherwise authorize any Person, including

Agent Members and persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Supplemental Indenture or the Notes.

Section 2.08. Replacement Notes. If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. An indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note (including the Trustee's expenses).

Every replacement Note is an additional obligation of the Company and shall be entitled to all of the benefits of this Supplemental Indenture equally and proportionately with all other Notes duly issued hereunder.

Section 2.09. Outstanding Notes. The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section as not outstanding. Except as set forth in this Section, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.08 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 3.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, at Maturity, money sufficient to pay Notes payable on that date, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.10. Treasury Notes. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent pursuant to Sections 5.02, 5.04 or 7.02 or otherwise, Notes owned by the Company, or by any Affiliate of the Company, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded.

Section 2.11. Temporary Notes. Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the

Company shall prepare and the Trustee shall authenticate Definitive Notes in exchange for temporary Notes.

Holders of temporary Notes shall be entitled to all of the benefits of this Supplemental Indenture.

Section 2.12. Cancellation. The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar, Paying Agent or Conversion Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange, conversion or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, conversion, payment, replacement or cancellation and shall dispose of canceled Notes in accordance with its customary procedures (subject to the record retention requirement of the Exchange Act). The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.13. Defaulted Interest. If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 3.01 hereof. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company shall fix or cause to be fixed each such special record date and payment date; provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.14. Record Date. The Company may set a record date for purposes of determining the identity of Holders entitled to vote or to consent to any action by vote or consent authorized or permitted by Sections 5.04 and 5.05.

Section 2.15. CUSIP and ISIN Numbers. The Company in issuing the Notes may use “CUSIP” and “ISIN” numbers (if then generally in use), and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or the omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the CUSIP or ISIN numbers.

ARTICLE III

COVENANTS

Section 3.01. Payment of Notes. The Company shall pay or cause to be paid the principal of and interest on the Notes on the dates and in the manner provided in the Notes.

Principal and interest shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary, holds as of 10:00 a.m., New York City Time, on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal and interest then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

Section 3.02. Maintenance of Office or Agency. The Company shall maintain in the Borough of Manhattan, The City of New York, an office or agency (which may be an office of the Trustee or an Affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange, where Notes may be presented for conversion and where notices and demands to or upon the Company in respect of the Notes and this Supplemental Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee. The Company initially appoints the Corporate Trust Office of the Trustee as Conversion Agent.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, The City of New York for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

Section 3.03. Reports to Holders. Whether or not required by the rules and regulations of the Commission, so long as any Notes are outstanding, the Company shall furnish the Holders of Notes:

(a) all quarterly and annual financial information that would be required to be contained in a filing with the Commission on Forms 10-Q and 10-K if the Company were required to file such Forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" that describes the financial condition and results of operations of the Company and its consolidated Subsidiaries (showing in reasonable detail, either on the face of the financial statements or in the footnotes thereto and in Management's Discussion and Analysis of Financial Condition and Results of Operations, the financial condition and results of operations of the Company and its

Subsidiaries) and, with respect to the annual information only, a report thereon by the Company's independent registered public accounting firm; and

(b) all current reports that would be required to be filed with the Commission on Form 8-K if the Company were required to file such reports, in each case within the time periods specified in the Commission's rules and regulations.

In addition, whether or not required by the rules and regulations of the Commission, the Company shall file a copy of all such information and reports with the Commission for public availability within the applicable time periods specified in the Commission's rules and regulations (unless the Commission will not accept such a filing) and make such information available to securities analysts and prospective investors upon request. In addition, the Company agrees that, for so long as any Notes remain outstanding, it will furnish to the Holders and to securities analysts and prospective investors, upon their request, the information described in clauses (a) and (b) above.

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

Section 3.04. Additional Interest.

(a) If, at any time during the six-month period beginning on, and including, the date which is six months after the last date of original issuance of the Notes offered by the Offering Memorandum and ending on the Free Trade Date, the Company fails to timely file any periodic report that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (other than current reports on Form 8-K), the Company shall pay interest (the "Additional Interest") on the Notes, accruing from the due date of the first missed filing that gives rise to such obligation and continuing until the earlier of (i) the Free Trade Date and (ii) the date all such filings have been made. During the first 90 days on which such Additional Interest is payable, such Additional Interest shall accrue at a rate of 0.25% per annum; thereafter, such Additional Interest shall accrue at a rate of 0.50% per annum.

(b) In addition, if the Notes or any shares of the Common Stock issuable upon conversion of the Notes that are held by Holders that have not been Affiliates of the Company during the immediately preceding three months do not become Freely Tradable on and at all times after the Free Trade Date (or the next succeeding Business Day if the Free Trade Date is not a Business Day), the Company will pay Additional Interest on the Notes accruing from the Free Trade Date and until the date on which the Notes and any shares of Common Stock issuable upon the conversion of the Notes become Freely Tradable. During the first 90 days on which such Additional Interest is payable, such Additional Interest will accrue at a rate of 0.25% per annum; thereafter, such Additional Interest will accrue at a rate of 0.50% per annum.

(c) Notwithstanding anything else in this Supplemental Indenture, in no event will (i) any Additional Interest payable under this Section 3.04 exceed 0.50% per annum; or (ii) Additional Interest accrue on any day in which (A)(1) the Company has filed a shelf registration statement for the resale of the Notes, (2) such shelf registration statement is effective and usable by Holders for the resale of the Notes, and (3) the Holders may register the resale of their Notes under such shelf registration statement on terms customary for the resale of convertible securities offered in reliance on Rule 144A; or (B) conditions (A)(1) through (A)(3) of this sentence have been satisfied for a period of two years.

(d) Accrued Additional Interest shall be payable on the same Interest Payment Dates and in the same manner as interest is generally paid on the Notes. The accrual of Additional Interest shall be the exclusive remedy available to Holders of Notes for the failure of the Notes to become Freely Tradable.

If the Company is required to pay Additional Interest to Holders, the Company shall provide a direction or order in the form of a written notice to the Trustee (and if the Trustee is not the Paying Agent, to the Paying Agent) of the Company's obligation to pay such Additional Interest no later than three Business Days prior to the date on which any such Additional Interest is scheduled to be paid. Such notice 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. The Trustee shall not at any time be under any duty or responsibility to any Holder to determine whether the Additional Interest is payable, or with respect to the nature, extent, or calculation of the amount of the Additional Interest owed, or with respect to the method employed in such calculation of the Additional Interest.

Section 3.05. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers' Certificate, one of the signers of which shall be the principal executive officer, principal financial officer or principal accounting officer of the Company, stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Supplemental Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Supplemental Indenture and is not in default in the performance or observance of any of the terms, provisions, covenants and conditions of this Supplemental Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of, premium, if any, or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) The Company shall, so long as any of the Notes are outstanding, promptly deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 3.06. Taxes. The Company shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders.

Section 3.07. Stay, Extension and Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Supplemental Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, 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 has been enacted.

Section 3.08. Corporate Existence. Subject to Article IV hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary and (ii) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries; provided, however, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors of the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders.

Section 3.09. Maintenance of Properties; Books and Records; Compliance with Law.

(a) The Company shall, and shall cause each of its Subsidiaries to, at all times cause all properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order (reasonable wear and tear excepted) and supplied with all necessary equipment, and shall cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereto; provided that nothing in this Section 3.09 shall prevent the Company or any of its Subsidiaries from discontinuing the operation or maintenance of any of such properties, or disposing of any of them, if such discontinuance or disposal is either (i) in the ordinary course of business, (ii) in the reasonable and good faith judgment of the Board of Directors or management of the Company or the Subsidiary concerned, as the case may be, desirable in the conduct of the business of the Company or such Subsidiary, as the case may be, or (iii) otherwise permitted by this Supplemental Indenture.

(b) The Company shall, and shall cause each of its Subsidiaries to, keep proper and true books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Company and each of its Subsidiaries, and reflect on its financial statements adequate accruals and appropriations to reserves, all in accordance with GAAP consistently applied to the Company and its Subsidiaries, taken as a whole.

(c) The Company shall, and shall cause each of its Subsidiaries to, comply in all material respects with all statutes, laws, ordinances, or government rules and regulations to which it is subject, non-compliance with which would materially adversely affect the business, earnings, properties, assets or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole.

ARTICLE IV

SUCCESSORS

Section 4.01. Merger, Consolidation, or Sale of Assets. The Company shall not, in a single transaction or series of related transactions, consolidate or merge with or into any Person, or sell, assign, transfer, lease, convey or otherwise dispose of (or cause or permit any Subsidiary of the Company to sell, assign, transfer, lease, convey or otherwise dispose of) all or substantially all of the Company's assets (determined on a consolidated basis for the Company and the Company's Subsidiaries) whether as an entirety or substantially as an entirety to any Person unless:

(a) either:

(i) the Company shall be the surviving or continuing entity; or

(ii) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of the Company and of the Company's Subsidiaries substantially as an entirety (the "Surviving Entity"):

(A) shall be an entity organized and validly existing under the laws of the United States or any State thereof or the District of Columbia; and

(B) shall expressly assume, by supplemental indenture (in form and substance satisfactory to the Trustee), executed and delivered to the Trustee, the due and punctual payment of the principal of and interest on all of the Notes and the performance of every covenant under the Notes and the Indenture, including the conversion obligations, on the part of the Company to be performed or observed;

(b) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (a)(ii) (B) above, no Default or Event of Default shall have occurred or be continuing; and

(c) the Company or the Surviving Entity, as applicable, shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture complies with the applicable provisions of this Supplemental Indenture and that all conditions precedent in this Supplemental Indenture relating to such transaction have been satisfied.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Subsidiaries of the Company, the Capital Stock of which constitutes all or substantially all of the properties and assets of the Company, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

Section 4.02. Successor Corporation Substituted. Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 4.01 hereof, in which the Company is not the continuing corporation, the Surviving Entity formed by such consolidation or into which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Supplemental Indenture referring to the "Company" shall refer instead to the Surviving Entity and not to the Company), and may exercise every right and power of, the Company under this Supplemental Indenture and the Notes with the same effect as if such Surviving Entity had been named as the Company herein; provided, however, that, in the case of a transfer by lease, the predecessor Company shall not be relieved from the obligation to pay the principal of and interest on the Notes.

