

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-3
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Dawson Geophysical Company

(Exact name of registrant as specified in its charter)

Texas
*(State or other jurisdiction of
incorporation or organization)*

508 West Wall, Suite 800
Midland, Texas 79701
(432) 684-3000
*(Address, including zip code, and telephone
number, including area code, of
registrant's principal executive offices)*

75-0970548
*(I.R.S. Employer
Identification No.)*

L. Decker Dawson
Chief Executive Officer
Dawson Geophysical Company
508 West Wall, Suite 800
Midland, Texas 79701
(432) 684-3000
*(Name, address, including zip code, and
telephone number, including area code,
of agent for service)*

Copy to:
Neel Lemon
Sarah Rechter
Baker Botts L.L.P.
2001 Ross Avenue, Suite 700
Dallas, Texas 75201-2980
Telephone: (214) 953-6500
Facsimile: (214) 953-6503

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are to be offered pursuant to dividend or interest reinvestment plans, please check the following box. o

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"), other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. o

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price (1)(2)	Amount of Registration Fee
Senior Debt Securities		
Subordinated Debt Securities		
Preferred Stock, par value \$1.00 per share		
Common Stock, par value \$0.33 1/3 per share (3)		
Warrants		
Total	\$ 75,000,000	\$ 8,828

- (1) Estimated solely for the purpose of computing the registration fee pursuant to Rule 457(o) under the Securities Act and exclusive of accrued interest, distributions and dividends, if any. In no event will the aggregate initial offering price of all securities issued from time to time pursuant to this Registration Statement exceed \$75,000,000. If any debt securities are issued at an original issue discount, then the offering price shall be in such greater principal amount as shall result in an aggregate initial offering price of up to \$75,000,000, less the dollar amount of any securities previously issued hereunder. Any securities registered hereunder may be sold separately or as units with other securities registered hereunder or other securities.
- (2) There is being registered hereunder such indeterminate number or amount of senior and subordinated debt securities, preferred stock, common stock and warrants as may from time to time be issued at indeterminate prices and as may be issuable upon conversion, redemption, exchange, exercise or settlement of any securities registered hereunder, including under any applicable antidilution provisions.
- (3) Each share of common stock includes one right to purchase 1/100th of a share of Series A Junior Participating Preferred Stock under the Registrant's Rights Agreement. No separate consideration is payable for the preferred share purchase rights. The registration fee for these securities is included in the fee for the common stock.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion, dated August 5, 2005

PROSPECTUS

\$75,000,000

Dawson Geophysical Company



Senior Debt Securities
Subordinated Debt Securities
Common Stock
Preferred Stock
Warrants

We will provide the specific terms of the securities in supplements to this prospectus. You should read this prospectus and any supplement carefully before you invest. Our common stock is quoted on The Nasdaq National Market under the symbol "DWSN."

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined whether this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 2005.

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ABOUT THIS PROSPECTUS

In this prospectus, unless we state otherwise or the context clearly indicates otherwise, all references to "we," "us," "our," or "Dawson" refer to Dawson Geophysical Company.

This prospectus is part of a registration statement that we have filed with the Securities and Exchange Commission using a "shelf" registration process. Using this process, we may offer any combination of the securities described in this prospectus in one or more offerings with a total initial offering price of up to \$75,000,000. This prospectus provides you with a general description of the securities we may offer. Each time we use this prospectus to offer securities, we will provide a prospectus supplement and, if applicable, a pricing supplement that will describe the specific terms of that offering. The prospectus supplement and any pricing supplement may also add, update or change information contained or incorporated by reference in this prospectus. Please

carefully read this prospectus, the prospectus supplement and any pricing supplement together with the information contained in the documents we refer to under the heading “Where You Can Find More Information.”

You should rely only on the information we have provided or incorporated by reference in this prospectus, the prospectus supplement and any pricing supplement. We have not authorized any person, including any salesman or broker, to provide you with additional or different information. We are not making an offer of these securities in any jurisdiction where the offer is not permitted.

DAWSON GEOPHYSICAL COMPANY

We are the leading provider of onshore seismic data acquisition services in the United States as measured by the number of active data crews. Founded in 1952, we acquire and process 2-D, 3-D and multi-component seismic data for our clients, ranging from major oil and gas companies to independent oil and gas operators as well as providers of multi-client data libraries. Our clients rely on seismic data to identify areas where subsurface conditions are favorable for the accumulation of hydrocarbons, as well as to optimize the development and production of hydrocarbon reservoirs. Substantially all of our revenues are derived from 3-D seismic data acquisition operations.

We operate eleven 3-D seismic data acquisition crews in the lower 48 states of the United States and a seismic data processing center. We market and supplement our services from our headquarters in Midland, Texas and from additional offices in Houston, Denver and Oklahoma City. Our geophysicists perform data processing in our Midland and Houston offices and our field operations are supported from our field office facility in Midland.

Additional information concerning our business and operations is incorporated by reference herein from our other filings made with the Securities and Exchange Commission (the "SEC") and may be included in applicable prospectus supplements and any pricing supplements.

We are a Texas corporation with our principal executive offices located at 508 West Wall, Suite 800, Midland, Texas 79701. Our telephone number at such address is (432) 684-3000.

FORWARD-LOOKING INFORMATION

This prospectus, including the information we incorporate by reference, contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Statements that are not historical facts (including any statements concerning plans and objectives of management for future operations or economic performance, or assumptions or forecasts related thereto) are forward-looking statements. These statements can be identified by the use of forward-looking terminology including "forecast," "may," "believe," "will," "expect," "anticipate," "estimate," "continue" or other similar words. These statements discuss future expectations, contain projections of results of operations or of financial condition or state other "forward-looking" information. We and our representatives may from time to time make other oral or written statements that are also forward-looking statements.

These forward-looking statements are made based upon our management's current plans, expectations, estimates, assumptions and beliefs concerning future events impacting us and therefore involve a number of risks and uncertainties. We caution that forward-looking statements are not guarantees and that actual results could differ materially from those expressed or implied in the forward-looking statements as a result of certain factors, including but not limited to dependence upon energy industry spending, the volatility of oil and gas prices, weather interruptions, ability to obtain land access rights of way and the availability of capital resources. Most of these factors are beyond our control.

Because these forward-looking statements involve risks and uncertainties, actual results could differ materially from those expressed or implied by these forward looking statements for a number of important reasons, including those described under "Risk Factors" in our most recent annual report on Form 10-K.

USE OF PROCEEDS

Unless we inform you otherwise in the prospectus supplement or any pricing supplement, we expect to use the net proceeds from the sale of securities offered by his prospectus for general corporate purposes, including repayment or refinancing of debt, further expansion of our seismic data operations and other maintenance capital requirements. Pending any specific application, we may initially invest funds in short-term marketable securities.

RATIO OF EARNINGS TO FIXED CHARGES

We have presented in the table below our historical ratio of earnings to fixed charges for the periods shown.

	Six Months Ended March 31, 2005	Years Ended September 30,				
		2004	2003	2002	2001	2000
Ratio of earnings to fixed charges	80.52x	N/A	N/A	N/A	N/A	N/A

We have computed the ratio of earnings to fixed charges by dividing earnings by fixed charges. For this purpose, “earnings” consist of pretax income from continuing operations and fixed charges, less interest capitalized. “Fixed charges” consist of interest expensed and capitalized.

We had no outstanding debt as of the end of any period presented. In addition, we had no preferred stock outstanding for any period presented, and accordingly, the ratio of earnings to combined fixed charges and preferred stock dividends is the same as the ratio of earnings to fixed charges.

DESCRIPTION OF DEBT SECURITIES

The debt securities covered by this prospectus will be our general unsecured obligations. The debt securities will be either senior debt securities or subordinated debt securities. We will issue the debt securities under one or more separate indentures between us and a trustee we will name in the prospectus supplement. Senior debt securities will be issued under a senior indenture, and subordinated debt securities will be issued under a subordinated indenture. We refer to the senior indenture and the subordinated indenture collectively as the indentures. The indentures will be substantially identical, except for provisions relating to subordination.

We have summarized material provisions of the indentures and the debt securities below. You should read the indentures for more details regarding the provisions we describe below and for other provisions that may be important to you. We have filed the forms of the indentures with the SEC as exhibits to the registration statement of which this prospectus forms a part, and you should read the indentures for provisions that may be important to you. Please read “Where You Can Find More Information.”

General

Neither indenture limits the amount of debt securities that may be issued under that indenture, and neither limits the amount of other unsecured debt or securities that we may issue. We may issue debt securities under the indentures from time to time in one or more series, each in an amount authorized prior to issuance. No securities are outstanding under the indentures.

The senior debt securities will constitute our senior unsecured indebtedness and will rank equally in right of payment with all of our other unsecured and unsubordinated debt and senior in right of payment to all of our subordinated indebtedness. The senior debt securities will be effectively subordinated to, and thus have a junior position to, our secured indebtedness with respect to the assets securing that indebtedness. The subordinated debt securities will rank junior to all of our senior indebtedness and may rank equally with or senior to other subordinated indebtedness we may issue from time to time.

Unless we inform you otherwise in the prospectus supplement, the indentures and the debt securities will not contain:

- any covenants or other provisions designed to protect holders of the debt securities in the event we participate in a highly leveraged transaction or upon a change of control; or
- provisions that give holders of the debt securities the right to require us to repurchase their securities in the event of a decline in our credit rating for any reason, including as a result of a takeover, recapitalization or similar restructuring or otherwise.

Terms

The prospectus supplement relating to any series of debt securities being offered will include specific terms relating to the offering. These terms will include some or all of the following:

- whether the debt securities will be senior or subordinated debt securities;
- the title of the debt securities;
- the total principal amount of the debt securities;
- whether a series of subordinated debt is junior in any respect to another series of subordinated debt;
- whether we will issue the debt securities in individual certificates to each holder or in the form of temporary or permanent global securities held by a depository on behalf of holders;
- the date or dates on which the principal of and any premium on the debt securities will be payable;
- any interest rate, the date from which interest will accrue, interest payment dates and record dates for interest payments;
- whether and under what circumstances we will pay any additional amounts with respect to the debt securities;
- the place or places where payments on the debt securities will be payable;
- any provisions for redemption or early repayment;
- any sinking fund or other provisions that would obligate us to redeem, purchase or repay the debt securities;
- the denominations in which we will issue the debt securities if other than \$1,000 and integral multiples of \$1,000;
- whether payments on the debt securities will be payable in foreign currency or currency unit or another form and whether payments will be payable by reference to any index or formula;
- the portion of the principal amount of debt securities that will be payable if the maturity is accelerated, if other than the entire principal amount;
- any additional means of defeasance of the debt securities, any additional conditions or limitations to defeasance of the debt securities or any changes to those conditions or limitations;
- any changes or additions to the events of default or covenants described in this prospectus;
- any restrictions or other provisions relating to the transfer or exchange of debt securities;
- any terms for the conversion or exchange of the debt securities for other securities;
- with respect to the subordinated indenture, any changes to the subordination provisions for the subordinated debt securities; and
- any other terms of the debt securities not inconsistent with the applicable indenture.

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We may sell the debt securities at a discount, which may be substantial, below their stated principal amount. These debt securities may bear no interest or interest at a rate that at the time of issuance is below market rates. If we sell these debt securities, we will describe in the prospectus supplement any material United States federal income tax consequences and other special considerations.

If we sell any of the debt securities for any foreign currency or currency unit or if payments on the debt securities are payable in any foreign currency or currency unit, we will describe in the prospectus supplement the restrictions, elections, tax consequences, specific terms and other information relating to those debt securities and the foreign currency or currency unit.

Consolidation, Merger and Sales of Assets

The indentures generally permit a consolidation or merger involving us. They also permit us to sell, lease, convey, assign, transfer or otherwise dispose of all or substantially all of our assets. We have agreed, however, that we will not consolidate with or merge into any entity or sell, lease, convey, assign, transfer or dispose of all or substantially all of our assets to any entity unless:

- (1) either
 - we are the continuing entity, or
 - the resulting or surviving entity assumes the due and punctual payments on the debt securities and the performance of our covenants and obligations under the applicable indenture and the debt securities; and
- (2) immediately after giving effect to the transaction, no default or event of default under the indentures has occurred and is continuing or would result from the transaction.

This covenant will not apply to any merger of another entity into us. Upon any transaction of the type described in and effected in accordance with this section, the resulting entity will succeed to and be substituted for and may exercise all of our rights and powers under the indenture and the debt securities with the same effect as if the resulting entity had been named as us in the indenture. In the case of any asset transfer or disposition other than a lease, when the resulting entity assumes all of our obligations and covenants under the applicable indenture and the debt securities, we will be relieved of all such obligations.

Events of Default

Unless we inform you otherwise in the applicable prospectus supplement, the following are events of default with respect to a series of debt securities:

- our failure to pay interest on any debt security of that series for 30 days when due;
- our failure to pay principal of or any premium on any debt security of that series when due;
- our failure to deposit any sinking fund payment for 30 days when due;
- our failure to comply with any covenant or agreement in that series of debt securities or the applicable indenture (other than an agreement or covenant that has been included in the indenture solely for the benefit of other series of debt securities) for 90 days after written notice by the trustee or by the holders of at least 25% in principal amount of the outstanding debt securities issued under that indenture that are affected by that failure;
- specified events involving bankruptcy, insolvency or reorganization of us; and
- any other event of default provided for that series of debt securities.

A default under one series of debt securities will not necessarily be a default under any other series. If a default or event of default for any series of debt securities occurs, is continuing and is known to the trustee, the trustee will notify the holders of applicable debt securities within 90 days after it occurs. The trustee may withhold

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notice to the holders of the debt securities of any default or event of default, except in any payment on the debt securities, if the trustee in good faith determines that withholding notice is in the interests of the holders of those debt securities.