ARTICLE V

DEFAULTS AND REMEDIES

Section 5.01. Events of Default. The following are "Events of Default" with respect to the Notes:

(a) the failure to pay interest (including Additional Interest, if any) on any Notes when the same becomes due and payable and the default continues for a period of 30 days;

(b) the failure to pay the principal on any Notes when such principal becomes due and payable, at Maturity or otherwise (including the failure to make a payment to purchase Notes tendered pursuant to an exercise of a repurchase right);

(c) the failure to deliver when due all shares of Common Stock and/or Reference Property, together with cash instead of fractional shares, deliverable or payable, as the case may be, upon conversion of the Notes pursuant to Article IX, which failure continues for a period of five Business Days

(d) the failure to provide a Fundamental Change Company Notice when due pursuant to Section 10.01(b);

(e) a default in the observance or performance of any other covenant or agreement contained in the Indenture and such default continues for a period of 30 days after the Company receives written notice specifying the default (and demanding that such default be remedied) from the Trustee or the Holders of at least 25% of the outstanding principal amount of the Notes (except in the case of a default with respect to Section 4.01 hereof, which will constitute an Event of Default with such notice requirement but without such passage of time requirement);

(f) the failure to pay at final maturity (giving effect to any applicable grace periods and any extensions thereof) the principal amount of, or interest or premium, if any, on any indebtedness (other than Non-Recourse Indebtedness) of the Company or any Subsidiary of the Company, or the acceleration of the final stated maturity of any such indebtedness (which acceleration is not rescinded, annulled or otherwise cured within

20 days of receipt by the Company or such Subsidiary of notice of any such acceleration) if the aggregate principal amount of such indebtedness, together with the principal amount of any other such indebtedness in default for failure to pay principal at final maturity or which has been accelerated, aggregates $50.0 million or more at any time;

(g) there shall have been the entry by a court of competent jurisdiction of:

(i) a decree or order for relief in respect of the Company or any Significant Subsidiary in an involuntary case or proceeding under any applicable Bankruptcy Law; or

(ii) a decree or order adjudging the Company or any Significant Subsidiary bankrupt or insolvent, or seeking reorganization, arrangement, adjustment or composition of or in respect of the Company or any Significant Subsidiary under any applicable federal or state law, or appointing a custodian of the Company or any Significant Subsidiary or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and any such decree or order for relief shall continue to be in effect, or any such other decree or order shall be unstayed and in effect, for a period of 60 consecutive days;

(h) (i) the Company or any Significant Subsidiary commences a voluntary case or proceeding under any applicable Bankruptcy Law or any other case or proceeding to be adjudicated bankrupt or insolvent;

(ii) the Company or any Significant Subsidiary consents to the entry of a decree or order for relief in respect of the Company or such Significant Subsidiary in an involuntary case or proceeding under any applicable Bankruptcy

Law or to the commencement of any bankruptcy or insolvency case or proceeding against it;

(iii) the Company or any Significant Subsidiary files a petition or answer or consent seeking reorganization or relief under any applicable federal or state law;

(iv) the Company or any Significant Subsidiary:

(A) consents to the filing of such petition or the appointment of, or taking possession by, a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of the Company or such Significant Subsidiary or of any substantial part of its property;

(B) makes an assignment for the benefit of creditors; or

(C) admits in writing its inability to pay its debts generally as they become due; or

(v) the Company or any Significant Subsidiary takes any corporate action in furtherance of any such actions in this clause (h).

Section 5.02. Acceleration. If an Event of Default (other than an Event of Default specified in clauses (g) or (h) of Section 5.01 above with respect to the Company) shall occur with respect to the Notes and be continuing, the Trustee or the Holders of at least 25% in principal amount of outstanding Notes may declare the principal of and accrued interest on all the Notes to be due and payable by notice in writing to the Company and the Trustee specifying the respective Event of Default and that it is a "notice of acceleration" (the "Acceleration Notice"), and the same shall become immediately due and payable. If an Event of Default specified in clauses (g) or (h) of Section 5.01 above with respect to the Company occurs and is continuing, then all unpaid principal of and accrued and unpaid interest on all of the outstanding Notes shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

At any time after a declaration of acceleration with respect to the Notes as described in the preceding paragraph, the Holders of a majority in principal amount of Notes may rescind and cancel such declaration and its consequences:

(a) if the rescission would not conflict with any judgment or decree;

(b) if all existing Events of Default have been cured or waived except nonpayment of principal or interest that has become due solely because of the acceleration;

(c) to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid;

(d) if the Company has paid the Trustee its reasonable compensation and reimbursed the Trustee for its expenses, disbursements and advances; and

(e) in the event of the cure or waiver of an Event of Default of the type described in clause (f) of Section 5.01 hereof, the Trustee shall have received an Officers' Certificate and an Opinion of Counsel that such Event of Default has been cured or waived.

No such rescission shall affect any subsequent Default or impair any right consequent thereto.

Section 5.03. Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal and interest on the Notes or to enforce the performance of any provision of the Notes or the Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note 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. All remedies are cumulative to the extent permitted by law.

Section 5.04. Waiver of Past Defaults. Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice in writing to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, or interest on, the Notes (including in connection with a Fundamental Change) or failure to deliver shares or Reference Property when due upon conversion (provided, however, that the Holders of a majority in aggregate principal amount of the then outstanding Notes of a series may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Supplemental Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 5.05. Control by Majority. Holders of a majority in principal amount of the then outstanding Notes may, by written notice, direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or the Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in any personal liability.

Section 5.06. Limitation on Suits. A Holder of a Note may pursue a remedy with respect to this Supplemental Indenture or the Notes only if:

(a) such Holder gives to the Trustee written notice of a continuing Event of Default;

(b) the Holders of at least 25% in principal amount of the then outstanding Notes of the applicable series make a written request to the Trustee to pursue the remedy;

(c) such Holder or Holders offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and

(e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a written direction inconsistent with the request.

A Holder may not use the Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

Section 5.07. Rights of Holders of Notes To Receive Payment. Notwithstanding any other provision of the Indenture, the right of any Holder to receive payment of principal and interest on the Notes so held, on or after the respective due dates expressed in the Notes (including in connection with a Fundamental Change), to receive shares of Common Stock and/or Reference Property upon conversion or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 5.08. Collection Suit by Trustee. If an Event of Default specified in Section 5.01(1) or (2) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and any amounts due the Trustee under Section 6.07 hereof.

Section 5.09. Trustee May File Proofs of Claim. The Trustee is authorized to 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 (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent in writing to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and

counsel, and any other amounts due the Trustee under Section 6.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting 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 5.10. Priorities. If the Trustee collects any money pursuant to this Article, it shall pay out the money in the following order:

First: to the Trustee, its agents and attorneys for amounts due under this Supplemental Indenture, including, in each case, payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal (including the Fundamental Change Repurchase Price, if applicable) and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal (including the Fundamental Change Repurchase Price, if applicable) and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 5.10.

Section 5.11. Undertaking for Costs. In any suit for the enforcement of any right or remedy under the Indenture or in any suit against the Trustee for any action taken or omitted by it as a 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 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 5.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE VI

TRUSTEE

Section 6.01. 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 Supplemental Indenture, and

use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(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 Supplemental Indenture and no implied covenants or obligations shall be read into this Supplemental Indenture against the Trustee; and

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

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

(i) this paragraph does not limit the effect of paragraph (b) of this Section 6.01;

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

(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 written direction received by it pursuant to Section 5.05; and

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

(d) Every provision of this Supplemental Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this Section 6.01 and to the provisions of the Trust Indenture Act.

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

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

(g) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in principal amount of the Notes at the time outstanding given pursuant to Section 5.05 of this Supplemental Indenture, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Supplemental Indenture.

Section 6.02. Rights of Trustee.

(a) The Trustee may rely conclusively on any 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 the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel that conforms to Section 11.04. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel.

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

(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 its rights or powers, except conduct that constitutes willful misconduct or negligence.

(e) The Trustee may consult with counsel of its selection, and the Trustee will not be liable for any action it takes or omits in reliance on, and in accordance with advice of counsel, except conduct that constitutes willful misconduct or negligence.

(f) The Trustee will not be required to investigate any facts or matters stated in any document, but if it decides to investigate any matters or facts, the Trustee or its agents or attorneys will be entitled to examine the books, records and premises of the Company and shall not incur any additional liability in connection with such investigation.

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

(h) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default or Event of Default is

received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Supplemental Indenture.

(i) 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.

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

(k) 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 Supplemental Indenture.

Section 6.03. 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 any Affiliate of the Company with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, co-registrar or co-paying agent may do the same with like rights. However, the Trustee must comply with Sections 6.10 and 6.11 hereof.

Section 6.04. Trustee's Disclaimer. The Trustee (a) is not responsible for and makes no representation as to the validity or adequacy of this Supplemental Indenture, (b) shall not be accountable for the Company's use of the proceeds from the Notes and (c) shall not be responsible for any statement of the Company in this Supplemental Indenture, other than the Trustee's certificate of authentication, or in any offering memorandum used in the sale of any of the Notes, other than statements, if any, provided in writing by the Trustee for use in such offering memorandum.

Section 6.05. Notice of Defaults. The Trustee will give to the Holders notice of any Default with regard to the Notes actually known to a Responsible Officer within 90 days after receipt of such knowledge and in the manner and to the extent provided in Trust Indenture Act §313(c), and otherwise as provided in Section 11.02 of this Supplemental Indenture; provided, however, that except in the case of a Default in payment of the principal of or interest on any Note, the Trustee will be protected in withholding notice of Default if and so long as it in good faith determines that withholding of the notice is in the interests of the Holders of the Notes.

Section 6.06. Reports by Trustee. Within 60 days after each May 15 beginning with the May 15 following the Issue Date, the Trustee will mail to each Holder, at the name and address which appears on the registration books of the Company, and to each Holder who has, within the two years preceding the mailing, filed that person's name and address with the Trustee for that purpose and each Holder whose name and address have been furnished to the Trustee pursuant to Section 2.05, a brief report dated as of that May 15 which complies with Trust Indenture Act §313(a), if such report is required under Trust Indenture Act §313(a). Reports to Holders pursuant to this Section 6.06 shall be transmitted in the manner and to the extent provided in Trust Indenture Act §313(c). The Trustee also will comply with Trust Indenture Act §313(b).

A copy of each report will at the time of its mailing to Holders be filed with each stock exchange on which the Notes are listed and also with the Commission. The Company will promptly notify the Trustee in writing when the Notes are listed on any stock exchange and of any delisting of the Notes.

Section 6.07. Compensation and Indemnity. The Company shall pay to the Trustee from time to time such compensation as shall be agreed in writing between the Company and the Trustee for its services. 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 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 and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts.

The Company shall indemnify the Trustee against any and all loss, liability, damage, claim or expense (including reasonable attorney's fees and expenses) incurred by it in connection with the administration of the trust created by this Supplemental Indenture and the performance of its duties under this Supplemental Indenture. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee may have separate counsel and the Company shall pay the fees and expenses of such counsel. The Company shall not be required to pay for any settlement made without its consent, which consent shall not be unreasonably withheld. Without limiting the generality of the foregoing, it shall not be deemed unreasonable for the Company to withhold consent to a settlement involving injunctive or other equitable relief against the Company or its assets, employees or business or involving the imposition of any material obligations on the Company other than financial obligations for which the Trustee will be indemnified hereunder. The Company shall not be required to reimburse any expense or indemnify against any loss, expense or liability incurred by the Trustee to the extent it is due to the Trustee's own willful misconduct or negligence.

To secure the Company's obligations to make payments to the Trustee under this Section 6.07, 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 principal or interest on particular Notes. Those obligations of the Company under this Section 6.07 shall survive the satisfaction and discharge of this Supplemental Indenture and the resignation or removal of the Trustee.

When the Trustee incurs expenses or renders services after an Event of Default specified in Sections 5.01(g) or (h) hereof occurs, the expenses and the compensation for the services of the Trustee are intended to constitute expenses of administration under any Bankruptcy Law.

For purposes of this Section 6.07, "Trustee" will include any predecessor Trustee, but the willful misconduct, negligence or bad faith of any Trustee shall not affect the rights of any other Trustee under this Section 6.07.