If an event of default for any series of debt securities occurs and is continuing, the trustee or the holders of at least 25% in principal amount of the outstanding debt securities of the series affected by the default (or, in some cases, 25% in principal amount of all debt securities issued under the applicable indenture that are affected, voting as one class) may declare the principal of and all accrued and unpaid interest on those debt securities to be due and payable immediately. If an event of default relating to certain events of bankruptcy, insolvency or reorganization of our company occurs, the principal of and accrued and unpaid interest on all the debt securities issued under the applicable indenture will become immediately due and payable without any action on the part of the trustee or any holder. At any time after a declaration of acceleration has been made, the holders of a majority in principal amount of the outstanding debt securities of the series affected by the default (or, in some cases, of all debt securities issued under the applicable indenture that are affected, voting as one class) may in some cases rescind this accelerated payment requirement and its consequences.

A holder of a debt security of any series issued under an indenture may pursue any remedy under that indenture only if:

- the holder gives the trustee written notice of a continuing event of default with respect to that series;
- the holders of at least 25% in principal amount of the outstanding debt securities of that series make a written request to the trustee to pursue the remedy;
- the holders offer to the trustee indemnity satisfactory to the trustee against any loss, liability or expense;
- the trustee does not comply with the request within 60 days after receipt of the request and offer of indemnity; and
- during that 60-day period, the holders of a majority in principal amount of the debt securities of that series do not give the trustee a direction inconsistent with the request.

This provision does not, however, affect the right of a holder of a debt security to sue for enforcement of any overdue payment.

In most cases, holders of a majority in principal amount of the outstanding debt securities of a series (or of all debt securities issued under the applicable indenture that are affected, voting as one class) may direct the time, method and place of:

- with respect to debt securities of a series, conducting any proceeding for any remedy available to the trustee and exercising any trust or power conferred on the trustee relating to or arising as a result of specified events of default; or
- with respect to all debt securities issued under the applicable indenture that are affected, conducting any proceeding for any remedy available to the trustee and exercising any trust or power conferred on the trustee relating to or arising other than as a result of such specified events of default.

The trustee, however, may refuse to follow any such direction that conflicts with law or the indentures, is unduly prejudicial to the rights of other holders of the debt securities, or would involve the trustee in personal liability. In addition, prior to acting at the direction of holders, the trustee will be entitled to be indemnified by those holders against any loss and expenses caused thereby.

The indentures require us to furnish to the trustee annually a statement as to our performance of certain of our obligations under the indentures and as to any default in performance.

Modification and Waiver

We and the trustee may supplement or amend each indenture with the consent of the holders at least a majority in principal amount of the outstanding debt securities of all series issued under that indenture that are affected by the amendment or supplement (voting as one class). Without the consent of the holder of each debt security affected, however, no supplement or amendment may:

- reduce the amount of debt securities whose holders must consent to an amendment, supplement or waiver;
- reduce the rate of or change the time for payment of interest on the debt security;
- reduce the principal of the debt security or change its stated maturity;
- reduce any premium payable on the redemption of the debt security or change the time at which the debt security may or must be redeemed;
- change any obligation to pay additional amounts on the debt security;
- make payments on the debt security payable in currency other than as originally stated in the debt security;
- impair the holder's right to institute suit for the enforcement of any payment on or with respect to the debt security;
- make any change in the percentage of principal amount of debt securities necessary to waive compliance with certain provisions of the indenture or to make any change in the provision related to modification;
- with respect to the subordinated indenture, modify the provisions relating to the subordination of any subordinated debt security in a manner adverse to the holder of that security;
- waive a continuing default or event of default regarding any payment on the debt securities; or
- if applicable, make any change that materially and adversely affects the right to convert any debt security.

We and the applicable trustee may supplement or amend either indenture or waive any provision of either indenture without the consent of any holders of debt securities issued under that indenture in certain circumstances, including:

- to cure any ambiguity, omission, defect or inconsistency;
- to provide for the assumption of our obligations under the indenture by a successor upon any merger, consolidation or asset transfer permitted under the indenture;
- to provide for uncertificated debt securities in addition to or in place of certificated debt securities or to provide for bearer debt securities;
- to provide any security for, or to add any guarantees of or obligors on, any series of debt securities;
- to comply with any requirement to effect or maintain the qualification of that indenture under the Trust Indenture Act of 1939;
- to add covenants that would benefit the holders of any debt securities or to surrender any rights we have under the indenture;

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- to add events of default with respect to any series of debt securities;
- to make any change that does not adversely affect any outstanding debt securities of any series issued under that indenture in any material respect; and
- to establish the form of any debt securities and to accept the appointment of a successor trustee, each as permitted under the indenture.

The holders of a majority in principal amount of the outstanding debt securities of any series (or, in some cases, of all debt securities issued under the applicable indenture that are affected, voting as one class) may waive any existing or past default or event of default with respect to those debt securities. Those holders may not, however, waive any default or event of default in any payment on any debt security or compliance with a provision that cannot be amended or supplemented without the consent of each holder affected.

Defeasance and Discharge

Defeasance. When we use the term defeasance, we mean discharge from some or all of our obligations under an indenture. If we deposit with the trustee under an indenture any combination of money or government securities sufficient to make payments on the debt securities of a series issued under that indenture on the dates those payments are due, then, at our option, either of the following will occur:

- we will be discharged from our obligations with respect to debt securities of that series (“legal defeasance”); or
- we will no longer have any obligation to comply with the consolidation, merger and sale of assets covenant and other specified restrictive covenants relating to the debt securities of that series, and the related events of default will no longer apply (“covenant defeasance”).

If a series of debt securities is defeased, the holders of the debt securities of that series will not be entitled to the benefits of the applicable indenture, except for obligations to register the transfer or exchange of debt securities, replace stolen, lost or mutilated debt securities or maintain paying agencies and hold money for payment in trust. In the case of covenant defeasance, our obligation to pay principal, premium and interest on the debt securities will also survive.

Unless we inform you otherwise in the prospectus supplement, we will be required to deliver to the trustee an opinion of counsel that the deposit and related defeasance would not cause the holders of the debt securities to recognize income, gain or loss for U.S. federal income tax purposes. If we elect legal defeasance, that opinion of counsel must be based upon a ruling from the United States Internal Revenue Service or a change in law to that effect.

Satisfaction and Discharge. In addition, an indenture will cease to be of further effect with respect to the debt securities of a series issued under that indenture, subject to exceptions relating to compensation and indemnity of the trustee under that indenture and repayment to us of excess money or government securities, when:

- either
 - (a) all outstanding debt securities of that series have been delivered to the trustee for cancellation; or
 - (b) all outstanding debt securities of that series not delivered to the trustee for cancellation either:

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- have become due and payable,
- will become due and payable at their stated maturity within one year, or
- are to be called for redemption within one year; and
- we have deposited with the trustee any combination of money or government securities in trust sufficient to pay the entire indebtedness on the debt securities of that series when due; and
- we have paid all other sums payable by us with respect to the debt securities of that series.

Subordination

Under the subordinated indenture, payment of the principal of and any premium and interest on the subordinated debt securities will generally be subordinated and junior in right of payment to the prior payment in full of all senior debt. Unless we inform you otherwise in the prospectus supplement, we may not make any payment of principal of or any premium or interest on the subordinated debt securities if:

- we fail to pay the principal, interest, premium or any other amounts on any senior debt when due; or
- we default in performing any other covenant (a “covenant default”) on any senior debt that we have designated if the covenant default allows the holders of that senior debt to accelerate the maturity of the senior debt they hold.

The subordination does not affect our obligation, which is absolute and unconditional, to pay, when due, the principal of and any premium and interest on the subordinated debt securities. In addition, the subordination does not prevent the occurrence of any default under the subordinated indenture.

The subordinated indenture does not limit the amount of senior debt that we may incur. As a result of the subordination of the subordinated debt securities, if we become insolvent, holders of subordinated debt securities may receive less on a proportionate basis than other creditors.

Unless we inform you otherwise in the prospectus supplement, “senior debt” will mean all debt, including guarantees of the Company, unless the debt states that it is not senior to our subordinated debt securities or other junior debt. Senior debt with respect to a series of subordinated debt securities could include a series of debt securities issued under a subordinated indenture.

Governing Law

New York law will govern the indentures and the debt securities.

The Trustees

Pursuant to applicable provisions of the indentures and the Trust Indenture Act of 1939 governing trustee conflicts of interest, any uncured event of default with respect to any series of debt securities will force the trustee to resign as trustee under either the subordinated indenture or the senior indenture. Any resignation requires the appointment of a successor trustee under the applicable indenture in accordance with its terms and conditions.

The trustee may resign or be removed by us under certain circumstances specified in the indenture with respect to one or more series of debt securities and a successor trustee may be appointed to act with respect to any series. The holders of a majority in aggregate principal amount of the debt securities of any series may remove the trustee with respect to the debt securities of that series.

Each indenture contains limitations on the right of the trustee, if it or any of its affiliates is then our creditor, to obtain payment of claims or to realize on certain property received for any such claim, as security or otherwise. The trustee and its affiliates are permitted to engage in other transactions with us. If, however, the trustee acquires any conflicting interest, it must eliminate that conflict or resign within 90 days after ascertaining that it has a conflicting interest. If an event of default occurs and is continuing, the trustee will be required to use the degree of care and skill of a prudent person in the conduct of his own affairs.

Payment and Paying Agents

Unless we inform you otherwise in a prospectus supplement, we will make payments on the debt securities in U.S. dollars at the office of the trustee and any paying agent. At our option, however, payments may be made by

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wire transfer for global debt securities or by check mailed to the address of the person entitled to the payment as it appears in the security register. Unless we inform you otherwise in a prospectus supplement, we will make interest payments to the person in whose name the debt security is registered at the close of business on the record date for the interest payment.

Unless we inform you otherwise in a prospectus supplement, the trustee under the applicable indenture will be designated as the paying agent for payments on debt securities issued under that indenture. We may at any time designate additional paying agents or rescind the designation of any paying agent or approve a change in the office through which any paying agent acts.

If the principal of or any premium or interest on debt securities of a series is payable on a day that is not a business day, the payment will be made on the following business day. For these purposes, unless we inform you otherwise in a prospectus supplement, a “business day” is any day that is not a Saturday, a Sunday or a day on which banking institutions in any of New York, New York; Midland, Texas or a place of payment on the debt securities of that series is authorized or obligated by law, regulation or executive order to remain closed.

Subject to the requirements of any applicable abandoned property laws, the trustee and paying agent will pay to us upon written request any money held by them for payments on the debt securities that remains unclaimed for two years after the date upon which that payment has become due. After payment to us, holders entitled to the money must look to us for payment. In that case, all liability of the trustee or paying agent with respect to that money will cease.

Form, Exchange, Registration and Transfer

We will issue the debt securities in registered form, without interest coupons. Debt securities of any series will be exchangeable for other debt securities of the same series, the same total principal amount and the same terms but in different authorized denominations in accordance with the applicable indenture. Holders may present debt securities for registration of transfer at the office of the security registrar or any transfer agent designated by us. The security registrar or transfer agent will effect the transfer or exchange if its requirements and the requirements of the applicable indenture are met. We will not charge a service charge for any registration of transfer or exchange of the debt securities. We may, however, require payment of any transfer tax or similar governmental charge payable for that registration.

We will appoint the trustee as security registrar for the debt securities. If a prospectus supplement refers to any transfer agents we initially designate, we may at any time rescind that designation or approve a change in the location through which any transfer agent acts. We are required to maintain an office or agency for transfers and exchanges in each place of payment. We may at any time designate additional transfer agents for any series of debt securities.

In the case of any redemption or any repurchase of debt securities, we will not be required to register the transfer or exchange of:

- any debt security during a period beginning 15 business days prior to the mailing of the relevant notice of redemption or repurchase and ending on the close of business on the day of mailing of such notice; or
- any debt security that has been called for redemption in whole or in part, except the unredeemed portion of any debt security being redeemed in part.

Book-Entry Debt Securities

We may issue the debt securities in the form of one or more global debt securities that would be deposited with a depository or its nominee identified in the prospectus supplement. We may issue global debt securities in either temporary or permanent form. We will describe in the prospectus supplement the terms of any depository arrangement and the rights and limitations of owners of beneficial interests in any global debt security.

DESCRIPTION OF CAPITAL STOCK

The following is a description of our capital stock and a summary of the material provisions of our restated articles of incorporation and bylaws and shareholder rights plan. You should also refer to our articles of incorporation and bylaws, which are incorporated herein by reference, and to Texas law.

General

Our authorized capital stock consists of 5,000,000 shares of preferred stock, \$1.00 par value per share, and 10,000,000 shares of common stock, \$0.33 ? par value per share. As of July 19, 2005, there were 7,462,794 shares of our common stock issued and outstanding, 564,750 shares of our common stock reserved for issuance under our incentive stock plans and no shares of preferred stock issued and outstanding. The outstanding shares of our common stock are legally issued, fully paid and nonassessable. Additional shares of authorized common stock may be issued, as authorized by our board of directors from time to time, without stockholder approval, except as may be required by applicable stock exchange requirements.

Common Stock

Each share of our common stock has one vote on all matters presented to our shareholders. Since our common stock does not have cumulative voting rights, the holders of more than 50% of our common stock may, if they choose to do so, elect all of the directors and, in that event, the holders of the remaining shares of our common stock will not be able to elect any directors. Subject to the rights and preferences of any preferred stock that may be designated and issued, the holders of our common stock are entitled to dividends when and as declared by our board of directors and are entitled on liquidation to all assets remaining after payment of liabilities, subject to the liquidation preferences of any shares of preferred stock. Our common stock has no preemptive or other subscription rights. There are no conversion rights or redemption or sinking fund provisions with respect to our common stock.

Our common stock is quoted on The Nasdaq National Market under the symbol "DWSN."

Preferred Stock

Our preferred stock may be issued in series, and shares of each series shall have such rights and preferences as shall be fixed by our board of directors in the resolution or resolutions authorizing the issuance of that particular series. In designating any series of preferred stock, our board of directors has authority, without further action by the holders of our common stock, to fix the rights, dividend rate, conversion rights, rights and terms of redemption (including any sinking fund provisions), and the liquidation preferences of that series of preferred stock.

The prospectus supplement relating to any series of preferred stock we are offering will include specific terms relating to the offering. We will file the form of the preferred stock with the SEC before we issue any of it, and you should read it for provisions that may be important to you. The prospectus supplement will include some or all of the following terms:

- the title of the preferred stock;
- the maximum number of shares of the series;
- the dividend rate or the method of calculating the dividend, the date from which dividends will accrue and whether dividends will be cumulative;
- any liquidation preference;
- any optional redemption provisions;
- any sinking fund or other provisions that would obligate us to redeem or purchase the preferred stock;
- any terms for the conversion or exchange of the preferred stock for other securities of us or any other entity;
- any voting rights; and

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- any other preferences and relative, participating, optional or other special rights or any qualifications, limitations or restrictions on the rights of the shares.

The issuance of preferred stock by us could adversely affect the voting power of holders of our common stock and the likelihood that such holders will receive dividend payments and payments upon liquidation and could have the effect of delaying, deferring or preventing a change in control of us.

Anti-Takeover Effects of Our Articles of Incorporation and Bylaws and Texas Law

Our restated articles of incorporation and bylaws contain provisions that could delay or make more difficult the acquisition of control of us through a hostile tender offer, open market purchases, proxy context, merger or other takeover attempt that a stockholder might consider in his or her best interest, including those attempts that might result in a premium over the market price of our common stock. These provisions, as well as certain provisions of Texas law and our shareholder rights plan, are designed to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors. We believe that the benefits of this increased protection gives us the potential ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure us, and that the benefits of this increased protection outweigh the disadvantages of discouraging those proposals, because negotiation of those proposals could result in an improvement of their terms.

Board of Directors; Vacancies. Our restated articles of incorporation and bylaws expressly prohibit cumulative voting. The exact number of members of our board of directors will be fixed from time to time by resolution of the board of directors. Any vacancy occurring on the board of directors and any newly created directorship may be filled by a majority of the remaining directors in office.

Shareholder Meetings. Our bylaws provide that special meetings of the holders of common stock may be called by our president or secretary at the request in writing of stockholders owning at least 25% of the shares of capital stock outstanding and entitled to vote. Such request must state the purpose or purposes of the proposed meeting. Under Texas law, special meetings of the shareholders may also be called by our president and our board of directors.

Modification of Bylaws. Our bylaws may be altered or repealed by the affirmative vote of a majority of our board of directors at any regular meeting of the board of directors or any special meeting of the board of directors if notice of the board proposed alteration or repeal is contained in the notice of such special meeting. Our bylaws may also be altered or repealed by the affirmative vote of the holders of capital stock entitled to vote at any regular meeting of shareholders or any special meeting of shares if notice of the proposed alteration or repeal is contained in the notice of such special meeting.

Other Limitations on Shareholder Actions. Our bylaws also impose procedural requirements on shareholders who wish to (i) make nominations in the election of directors and (ii) propose any other business to be brought before an annual or special meeting of shareholders.

Limitation of Director Liability. Our restated articles of incorporation provide that our directors will have no personal liability to us or our shareholders for monetary damages for breach or alleged breach of our directors' duty of care. This provision in our restated articles of incorporation does not eliminate our directors' fiduciary duty of care, and in appropriate circumstances, equitable remedies such as an injunction or other forms of non-monetary relief should remain available under Texas law. Furthermore, each of our directors will continue to be subject to liability for (i) a breach of the directors' duty of loyalty, (ii) acts or omissions not in good faith or involving intentional misconduct or knowing violations of law, (iii) any transaction from which a director derives an improper personal benefit or (iv) an act or omission for which the liability of a director is expressly provided by an applicable statute. This provision does not affect a director's responsibilities under any other laws, such as the federal securities laws or state or federal environmental laws.

Texas Anti-Takeover Law. We are subject to Article 13.03 of the Texas Business Corporation Act. That section prohibits Texas corporations from engaging in a wide range of specified transactions with any affiliated shareholders during the three-year period immediately following the affiliated shareholder's acquisition of shares in the absence of certain board of director or shareholder approvals. An affiliated shareholder of a corporation is any

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person, other than the corporation and any of its wholly owned subsidiaries, that is or was within the preceding three-year period the beneficial owner of 20% or more of any class or series of stock entitled to vote generally in the election of directors. Article 13.03 may deter any potential unfriendly offers or other efforts to obtain control of us that are not approved by our board. this may deprive our shareholders of opportunities to sell shares of our common stock at a premium to the prevailing market price.

Shareholder Rights Plan

We have adopted a shareholder rights plan. The Rights described below are issued pursuant to the Rights Agreement dated as of July 13, 1999 between us and Mellon Investor Services, LLC, as rights agent (the "Rights Agreement"). We have summarized selected portions of the Rights Agreement and the Rights below. This summary is qualified in its entirety by reference to the Rights Agreement, a copy of which we have filed or incorporated by reference as an exhibit to the registration statement of which this prospectus forms a part.

On July 13, 1999, our board of directors authorized and declared a dividend to the holders of record on July 23, 1999 (the "Record Date") of one Right (a "Right") for each outstanding share of our common stock. In addition, we have authorized the issuance of one Right with respect to each share of common stock that shall become outstanding between the Record Date and the earliest of the Distribution Date, the Redemption Date and the Final Expiration Date (as such terms are defined below). When exercisable, each Right will entitle the holder to purchase one one-hundredth of a share of our Series A Junior Participating Preferred Stock, par value \$1.00 per share (the "Preferred Shares"), at an exercise price of \$50.00 per Right (the "Purchase Price"). The rights are not currently exercisable and will become exercisable only if a person or group acquires beneficial ownership of 20% or more of our outstanding common stock or announces a tender offer or exchange offer, the consummating of which would result in attaining the triggering percentage. We may redeem the Rights for \$0.01 per Right at any time prior to the tenth day after the first public announcement of a triggering acquisition.

In the event that any person or group of affiliated or associated persons becomes an Acquiring Person, proper provision shall be made so that each holder of a Right, other than Rights beneficially owned by the Acquiring Person (which will thereafter be null and void and nontransferable), will thereafter have the right to receive upon exercise that number of our common shares having a market value of two times the exercise price of the Right. In the event that we are acquired in a merger or other business combination transaction or 50 percent or more of its consolidated assets or earning power are sold after a person or group of affiliated or associated persons has become an Acquiring Person, proper provision will be made so that each holder of a Right will thereafter have the right to receive, upon the exercise thereof at the then current exercise price of the Right, that number of shares of common stock of the acquiring company which at the time of such transaction will have a market value of two times the exercise price of the Right.

At any time after any person or group of affiliated or associated persons becomes an Acquiring Person and prior to the acquisition by such person or group of 50 percent or more of our outstanding common stock, our board of directors may exchange the Rights (other than Rights owned by such person or group which will have become null and void and nontransferable), in whole or in part, at an exchange ratio of one share of common stock, or one one-hundredth of a Preferred Share (or of a share of a class or series of our preferred stock having equivalent rights, preferences and privileges), per Right (subject to adjustment).

At any time prior to the close of business on the tenth day following a public announcement that an Acquiring Person has become such an Acquiring Person, our board of directors may redeem the Rights in whole, but not in part, at a price of \$.01 per Right. The redemption of the Rights may be made effective at such time, on such basis and with such conditions as our board of directors in its sole discretion may establish. The time at which the Rights are redeemed by us is herein referred to as the "Redemption Date." Immediately upon any redemption of the Rights, the right to exercise the Rights will terminate and the only right thereafter of the holders of Rights will be to receive the redemption price.

At any time prior to the Distribution Date and subject to the last sentence of this paragraph, the terms of the Rights may be amended by our board of directors without the consent of the holders of the Rights, including without limitation an amendment to lower certain thresholds described above to not less than the greater of (i) the sum of 0.001 percent and the largest percentage of our outstanding common stock then known by us to be

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beneficially owned by any person or group of affiliated or associated persons and (ii) ten percent. From and after the Distribution Date and subject to applicable law, the terms of the Rights may be amended by our board of directors without the consent of the holders of the Rights to, among other things, make any other provisions in regard to matters under the Rights Agreement that we may deem necessary or desirable and that shall not adversely affect the interests of the holders of the Rights (other than an Acquiring Person or an affiliate or associate of an Acquiring Person). The terms of the Rights may not be amended to (i) reduce the redemption price (except as required by antidilution provisions) or (ii) provide for an earlier Final Expiration Date.

The Rights have certain anti-takeover effects. The Rights will cause substantial dilution to a person or group that attempts to acquire us in a manner or on terms not approved by our board of directors. The Rights, however, should not deter any prospective offeror willing to negotiate in good faith with our board of directors, nor should the Rights interfere with any merger or business combination approved by our board of directors prior to an Acquiring Person's acquiring 20 percent or more of our common stock.

DESCRIPTION OF WARRANTS

We may issue warrants to purchase any combination of senior or subordinated debt securities, common stock, preferred stock or other securities. We may issue warrants independently or together with other securities. Warrants sold with other securities may be attached to or separate from the other securities. Warrants may also be issued through a dividend or other distribution to our stockholders. We will issue warrants under one or more warrant agreements between us and a warrant agent that we will name in the applicable prospectus supplement or any pricing supplement.

The prospectus supplement (or the pricing supplement) relating to any warrants we are offering will include specific terms relating to the offering. We will file the form of any warrant agreement with the SEC, and you should read the warrant agreement for provisions that may be important to you. The prospectus supplement (or pricing supplement) will include some or all of the following terms:

- the title of the warrants;
- the aggregate number of warrants offered;
- the designation, number and terms of the debt securities, common stock, preferred stock or other securities purchasable upon exercise of the warrants, and procedures by which those numbers may be adjusted;
- the exercise price of the warrants;
- the dates or periods during which the warrants are exercisable;
- the designation and terms of any securities with which the warrants are issued;
- if the warrants are issued as a unit with another security, the date, if any, on and after which the warrants and the other security will be separately transferable;
- a discussion of the material United States federal income tax considerations applicable to the warrants;
- any minimum or maximum amount of warrants that may be exercised at any one time; and
- any terms, procedures and limitations relating to the transferability, exchange or exercise of the warrants.

PLAN OF DISTRIBUTION

We may sell the securities in and outside the United States through underwriters or dealers, directly to purchasers or through agents or through a combination of any of these methods. The prospectus supplement (or a pricing supplement) will include the following information:

- the terms of the offering;
- the names of any underwriters or agents;
- the purchase price of the securities from us;
- the net proceeds to us from the sale of securities;
- any delayed delivery arrangements;
- any underwriting discounts, commissions and other items constituting underwriters' compensation;
- any initial public offering price;
- any discounts or concessions allowed or reallocated or paid to dealers; and
- any commissions paid to agents.

Sale Through Underwriters or Dealers

If we use underwriters in the sale of securities, the underwriters will acquire the securities for their own account. The underwriters may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at or prior to the time of sale, including at prevailing market prices or at prices related to prevailing market prices. Underwriters may offer securities to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless we inform you otherwise in the prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to conditions, and the underwriters will be obligated to purchase all the offered securities if they purchase any of them. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers.

During and after an offering through underwriters, the underwriters may purchase and sell the securities in the open market. These transactions may include overallocation and stabilizing transactions and purchases to cover syndicate short positions created in connection with the offering. The underwriters also may impose a penalty bid, which means that selling concessions allowed to syndicate members or other broker-dealers for the offered securities sold for their account may be reclaimed by the syndicate if the offered securities are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the offered securities, which may be higher than the price that might otherwise prevail in the open market. If commenced, the underwriters may discontinue these activities at any time.

If we use dealers in the sale of securities, we will sell the securities to them as principals. They may then resell those securities to the public at varying prices determined by the dealers at the time of resale. The dealers participating in any sale of the securities may be deemed to be underwriters within the meaning of the Securities Act of 1933 with respect to any sale of those securities. We will include in the prospectus supplement the names of the dealers and the terms of the transaction.

Direct Sales and Sales Through Agents

We may sell the securities directly. In that event, no underwriters or agents would be involved. We may also sell the securities through agents we designate from time to time. In the prospectus supplement, we will name any agent involved in the offer or sale of the offered securities, and we will describe any commissions payable by us to the agent. Unless we inform you otherwise in the prospectus supplement, any agent will agree to use its reasonable best efforts to solicit purchases for the period of its appointment.

We may sell the securities directly to institutional investors or others who may be deemed to be underwriters within the meaning of the Securities Act of 1933 with respect to any sale of those securities. We will describe the terms of any such sales in the prospectus supplement.

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Delayed Delivery Contracts

If we so indicate in the prospectus supplement, we may authorize agents, underwriters or dealers to solicit offers from certain types of institutions to purchase securities from us at the public offering price under delayed delivery contracts. These contracts would provide for payment and delivery on a specified date in the future. The contracts would be subject only to those conditions described in the prospectus supplement. The prospectus supplement will describe the commission payable for solicitation of those contracts.

Remarketing

We may offer and sell any of the securities in connection with a remarketing upon their purchase, in accordance with a redemption or repayment by their terms or otherwise, by one or more remarketing firms acting as principals for their own accounts or as our agents. We will identify any remarketing firm, the terms of any remarketing agreement and the compensation to be paid to the remarketing firm in the prospectus supplement. Remarketing firms may be deemed underwriters under the Securities Act of 1933.