Section 6.08. Replacement of Trustee. The Trustee may resign at any time by giving 30 days prior written notice of such resignation to the Company. The Holders of a majority in aggregate principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company and may appoint a successor Trustee. The Company may remove the Trustee if:

(a) the Trustee fails to comply with Section 6.10;

(b) the Trustee is adjudged bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(c) a Custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

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

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

A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that, the retiring Trustee will, subject to the Lien provided for in Section 6.07, transfer all property held by it as Trustee to the successor Trustee, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Supplemental Indenture. A successor Trustee will mail notice of its succession to each Holder.

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

If the Trustee fails to comply with Section 6.10, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding the replacement of the Trustee pursuant to this Section, the Company's obligations under Section 6.07 shall continue for the benefit of the retiring Trustee.

Section 6.09. Successor Trustee by Merger, etc. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust assets to, another Person, the resulting, surviving or transferee Person will, without any further act, be the successor Trustee.

If at the time a successor by merger, conversion or consolidation to the Trustee succeeds to the trusts created by this Supplemental Indenture any of the Notes have been authenticated but not delivered, the successor to the Trustee may adopt the certificate of authentication of the predecessor Trustee, and deliver the Notes which were authenticated by the predecessor Trustee; and if at that time any of the Notes have not been authenticated, the successor to the Trustee may authenticate those Notes in its own name as the successor to the Trustee; and in either case the certificates of authentication will have the full force provided in this Supplemental Indenture for certificates of authentication.

Section 6.10. Eligibility; Disqualification. The Trustee will at all times satisfy the requirements of Trust Indenture Act §310(a). The Trustee will at all times have (or shall be a member of a bank holding company system whose parent corporation has) a combined capital and surplus of at least $50,000,000 as set forth in its most recently published annual report of condition, which will be deemed for this paragraph to be its combined capital and surplus. The Trustee will comply with Trust Indenture Act §310(b).

Section 6.11. Preferential Collection of Claims. The Trustee shall comply with Trust Indenture Act §311(a), excluding any creditor relationship listed in Trust Indenture Act §311(b). A Trustee who has resigned or been removed shall be subject to Trust Indenture Act §311(a) to the extent indicated therein.

ARTICLE VII

AMENDMENT, SUPPLEMENT AND WAIVER

Section 7.01. Without Consent of Holders of Notes. Notwithstanding Section 7.02 hereof, the Company and the Trustee may amend or supplement the Indenture or the Notes without the consent of any Holder of a Note:

(a) to cure any ambiguity, defect or inconsistency that does not adversely affect in any material respect the rights hereunder of any Holder of the Notes under the Indenture;

(b) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(c) to alter the provisions of the Indenture to provide for the assumption of the Company's obligations to the Holders by a successor to the Company pursuant to Article IV hereof;

(d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect in any material respect the rights hereunder of any Holder of the Notes;

(e) to conform the provisions of this Supplemental Indenture to the "Description of the Notes" section of the Offering Memorandum;

(f) to comply with requirements of the Commission in connection with the qualification of the Indenture under the Trust Indenture Act;

(g) to comply with the rules of any applicable depositary;

(h) to evidence and provide for the acceptance of appointment under this Supplemental Indenture of a successor Trustee;

(i) to add guarantees;

(j) to provide for conversion rights of Holders if any recapitalization, reclassification or change of Common Stock or any consolidation, merger or sale, conveyance or lease of all or substantially all of the Company's assets or a statutory share exchange occurs; or

(k) to increase the Conversion Rate, provided that the increase will not adversely affect the interests of the Holders in any material respect.

Upon the written request of the Company accompanied by, to the extent necessary, a Board Resolution authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 7.06 hereof, the Trustee shall join with the Company in the execution of any amended or supplemental indenture authorized or permitted by the terms of the Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under the Indenture or otherwise.

Section 7.02. With Consent of Holders of Notes. Except as provided below in this Section 7.02, the Company and the Trustee may amend or supplement the Indenture and the Notes with the written consent of the Holders of at least a majority in principal amount of the Notes then outstanding, voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 5.04 and 5.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of the Indenture or the Notes may be waived with the written consent of the Holders of a majority in principal amount of the Notes then outstanding, voting as a single class.

Upon the written request of the Company accompanied by a Board Resolution authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of at least a majority in principal amount of the Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.06 hereof, the Trustee shall join with the Company in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee's own rights, duties or immunities under the Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 7.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 5.04 and 5.07 hereof, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive in writing compliance in a particular instance by the Company with any provision of the Indenture or the Notes. However, without the written consent of each Holder affected, an amendment, supplement or waiver may not (with respect to any Notes held by a non-consenting Holder):

(a) reduce the amount of Notes whose Holders must consent to an amendment;

(b) reduce the rate of or change or have the effect of changing the time for payment of interest, including defaulted interest, on any Notes;

(c) reduce the principal of or change or have the effect of changing the Maturity of any Notes;

(d) make any Notes payable in money other than that stated in the Notes;

(e) make any change in provisions of the Indenture protecting the right of each Holder to receive payment of principal of and interest on such Note on or after the due date thereof or shares of Common Stock or Reference Property upon conversion or to bring suit to enforce such payment, or permitting Holders of a majority in principal amount of Notes to waive Defaults or Events of Default;

(f) after the Company's obligation to purchase Notes arises thereunder, amend, change or modify in any material respect the obligation of the Company to repurchase Notes upon the occurrence of a Fundamental Change or, after a Fundamental Change has occurred, modify any of the provisions or definitions with respect thereto;

(g) except as otherwise permitted or contemplated by provisions of this Supplemental Indenture concerning specified reclassifications or corporate reorganizations, adversely affect the conversion rights of the Holders; or

(h) modify or change any provision of the Indenture or the related definitions affecting the seniority or ranking of the Notes in a manner which adversely affects the Holders.

Section 7.03. Compliance with Trust Indenture Act. Every amendment or supplement to the Indenture or the Notes shall be set forth in an amended or supplemental indenture that complies with the Trust Indenture Act as then in effect.

Section 7.04. Revocation and Effect of Consents. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder or subsequent Holder may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement, or waiver. If a record date is fixed, then, notwithstanding the preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only such Persons, shall be entitled to consent to such amendment, supplement, or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date unless the consent of the requisite number of Holders has been obtained.

Section 7.05. Notation on or Exchange of Notes. The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 7.06. Trustee To Sign Amendments, etc. The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article VII if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplemental indenture until the Board of Directors approves it. In executing any amended or supplemental indenture, the Trustee shall receive and (subject to Section 6.01 hereof) shall be fully protected in relying conclusively upon, in addition to the documents required by Section 11.04 hereof, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by the Indenture and is the legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms.

Section 7.07. Additional Voting Terms. All Notes issued under this Supplemental Indenture shall vote and consent together on all matters (as to which any of such Notes may vote) as one class and no series of Notes will have the right to vote or consent as a separate class on any matter.

ARTICLE VIII

SATISFACTION AND DISCHARGE

Section 8.01. Satisfaction and Discharge. This Supplemental Indenture will be discharged and will cease to be of further effect (except as to surviving rights or registration of transfer or exchange of the Notes, as expressly provided for in this Supplemental Indenture) as to all outstanding Notes when:

(a) either:

(i) all the Notes theretofore authenticated and delivered (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust) have been delivered to the Trustee for cancellation; or

(ii) all Notes not theretofore delivered to the Trustee for cancellation have become due and payable and the Company has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Trustee for cancellation, for principal of and interest on such Notes to the date of deposit together with irrevocable instructions from the Company directing the Trustee and/or (in the case of Notes submitted for conversion) shares of Common Stock and/or Reference Property, as applicable, (together with cash in lieu of fractional shares) to apply such funds and/or securities to the payment or conversion thereof at Maturity or any Fundamental Change Repurchase Date, or Conversion Date, as the case may be;

(b) the Company has paid all other sums payable under this Supplemental Indenture by the Company; and

(c) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel stating that all conditions precedent under this Supplemental Indenture relating to the satisfaction and discharge of this Supplemental Indenture have been complied with.

Section 8.02. Application of Trust Money and Securities. All money and/or securities deposited with the Trustee pursuant to Section 8.01 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Supplemental Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and interest for whose payment such money has been deposited with the Trustee and/or the conversion of Notes submitted for conversion; but such money and/or securities need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 8.01 by reason of any legal proceeding or by reason of any order or

judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Supplemental Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.01; provided that if the Company has made any payment of principal of or interest on any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE IX

CONVERSION OF THE NOTES

Section 9.01. Conversion Privilege and Conversion Rate. (a) Subject to and upon compliance with the provisions of this Article IX, each Holder of a Note shall have the right, at such Holder's option, to convert any or all of such Holder's Notes at the Conversion Rate during the periods set forth in Section 9.01(b).

(b) The conversion rights pursuant to this Article IX shall commence on the Issue Date of the Notes and expire at the close of business on the Business Day immediately preceding the Maturity Date, subject to the provisions of this Supplemental Indenture and, in the case of conversion of any Global Note, to any Applicable Procedures. If a Note is submitted or presented for purchase pursuant to Article X, subject to the last paragraph of Section 9.03(b), such conversion right shall terminate at the close of business on the Business Day prior to the Fundamental Change Repurchase Date for such Note, as the case may be (unless the Company shall fail to make the Fundamental Change Repurchase Price payment when due in accordance with Article X, if applicable, in which case the conversion right shall terminate at the close of business on the Business Day prior to the date such failure is cured and such Note is repurchased).

(c) A Holder may convert fewer than all of such Holder's Notes only if the principal amount of Notes converted is an integral multiple of $1,000; provided that if, following the conversion of a portion of a Note, the remaining principal amount of such Note outstanding immediately after such conversion would be less than $2,000, then the portion of such Note so converted shall be reduced so that the remaining principal amount of such Note outstanding immediately after such conversion is $2,000.

(d) Provisions of this Supplemental Indenture that apply to conversion of all of a Note also apply to conversion of a portion of a Note.

(e) A Holder of Notes is not entitled to any rights of a holder of Common Stock until such Holder has converted its Notes into Common Stock, and only to the extent such Notes are deemed to have been converted into Common Stock pursuant to this Article IX.

(f) The Conversion Rate shall be adjusted in certain instances as provided in Section 9.02 and Section 9.07.

(g) By delivering the number of shares of Common Stock issuable on conversion to the Trustee, plus a cash payment for any fractional share, the Company shall be deemed to have satisfied its obligation to pay the principal amount of the Notes so converted and its obligation to pay accrued and unpaid interest attributable to the period from the most recent Interest Payment Date through the Conversion Date (which amount will be deemed paid in full rather than canceled, extinguished or forfeited).

Section 9.02. Make-Whole Fundamental Change Premium. (a) If the Make-Whole Fundamental Change Effective Date for any Make-Whole Fundamental Change shall have occurred, then the Company shall calculate and pay a "Make-Whole Fundamental Change Premium" to the Holders of the Notes who convert their Notes in connection with such Make-Whole Fundamental Change by adding such Make-Whole Fundamental Change Premium to the Conversion Rate for such Notes. A conversion of Notes shall be deemed for these purposes to be "in connection with" such Make-Whole Fundamental Change if the relevant Notice of Conversion delivered pursuant to Section 9.03(a) is received by the Conversion Agent on, or subsequent to, the relevant Make-Whole Fundamental Change Effective Date up to midnight, New York City time, of the Business Day immediately preceding the related Fundamental Change Purchase Date. The Fundamental Make-Whole Change Premium shall be in addition to, and not in substitution for, any cash, securities or other assets otherwise due to Holders of Notes upon conversion. The number of additional shares of Common Stock per $1,000 principal amount of Notes constituting the Make-Whole Fundamental Change Premium shall be determined by reference to the table set forth in Section 9.02(b), based on the Make-Whole Fundamental Change Effective Date and the Stock Price. If the holders of Common Stock receive only cash in the Make-Whole Fundamental Change, the Stock Price shall be the cash amount paid per share of Common Stock in connection with such Make-Whole Fundamental Change. Otherwise, the Stock Price shall be equal to the average Last Reported Sale Price of the Common Stock over the ten Trading Day period ending on the Trading Day immediately preceding, and excluding, the applicable Make-Whole Fundamental Change Effective Date.