Derivative Transactions

We may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, the third parties may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of stock. The third parties in these sale transactions will be underwriters and will be identified in the applicable prospectus supplement or in a post-effective amendment to the registration statement of which this prospectus forms a part.

General Information

We may have agreements with the agents, dealers and underwriters to indemnify them against certain civil liabilities, including liabilities under the Securities Act of 1933, or to contribute with respect to payments that the agents, dealers or underwriters may be required to make. Agents, dealers and underwriters may be customers of, engage in transactions with or perform services for us in the ordinary course of their businesses.

LEGAL MATTERS

Certain legal matters in connection with this offering will be passed upon for us by Baker Botts L.L.P., Dallas, Texas. Any underwriters will be advised about other issues relating to any offering by their own legal counsel.

EXPERTS

The financial statements as of September 30, 2003 and 2004 and for the years ended September 30, 2002, 2003 and 2004 included in our Annual Report on Form 10-K for the fiscal year ended September 30, 2004 and Amendment No. 1 to our Annual Report on Form 10-K for the fiscal year ended September 30, 2004 and incorporated by reference herein have been included herein in reliance on the report of KPMG LLP, independent registered public accounting firm, given on the authority of such firm as experts in auditing and accounting.

WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement with the SEC under the Securities Act of 1933 that registers the securities we may offer pursuant to this prospectus. The registration statement, including the attached exhibits, contains additional relevant information about us. The rules and regulations of the SEC allow us to omit some information included in the registration statement from this prospectus.

In addition, we file annual, quarterly and other reports, proxy statements and other information with the SEC. You can read and copy any document we file at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. You can obtain further information about the operation of the SEC's public reference room by calling the SEC at 1-800-SEC-0330. Our SEC filings are available on the SEC's web site at <http://www.sec.gov>. We also make available free of charge on our web site, at www.dawson3d.com, all materials that we file electronically with the SEC, including our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, Section 16 reports and amendments to these reports as soon as reasonably practicable after such materials are electronically filed with, or furnished to, the SEC. Information contained on our web site or any other web site is not incorporated by reference into this prospectus and does not constitute a part of this prospectus.

INCORPORATION BY REFERENCE

The SEC allows us to "incorporate by reference" into this prospectus the information we have filed with the SEC. This means that we can disclose important information to you without actually including the specific information in this prospectus by referring you to other documents filed separately with the SEC. These other documents contain important information about us, our financial condition and results of operations. The information we incorporate by reference is an important part of this prospectus. Information that we file later with the SEC will automatically update and may replace information in this prospectus and information previously filed with the SEC.

We incorporate by reference in this prospectus the documents listed below:

- our annual report on Form 10-K for the fiscal year ended September 30, 2004 filed with the SEC on December 10, 2004;
- our annual report on Form 10-K/A (Amendment No. 1) for the year ended September 30, 2004 filed with the SEC on February 28, 2005;
- our proxy statement on Schedule 14A filed with the SEC on December 10, 2004;
- our quarterly reports on Form 10-Q for the quarters ended December 31, 2004 and March 31, 2005 filed with the SEC on February 14, 2005 and May 12, 2005, respectively;
- our current reports on Form 8-K filed with the SEC on November 15, 2004, December 15, 2004, December 23, 2004, January 28, 2005, February 4, 2005, March 2, 2005, May 4, 2005, July 27, 2005 and August 4, 2005, in each case other than information furnished and not filed with the SEC; and
- all documents filed by us under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 between the date of this prospectus and the termination of the registration statement (excluding any portions thereof that are deemed to be furnished and not filed).

You may obtain any of the documents incorporated by reference in this prospectus from the SEC through the SEC's web site at the address provided above. You may also request a copy of any document incorporated by reference in this prospectus (including exhibits to those documents specifically incorporated by reference in this document), at no cost, by visiting our internet web site at www.dawson3d.com, or by writing or calling us at the following address and telephone number:

Dawson Geophysical Company
508 West Wall, Suite 800
Midland, Texas 79701
Attention: Christina W. Hagan
Telephone: (432) 684-3000

PART II**INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. Other Expenses of Issuance and Distribution.**

The following table sets forth the estimated expenses payable by Dawson Geophysical Company in connection with the offering described in this Registration Statement. With the exception of the Securities and Exchange Commission registration fee, the amounts set forth below are estimates:

Securities and Exchange Commission registration fee	\$ 8,828
Printing expenses	10,000
Accounting fees and expenses	8,500
Legal fees and expenses	35,000
Trustee fees and expenses	25,000
Miscellaneous	2,672
Total	<u>\$ 90,000</u>

Item 15. Indemnification of Directors and Officers.

Article Seven of our articles of incorporation, as amended, provides as follows:

“A director of the corporation shall not be personally liable to the corporation or its shareholders for monetary damages from an act or omission in such director’s capacity as a director, except for liability for (i) a breach of a director’s duty of loyalty to the corporation or its shareholders; (ii) an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law; (iii) a transaction from which a director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director’s office; (iv) an act or omission for which the liability of a director is expressly provided by statute; or (v) an act related to an unlawful stock repurchase or payment of a dividend. If the laws of the State of Texas are hereafter amended to authorize corporate action further eliminating or limiting the personal liability of a director of the corporation, then the liability of a director of the corporation shall thereupon be automatically eliminated or limited to the fullest extent permitted by such laws. Any repeal or modification of this Article Seven by the shareholders of the corporation shall not adversely affect any right or protection of a director existing at the time of such repeal or modification with respect to events or circumstances occurring or existing prior to such time.”

Article IX of our bylaws provides that:

“To the extent permitted by Texas Business Corporation Act Article 2.02-1, the corporation shall indemnify any present or former Director, officer, employee, or agent of the corporation against judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the person in connection with a proceeding in which the person was, is, or is threatened to be made a named defendant or respondent because the person is or was a Director, officer, employee, or agent of the corporation.”

Article 2.02-1 of the Texas Business Corporation Act permits corporations to indemnify a person who was or is a director, officer, employee or agent of a corporation or who serves at the corporation’s request as a director, officer, partner, proprietor, trustee, employee, or agent of another corporation, partnership, trust, joint venture, or other enterprise (an “outside enterprise”), who was, is, or is threatened to be named a defendant in a legal proceeding by virtue of such person’s position in the corporation or in an outside enterprise, but only if the person acted in good faith and reasonably believed, in the case of conduct in the person’s official capacity, that the conduct was in or, in the case of all other conduct, that the conduct was not opposed to the corporation’s best interest, and, in the case of a criminal proceeding, the person had no reasonable cause to believe the conduct was unlawful. A person may be indemnified within the above limitations against judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred; however, indemnification is limited to

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reasonable expenses actually incurred in a proceeding in which the person is found liable to the corporation or is found to have improperly received a personal benefit and shall not be made in respect of any proceeding in which the person shall have been found liable for willful or intentional misconduct in the performance of his duty to the corporation. A corporation must indemnify a director, officer, employee, or agent against reasonable expenses incurred in connection with a proceeding in which the person is a party because of the person's corporate position, if the person was successful, on the merits or otherwise, in the defense of the proceeding. Under certain circumstances, a corporation may also advance expenses to such person.

Indemnification can be made by the corporation only upon a determination made in the manner prescribed by the statute that indemnification is proper in the circumstances because the party seeking indemnification has met the applicable standard of conduct as set forth in Article 2.02-1 of the Texas Business Corporation Act.

Article 2.02-1 of the Texas Business Corporation Act also permits a corporation to purchase and maintain insurance or to make other arrangements on behalf of any of the above persons against any liability asserted against and incurred by the person in such capacity, or arising out of the person's status as such a person, whether or not the corporation would have the powers to indemnify the person against the liability under applicable law.

Item 16. Exhibits.†

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
*3.1	Restated Articles of Incorporation of the Company (filed on December 10, 2004 as Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2004 (File No. 000-10144) and incorporated herein by reference).
*3.2	Bylaws of the Company, as amended (filed on December 11, 2003 as Exhibit 3 to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2003 (File No. 000-10144) and incorporated herein by reference).
*4.1	Rights Agreement by and between the Company and Mellon Investor Services, LLC (f/k/a Chasemellon Shareholder Services, L.L.C.), as Rights Agent, dated July 13, 1999 (filed on December 11, 2003 as Exhibit 4 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2003 (File No. 000-10144) and incorporated herein by reference).
4.2	Form of Senior Indenture.
4.3	Form of Subordinated Indenture.
5.1	Opinion of Baker Botts L.L.P. as to the legality of the securities.
12.1	Computation of Ratio of Earnings to Fixed Charges of the Company.
23.1	Consent of KPMG LLP.
23.2	Consent of Baker Botts L.L.P. (included in Exhibit 5.1).
24.1	Powers of Attorney (included on the signature page).

† Dawson will file as an exhibit to a Current Report on Form 8-K (i) any underwriting, remarketing or agency agreement relating to securities offered hereby, (ii) the instruments setting forth the terms of any debt securities, preferred stock or warrants, (iii) any additional required opinions of counsel with respect to legality of the securities offered hereby, (iv) any required opinion of counsel to the Company as to certain tax matters relative to securities offered hereby and (v) the Statement of Eligibility and Qualification under the Trust Indenture Act of 1939 on Form T-1 of the applicable trustee.

* Incorporated by reference as indicated.

Item 17. Undertakings.

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) of the Securities Act of 1933 if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the registrant pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

(d) The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h)

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under the Securities Act of 1933 shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(e) The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility of the Subordinated Trustee to act under subsection (a) of section 310 of the Trust Indenture Act of 1939 (the "Act") in accordance with the rules and regulations prescribed by the Commission under section 305(b)(2) of the Act.

INDEX TO EXHIBITS†

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
*3.1	Restated Articles of Incorporation of the Company (filed on December 10, 2004 as Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2004 (File No. 000-10144) and incorporated herein by reference).
*3.2	Bylaws of the Company, as amended (filed on December 11, 2003 as Exhibit 3 to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2003 (File No. 000-10144) and incorporated herein by reference).
*4.1	Rights Agreement by and between the Company and Mellon Investor Services, LLC (f/k/a Chasemellon Shareholder Services, L.L.C.), as Rights Agent, dated July 13, 1999 (filed on December 11, 2003 as Exhibit 4 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2003 (File No. 000-10144) and incorporated herein by reference).
4.2	Form of Senior Indenture.
4.3	Form of Subordinated Indenture.
5.1	Opinion of Baker Botts L.L.P. as to the legality of the securities.
12.1	Computation of Ratio of Earnings to Fixed Charges of the Company.
23.1	Consent of KPMG LLP.
23.2	Consent of Baker Botts L.L.P. (included in Exhibit 5.1).
24.1	Powers of Attorney (included on the signature page).

† Dawson will file as an exhibit to a Current Report on Form 8-K (i) any underwriting, remarketing or agency agreement relating to securities offered hereby, (ii) the instruments setting forth the terms of any debt securities, preferred stock or warrants, (iii) any additional required opinions of counsel with respect to legality of the securities offered hereby, (iv) any required opinion of counsel to the Company as to certain tax matters relative to securities offered hereby and (v) the Statement of Eligibility and Qualification under the Trust Indenture Act of 1939 on Form T-1 of the applicable trustee.

* Incorporated by reference as indicated.

FORM OF SENIOR INDENTURE

DAWSON GEOPHYSICAL COMPANY
as Issuer

and

[_____]
as Trustee

Indenture

Dated as of _____, 200_

Debt Securities

DAWSON GEOPHYSICAL COMPANY

**Reconciliation and tie between Trust Indenture Act of 1939
and Indenture, dated as of _____, 200_**

Section of Trust Indenture Act of 1939		Section(s) of Indenture
§ 310	(a)(1)	7.10
	(a)(2)	7.10
	(a)(3)	Not Applicable
	(a)(4)	Not Applicable
	(a)(5)	7.10
	(b)	7.08, 7.10
§ 311	(a)	7.11
	(b)	7.11
	(c)	Not Applicable
§ 312	(a)	2.07
	(b)	10.03
	(c)	10.03
§ 313	(a)	7.06
	(b)	7.06
	(c)	7.06
	(d)	7.06
§ 314	(a)	4.03, 4.04
	(b)	Not Applicable
	(c)(1)	10.04
	(c)(2)	10.04
	(c)(3)	Not Applicable
	(d)	Not Applicable
	(e)	10.05
§ 315	(a)	7.01(b)
	(b)	7.05
	(c)	7.01(a)
	(d)	7.01(c)
	(d)(1)	7.01(c)(1)
	(d)(2)	7.01(c)(2)
	(d)(3)	7.01(c)(3)
	(e)	6.11
§ 316	(a)(1)(A)	6.05
	(a)(1)(B)	6.04
	(a)(2)	Not Applicable
	(a)(last sentence)	2.11
	(b)	6.07
§ 317	(a)(1)	6.08
	(a)(2)	6.09
	(b)	2.06
§ 318	(a)	10.01

Note: This reconciliation and tie shall not, for any purpose, be deemed to be a part of the Indenture.

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INDENTURE dated as of _____, 200__ between Dawson Geophysical Company, a Texas corporation (the "Company"), and [_____], as trustee (the "Trustee").

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of the Company's unsecured debentures, notes or other evidences of indebtedness (the "Securities") to be issued from time to time in one or more series as provided in this Indenture:

ARTICLE I
DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01 *Definitions.*

"Additional Amounts" means any additional amounts required by the express terms of a Security or by or pursuant to a Board Resolution, under circumstances specified therein or pursuant thereto, to be paid by the Company with respect to certain taxes, assessments or other governmental charges imposed on certain Holders and that are owing to those Holders.

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

"Agent" means any Registrar or Paying Agent.

"Bankruptcy Law" means Title 11 of the United States Code or any similar federal, state or foreign law for the relief of debtors.

"Board of Directors" means the Board of Directors of the Company or any committee thereof duly authorized, with respect to any particular matter, to act by or on behalf of the Board of Directors of the Company.

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

"Business Day" means any day that is not a Legal Holiday.

"Capital Stock" means, with respect to any corporation, any and all shares, interests, rights to purchase (other than convertible or exchangeable Debt), warrants, options, participations or other equivalents of or interests (however designated) in stock issued by that corporation.

“Capitalized Lease Obligation” of any Person means any obligation of that Person to pay rent or other amounts under a lease of property, real or personal, that is required to be capitalized for financial reporting purposes in accordance with GAAP; and the amount of that obligation shall be the capitalized amount thereof determined in accordance with GAAP.

“Company” means the Person named as the “Company” in the first paragraph of this instrument until a successor corporation shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean that successor corporation; provided, however, that for purposes of any provision contained herein which is required by the TIA, “Company” shall also mean each other obligor (if any) on the Securities of a series.

“Company Order” and “Company Request” mean, respectively, a written order or request signed in the name of the Company by two Officers of the Company, and delivered to the Trustee.

“Corporate Trust Office” of the Trustee means the office of the Trustee located at [_____], and as may be located at such other address as the Trustee may give notice to the Company.

“Debt” of any Person means, without duplication, (i) all indebtedness of that Person for borrowed money (whether or not the recourse of the lender is to the whole of the assets of that Person or only to a portion thereof), (ii) all obligations of that Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of that Person in respect of letters of credit or other similar instruments (or reimbursement obligations with respect thereto), other than standby letters of credit, bid or performance bonds and other similar obligations issued by or for the account of that Person in the ordinary course of business, to the extent not drawn or, to the extent drawn, if that drawing is reimbursed not later than 30 Business Days following demand for reimbursement, (iv) all obligations of that Person to pay the deferred and unpaid purchase price of property or services, except trade payables, advances on contracts and accrued expenses arising in the ordinary course of business, (v) all Capitalized Lease Obligations of that Person, (vi) all Debt of others secured by a lien (as defined in the indenture supplement relating to a series of Securities) on any asset of that Person, whether or not that Debt is assumed by that Person (provided that if the obligations so secured have not been assumed in full by that Person or are not otherwise that Person’s legal liability in full, then those obligations shall be deemed to be in an amount equal to the greater of (a) the lesser of (1) the full amount of those obligations and (2) the fair market value of those assets, as determined in good faith by the board of directors or other managing body of that Person and (b) the amount of obligations as have been assumed by that Person or which are otherwise that Person’s legal liability), and (vii) all guarantees by that Person of or with respect to Debt of others (other than endorsements in the ordinary course of business), in each case to the extent of the Debt guaranteed.

“Default” means any event, act or condition that is, or after notice or the passage of time or both would be, an Event of Default.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in global form, the Person specified pursuant to Section 2.01 hereof as the

initial Depository with respect to the Securities of that series, until a successor shall have been appointed and become such pursuant to the applicable provision of this Indenture, and thereafter “Depository” shall mean or include that successor.

“Dollar” or “\$” means a dollar or other equivalent unit in such coin or currency of the United States as at the time shall be legal tender for the payment of public and private debt.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and any successor statute.

“GAAP” means generally accepted accounting principles in the United States as in effect from time to time set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and the 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, which are applicable to the circumstances as of the date of determination.

“Global Security” of any series means a Security of that Series that is issued in global form in the name of the Depository with respect thereto or its nominee.

“Government Obligations” means, with respect to a series of Securities, direct obligations of the government that issues the currency in which the Securities of the series are payable for the payment of which the full faith and credit of that government is pledged, or obligations of a Person controlled or supervised by and acting as an agency or instrumentality of that government, the payment of which is unconditionally guaranteed as a full faith and credit obligation by that government.

“Holder” means a Person in whose name a Security is registered.

“Indenture” means this Indenture as amended or supplemented from time to time pursuant to the provisions hereof, and includes the terms of a particular series of Securities established as contemplated by Section 2.01.

“interest” means, with respect to an Original Issue Discount Security that by its terms bears interest only after Maturity, interest payable after Maturity.

“Interest Payment Date,” when used with respect to any Security, shall have the meaning assigned to that term in the Security as contemplated by Section 2.01.

“Issue Date” means, with respect to Securities of a series, the date on which the Securities of that series are originally issued under this Indenture.

“Legal Holiday” means a Saturday, a Sunday or a day on which banking institutions in any of The City of New York, New York, Midland, Texas or a Place of Payment are authorized or obligated by law, regulation or executive order to remain closed.

“Maturity” means, with respect to any Security, the date on which the principal of that Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity thereof, or by declaration of acceleration, call for redemption or otherwise.

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

“Officers’ Certificate” means a certificate signed by two Officers of a Person.

“Opinion of Counsel” means a written opinion from legal counsel who is reasonably acceptable to the Trustee. That counsel may be an employee of or counsel to the Company or the Trustee.

“Original Issue Discount Security” means any Security that provides for an amount less than the principal amount thereof to be due and payable on a declaration of acceleration of the Maturity thereof pursuant to Section 6.02.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, incorporated or unincorporated association, joint stock company, trust, unincorporated organization or government or other agency or political subdivision thereof or other entity of any kind.

“Place of Payment” means, with respect to the Securities of any series, the place or places where, subject to the provisions of Section 4.02, the principal of, premium (if any) on and interest on the Securities of that series are payable as specified in accordance with Section 2.01.

“principal” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on the Security.

“Redemption Date” means, with respect to any Security to be redeemed, the date fixed for that redemption by or pursuant to this Indenture.

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

“Rule 144A Securities” means Securities of a series designated pursuant to Section 2.01 as entitled to the benefits of Section 4.03(b).

“SEC” means the Securities and Exchange Commission.

“Securities” has the meaning stated in the preamble of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture.

“Security Custodian” means, with respect to Securities of a series issued in global form, the Trustee for Securities of that series, as custodian with respect to the Securities of that series, or any successor entity thereto.

“Stated Maturity” means, when used with respect to any Security or any installment of principal thereof or interest thereon, the date specified in that Security as the fixed date on which the principal of that Security or that installment of principal or interest is due and payable.

“TIA” means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbb), as in effect on the date hereof.

“Trust Officer” means any officer or assistant officer of the Trustee assigned by the Trustee to administer its corporate trust matters.

“Trustee” means the Person named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter “Trustee” means each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series means the Trustee with respect to Securities of that series.

“United States” means the United States of America (including the States and the District of Columbia) and its territories and possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands).

“United States Alien” means any Person who, for United States federal income tax purposes, is a foreign corporation, a nonresident alien individual, a nonresident alien or foreign fiduciary of an estate or trust, or a foreign partnership.

“U.S. Government Obligations” means Government Obligations with respect to Securities payable in Dollars.

SECTION 1.02 Other Definitions.

Term	Defined in Section
“Agent Members”	2.17
“Bankruptcy Custodian”	6.01
“Conversion Event”	6.01
“covenant defeasance”	8.01
“Event of Default”	6.01
“Exchange Rate”	2.11
“Judgment Currency”	6.10
“legal defeasance”	8.01
“mandatory sinking fund payment”	3.09
“optional sinking fund payment”	3.09

Term	Defined in Section
“Paying Agent”	2.05
“Registrar”	2.05
“Required Currency”	6.10
“Successor”	5.01

SECTION 1.03 *Incorporation by Reference of Trust Indenture Act.*

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

“Commission” means the SEC.

“indenture securities” means the Securities.

“indenture security holder” means a Holder.

“indenture to be qualified” means this Indenture.

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

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

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

SECTION 1.04 *Rules of Construction.*

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) “or” is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) provisions apply to successive events and transactions; and
- (6) all references in this instrument to Articles and Sections are references to the corresponding Articles and Sections in and of this instrument.

ARTICLE II
THE SECURITIES

SECTION 2.01 *Amount Unlimited; Issuable in Series.*

The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution, and set forth, or determined in a manner provided, in an Officers' Certificate or in a Company Order, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series:

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

(2) if there is to be a limit, the limit on the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered on registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.08, 2.09, 2.12, 2.17, 3.07 or 9.05 and except for any Securities that, pursuant to Section 2.04 or 2.17, are deemed never to have been authenticated and delivered hereunder); provided, however, that unless otherwise provided in the terms of the series, the authorized aggregate principal amount of that series may be increased before or after the issuance of any Securities of the series by a Board Resolution (or action pursuant to a Board Resolution) to that effect;

(3) whether any Securities of the series are to be issuable initially in temporary global form and whether any Securities of the series are to be issuable in permanent global form, as Global Securities or otherwise, and, if so, whether beneficial owners of interests in any such Global Security may exchange those interests for Securities of that series and of like tenor of any authorized form and denomination and the circumstances under which those exchanges may occur, if other than in the manner provided in Section 2.17, and the initial Depository and Security Custodian, if any, for any Global Security or Securities of that series;

(4) (i) if other than provided herein, the Person to whom any interest on Securities of the series shall be payable, and (ii) the manner in which any interest payable on a temporary Global Security on any Interest Payment Date will be paid if other than in the manner provided in Section 2.14;

(5) the date or dates on which the principal of (and premium, if any, on) the Securities of the series is payable or the method of determination thereof;

(6) the rate or rates, or the method of determination thereof, at which the Securities of the series shall bear interest, if any, whether and under what circumstances Additional Amounts with respect to those Securities shall be payable, the date or dates from which that interest shall accrue, the Interest Payment Dates on which that interest shall be payable and the record date for the interest payable on any Securities on any Interest Payment Date;

(7) the place or places where, subject to the provisions of Section 4.02, the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series shall be payable;

(8) the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions on which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option, and the manner in which the Company may exercise any such option, if different from those set forth herein;

(9) the obligation, if any, of the Company to redeem, purchase or repay Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions on which Securities of the series shall be redeemed, purchased or repaid in whole or in part pursuant to that obligation;

(10) if other than denominations of \$1,000 and any integral multiple thereof, the denomination in which any Securities of that series shall be issuable;

(11) if other than Dollars, the currency or currencies (including composite currencies) or the form, including equity securities, other debt securities (including Securities), warrants or any other securities or property of the Company or any other Person, in which payment of the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series shall be payable;

(12) if the principal of, premium (if any) or interest on or any Additional Amounts with respect to the Securities of the series are to be payable, at the election of the Company or a Holder thereof, in a currency or currencies (including composite currencies) other than that in which the Securities are stated to be payable, the currency or currencies (including composite currencies) in which payment of the principal, premium (if any), interest and any Additional Amounts with respect to Securities of that series as to which that election is made shall be payable, and the periods within which and the terms and conditions on which that election is to be made;

(13) if the amount of payments of principal, premium (if any), interest and any Additional Amounts with respect to the Securities of the series may be determined with reference to any commodities, currencies or indices, values, rates or prices or any other index or formula, the manner in which those amounts shall be determined;

(14) if other than the entire principal amount thereof, the portion of the principal amount of Securities of the series that shall be payable on declaration of acceleration of the Maturity thereof pursuant to Section 6.02;

(15) any additional means of satisfaction and discharge of this Indenture and any additional conditions or limitations to discharge with respect to Securities of the series pursuant to Article VIII or any modifications of or deletions from those conditions or limitations;

(16) any deletions or modifications of or additions to the Events of Default set forth in Section 6.01 or covenants of the Company set forth in Article IV pertaining to the Securities of the series;

(17) any restrictions or other provisions with respect to the transfer or exchange of Securities of the series, which may amend, supplement, modify or supersede those contained in this Article II;

(18) if the Securities of the series are to be convertible into or exchangeable for Capital Stock, other debt securities (including Securities), warrants, other equity securities or any other securities or property of the Company or any other Person, at the option of the Company or the Holder or on the occurrence of any condition or event, the terms and conditions for that conversion or exchange;

(19) if the Securities of the series are to be entitled to the benefit of Section 4.03(b) (and accordingly constitute Rule 144A Securities); and

(20) any other terms of the series (which terms shall not be prohibited by the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 2.03) set forth, or determined in the manner provided, in the Officers' Certificate or Company Order referred to above or in any such indenture supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of that action together with that Board Resolution shall be set forth in an Officers' Certificate or certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate or Company Order setting forth the terms of the series.

SECTION 2.02 *Denominations.*

The Securities of each series shall be issuable in such denominations as shall be specified as contemplated by Section 2.01. In the absence of any such provisions with respect to

the Securities of any series, the Securities of that series denominated in Dollars shall be issuable in denominations of \$1,000 and any integral multiples thereof.

SECTION 2.03 *Forms Generally.*

The Securities of each series shall be in fully registered form and in substantially the form or forms (including temporary or permanent global form) established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto. The Securities may have notations, legends or endorsements required by law, securities exchange rule, the Company’s certificate of incorporation, bylaws or other similar governing documents, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form acceptable to the Company). A copy of the Board Resolution establishing the form or forms of Securities of any series shall be delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 2.04 for the authentication and delivery of those Securities.

The definitive Securities of each series shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the Officers executing those Securities, as evidenced by their execution thereof.

The Trustee’s certificate of authentication shall be in substantially the following form:

“This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[_____], *as Trustee*

By: _____
Authorized Officer”.

SECTION 2.04 *Execution, Authentication, Delivery and Dating.*

Two Officers of the Company shall sign the Securities of each series on behalf of the Company by manual or facsimile signature. If an Officer of the Company whose signature is on a Security no longer holds that office at the time the Security is authenticated, the Security shall be valid nevertheless.