(b) The following table sets forth the number of additional shares to be received per $1,000 principal amount of Notes pursuant to this Section 9.02(b) for each Stock Price and Make-Whole Fundamental Change Effective Date set forth below:

Effective Date	Stock Price											
	$12.35	$13.00	$14.00	$15.00	$16.00	$17.29	$18.00	$20.00	$25.00	$30.00	$40.00	$50.00
11/19/2013	23.1347	20.2116	16.4842	13.5087	11.1258	8.7305	7.6721	5.4214	2.5695	1.4528	0.6950	0.4283
11/15/2014	23.1347	19.7799	15.7250	12.5139	9.9762	7.4789	6.4016	4.1961	1.6971	0.8943	0.4484	0.2882
11/15/2015	23.1347	18.8050	14.2762	10.7198	7.9744	5.3925	4.3389	2.3707	0.6900	0.3726	0.2213	0.1476
11/15/2016	23.1347	19.0862	13.5917	8.8298	4.6631	—	—	—	—	—	—	—

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

(i) if the Stock Price is between two Stock Prices in the table above or the Make-Whole Fundamental Change Effective Date is between two Make-Whole Fundamental Change Effective Dates in the table above, the Make-Whole Fundamental Change Premium will be determined by a straight-line interpolation

between the Make-Whole Fundamental Change Premiums set forth for the higher and lower Stock Prices and the earlier and later Make-Whole Fundamental Change Effective Dates, as applicable, based on a 365-day year;

(ii) if the Stock Price is greater than $50.00 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above pursuant to subsection (c) below), no Make-Whole Fundamental Change Premium shall be added to the Conversion Rate; and

(iii) if the Stock Price is less than $12.35 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above pursuant to subsection (c) below), no Make-Whole Fundamental Change Premium shall be added to the Conversion Rate.

(c) The Stock Prices set forth in the first row of the table above in Section 9.02(b) shall be adjusted, as of any date on which the Conversion Rate of the Notes is adjusted other than an adjustment to the Conversion Rate by adding the Make-Whole Fundamental Change Premium. The adjusted Stock Prices shall equal the Stock Prices applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The Make-Whole Fundamental Change Premiums set forth in the table above shall be adjusted in the same manner as the Conversion Rate as set forth in Section 9.07 hereof, other than as a result of an adjustment to the Conversion Rate by adding the Make-Whole Fundamental Change Premium.

(d) The Company, or, at the written request of the Company, the Trustee, shall mail written notice of the Make-Whole Fundamental Change Effective Date of any Make-Whole Fundamental Change to the Holders (with a copy to the Trustee if applicable) and issue a press release announcing such Make-Whole Fundamental Change Effective Date no later than five Business Days after such Make-Whole Fundamental Change Effective Date (the "Make-Whole Fundamental Change Notice").

(e) Notwithstanding the foregoing, in no event shall the Conversion Rate exceed 80.9716 per $1,000 principal amount as a result of this Section 9.02, subject to proportional adjustment in the same manner as the Conversion Rate as set forth in Section 9.07 hereof.

(f) The Make-Whole Fundamental Change Premium shall be delivered upon the settlement date for the conversion.

Section 9.03. Conversion Procedure. (a) To convert a Definitive Note, a Holder must (i) complete and manually sign the "Notice of Conversion" on the back of the Note, or facsimile of such Notice of Conversion, and deliver such Notice of Conversion to the Conversion Agent, which shall become irrevocable upon receipt by the Conversion Agent, (ii) surrender the Note to the Conversion Agent, (iii) furnish appropriate endorsements and transfer documents if required by the Registrar or the Conversion Agent, (iv) pay an amount equal to the interest payable on the

next Interest Payment Date to which the Holder is not entitled as required by Section 9.03(c) and (v) pay all transfer or similar taxes, if required pursuant to Section 9.05. Anything herein to the contrary notwithstanding, in the case of Global Notes, Notices of Conversion may be delivered and such Notes may be surrendered for conversion in accordance with clauses (iii), (iv) and (v) of this Section 9.03(a) and the Applicable Procedures as in effect from time to time. The date on which the Holder satisfies all the applicable requirements set forth in this Section 9.03(a) is the "Conversion Date."

(b) Each conversion shall be deemed to have been effected as to any Notes surrendered for conversion on the Conversion Date, the person in whose name the shares of Common Stock shall be issuable upon conversion shall be deemed to be the holder of record of such Common Stock as of the close of business on such Conversion Date, and the Company shall deliver the consideration due in respect of any conversion on the third Business Day immediately following the relevant Conversion Date; provided, however, that no surrender of a Note on any Conversion Date when the stock transfer books of the Company shall be closed shall be effective to constitute the person or persons entitled to receive the shares of Common Stock upon conversion as the record holder or holders of such shares of Common Stock on such date, but such surrender shall be effective to constitute the person or persons entitled to receive such shares of Common Stock as the record holder or holders thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open. Upon conversion of a Note, such person shall no longer be the Holder of such Note and (i) such Note will cease to be outstanding, (ii) interest will cease to accrue on such Note and (iii) all other rights of such person in respect of such Note will terminate (other than the right to receive the consideration due upon conversion of such Note). Except as set forth in this Supplemental Indenture, no payment or adjustment will be made for dividends or distributions declared or made on shares of Common Stock issued upon conversion of a Note prior to the issuance of such shares.

A Holder that has delivered a Fundamental Change Repurchase Notice pursuant to Section 10.01 with respect to a Note may not surrender such Note for conversion until such Holder has withdrawn the Fundamental Change Repurchase Notice in accordance with Section 10.02.

(c) Holders of Notes surrendered for conversion (in whole or in part) during the period from the close of business on any Regular Record Date to the open of business on the next succeeding Interest Payment Date will receive the semiannual interest payable on the principal amount of such Notes being surrendered for conversion on the corresponding Interest Payment Date notwithstanding the conversion. Upon surrender of any such Notes for conversion, such Notes shall also be accompanied by payment in funds to the Conversion Agent acceptable to the Company of an amount equal to the interest payable on such corresponding Interest Payment Date (but excluding any overdue interest on the principal amount of such Note so converted if any overdue interest exists at the time such Holder surrenders such Note for conversion); provided, however, that no such payment need be made (i) if the Company has specified a Fundamental Change Repurchase Date that is after such Regular Record Date and on or prior to the next

succeeding Interest Payment Date, or (ii) if conversion occurs after the last Regular Record Date prior to the Maturity Date.

Except as otherwise provided in this Section 9.03(c), no payment or adjustment will be made for accrued interest on an converted Note and any such accrued interest shall be deemed satisfied and extinguished.

(d) Subject to Section 9.03(c), nothing in this Section 9.03 shall affect the right of a Holder in whose name any Note is registered at the close of business on a Regular Record Date to receive the interest payable on such Note on the related Interest Payment Date in accordance with the terms of this Supplemental Indenture and the Notes. If a Holder converts more than one Note at the same time, the number of shares of Common Stock issuable upon the conversion (and the amount of any cash in lieu of fractional shares pursuant to Section 9.04) shall be based on the aggregate principal amount of all Notes so converted.

(e) In the case of any Note which is converted in part only, upon such conversion the Company shall execute and the Trustee shall authenticate and deliver to the Holder thereof, without service charge, a new Note or Notes of authorized denominations in an aggregate principal amount equal to, and in exchange for, the unconverted portion of the principal amount of such Note.

Section 9.04. Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of any Note or Notes. Instead of any fractional share of Common Stock which would otherwise be issued upon conversion of any Note or Notes (or specified portions thereof), the Company shall pay a cash adjustment in respect of such fraction (calculated to the nearest one-100th of a share) in an amount equal to the same fraction of the Last Reported Sale Price of the Common Stock as of the Business Day preceding the Conversion Date.

Section 9.05. Taxes on Conversion. Except as provided in the next sentence, the Company shall pay any and all documentary, stamp or similar issue or transfer tax due and duties on the issuance of shares of Common Stock upon conversion of Notes pursuant hereto. A Holder delivering a Note for conversion shall be liable for and shall be required to pay any tax or duty which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the Holder of the Note or Notes to be converted, and no such issue or delivery shall be made unless the Person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

Section 9.06. The Company to Provide Common Stock. (a) The Company shall, prior to issuance of any Notes hereunder, and from time to time as may be necessary, reserve, out of its authorized but unissued Common Stock, a sufficient number of shares of Common Stock to permit the conversion of all outstanding Notes into shares of Common Stock.

(b) All shares of Common Stock delivered upon conversion of the Notes shall be newly issued shares, shall be duly authorized, validly issued, fully paid and

nonassessable and shall be free from preemptive or similar rights and free of any lien or adverse claim as the result of any action by the Company.

Section 9.07. Adjustment of Conversion Rate. The Conversion Rate shall be adjusted from time to time by the Company if any of the following events occurs, except that the Company shall not make any adjustments to the Conversion Rate if Holders of the Notes participate (other than in the case of a share split or share combination), at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Notes, in any of the transactions described in this Section 9.07, without having to convert their 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.

(a) If the Company issues shares of Common Stock as a dividend or distribution on shares of Common Stock, or effects a share split or share combination, 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 close of business on the record date for such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as the case may be;

CR_1 = the Conversion Rate in effect immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date of such share split or share combination, as the case may be;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the close of business on the record date for such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as the case may be;

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

Any adjustments made pursuant to this Section 9.07(a) shall become effective immediately after (i) the close of business on the record date for such dividend or distribution or (ii) the open of business on the effective date of such split or combination, as applicable. If any dividend or distribution described in this Section 9.07(a) is declared but not so paid or made, effective as of the date the Board of Directors determines not to pay such dividend or distribution, the new Conversion Rate shall again be adjusted to the

Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(b) If the Company distributes to all or substantially all holders of Common Stock any rights, options or warrants entitling them to purchase, for a period of not more than 45 days after the Ex-Dividend Date for the distribution, shares of 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 announcement date for such distribution, the Conversion Rate shall be adjusted based on the following formula:

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

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the record date for such distribution;

CR_1 = the new Conversion Rate in effect immediately after the close of business on the record date for such distribution;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the close of business on the record date for such distribution;

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

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

For purposes of this Section 9.07(b), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than the average of the Last Reported Sale Prices of the Common Stock for the applicable ten consecutive Trading Day period, and in determining the aggregate offering price of such shares of the Common Stock, there shall be taken into account any consideration received by the Company 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.

Any adjustment made pursuant to this Section 9.07(b) shall be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the close of business on the record date for such distribution. 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 decreased to the Conversion Rate that

would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so distributed, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if the record date for such distribution had not occurred.