A Security shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of an authorized signatory of the Trustee, which signature shall be conclusive evidence that the Security has been authenticated under this Indenture. Notwithstanding the foregoing, if any Security has been authenticated and delivered hereunder but never issued and sold by the Company, and the Company delivers that Security to the Trustee for cancellation as provided in Section 2.13 together with a written statement (which need not comply with Section 10.05 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and

sold by the Company, for all purposes of this Indenture that Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, and the Trustee shall authenticate and deliver those Securities for original issue on a Company Order for the authentication and delivery of those Securities or pursuant to such procedures reasonably acceptable to the Trustee as may be specified from time to time by Company Order. That order shall specify the amount of the Securities to be authenticated, the date on which the original issue of Securities is to be authenticated, the name or names of the initial Holder or Holders and any other terms of the Securities of that series not otherwise determined. If provided for in those procedures, that Company Order may authorize (1) authentication and delivery of Securities of that series for original issue from time to time, with certain terms (including, without limitation, the Maturity date or dates, original issue date or dates and interest rate or rates) that differ from Security to Security and (2) may authorize authentication and delivery pursuant to oral or electronic instructions from the Company or its duly authorized agent, which instructions shall be promptly confirmed in writing.

If the form or terms of the Securities of the series have been established in or pursuant to one or more Board Resolutions as permitted by Section 2.01, in authenticating those Securities, and accepting the additional responsibilities under this Indenture in relation to those Securities, the Trustee shall be entitled to receive (in addition to the Company Order referred to above and the other documents required by Section 10.04), and (subject to Section 7.01) shall be fully protected in relying on,

(a) an Officers' Certificate setting forth the Board Resolution and, if applicable, an appropriate record of any action taken pursuant thereto, as contemplated by the last paragraph of Section 2.01; and

(b) an Opinion of Counsel to the effect that:

- (i) if the form of those Securities has been established by or pursuant to Board Resolution, as is permitted by Section 2.01, that such form has been established in conformity with the provisions of this Indenture;
- (ii) if the terms of those Securities have been established by or pursuant to Board Resolution, as is permitted by Section 2.01, that such terms have been established in conformity with the provisions of this Indenture; and
- (iii) those Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in that Opinion of Counsel, will constitute valid and binding obligations of the Company, enforceable against

the Company in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws in effect from time to time affecting the rights of creditors generally, and the application of general principles of equity (regardless of whether that enforceability is considered in a proceeding in equity or at law).

If all the Securities of any series are not to be issued at one time, it shall not be necessary to deliver an Officers' Certificate and Opinion of Counsel at the time of issuance of each such Security, but that Officers' Certificate and Opinion of Counsel shall be delivered at or before the time of issuance of the first Security of the series to be issued.

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

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. Unless limited by the terms of that appointment, an authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by that agent. An authenticating agent has the same rights as an Agent to deal with the Company or an Affiliate of the Company.

Each Security shall be dated the date of its authentication.

SECTION 2.05 *Registrar and Paying Agent.*

The Company shall maintain an office or agency for each series of Securities where Securities of that series may be presented for registration of transfer or exchange ("Registrar") and an office or agency where Securities of that series may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Securities of that series and of their transfer and exchange. 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.

The Company shall enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to that Agent. The Company shall notify the Trustee of the name and address of any Agent not a party to this Indenture. The Company may change any Paying Agent or Registrar without notice to any Holder. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints the Trustee as Registrar and Paying Agent.

SECTION 2.06 *Paying Agent to Hold Money in Trust.*

With respect to each series of Securities, 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 of Securities of that series or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, or interest on or any Additional Amounts with respect to Securities of that series and will notify the Trustee 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 and to account for any funds disbursed. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. Upon payment over to the Trustee and upon accounting for any funds disbursed, the Paying Agent (if other than the Company) shall have no further liability for the money. If the Company acts as Paying Agent with respect to a series of Securities, it shall segregate and hold in a separate trust fund for the benefit of the Holders of Securities of that series all money held by it as Paying Agent. Each Paying Agent shall otherwise comply with TIA § 317(b).

SECTION 2.07 *Holder Lists.*

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders of each series of Securities and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar with respect to a series of Securities, the Company shall furnish to the Trustee at least five Business Days before each Interest Payment Date with respect to that series of Securities, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders of the Securities of that series, and the Company shall otherwise comply with TIA § 312(a).

SECTION 2.08 *Transfer and Exchange.*

Except as set forth in Section 2.17 or as may be provided pursuant to Section 2.01, when Securities of any series are presented to the Registrar with the request to register the transfer of those Securities or to exchange those Securities for an equal principal amount of Securities of the same series of like tenor and of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements and the requirements of this Indenture for those transactions are met; provided, however, that the Securities presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instruction of transfer in form reasonably satisfactory to the Registrar duly executed by the Holder thereof or by his attorney, duly authorized in writing, on which instruction the Registrar can rely.

To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Securities at the Registrar's written request and submission of the Securities (other than Global Securities). No service charge shall be made to a Holder for any registration of transfer or exchange (except as otherwise expressly permitted herein), but the Company may require payment of a sum sufficient to cover any transfer tax or similar

governmental charge payable in connection therewith (other than such transfer tax or similar governmental charge payable on exchanges pursuant to Section 2.12, 3.07 or 9.05). The Trustee shall authenticate Securities in accordance with the provisions of Section 2.04. Notwithstanding any other provisions of this Indenture to the contrary, the Company shall not be required to register the transfer or exchange of (a) any Security selected for redemption in whole or in part pursuant to Article III, except the unredeemed portion of any Security being redeemed in part or (b) any Security during the period beginning 15 Business Days before the mailing of notice of any offer to repurchase Securities of the series required pursuant to the terms thereof or of redemption of Securities of a series to be redeemed and ending at the close of business on the date of mailing.

SECTION 2.09 *Replacement Securities.*

If any mutilated Security is surrendered to the Trustee, or if the Holder of a Security claims that the Security has been destroyed, lost or stolen and the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of that Security, the Company shall issue and the Trustee shall authenticate a replacement Security of the same series if the Trustee's requirements are met. If any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay that Security. If required by the Trustee or the Company, the Holder must furnish an indemnity bond that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent or any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Security.

Every replacement Security is an additional obligation of the Company.

SECTION 2.10 *Outstanding Securities.*

The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Security effected by the Trustee hereunder and those described in this Section 2.10 as not outstanding.

If a Security is replaced pursuant to Section 2.09, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the principal amount of any Security is considered paid under Section 4.01, it ceases to be outstanding and interest on it ceases to accrue.

A Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

SECTION 2.11 *Original Issue Discount, Foreign-Currency Denominated and Treasury Securities.*

In determining whether the Holders of the required principal amount of Securities have concurred in any direction, amendment, supplement, waiver or consent, (a) the principal amount of an Original Issue Discount Security shall be the principal amount thereof that would be due and payable as of the date of that determination upon acceleration of the Maturity thereof pursuant to Section 6.02, (b) the principal amount of a Security denominated in a foreign currency shall be the Dollar equivalent, as determined by the Company by reference to the noon buying rate in The City of New York for cable transfers for that currency, as that rate is certified for customs purposes by the Federal Reserve Bank of New York (the "Exchange Rate") on the date of original issuance of that Security, of the principal amount (or, in the case of an Original Issue Discount Security, the Dollar equivalent, as determined by the Company by reference to the Exchange Rate on the date of original issuance of that Security, of the amount determined as provided in (a) above), of that Security and (c) Securities owned by the Company or any other obligor on the Securities or any Affiliate of the Company or of that other obligor shall be disregarded, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, amendment, supplement, waiver or consent, only Securities that the Trustee actually knows are so owned shall be so disregarded.

SECTION 2.12 *Temporary Securities.*

Until definitive Securities of any series are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Securities. Temporary Securities shall be substantially in the form of definitive Securities, but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Securities in exchange for temporary Securities. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

SECTION 2.13 *Cancellation.*

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange, payment or redemption or for credit against any sinking fund payment. The Trustee shall cancel all Securities surrendered for registration of transfer, exchange, payment, redemption, replacement or cancellation or for credit against any sinking fund. Unless the Company shall direct in writing that canceled Securities be returned to it, after written notice to the Company all canceled Securities held by the Trustee shall be disposed of in accordance with the usual disposal procedures of the Trustee, and the Trustee shall maintain a record of their disposal. The Company may not issue new Securities to replace Securities that have been paid or that have been delivered to the Trustee for cancellation.

SECTION 2.14 *Payments; Defaulted Interest.*

Unless otherwise provided as contemplated by Section 2.01 with respect to the Securities of any series, interest (except defaulted interest) on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Persons

who are registered Holders of that Security at the close of business on the record date next preceding that Interest Payment Date, even if those Securities are canceled after that record date and on or before that Interest Payment Date. The Holder must surrender a Security to a Paying Agent to collect principal payments. Unless otherwise provided with respect to the Securities of any series, the Company will pay the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities in Dollars. Those amounts shall be payable at the offices of the Trustee, provided that at the option of the Company, the Company may pay those amounts (1) by wire transfer with respect to Global Securities or (2) by check payable in that money mailed to a Holder's registered address with respect to any Securities.

If the Company defaults in a payment of interest on the Securities of any series, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest on the defaulted interest, in each case at the rate provided in the Securities of that series and in Section 4.01. The Company may pay the defaulted interest to the Persons who are Holders on a subsequent special record date. At least 15 days before any special record date selected by the Company, the Company (or the Trustee, in the name of and at the expense of the Company upon 20 days' prior written notice from the Company setting forth that record date and the interest amount to be paid) shall mail to Holders of any such series of Securities a notice that states the special record date, the related payment date and the amount of that interest to be paid.

SECTION 2.15 *Persons Deemed Owners.*

The Company, the Trustee, any Agent and any authenticating agent may treat the Person in whose name any Security is registered as the owner of that Security for the purpose of receiving payments of principal of, premium (if any) or interest on, or any Additional Amounts with respect to that Security and for all other purposes. None of the Company, the Trustee, any Agent or any authenticating agent shall be affected by any notice to the contrary.

SECTION 2.16 *Computation of Interest.*

Except as otherwise specified as contemplated by Section 2.01 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a year comprising twelve 30-day months.

SECTION 2.17 *Global Securities; Book-Entry Provisions.*

If Securities of a series are issuable in global form as a Global Security, as contemplated by Section 2.01, then, notwithstanding clause (10) of Section 2.01 and the provisions of Section 2.02, any such Global Security shall represent those of the outstanding Securities of that series as shall be specified therein and may provide that it shall represent the aggregate amount of outstanding Securities from time to time endorsed thereon and that the aggregate amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges or redemptions. Any endorsement of a Global Security to reflect the amount, or any increase or decrease in the amount, of outstanding Securities represented thereby shall be made by the Trustee (i) in such manner and upon instructions given by such Person or Persons as shall be specified in that Security or in a

Company Order to be delivered to the Trustee pursuant to Section 2.04 or (ii) otherwise in accordance with written instructions or such other written form of instructions as is customary for the Depository for that Security, from that Depository or its nominee on behalf of any Person having a beneficial interest in that Global Security. Subject to the provisions of Section 2.04 and, if applicable, Section 2.12, the Trustee shall deliver and redeliver any Security in permanent global form in the manner and upon instructions given by the Person or Persons specified in that Security or in the applicable Company Order. With respect to the Securities of any series that are represented by a Global Security, the Company authorizes the execution and delivery by the Trustee of a letter of representations or other similar agreement or instrument in the form customarily provided for by the Depository appointed with respect to that Global Security. Any Global Security may be deposited with the Depository or its nominee, or may remain in the custody of the Trustee or the Security Custodian therefor pursuant to a FAST Balance Certificate Agreement or similar agreement between the Trustee and the Depository. If a Company Order has been, or simultaneously is, delivered, any instructions by the Company with respect to endorsement or delivery or redelivery of a Security in global form shall be in writing but need not comply with Section 10.05 and need not be accompanied by an Opinion of Counsel.

Members of, or participants in, the Depository (“Agent Members”) shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depository, or the Trustee or the Security Custodian as its custodian, or under that Global Security, and the Depository may be treated by the Company, the Trustee or the Security Custodian and any agent of the Company, the Trustee or the Security Custodian as the absolute owner of that Global Security for all purposes whatsoever. Notwithstanding the foregoing, (i) the registered holder of a Global Security of any series 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 of Securities of that series is entitled to take under this Indenture or the Securities of that series and (ii) nothing herein shall prevent the Company, the Trustee or the Security Custodian or any agent of the Company, the Trustee, or the Security Custodian from giving effect to any written certification, proxy or other authorization furnished by the Depository or shall impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a beneficial owner of any Security.

Notwithstanding Section 2.08, and except as otherwise provided pursuant to Section 2.01, transfers of a Global Security shall be limited to transfers of that Global Security in whole, but not in part, to the Depository, its successors or their respective nominees. Interests of beneficial owners in a Global Security may be transferred in accordance with the rules and procedures of the Depository. Securities of any series shall be transferred to all beneficial owners of a Global Security of that series in exchange for their beneficial interests in that Global Security if, and only if, either (1) the Depository notifies the Company that it is unwilling or unable to continue as Depository for that Global Security and a successor Depository is not appointed by the Company within 90 days of that notice, (2) an Event of Default has occurred with respect to that series and is continuing and the Registrar has received a request from the Depository to issue Securities of that series in lieu of all or a portion of that Global Security (in which case the Company shall deliver Securities of that series within 30 days of that request) or

(3) the Company determines not to have the Securities of that series represented by a Global Security.

In connection with any transfer of a portion of the beneficial interests in a Global Security to beneficial owners pursuant to this Section 2.17, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the Global Security in an amount equal to the principal amount of the beneficial interest in the Global Security to be transferred, and the Company shall execute, and the Trustee on receipt of a Company Order for the authentication and delivery of Securities shall authenticate and deliver, one or more Securities of the same series of like tenor and amount.

In connection with the transfer of all the beneficial interests in a Global Security of any series to beneficial owners pursuant to this Section 2.17, the Global Security shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and the Trustee shall authenticate and deliver, to each beneficial owner identified by the Depositary in exchange for its beneficial interest in the Global Security, an equal aggregate principal amount of Securities of that series of authorized denominations.

Neither the Company nor the Trustee will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Securities by the Depositary, or for maintaining, supervising or reviewing any records of the Depositary relating to those Securities. Neither the Company nor the Trustee shall be liable for any delay by the related Global Security Holder or the Depositary in identifying the beneficial owners, and each such Person may conclusively rely on, and shall be protected in relying on, instructions from that Global Security Holder or the Depositary for all purposes (including with respect to the registration and delivery, and the respective principal amounts, of the Securities to be issued).

The provisions of the last sentence of the third paragraph of Section 2.04 shall apply to any Global Security if that Global Security was never issued and sold by the Company and the Company delivers to the Trustee the Global Security together with written instructions (which need not comply with Section 10.05 and need not be accompanied by an Opinion of Counsel) with regard to the cancellation or reduction in the principal amount of Securities represented thereby, together with the written statement contemplated by the last sentence of the third paragraph of Section 2.04.

Notwithstanding the provisions of Sections 2.03 and 2.14, unless otherwise specified as contemplated by Section 2.01 with respect to Securities of any series, payment of principal of and premium (if any) and interest on and any Additional Amounts with respect to any Global Security shall be made to the Person or Persons specified therein.

The Company in issuing Securities of any series may use CUSIP numbers (if then generally in use), and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to Holders of Securities of such series; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities of such series or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities of such series, and any

such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the CUSIP numbers.

Notwithstanding anything herein to the contrary, delivery or surrender of a Security shall not be required in the case of Global Securities in order to obtain the rights and benefits provided hereunder upon the delivery or surrender of a Security.

ARTICLE III REDEMPTION

SECTION 3.01 *Applicability of Article.*

Securities of any series that are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 2.01 for Securities of any series) in accordance with this Article III.

SECTION 3.02 *Notice to the Trustee.*

If the Company elects to redeem Securities of any series pursuant to this Indenture, it shall notify the Trustee of the Redemption Date and principal amount of Securities of that series to be redeemed. The Company shall so notify the Trustee at least 45 days before the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee) by delivering to the Trustee an Officers' Certificate stating that the redemption will comply with the provisions of this Indenture and of the Securities of that series. Any such notice may be canceled at any time prior to the mailing of that notice of redemption to any Holder of the Securities of that series and shall thereupon be void and of no effect.

SECTION 3.03 *Selection of Securities To Be Redeemed.*

If less than all the Securities of any series are to be redeemed (unless all of the Securities of that series of a specified tenor are to be redeemed), the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the outstanding Securities of that series (and tenor) not previously called for redemption, either pro rata, by lot or by such other method as the Trustee shall deem fair and appropriate. That redemption may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the principal amount of Securities of that series of a denomination larger than the minimum authorized denomination for Securities of that series or of the principal amount of Global Securities of that series.

The Trustee shall promptly notify the Company and the Registrar in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Securities of any series shall relate, in the case of any of the

Securities redeemed or to be redeemed only in part, to the portion of the principal amount thereof which has been or is to be redeemed.

SECTION 3.04 Notice of Redemption.

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 (or not less than 15 days in the case of convertible Securities) nor more than 60 days prior to the Redemption Date, to each Holder of Securities of a series to be redeemed, at the address of that Holder appearing in the register of Securities for that series maintained by the Registrar.

All notices of redemption shall identify the Securities to be redeemed and shall state:

- (1) the Redemption Date;
- (2) the Redemption Price (or the method of calculating or determining the Redemption Price);
- (3) that, unless the Company defaults in making the redemption payment, interest on Securities called for redemption ceases to accrue on and after the Redemption Date, and the only remaining right of the Holders of those Securities is to receive payment of the Redemption Price on surrender to the Paying Agent of the Securities redeemed;
- (4) if any Security is to be redeemed in part, the portion of the principal amount thereof to be redeemed and that on and after the Redemption Date, on surrender for cancellation of that Security to the Paying Agent, a new Security or Securities in the aggregate principal amount equal to the unredeemed portion thereof will be issued without charge to the Holder;
- (5) that Securities called for redemption must be surrendered to the Paying Agent to collect the Redemption Price and the name and address of the Paying Agent;
- (6) that the redemption is for a sinking or analogous fund, if that is the case;
- (7) if such Securities are convertible into or exchangeable for capital stock, other debt securities (including Securities), warrants, other equity securities or any securities or property of the Company or any other Person, the name and address of the conversion or exchange agent, the date on which the right to convert or exchange is terminated and the conversion or exchange rate; and
- (8) the CUSIP number, if any, relating to those Securities.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's written request, by the Trustee in the name and at the expense of the Company.

SECTION 3.05 Effect of Notice of Redemption.

Once notice of redemption is mailed, Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price. Upon surrender to the Paying Agent, those Securities called for redemption shall be paid at the Redemption Price, but interest installments whose maturity is on or prior to that Redemption Date will be payable on the relevant Interest Payment Dates to the Holders of record at the close of business on the relevant record dates specified pursuant to Section 2.01.

SECTION 3.06 Deposit of Redemption Price.

On or prior to any Redemption Date, the Company shall deposit with the Trustee or the Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 2.06) an amount of money in same day funds sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on and any Additional Amounts with respect to, the Securities or portions thereof which are to be redeemed on that date, other than Securities or portions thereof called for redemption on that date which have been delivered by the Company to the Trustee for cancellation.

If the Company complies with the preceding paragraph, then, unless the Company defaults in the payment of that Redemption Price, interest on the Securities to be redeemed will cease to accrue on and after the applicable Redemption Date, whether or not those Securities are presented for payment, and the Holders of those Securities shall have no further rights with respect to those Securities except for the right to receive the Redemption Price on surrender of those Securities. If any Security called for redemption shall not be so paid on surrender thereof for redemption, the principal of and premium, if any, any Additional Amounts, and, to the extent lawful, accrued interest thereon shall, until paid, bear interest from the Redemption Date at the rate specified pursuant to Section 2.01 or provided in the Securities or, in the case of Original Issue Discount Securities, their initial yield to maturity.

SECTION 3.07 Securities Redeemed or Purchased in Part.

Upon surrender to the Paying Agent of a Security to be redeemed in part, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of that Security without service charge a new Security or Securities, of the same series and of any authorized denomination as requested by that Holder in aggregate principal amount equal to, and in exchange for, the unredeemed portion of the principal of the Security so surrendered that is not redeemed.

SECTION 3.08 Purchase of Securities.

Unless otherwise specified as contemplated by Section 2.01, the Company and any Affiliate of the Company may at any time purchase or otherwise acquire Securities in the open market or by private agreement. Any such acquisition shall not operate as or be deemed for any purpose to be a redemption of the indebtedness represented by those Securities. Any Securities purchased or acquired by the Company may be delivered to the Trustee for cancellation and, on that cancellation, the indebtedness represented thereby shall be deemed to be satisfied. Section 2.13 shall apply to all Securities so delivered.

SECTION 3.09 Mandatory and Optional Sinking Funds.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “mandatory sinking fund payment,” and any payment in excess of the minimum amount provided for by the terms of Securities of any series is herein referred to as an “optional sinking fund payment.” Unless otherwise provided by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.10. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of that series and by this Article III.

SECTION 3.10 Satisfaction of Sinking Fund Payments with Securities.

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

SECTION 3.11 Redemption of Securities for Sinking Fund.

Not less than 45 days prior (unless a shorter period shall be satisfactory to the Trustee) to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officers’ Certificate of the Company specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, that is to be satisfied by payment of cash and the portion thereof, if any, that is to be satisfied by delivery of or by crediting Securities of that series pursuant to Section 3.10 and will also deliver to the Trustee any Securities to be so delivered. Failure of the Company to timely deliver that Officers’ Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute the election of the Company (i) that the mandatory sinking fund payment for that series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of that series in respect

thereof and (ii) that the Company will make no optional sinking fund payment with respect to that series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed \$100,000 (or the Dollar equivalent thereof based on the applicable Exchange Rate on the date of original issue of the applicable Securities) or a lesser sum if the Company shall so request with respect to the Securities of any particular series, that cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of that series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If that amount shall be \$100,000 (or the Dollar equivalent thereof as aforesaid) or less and the Company makes no such request, then it shall be carried over until a sum in excess of \$100,000 (or the Dollar equivalent thereof as aforesaid) is available. Not less than 30 days before each such sinking fund payment date, the Trustee shall select the Securities to be redeemed on that sinking fund payment date in the manner specified in Section 3.03 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.04. That notice having been duly given, the redemption of those Securities shall be made on the terms and in the manner stated in Sections 3.05, 3.06 and 3.07.

ARTICLE IV COVENANTS

SECTION 4.01 *Payment of Securities.*

The Company shall pay the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of each series on the dates and in the manner provided in the Securities of that series and in this Indenture. Principal, premium, interest and any Additional Amounts shall be considered paid on the date due if the Paying Agent, other than the Company, holds on that date money deposited by the Company designated for and sufficient to pay all principal, premium (if any), interest and any Additional Amounts then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal of and premium (if any) on Securities of any series, at a rate equal to the then applicable interest rate on the Securities of that series to the extent lawful; and it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest on and any overdue payments of Additional Amounts with respect to Securities of that series (without regard to any applicable grace period) at the same rate to the extent lawful.

SECTION 4.02 *Maintenance of Office or Agency.*

The Company will maintain in each Place of Payment for any series of Securities an office or agency (which may be an office of the Trustee, the Registrar or the Paying Agent) where Securities of that series may be presented for registration of transfer or exchange, where Securities of that series may be presented for payment and where notices and demands to or on

the Company in respect of the Securities of that series and this Indenture may be served. Unless otherwise designated by the Company by written notice to the Trustee, that office or agency shall be the office of the Trustee in the City of New York, which on the date hereof is located at [_____], New York, New York [_____]. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of that 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, those presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all those purposes and may from time to time rescind those 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 each Place of Payment for Securities of any series for those purposes. The Company will 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.

SECTION 4.03 *SEC Reports; Financial Statements.*

(a) The Company shall file with the Trustee, within 15 days after it files the same with the SEC, copies of the annual reports and the information, documents and other reports (or copies of those portions of any of the foregoing as the SEC may by rules and regulations prescribe) that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. If this Indenture is qualified under the TIA, but not otherwise, the Company shall also comply with the provisions of TIA § 314(a).

(b) If the Company is not subject to the requirements of Section 13 or 15(d) of the Exchange Act, the Company shall furnish to all Holders of Rule 144A Securities and prospective purchasers of Rule 144A Securities designated by the Holders of Rule 144A Securities, promptly on their request, the information required to be delivered pursuant to Rule 144A(d)(4) promulgated under the Securities Act of 1933, as amended.

(c) The Company intends to file the reports, information and documents referred to in Section 4.03(a) hereof with the SEC in electronic form pursuant to Regulation S-T promulgated by the SEC using the SEC's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system. The Company shall notify the Trustee in the manner prescribed herein of each such filing. The Trustee is hereby authorized and directed to access the EDGAR system for purposes of retrieving the reports so filed. Compliance with the foregoing shall constitute delivery by the Company of such reports to the Trustee in compliance with the provisions of TIA Section 314(a). The Trustee shall have no duty to search for or obtain any electronic or other filings that the Company makes with the SEC, regardless of whether such filings are periodic, supplemental or otherwise. Delivery of the reports, information and documents to the Trustee pursuant to this Section 4.03 shall be solely for the purposes of compliance with this Section 4.03 and with TIA Section 314(a). The Trustee's receipt of such reports, information and documents shall not constitute notice to it of the content thereof or of any matter determinable from the

content thereof, including the Company's compliance with any of its covenants hereunder, as to which the Trustee is entitled to rely upon Officers' Certificates.

SECTION 4.04 Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company, a statement signed by an Officer of the Company, which need not constitute an Officers' Certificate, complying with TIA § 314(a)(4) and stating that, in the course of performance by the signing Officer of the Company of his or her duties as such Officer of the Company, he or she would normally obtain knowledge of the keeping, observing, performing and fulfilling by the Company of its obligations under this Indenture, and further stating that, to the best of his or her knowledge, the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which that Officer may have knowledge and what action the Company is taking or proposes to take with respect thereto).

(b) The Company shall, so long as Securities of any series are outstanding, deliver to the Trustee, promptly on any Officer of the Company becoming aware of any Default or Event of Default under this Indenture, an Officers' Certificate specifying that Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

SECTION 4.05 Existence.

Subject to Article V hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

SECTION 4.06 Waiver of Stay, Extension or Usury Laws.

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

SECTION 4.07 Additional Amounts.

If the Securities of a series expressly provide for the payment of Additional Amounts, the Company will pay to the Holder of any Security of that series Additional Amounts as expressly provided therein. Whenever in this Indenture there is mentioned, in any context, the

payment of the principal of or any premium or interest on, or in respect of, any Security of any series or the net proceeds received from the sale or exchange of any Security of any series, that mention shall be deemed to include mention of the payment of Additional Amounts provided for in this Section 4.07 to the extent that, in that context, Additional Amounts are, were or would be payable in respect thereof pursuant to the provisions of this Section 4.07, and express mention of the payment of Additional Amounts (if applicable) in any provisions hereof shall not be construed as excluding Additional Amounts in those provisions hereof where that express mention is not made.