(c) If the Company distributes shares of its Capital Stock, evidences of its indebtedness or 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:

(i) dividends, distributions (including share splits), rights, options or warrants as to which an adjustment is effected in Section 9.07(a), Section 9.07(b) or Section 9.07(e);

(ii) dividends or distributions covered by Section 9.07(d);

(iii) dividends or distributions that constitute Reference Property following an event described in Section 9.11; and

(iv) Spin-Offs to which the provisions set forth below in this Section 9.07(c) shall apply,

then the applicable 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 applicable Conversion Rate in effect immediately prior to the close of business on the record date for such distribution;

CR_1 = the applicable Conversion Rate in effect immediately after the close of business on the record date for such 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 distribution; and

FMV = the fair market value (as determined in good faith by the Board of Directors) of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed with respect to each outstanding share of Common Stock as of the open of business on the Ex-Dividend Date for such distribution.

Any adjustment made under the portion of this Section 9.07(c) above shall become effective immediately after the close of business on the record date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

If "FMV" as set forth above is equal to or greater than "SP0" as set forth above, in lieu of the foregoing adjustment, Holders of the Notes shall receive, in respect of each $1,000 principal amount of Notes, at the same time and upon the same terms as holders of Common Stock, the amount and kind of the Company's 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 that such Holder would have received if such Holder owned a number of shares of Common Stock equal to the applicable Conversion Rate in effect immediately prior to the close of business on the record date for the distribution.

With respect to an adjustment pursuant to this Section 9.07(c) where there has been a payment of a dividend or other distribution on the Common Stock of shares of the Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit that are, or, when issued, will be, traded or quoted on any national or regional securities exchange or other market (a "Spin-Off"), the applicable Conversion Rate shall instead be adjusted based on the following formula:

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

where,

CR_0 = the applicable Conversion Rate in effect immediately prior to the end of the Valuation Period;

CR_1 = the applicable Conversion Rate in effect immediately after the end of the Valuation Period;

FMV_0 = the average of the Last Reported Sale Prices of the Capital Stock of the Company 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 9.02(a) 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 the Ex-Dividend Date for such Spin-Off (such period, the "Valuation Period"); and

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

Such adjustment shall occur immediately after the tenth Trading Day immediately following the Ex-Dividend Date of such Spin-Off; provided that, for purposes of determining the Conversion Rate in respect of any conversion during the ten Trading Days following the Ex-Dividend Date of any Spin-Off, references within the previous paragraph related to "Spin-Offs" to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed between the Ex-Dividend Date of such Spin-Off and the relevant Conversion Date. If any such dividend or

distribution described in the preceding paragraph of this Section 9.07(c) is declared but not paid or made, the new Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

For purposes of this Section 9.07(c) (and subject in all respect to Section 9.14), rights, options or warrants distributed by the Company to all holders of its Common Stock entitling them to subscribe for or purchase shares of its Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events ("Trigger Event"), (i) are deemed to be transferred with such shares of the Common Stock, (ii) are not exercisable, and (iii) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this Section 9.07(c) (and no adjustment to the Conversion Rate under this Section 9.07(c) shall be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 9.07(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Supplemental Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event of the type described in the immediately preceding sentence with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 9.07(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.

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

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

where,

CR_0 = the applicable Conversion Rate in effect immediately prior to the close of business on the record date for such dividend or distribution;

CR_1 = the applicable Conversion Rate in effect immediately after the close of business on the record 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; and

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

An adjustment to the Conversion Rate made pursuant to this Section 9.07(d) shall become effective immediately after the close of business on the record date for the applicable dividend or distribution. If any dividend or distribution described in this Section 9.07(d) is declared but not so paid or made, the new Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

If "C" as set forth above is equal to or greater than "SP_0" as set forth above, in lieu of the foregoing adjustment, each Holder of a Note shall receive, for each $1,000 principal amount of Notes, at the same time and upon the same terms as holders of shares of Common Stock, the amount of cash that such Holder would have received if such Holder owned a number of shares of Common Stock equal to the applicable Conversion Rate in effect immediately prior to the close of business on the record date for such cash dividend or distribution.

(e) If the Company or any of its Subsidiaries makes a payment in respect of a tender or exchange offer for 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 Last Reported Sale Price of the Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the "Expiration Date"), 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 applicable Conversion Rate in effect immediately prior to the open of business on the Trading Day next succeeding the Expiration Date;

CR_1 = the applicable Conversion Rate in effect immediately after the open of business on the Trading Day next succeeding 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 shares purchased in such tender offer or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately prior to time (the "Expiration Time") such tender or exchange offer expires (prior to giving effect to such tender offer or exchange offer);

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

SP_1 = the Last Reported Sale Price of the Common Stock on the Trading Day next succeeding the Expiration Date.

The adjustment to the Conversion Rate under this Section 9.07(e) shall become effective immediately following the open of business on the Trading Day next succeeding the Expiration Date. If the Company or one of its Subsidiaries is obligated to purchase Common Stock pursuant to any such tender or exchange offer but is permanently prevented by applicable law from effecting any such purchase or all such purchases are rescinded, the new Conversion Rate shall be readjusted to be the Conversion Rate that would be in effect if such tender or exchange offer had not been made.

As used in this section, "record date" means, with respect to any dividend, distribution or other transaction or event in which the holders of the Company's Common Stock have the right to receive any cash, securities or other property or in which the Company's Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Company's Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Company's Board of Directors or a duly authorized committee thereof, statute, contract or otherwise). The "Ex-Dividend Date" means the first date on which shares of the Company's Common Stock trade on the New York Stock Exchange, or on the applicable stock exchange on which the Company's Common Stock is then traded, regular way, without the right to receive the issuance, dividend or distribution in question from the Company.

Section 9.08. When No Adjustment is Required. (a) No adjustment in the Conversion Rate shall be required unless such adjustment would require an increase or decrease of at least

1% in the Conversion Rate as last adjusted; provided, however, that any adjustments which would be required to be made but for this Section 9.08(a) shall be carried forward and taken into account in any subsequent adjustment and any carry forward amount shall be paid to the Holder upon conversion regardless of the 1% threshold. All calculations under this Article IX shall be made to the nearest cent or to the nearest 1/10,000th of a share.

(b) If the application of the foregoing formulas in Section 9.07 would result in a decrease in the Conversion Rate, no adjustment to the Conversion Rate shall be made (except on account of share combinations).

(c) No adjustment to the Conversion Rate shall be made unless as specifically set forth in Section 9.07 and Section 9.02. Without limiting the foregoing, no adjustment to the Conversion Rate need be made:

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

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

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

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

(v) for accrued and unpaid interest; or

(vi) for stock repurchase programs not constituting a tender offer under Section 9.07(e).

Section 9.09. Notice of Adjustment. Whenever the Conversion Rate or conversion privilege is required to be adjusted pursuant to this Supplemental Indenture, the Company shall promptly mail to Holders a notice of the adjustment and file with the Trustee an Officers' Certificate briefly stating the facts requiring the adjustment, the adjusted Conversion Rate and the manner of computing it. Failure to mail such notice or any defect therein shall not affect the validity of any such adjustment. Unless and until the Trustee shall receive an Officers' Certificate setting forth an adjustment of the Conversion Rate, the Trustee may assume without inquiry that the Conversion Rate has not been adjusted and that the last Conversion Rate of which it has knowledge remains in effect.

Section 9.10. Notice of Certain Transactions. In case of any:

(a) action by the Company or one of its Subsidiaries that would require an adjustment to the Conversion Rate pursuant to Section 9.07 or Section 9.14;

(b) event described in Section 9.11; or

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

then, in each case (unless notice of such event is otherwise required pursuant to another provision of this Supplemental Indenture), the Company shall cause to be filed with the Trustee and the Conversion Agent (if other than the Trustee) and to be mailed to each Holder at its address appearing on the note register, as promptly as possible but in any event at least 20 days prior to the applicable date hereinafter specified, a notice stating (i) the date on which a record is to be taken for the purpose of such action by the Company or one of its Subsidiaries or, if a record is not to be taken, the date as of which the holders of Common Stock of record are to be determined for the purposes of such action by the Company or one of its Subsidiaries, or (ii) the date on which such event, dissolution, liquidation or winding-up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such event, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such action by the Company or one of its Subsidiaries.

Section 9.11. Effect of Reclassification, Consolidation, Merger or Sale on Conversion Privilege. If any of the following events occur:

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

(b) any consolidation, merger, or combination involving the Company or the Company;

(c) any sale, conveyance or lease to any third party of all or substantially all of the property and assets of the Company, the Company and its Subsidiaries; or

(d) any statutory share exchange,

in each case as a result of which holders of Common Stock shall be entitled to receive stock, other securities or other property or assets (including cash or any combination thereof) (the "Reference Property") with respect to or in exchange for such Common Stock, the Holders of the Notes then outstanding shall be entitled thereafter to convert those Notes into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) which they would have owned or been entitled to receive upon such transaction had such notes been converted into Common Stock immediately prior to such transaction. In the event holders of Common Stock have the opportunity to elect the form of consideration to be received in such transaction, the Reference Property 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 election. The Company shall notify the Holders of the weighted average as soon as practicable after such determination is made. The Company

may not become a party to any such transaction unless its terms are consistent with the preceding. None of the foregoing provisions shall affect the right of a Holder of Notes to convert its Notes into shares of Common Stock prior to the effective date of such transaction.

The above provisions of this Section 9.11 shall similarly apply to successive recapitalizations, reclassifications, mergers, consolidations, statutory share exchanges, combinations, sales and conveyances. If this Section 9.11 applies to any event or occurrence, Section 9.07 hereof shall not apply.

Section 9.12. Trustee's Disclaimer. (a) The Trustee shall have no duty to determine, or liability in connection therewith, when an adjustment under this Article IX should be made, how it should be made or what such adjustment should be, but may accept as conclusive evidence of that fact or the correctness of any such adjustment, and shall be protected in conclusively relying upon, an Officers' Certificate, including the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 9.09. Unless and until the Trustee receives such Officers' Certificate delivered pursuant to Section 9.09, the Trustee may assume without inquiry that no such adjustment has been made and the last Conversion Rate of which the Trustee has knowledge remains in effect. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Notes, and the Trustee shall not be responsible for the Company's failure to comply with any provisions of this Article IX.

(b) The Trustee shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to this Article IX, but may accept as conclusive evidence of the correctness thereof, and shall be fully protected in conclusively relying upon, the Officers' Certificate and Opinion of Counsel, with respect thereto which the Company are obligated to file with the Trustee pursuant to this Article IX.

Section 9.13. Voluntary Increase; NYSE Compliance. (a) The Company from time to time may increase the Conversion Rate, to the extent permitted by law, by any amount for any period of at least 20 days, if the Board of Directors determines that such increase shall be in the Company's best interests. The Company may (but is not required to) make such increase in the Conversion Rate (in addition to others provided in this Supplemental Indenture) as the Board of Directors deems advisable to avoid or diminish any income tax to holders of Common Stock resulting from a dividend or distribution of stock, or rights to acquire stock, or similar event; provided, however, that in no event may the Company increase the Conversion Rate such that it causes the Conversion Price to be less than the par value of a share of Common Stock. The Company shall provide at least 15 days' written notice to Holders and the Trustee of any increase under this Section 9.13.

(b) The Company may not take any voluntary actions that would result in an adjustment to the Conversion Rate pursuant to Section 9.07 without complying, if applicable, with the stockholder approval rules of The New York Stock Exchange and any similar rule of any United States securities exchange on which the Common Stock is listed at the relevant time. In accordance with such listing standards, this restriction shall

apply at any time when the Notes are outstanding, regardless of whether the Company then has a class of securities listed on The New York Stock Exchange.

Section 9.14. Rights Plan. To the extent that the Company has a Rights Plan in effect upon conversion of the Notes into Common Stock, the Holders shall receive upon conversion of the Notes, the Rights under the Rights Plan, unless prior to conversion, the Rights have separated from the Common Stock, in which case, and only in such case, the Conversion Rate shall be adjusted at the time of separation as if the Company distributed to all or substantially all holders of Common Stock shares of its Capital Stock, evidences of indebtedness or other assets or property of ours or rights, options or warrants to acquire its Capital Stock or other securities as described in Section 9.07(c) above, subject to readjustment in the event of the expiration, termination or redemption of such Rights.

Section 9.15. Ownership Limit. Notwithstanding any other provision of this Supplemental Indenture or the Notes, no holder of Notes shall be entitled to convert such Notes for shares of Common Stock to the extent that the receipt of such shares of Common Stock would violate any of the limitations on ownership of shares of Common Stock contained in the Charter, unless such Person had been exempted from such limits in the Board of Director's sole discretion in accordance with the Charter. Any attempted conversion of Notes that would result in the issuance of shares of Common Stock in excess of such ownership limit in the absence of such an exemption shall be void to the extent of the number of shares of Common Stock that would cause such violation and the related Note or portion thereof shall be returned to the holder as promptly as practicable. The Company shall have no further obligation to the holder with respect to such voided conversion and such Notes shall be treated as if they have not been submitted for conversion. A holder of returned Notes may resubmit such Notes for conversion at a later date subject to compliance with the terms hereof and the ownership limits set forth in the Charter. The foregoing limitation on the right of holders of Notes to receive shares of Common Stock upon conversion of Notes shall terminate if the restrictions on ownership and transfer of the shares of Common Stock set forth in the Charter shall terminate or if the Board of Directors of the Company shall revoke or otherwise terminate the election by the Company to qualify as a real estate investment trust pursuant to 856(a) (or any successor thereto) of the Code.

ARTICLE X

REPURCHASE OF NOTES UPON A FUNDAMENTAL CHANGE

Section 10.01. Repurchase of Notes at Option of the Holder Upon a Fundamental Change. (a) If a Fundamental Change occurs, each Holder of a Note shall have the right, at the option of the Holder, to require the Company to repurchase all or any of such Holder's Notes at the Fundamental Change Repurchase Price, on the date specified by the Company that is not less than 20 Business Days and not more than 35 Business Days after the date of the Fundamental Change Company Notice pursuant to Section 10.01(b) (the "Fundamental Change Repurchase Date"). If the Fundamental Change Repurchase Date is after a Regular Record Date and on or prior to the corresponding Interest Payment Date, the Company shall pay accrued and unpaid interest to the Holder of a Note of record at the close of business on such Regular Record Date and the Fundamental Change Repurchase Price shall be 100% of the principal amount of the Notes to be repurchased. A Holder may require the Company to repurchase fewer than all of

such Holder's Notes only if the principal amount of Notes to be repurchased is an integral multiple of $1,000; provided that if, following the repurchase of a portion of a Note, the remaining principal amount of such Note outstanding immediately after such repurchase would be less than $2,000, then the portion of such Note so repurchased shall be reduced so that the remaining principal amount of such Note outstanding immediately after such repurchase is $2,000.

(b) On or before the 15th day after the Fundamental Change Effective Date, the Company, or, at the request of the Company, the Trustee, shall mail a written notice by first-class mail of the occurrence of the Fundamental Change, and of the repurchase right arising therefrom, to the Trustee, Paying Agent and to each Holder at the address shown in the note register of the Registrar (and to beneficial owners as required by applicable law) (the "Fundamental Change Company Notice"). Simultaneously with providing such Fundamental Change Company Notice, the Company shall publish a notice containing the information that is required in the Fundamental Change Company Notice in a newspaper of general circulation in The City of New York or publish information on a website of the Company or through such other public medium the Company may use at that time. The Fundamental Change Company Notice shall set forth the Holder's right to require the Company to purchase the Notes and specify:

(i) the events causing such Fundamental Change;

(ii) the date of such Fundamental Change;

(iii) the last date by which the Fundamental Change Repurchase Date must be delivered to elect the repurchase option pursuant to this Section 10.01;

(iv) the Fundamental Change Repurchase Price;

(v) the Fundamental Change Repurchase Date;

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

(vii) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Supplemental Indenture; and

(viii) the procedures that the Holder must follow to require the Company to repurchase its Notes under this Section 10.01.

At the Company's written request, the Trustee shall give such Fundamental Change Company Notice in the Company's name and at the Company's expense; provided that, unless otherwise agreed by the Trustee, the Company makes such request at least five Business Days prior to the date by which such Fundamental Change Company Notice must be given to the Holders in accordance with this Section 10.01; provided, further, that the text of such Fundamental Change Company Notice shall be

prepared by the Company. If any of the Notes is in the form of a Global Note, then the Company shall modify such notice to the extent necessary to accord with the Applicable Procedures relating to the purchase of Global Notes.

No failure of the Company to give the foregoing notices or defect therein shall limit any Holder's right to exercise its right to cause the Company to repurchase such Holder's Notes pursuant to this Section 10.01.

(c) Repurchases of Notes under this Article X shall be made upon delivery to the Paying Agent by the Holder of a duly completed notice (the "Fundamental Change Repurchase Notice") in the form set forth in the Form of Fundamental Change Repurchase Notice to the Form of Note attached hereto as Exhibit A, if the Notes are Definitive Notes, or in compliance with the Depositary's procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case on or before the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date.

Each Fundamental Change Repurchase Notice shall state:

(i) in the case of Definitive Notes, the certificate numbers of the Notes to be delivered for repurchase;

(ii) the portion of the principal amount of the Notes to be repurchased, which must be in an integral multiple of $1,000 (provided that any portion of a holders' Notes not to be repurchased is in a minimum principal amount of at least $2,000); and

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

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

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 10.01 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 10.02.

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

Section 10.02. Withdrawal of Fundamental Change Repurchase Notice. A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Corporate Trust Office of the Paying Agent in accordance with this Section 10.02 at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date specifying:

(a) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted;

(b) if Definitive Notes have been issued, the certificate number of the Note in respect of which such notice of withdrawal is being submitted; and

(c) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in an integral multiple of $1,000 (provided that any portion of a holders' Notes not to be repurchased is in a minimum principal amount of at least $2,000);

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

Section 10.03. Deposit of Fundamental Change Repurchase Price. (a) The Company shall deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 2.04) on or prior to 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date, as the case may be, an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Fundamental Change Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase will be made on the later of (i) the Fundamental Change Repurchase Date with respect to such Note (provided the Holder has satisfied the conditions in Section 10.01) 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 10.01, by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the note register; provided, however, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee.

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

Section 10.04. Repayment to the Company. To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 10.03 exceeds the aggregate Fundamental Change Repurchase Price of the Notes or portions thereof that the Company is obligated to repurchase pursuant to this Article X, then promptly after the relevant Fundamental Change Repurchase Date the Paying Agent shall return any such excess cash to the Company.

Section 10.05. Notes Repurchased in Part. Upon surrender of any Note that is to be repurchased only in part in accordance with Section 10.01, and promptly after the Fundamental

Change Repurchase Date, 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 such authorized denomination or denominations as may be requested by such Holder (which must be equal to $2,000 principal amount or greater integral multiples of $1,000), in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Note so surrendered that is not repurchased.

Section 10.06. Covenant to Comply with Applicable Laws Upon Repurchase of Notes. In connection with any repurchase offer pursuant to this Article X, the Company shall, if required:

(a) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act;

(b) file a Schedule TO or any successor or similar schedule; and

(c) otherwise comply with all federal and state securities laws in connection with any offer by the Company to repurchase the Notes;

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

ARTICLE XI

MISCELLANEOUS

Section 11.01. Trust Indenture Act Controls. If any provision of this Supplemental Indenture limits, qualifies or conflicts with the duties imposed by Trust Indenture Act §318(c), the imposed duties shall control.

Section 11.02. Notices. Any notice or communication by the Company or the Trustee to the others is duly given if in writing and delivered in Person or mailed by first class mail (regular, registered or certified, return receipt requested), telecopier or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company:

iStar Financial Inc.
1114 Avenue of the Americas, 39th Floor
New York, NY 10036
Facsimile: (212) 930-9400
Attention: Chief Executive Officer

With a copy to:

Clifford Chance US LLP
31 West 52nd Street
New York, NY 10019
Facsimile: (212) 878-8375
Attention: Kathleen L. Werner, Esq.

If to the Trustee:

U.S. Bank National Association
100 Wall Street, 16th Floor
New York, NY 10005
Facsimile: (212) 809-4993
Attention: Corporate Trust Services

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

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in Trust Indenture Act §313(c), to the extent required by the Trust Indenture Act. 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 within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

Section 11.03. Communication by Holders of Notes with Other Holders of Notes. Holders may communicate pursuant to Trust Indenture Act §312(b) with other Holders with respect to their rights under this Supplemental Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of Trust Indenture Act §312(c).

Section 11.04. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take any action under this Supplemental Indenture, the Company shall furnish to the Trustee:

(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Supplemental Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 11.05. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Supplemental Indenture (other than a certificate provided pursuant to Trust Indenture Act §314(a)(4)) shall comply with the provisions of Trust Indenture Act §314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

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

Section 11.06. Rules by Trustee and Agents. The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 11.07. No Personal Liability of Directors, Officers, Employees and Stockholders. No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, shall have any liability for any obligations of the Company under the Notes or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 11.08. Governing Law. THIS SUPPLEMENTAL INDENTURE AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 11.09. No Adverse Interpretation of Other Agreements. This Supplemental Indenture may not be used to interpret any other indenture, loan or debt agreement of the

Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Supplemental Indenture.

Section 11.10. Successors. All agreements of the Company in this Supplemental Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 11.11. Severability. In case any provision in this Supplemental Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 11.12. Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 11.13. Table of Contents, Headings, etc. The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 11.14. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 11.15. USA PATRIOT Act. The parties hereto acknowledge that, in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that

identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Supplemental Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

[Signatures on following page]

Dated as of the date first set forth above.

iSTAR FINANCIAL INC.

By: /s/ David M. DiStaso
Name: David M. DiStaso
Title: Chief Financial Officer

U.S. BANK NATIONAL ASSOCIATION,
not in its individual capacity, but solely as Trustee

By: /s/ Gagendra Hiralal
Name: Gagendra Hiralal
Title: Assistant Vice President

EXHIBIT A

Global Note Legend

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS OWNER AND HOLDER OF THIS CONVERTIBLE NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE ISSUER 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 THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS TO NOMINEES OF THE DEPOSITORY TRUST COMPANY, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE TWO OF THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

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 (AND ANY BENEFICIAL INTEREST HEREIN OR THEREIN) MAY NOT BE OFFERED, RESOLD OR OTHERWISE TRANSFERRED, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT;

(C) TO A PERSON THAT YOU REASONABLY BELIEVE TO BE A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT; OR

(D) 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 DATE: (A) THAT IS AT LEAST ONE YEAR AFTER THE LAST DATE OF ORIGINAL ISSUANCE OF THE NOTES; AND (B) ON WHICH THE COMPANY HAS INSTRUCTED THE TRUSTEE THAT THIS LEGEND WILL NO LONGER APPLY IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE INDENTURE.

PRIOR TO ANY TRANSFER PURSUANT TO THE FOREGOING CLAUSE (D), 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.

NO AFFILIATE OF THE COMPANY MAY PURCHASE OR OTHERWISE ACQUIRE NOTES.

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 (AND ANY BENEFICIAL INTEREST HEREIN) MAY NOT BE OFFERED, RESOLD, OR OTHERWISE TRANSFERRED, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT; 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 DATE: (A) THAT IS AT LEAST ONE YEAR AFTER THE LAST DATE OF ORIGINAL ISSUANCE OF THE COMPANY'S 1.50% CONVERTIBLE SENIOR NOTES DUE 2016; AND (B) ON WHICH THE COMPANY HAS INSTRUCTED THE TRANSFER AGENT THAT THIS LEGEND WILL NO LONGER APPLY, IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE INDENTURE FOR THE NOTES.

PRIOR TO ANY TRANSFER PURSUANT TO THE FOREGOING CLAUSE (C), 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.

EXHIBIT B

[Face of Note]

[*Insert the Global Note Legend and/or the Restricted Securities Legend, if applicable pursuant to the provisions of the Supplemental Indenture*]

CUSIP: 45031U BV2
ISIN: US45031UBV26

1.50% Convertible Senior Notes due 2016

No. $[ ]

iSTAR FINANCIAL INC.

promises to pay to [if a Global Note: CEDE & Co.] [if a Definitive Note:], or registered assigns, the principal sum of $[ ] [if a Global Note: (as revised by the Schedule of Exchanges of Interests in the Global Note attached hereto)] on November 15, 2016.

Interest Payment Dates: May 15 and November 15, commencing May 15, 2014

Record Dates: May 1 and November 1

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

iSTAR FINANCIAL INC.

By: _____
Name:
Title:

This is one of the Notes referred to
in the within-mentioned Supplemental Indenture:

U.S. BANK NATIONAL ASSOCIATION
as Trustee

By: _____
Authorized Signatory
Dated:

[Back of Note]
1.50% Convertible Senior Notes due 2016

Capitalized terms used herein shall have the meanings assigned to them in the Supplemental Indenture referred to below unless otherwise indicated.

1. Interest. iStar Financial Inc., a Maryland corporation (the "Company"), promises to pay interest on the principal amount of this Note at the rate of 1.50% per annum from November 19, 2013 until Maturity (or the Fundamental Change Repurchase Date, as applicable). The Company will pay interest semi-annually in arrears on November 15 and May 15 of each year, commencing May 15, 2014, or if any such day is not a Business Day, on the next succeeding Business Day (each an "Interest Payment Date"). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from November 19, 2013. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal from time to time on demand at the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. Method of Payment. The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the November 1 or May 1 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Supplemental Indenture with respect to defaulted interest. The Notes will be payable as to principal and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and provided that payment by wire transfer of immediately available funds will be required with respect to principal of and interest on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States as at the time of payment is legal tender for payment of public and private debts. The Company reserves the right to pay interest to Holders of Notes by check mailed to such Holders at their registered addresses or by wire transfer to Holders of at least $5.0 million aggregate principal amount of Notes.

3. Paying Agent and Registrar. Initially, U.S. Bank National Association, the Trustee under the Supplemental Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. Indenture. The Company issued the Notes under an Indenture, dated as of February 5, 2001 (the "Base Indenture"), as amended and supplemented, including as supplemented by the Supplemental Indenture, dated as of November 19, 2013 (the "Supplemental Indenture" and together with the Base Indenture, the "Indenture"), between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those

made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes are obligations of the Company. The Company is issuing $200,000,000 in aggregate principal amount of Notes on the Issue Date and may issue Additional Notes in accordance with the terms of the Indenture.

5. Repurchase Upon Fundamental Change. Upon the occurrence of a Fundamental Change, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price. However, a Holder may only require the Company to repurchase fewer than all of such Holder's Notes if the principal amount of Notes to be repurchased is an integral multiple of $1,000.

6. Conversion. Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, prior to the close of business on the Business Day immediately preceding the Maturity Date, to convert any Notes or portion thereof, into shares of Common Stock (together with cash in lieu of fractional shares) at an Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture; provided that a Holder may only convert than all of such Holder's Notes if the principal amount of Notes to be converted is an integral multiple of $1,000.

7. Mandatory Redemption. The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

8. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of $2,000 and integral multiples of $1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Supplemental Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company and the Trustee may require a Holder to pay any taxes and fees required by law or permitted by the Supplemental Indenture.

9. Persons Deemed Owners. The registered Holder of a Note may be treated as its owner for all purposes.

10. Amendment, Supplement and Waiver. Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the written consent of the Holders of at least a majority in principal amount of the Notes then outstanding, voting as a single class, and any existing Default or compliance with any provision of the Indenture or the Notes may be waived with the written consent of the Holders of a majority in principal amount of the Notes then outstanding, voting as a single class. Without the consent of any Holder of a Note, the Indenture or the Notes may be amended or supplemented: (a) to cure any ambiguity, defect or inconsistency that does not adversely affect in any material respect the rights hereunder of any Holder of the Notes under the Indenture; (b) to provide for uncertificated Notes in addition to or in place of certificated Notes; (c) to alter the provisions of the Indenture to provide for the

assumption of the Company's obligations to the Holders by a successor to the Company pursuant to Article IV of the Supplemental Indenture; (d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect in any material respect the rights hereunder of any Holder of the Notes; (e) to conform the provisions of the Supplemental Indenture and the Notes to the "Description of the Notes" section of the Offering Memorandum; (f) to comply with requirements of the Commission in connection with the qualification of the Indenture under the Trust Indenture Act; (g) to comply with the rules of any applicable depositary; (h) to evidence and provide for the acceptance of appointment under the Supplemental Indenture of a successor Trustee; (i) to add guarantees; (j) to provide for conversion rights of Holders if any recapitalization, reclassification or change of Common Stock or any consolidation, merger or sale, conveyance or lease of all or substantially all of the Company's assets or a statutory share exchange occurs; or (k) to increase the Conversion Rate, provided that the increase will not adversely affect the interests of the Holders in any material respect.

11. Defaults and Remedies. Events of Default are set forth in the Supplemental Indenture. If any Event of Default occurs with respect to the Notes and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in writing in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes or delivery of shares of Common Stock and/or Reference Property upon a conversion. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Supplemental Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

12. Trustee Dealings with Company. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

13. No Recourse Against Others. A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

14. Authentication. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

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

16. CUSIP Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes. No representation is made as to the accuracy of such numbers either as printed on the Notes and reliance may be placed only on the other identification numbers placed thereon.

17. Additional Interest. Holders shall be entitled to payments of Additional Interest to the extent set forth in the Indenture. References herein to "interest" include any Additional Interest.

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

The Company will furnish to any Holder upon written request and without charge a copy of the Supplemental Indenture. Requests may be made to:

iStar Financial Inc.
1114 Avenue of the Americas, 39th Floor
New York, NY 10036
Attention: Investor Relations

FORM OF NOTICE OF CONVERSION

To convert this Note into shares of Common Stock of the Company, check the box o

To convert only part of this Note, state the principal amount to be converted (which must be $2,000 or an integral multiple of $1,000 in excess thereof):

If you want any stock certificate made out in another Person's name fill in the form below:

(Insert the other Person's soc. sec. or tax ID no.)

(Print or type other Person's name, address and zip code)

Date: _____ Your Signature: _____

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

Signature Guaranteed

_____

Participant in a Recognized Signature
Guarantee Medallion Program

By: _____

Authorized Signatory

FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from iStar Financial Inc. (the "Company") as to the occurrence of a Fundamental Change with respect to the Company and hereby directs the Company to pay, or cause the Trustee to pay, it or an amount in cash equal to 100% of the entire principal amount, or the portion thereof (which must be $2,000 or an integral multiple of $1,000 in excess thereof) below designated, to be repurchased plus interest accrued to, but excluding, the Fundamental Change Repurchase Date, as provided in the Indenture.

Dated:

_____

_____

Signature(s)

Signature(s) must be guaranteed by an Eligible Guarantor Institution with membership in an approved signature guarantee program pursuant to Rule 17Ad-15 under the Securities Exchange Act of 1934.

_____

Signature Guaranteed

Principal amount to be repurchased (at least in U.S. $2,000 or an integral multiple of $1,000 excess thereof): _____

Remaining principal amount to be repurchased (at least U.S. $2,000 or an integral multiple of $1,000 in excess thereof): _____

By: _____

Authorized Signatory

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: _____

(Insert assignee's legal name)

(Insert assignee's Soc. Sec. or tax I.D. no.)

(Print or type assignee's name, address and zip code)

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

Date: _____ Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest 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 Note Custodian

* To be included if Note is a Global Note.

EXHIBIT C

FORM OF TRANSFER CERTIFICATE

1.5% Convertible Senior Notes due 2016

Transfer Certificate

In connection with any transfer of any of the Notes within the period prior to the expiration of the holding period applicable to sales thereof under Rule 144 under the Securities Act of 1933, as amended (the "Securities Act") (or any successor provision), the undersigned registered owner of this Note hereby certifies with respect to $ principal amount of the above-captioned Notes presented or surrendered on the date hereof (the "Surrendered Notes") for registration of transfer, or for exchange or conversion where the securities issuable upon such exchange or conversion are to be registered in a name other than that of the undersigned registered owner (each such transaction being a "transfer"), that such transfer complies with the restrictive legend set forth on the face of the Surrendered Notes for the reason checked below:

o A transfer of the Surrendered Notes is made to the Company or any of its Subsidiaries; or

o The transfer of the Surrendered Notes complies with Rule 144A under the Securities Act; or

o The transfer of the Surrendered Notes is pursuant to an effective registration statement under the Securities Act; or

o The transfer of the Surrendered Notes is pursuant to another available exemption from the registration requirement of the Securities Act.

Date: _____

By: _____

(If the registered owner is a corporation, partnership or fiduciary, the title of the Person signing on behalf of such registered owner must be stated.)

Signature Guaranteed

_____

Participant in a Recognized Signature

Guarantee Medallion Program

By: _____

Authorized Signatory

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS OWNER AND HOLDER OF THIS CONVERTIBLE NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE ISSUER 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 THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS TO NOMINEES OF THE DEPOSITORY TRUST COMPANY, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE TWO OF THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

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 (AND ANY BENEFICIAL INTEREST HEREIN OR THEREIN) MAY NOT BE OFFERED, RESOLD OR OTHERWISE TRANSFERRED, EXCEPT: (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF; (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT; (C) TO A PERSON THAT YOU REASONABLY BELIEVE TO BE A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT; OR (D) 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 DATE: (A) THAT IS AT LEAST ONE YEAR AFTER THE LAST DATE OF ORIGINAL ISSUANCE OF THE NOTES; AND (B) ON WHICH THE COMPANY HAS INSTRUCTED THE TRUSTEE THAT THIS LEGEND WILL NO LONGER APPLY IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE INDENTURE.

PRIOR TO ANY TRANSFER PURSUANT TO THE FOREGOING CLAUSE (D), 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.

NO AFFILIATE OF THE COMPANY MAY PURCHASE OR OTHERWISE ACQUIRE NOTES.

CUSIP: 45031U BV2
ISIN: US45031UBV26

RULE 144A GLOBAL NOTE

1.50% Convertible Senior Notes due 2016

No. 1 $200,000,000

iSTAR FINANCIAL INC.

promises to pay to CEDE & Co., or registered assigns, the principal sum of $200,000,000 (as revised by the Schedule of Exchanges of Interests in the Global Note attached hereto) on November 15, 2016.

Interest Payment Dates: May 15 and November 15, commencing May 15, 2014

Record Dates: May 1 and November 1

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

iSTAR FINANCIAL INC.

By: /s/ David DiStaso
Name: David DiStaso
Title: Chief Financial Officer

This is one of the Notes referred to
in the within-mentioned Supplemental Indenture:

U.S. BANK NATIONAL ASSOCIATION
as Trustee

By: /s/ Gagendra Hiralal
Authorized Signatory
Dated: November 19, 2013

[Back of Note]

1.50% Convertible Senior Notes due 2016

Capitalized terms used herein shall have the meanings assigned to them in the Supplemental Indenture referred to below unless otherwise indicated.

1. Interest. iStar Financial Inc., a Maryland corporation (the "Company"), promises to pay interest on the principal amount of this Note at the rate of 1.50% per annum from November 19, 2013 until Maturity (or the Fundamental Change Repurchase Date, as applicable). The Company will pay interest semi-annually in arrears on November 15 and May 15 of each year, commencing May 15, 2014, or if any such day is not a Business Day, on the next succeeding Business Day (each an "Interest Payment Date"). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from November 19, 2013. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal from time to time on demand at the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. Method of Payment. The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the November 1 or May 1 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Supplemental Indenture with respect to defaulted interest. The Notes will be payable as to principal and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and provided that payment by wire transfer of immediately available funds will be required with respect to principal of and interest on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States as at the time of payment is legal tender for payment of public and private debts. The Company reserves the right to pay interest to Holders of Notes by check mailed to such Holders at their registered addresses or by wire transfer to Holders of at least $5.0 million aggregate principal amount of Notes.

3. Paying Agent and Registrar. Initially, U.S. Bank National Association, the Trustee under the Supplemental Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. Indenture. The Company issued the Notes under an Indenture, dated as of February 5, 2001 (the "Base Indenture"), as amended and supplemented, including as supplemented by the Supplemental Indenture, dated as of November 19, 2013 (the "Supplemental Indenture" and together with the Base Indenture, the "Indenture"), between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes are obligations of the Company. The Company is issuing $200,000,000 in aggregate principal amount of Notes on the Issue Date and may issue Additional Notes in accordance with the terms of the Indenture.

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5. Repurchase Upon Fundamental Change. Upon the occurrence of a Fundamental Change, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price. However, a Holder may only require the Company to repurchase fewer than all of such Holder's Notes if the principal amount of Notes to be repurchased is an integral multiple of $1,000.

6. Conversion. Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, prior to the close of business on the Business Day immediately preceding the Maturity Date, to convert any Notes or portion thereof, into shares of Common Stock (together with cash in lieu of fractional shares) at an Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture; provided that a Holder may only convert than all of such Holder's Notes if the principal amount of Notes to be converted is an integral multiple of $1,000.

7. Mandatory Redemption. The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

8. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of $2,000 and integral multiples of $1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Supplemental Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company and the Trustee may require a Holder to pay any taxes and fees required by law or permitted by the Supplemental Indenture.

9. Persons Deemed Owners. The registered Holder of a Note may be treated as its owner for all purposes.

10. Amendment, Supplement and Waiver. Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the written consent of the Holders of at least a majority in principal amount of the Notes then outstanding, voting as a single class, and any existing Default or compliance with any provision of the Indenture or the Notes may be waived with the written consent of the Holders of a majority in principal amount of the Notes then outstanding, voting as a single class. Without the consent of any Holder of a Note, the Indenture or the Notes may be amended or supplemented: (a) to cure any ambiguity, defect or inconsistency that does not adversely affect in any material respect the rights hereunder of any Holder of the Notes under the Indenture; (b) to provide for uncertificated Notes in addition to or in place of certificated Notes; (c) to alter the provisions of the Indenture to provide for the assumption of the Company's obligations to the Holders by a successor to the Company pursuant to Article IV of the Supplemental Indenture; (d) to make

any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect in any material respect the rights hereunder of any Holder of the Notes; (e) to conform the provisions of the Supplemental Indenture and the Notes to the "Description of the Notes" section of the Offering Memorandum; (f) to comply with requirements of the Commission in connection with the qualification of the Indenture under the Trust Indenture Act; (g) to comply with the rules of any applicable depositary; (h) to evidence and provide for the acceptance of appointment under the Supplemental Indenture of a successor Trustee; (i) to add guarantees; (j) to provide for conversion rights of Holders if any recapitalization, reclassification or change of Common Stock or any consolidation, merger or sale, conveyance or lease of all or substantially all of the Company's assets or a statutory share exchange occurs; or (k) to increase the Conversion Rate, provided that the increase will not adversely affect the interests of the Holders in any material respect.

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11. Defaults and Remedies. Events of Default are set forth in the Supplemental Indenture. If any Event of Default occurs with respect to the Notes and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in writing in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes or delivery of shares of Common Stock and/or Reference Property upon a conversion. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Supplemental Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

12. Trustee Dealings with Company. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

13. No Recourse Against Others. A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

14. Authentication. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

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

16. CUSIP Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes. No representation is made as to the accuracy of such numbers either as printed on the Notes and reliance may be placed only on the other identification numbers placed thereon.

17. Additional Interest. Holders shall be entitled to payments of Additional Interest to the extent set forth in the Indenture. References herein to "interest" include any Additional Interest.

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

The Company will furnish to any Holder upon written request and without charge a copy of the Supplemental Indenture. Requests may be made to:

iStar Financial Inc.
1114 Avenue of the Americas, 39th Floor
New York, NY 10036
Attention: Investor Relations

FORM OF NOTICE OF CONVERSION

To convert this Note into shares of Common Stock of the Company, check the box o

To convert only part of this Note, state the principal amount to be converted (which must be $2,000 or an integral multiple of $1,000 in excess thereof):

If you want any stock certificate made out in another Person's name fill in the form below:

(Insert the other Person's soc. sec. or tax ID no.)

(Print or type other Person's name, address and zip code)

Date: _____ Your Signature: _____

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

Signature Guaranteed

_____

Participant in a Recognized Signature
Guarantee Medallion Program

By: _____

Authorized Signatory

FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from iStar Financial Inc. (the "Company") as to the occurrence of a Fundamental Change with respect to the Company and hereby directs the Company to pay, or cause the Trustee to pay, it or an amount in cash equal to 100% of the entire principal amount, or the portion thereof (which must be $2,000 or an integral multiple of $1,000 in excess thereof) below designated, to be repurchased plus interest accrued to, but excluding, the Fundamental Change Repurchase Date, as provided in the Indenture.

Dated:

_____

_____

Signature(s)

Signature(s) must be guaranteed by an Eligible Guarantor Institution with membership in an approved signature guarantee program pursuant to Rule 17Ad-15 under the Securities Exchange Act of 1934.

_____

Signature Guaranteed

Principal amount to be repurchased (at least U.S. $2,000 or an integral multiple of $1,000 in excess thereof): _____

Remaining principal amount to be repurchased (at least U.S. $2,000 or an integral multiple of $1,000 in excess thereof): _____

By: _____

Authorized Signatory

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: _____

(Insert assignee's legal name)

_____

(Insert assignee's Soc. Sec. or tax I.D. no.)

_____

_____

_____

(Print or type assignee's name, address and zip code)

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

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest 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 Note Custodian

Exhibit 99.1

iStar Financial Inc.
1114 Avenue of the Americas
New York, NY 10036
(212) 930-9400
investors@istarfinancial.com

News Release

COMPANY CONTACTS **[NYSE: SFI]**

David M. DiStaso
Chief Financial Officer

Jason Fooks
Investor Relations

iStar Launches Offering of Convertible Senior Notes and Concurrent Share Repurchase

NEW YORK — November 13, 2013 — iStar Financial Inc. (NYSE: SFI) announced today that it has launched a private offering, subject to market and other conditions, of $175 million of Convertible Senior Notes due November 15, 2016, plus up to an additional $25 million of Convertible Senior Notes if the initial purchasers exercise their option to purchase additional notes in full. The Company intends to use the net proceeds of the offering, along with available cash on hand, to redeem its $201 million aggregate principal amount of 5.70% unsecured Senior Notes due March 2014. The Company also indicated that it intends to repurchase up to 1.7 million shares of its common stock with cash on hand concurrent with the offering of the notes in privately negotiated transactions with purchasers of the notes.

This communication does not constitute an offer to purchase or sell any securities, nor does it constitute the solicitation of an offer to purchase or sell any securities. This communication also shall not constitute an offer, solicitation or sale in any jurisdiction in which such offer, solicitation or sale would be unlawful. The notes are being offered and sold only to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"). The notes and the shares of iStar common stock issuable upon conversion of the notes 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 except pursuant to an applicable exemption from registration requirements of the Securities Act and applicable state securities laws.

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Exhibit 99.2

iStar Financial Inc.
1114 Avenue of the Americas
New York, NY 10036
(212) 930-9400
investors@istarfinancial.com

News Release

COMPANY CONTACTS **[NYSE: SFI]**

David M. DiStaso
Chief Financial Officer

Jason Fooks
Investor Relations

iStar Announces Pricing of Convertible Senior Notes and Concurrent Share Repurchase

NEW YORK — November 13, 2013 — iStar Financial Inc. (NYSE: SFI) announced today that it has agreed to sell $175 million aggregate principal amount of 1.50% Convertible Senior Notes due November 15, 2016. The Company has also granted the initial purchasers a 30-day option to purchase up to an additional $25 million aggregate principal amount of the notes on the same terms and conditions. The Company intends to use the net proceeds of the offering, along with available cash on hand, to redeem its $201 million aggregate principal amount of 5.70% unsecured Senior Notes due March 2014. In addition, the Company agreed to repurchase approximately 1.7 million shares of its common stock with cash on hand, concurrent with the offering of the notes, in privately negotiated transactions with purchasers of the notes. The sale is expected to close on November 19, 2013, subject to customary closing conditions.

The notes will bear interest at a fixed rate of 1.50% per year, payable semiannually in arrears on May 15 and November 15 of each year, beginning on May 15, 2014. The notes will be convertible into shares of iStar's common stock, based on an initial conversion rate of 57.8369 shares of iStar's common stock per $1,000 principal amount of notes, which is equivalent to an initial conversion price of $17.29 per share of common stock and represents a premium of 40% above the last reported sale price of iStar's common stock on the New York Stock Exchange on November 13, 2013 of $12.35 per share. The conversion rate and conversion price are subject to adjustment in certain events, such as distributions of dividends or stock splits.

This communication does not constitute an offer to purchase or sell any securities, nor does it constitute the solicitation of an offer to purchase or sell any securities. This communication also shall not constitute an offer, solicitation or sale in any jurisdiction in which such offer, solicitation or sale would be unlawful. The notes are being offered and sold only to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"). The notes and the shares of iStar common stock issuable upon conversion of the notes 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 except pursuant to an applicable exemption from registration requirements of the Securities Act and applicable state securities laws.

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