Unless otherwise provided pursuant to Section 2.01 with respect to Securities of any series, if the Securities of a series provide for the payment of Additional Amounts, at least ten days prior to the first Interest Payment Date with respect to that series of Securities (or if the Securities of that series will not bear interest prior to Maturity, the first day on which a payment of principal and any premium is made), and at least ten days prior to each date of payment of principal and any premium or interest if there has been any change with respect to the matters set forth in the below-mentioned Officers' Certificate, the Company shall furnish the Trustee and the Company's principal Paying Agent or Paying Agents, if other than the Trustee, with an Officers' Certificate instructing the Trustee and such Paying Agent or Paying Agents whether that payment of principal of and any premium or interest on the Securities of that series shall be made to Holders of Securities of that series who are United States Aliens without withholding for or on account of any tax, assessment or other governmental charge described in the Securities of that series. If any such withholding shall be required, then that Officers' Certificate shall specify by country the amount, if any, required to be withheld on those payments to those Holders of Securities, and the Company will pay to that Paying Agent the Additional Amounts required by this Section. The Company covenants to indemnify the Trustee and any Paying Agent for and to hold them harmless against any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Officers' Certificate furnished pursuant to this Section 4.07.

ARTICLE V SUCCESSORS

SECTION 5.01 *Limitations on Mergers, Consolidations and Other Transactions.*

The Company shall not, in any transaction or series of related transactions, consolidate with any other Person into, or merge into, any other Person, or sell, lease, convey, transfer or otherwise dispose of its assets substantially as an entirety to any Person, unless:

(1) either (a) the Company shall be the continuing Person or (b) the Person formed by that consolidation or into which the Company is merged, or to which that sale, lease, conveyance, transfer or other disposition shall be made (collectively, the "Successor"), expressly assumes by supplemental indenture the due and punctual payment of the principal of (and premium, if any) and interest on and Additional Amounts with respect to all the Securities and the performance of the Company's covenants and obligations under this Indenture and the Securities;

(2) immediately after giving effect to that transaction or series of related transactions, no Default or Event of Default shall have occurred and be continuing; and

(3) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that the transaction and that supplemental indenture comply with this Indenture.

SECTION 5.02 *Successor Person Substituted.*

Upon any consolidation or merger of the Company or any sale, lease, conveyance, transfer or other disposition of the assets of the Company substantially as an entirety in accordance with Section 5.01, any Successor formed by that consolidation or into or with which the Company is merged or to which that sale, lease, conveyance, transfer or other disposition is made shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Indenture and the Securities with the same effect as if that Successor had been named as the Company herein and the predecessor Company, in the case of a sale, conveyance, transfer or other disposition, shall be released from all obligations under this Indenture and the Securities.

ARTICLE VI DEFAULTS AND REMEDIES

SECTION 6.01 *Events of Default.*

Unless either inapplicable to a particular series or specifically deleted or modified in or pursuant to the supplemental indenture or Board Resolution establishing that series of Securities or in the form of Security for that series, an "Event of Default," wherever used herein with respect to Securities of any series, occurs if:

(1) the Company defaults in the payment of interest on or any Additional Amounts with respect to any Security of that series when the same becomes due and payable and that default continues for a period of 30 days;

(2) the Company defaults in the payment of (A) the principal of any Security of that series at its Maturity or (B) premium (if any) on any Security of that series when the same becomes due and payable, regardless of whether such payment became due because of maturity, redemption, acceleration or otherwise, or is required by any sinking fund established with respect to such series;

(3) the Company fails to comply with any of its other covenants or agreements in, or provisions of, the Securities of that series or this Indenture (other than an agreement, covenant or provision that has expressly been included in this Indenture solely for the benefit of one or more series of Securities other than that series) which shall not have been remedied within the specified period after written notice, as specified in the last paragraph of this Section 6.01;

- (4) the Company pursuant to or within the meaning of any Bankruptcy Law:
- (A) commences a voluntary case,
 - (B) consents to the entry of an order for relief against it in an involuntary case,
 - (C) consents to the appointment of a Bankruptcy Custodian of it or for all or substantially all of its property, or
 - (D) makes a general assignment for the benefit of its creditors;
- (5) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that remains unstayed and in effect for 90 days and that:
- (A) is for relief against the Company as debtor in an involuntary case,
 - (B) appoints a Bankruptcy Custodian of the Company or a Bankruptcy Custodian for all or substantially all of the property of the Company, or
 - (C) orders the liquidation of the Company;
- (6) the Company defaults with respect to its Debt (other than the Securities for that series) in an aggregate principal amount in excess of that dollar amount specified in the supplemental indenture for the Securities, which
- (A) consists of the failure to make any payment at maturity, or
 - (B) results in acceleration of the maturity of such Debt; or
- (7) any other Event of Default provided with respect to Securities of that series occurs.

The term “Bankruptcy Custodian” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

When a Default is cured, it ceases.

Notwithstanding the foregoing provisions of this Section 6.01, if the principal of, premium (if any) or interest on or Additional Amounts with respect to any Security is payable in a currency or currencies (including a composite currency) other than Dollars and such currency or currencies are not available to the Company for making payment thereof due to the imposition of exchange controls or other circumstances beyond the control of the Company (a “Conversion Event”), the Company will be entitled to satisfy its obligations to Holders of the Securities by making that payment in Dollars in an amount equal to the Dollar equivalent of the amount

payable in such other currency, as determined by the Company by reference to the Exchange Rate on the date of that payment, or, if that rate is not then available, on the basis of the most recently available Exchange Rate. Notwithstanding the foregoing provisions of this Section 6.01, any payment made under such circumstances in Dollars where the required payment is in a currency other than Dollars will not constitute an Event of Default under this Indenture.

Promptly after the occurrence of a Conversion Event, the Company shall give written notice thereof to the Trustee; and the Trustee, promptly after receipt of that notice, shall give notice thereof in the manner provided in Section 10.02 to the Holders. Promptly after the making of any payment in Dollars as a result of a Conversion Event, the Company shall give notice in the manner provided in Section 10.02 to the Holders, setting forth the applicable Exchange Rate and describing the calculation of those payments.

A Default under clause (3) of this Section 6.01 is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in principal amount of the then outstanding Securities of the series affected by that Default, or, if outstanding Securities of other series are affected by that Default, then at least 25% in principal amount of the then outstanding Securities so affected, notify the Company and the Trustee, of the Default, and the Company fails to cure the Default within 90 days after receipt of the notice. The notice must specify the Default, demand that it be remedied and state that the notice is a "Notice of Default."

SECTION 6.02 *Acceleration.*

If an Event of Default with respect to any Securities of any series at the time outstanding (other than an Event of Default specified in clause (4) or (5) of Section 6.01 hereof) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the then outstanding Securities of the series affected by that default (or, in the case of an Event of Default described in clause (3) of Section 6.01, if outstanding Securities of other series are affected by that Default, then at least 25% in principal amount of the then outstanding Securities so affected) by notice to the Company and the Trustee, may declare the principal of (or, if any of those Securities are Original Issue Discount Securities, that portion of the principal amount as may be specified in the terms of that series) and all accrued and unpaid interest on all then outstanding Securities of that series or of all series, as the case may be, to be due and payable. Upon any such declaration, the amounts due and payable on those Securities shall be due and payable immediately. If an Event of Default specified in clause (4) or (5) of Section 6.01 hereof occurs, those amounts shall ipso facto become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee or any Holder. The Holders of a majority in principal amount of the then outstanding Securities of the series affected by that default or all series, as the case may be, by written notice to the Trustee may rescind an acceleration and its consequences (other than nonpayment of principal of or premium or interest on or any Additional Amounts with respect to the Securities) if the rescission would not conflict with any judgment or decree and if all existing Events of Default with respect to Securities of that series (or of all series, as the case may be) have been cured or waived, except nonpayment of principal, premium, interest or any Additional Amounts that has become due solely because of the acceleration.

SECTION 6.03 *Other Remedies.*

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, or premium, if any, or interest on the Securities of that series or to enforce the performance of any provision of the Securities of that series or this Indenture.

The Trustee may maintain a proceeding with respect to Securities of any series even if it does not possess any of the Securities of that series or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing on 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 6.04 *Waiver of Defaults.*

Subject to Sections 6.07 and 9.02, the Holders of a majority in principal amount of the then outstanding Securities of any series or of all series (acting as one class) by notice to the Trustee may waive an existing or past Default or Event of Default with respect to that series or all series, as the case may be, and its consequences (including waivers obtained in connection with a tender offer or exchange offer for Securities of that series or all series or a solicitation of consents in respect of Securities of that series or all series, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of that series or all series (but the terms of that offer or solicitation may vary from series to series)), except (1) a continuing Default or Event of Default in the payment of the principal of, or premium, if any, or interest on or any Additional Amounts with respect to any Security or (2) a continued Default in respect of a provision that under Section 9.02 cannot be amended or supplemented without the consent of each Holder affected. Upon any such waiver, that Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 6.05 *Control by Majority.*

With respect to Securities of any series, the Holders of a majority in principal amount of the then outstanding Securities of that series may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it relating to or arising under an Event of Default described in clause (1), (2) or (7) of Section 6.01, and with respect to all Securities, the Holders of a majority in principal amount of all the then outstanding Securities affected may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it not relating to or arising under such an Event of Default. However, the Trustee may refuse to follow any direction that conflicts with applicable law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of other Holders, or that may involve the Trustee in personal liability; provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with that

direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion from Holders directing the Trustee against all losses and expenses caused by taking or not taking that action.

SECTION 6.06 *Limitations on Suits.*

Subject to Section 6.07 hereof, a Holder of a Security of any series may pursue a remedy with respect to this Indenture or the Securities of that series only if:

- (1) the Holder gives to the Trustee written notice of a continuing Event of Default with respect to that series;
- (2) the Holders of at least 25% in principal amount of the then outstanding Securities of that series make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee indemnity reasonably satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity; and
- (5) during that 60-day period, the Holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

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

SECTION 6.07 *Rights of Holders to Receive Payment.*

Notwithstanding any other provision of this Indenture, the right of any Holder of a Security to receive payment of principal of and premium, if any, and interest on and any Additional Amounts with respect to that Security, on or after the respective due dates expressed in that Security, or to bring suit for the enforcement of any such payment on or after those respective dates, is absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

SECTION 6.08 *Collection Suit by Trustee.*

If an Event of Default specified in clause (1) or (2) of Section 6.01 hereof occurs and is continuing with respect to Securities of any series, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the amount of principal, premium (if any), interest and any Additional Amounts remaining unpaid on the Securities of that series, and interest on overdue principal and premium, if any, and, to the extent lawful, interest on overdue 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.

SECTION 6.09 Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents and to take such actions, including participating as a member, voting or otherwise, of any committee of creditors, as may be necessary or advisable 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 proceeding relative to the Company or its creditors or properties 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 Bankruptcy Custodian in any such judicial proceeding is hereby authorized by each Holder to make those payments to the Trustee, and in the event that the Trustee shall consent to the making of those 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 7.07. 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 7.07 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 which the Holders of the Securities may be entitled to receive in that 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 Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.10 Priorities.

If the Trustee collects any money pursuant to this Article VI, it shall pay out the money in the following order:

First: to the Trustee for amounts due under Section 7.07;

Second: to Holders for amounts due and unpaid on the Securities in respect of which or for the benefit of which that money has been collected, for principal, premium (if any), interest and any Additional Amounts ratably, without preference or priority of any kind, according to the amounts due and payable on those Securities for principal, premium (if any), interest and any Additional Amounts, respectively; and

Third: to the Company.

The Trustee, on prior written notice to the Company, may fix record dates and payment dates for any payment to Holders pursuant to this Article VI.

To the fullest extent allowed under applicable law, if for the purpose of obtaining a judgment against the Company in any court it is necessary to convert the sum due in respect of the principal of, premium (if any) or interest on or Additional Amounts with respect to the Securities of any series (the “Required Currency”) into a currency in which a judgment will be rendered (the “Judgment Currency”), the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the New York Business Day next preceding that on which final judgment is given. Neither the Company nor the Trustee shall be liable for any shortfall nor shall it benefit from any windfall in payments to Holders of Securities under this Section 6.10 caused by a change in exchange rates between the time the amount of a judgment against it is calculated as above and the time the Trustee converts the Judgment Currency into the Required Currency to make payments under this Section to Holders of Securities, but payment of that judgment shall discharge all amounts owed by the Company on the claim or claims underlying that judgment.

SECTION 6.11 *Undertaking for Costs.*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as 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, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by a Holder or Holders of more than 10% in principal amount of the then outstanding Securities of any series.

ARTICLE VII TRUSTEE

SECTION 7.01 *Duties of Trustee.*

(a) If an Event of Default with respect to the Securities of any series has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture with respect to the Securities of that series, and use the same degree of care and skill in that exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of an Event of Default with respect to the Securities of any series:

(1) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, on

certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine those certificates and opinions to determine whether, on their face, they appear to conform to the requirements of this Indenture.

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

(1) this paragraph does not limit the effect of Section 7.01(b);

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to the provisions of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity reasonably 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 held in trust by the Trustee need not be segregated from other funds except to the extent required by law. All money received by the Trustee with respect to Securities of any series shall, until applied as herein provided, be held in trust for the payment of the principal of, premium (if any) and interest on and Additional Amounts with respect to the Securities of that series.

SECTION 7.02 *Rights of Trustee.*

(a) The Trustee may rely 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 instruction, an Officers' Certificate or an Opinion of Counsel or both to be provided. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on that instruction, Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel, and the written advice of that counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(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 which it believes to be authorized or within its rights or powers conferred on it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Securities, unless either (1) a Trust Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to the Trustee by the Company or by any Holder of the Securities, and such notice references the Securities and this Indenture.

(g) The permissive rights of the Trustee enumerated herein shall not be construed as duties.

SECTION 7.03 *May Hold Securities.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any of its Affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights and duties. However, the Trustee is subject to Sections 7.10 and 7.11.

SECTION 7.04 *Trustee's Disclaimer.*

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Securities; it shall not be accountable for the Company's use of the proceeds from the Securities or any money paid to the Company or upon the Company's direction under any provision hereof; it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee; and it shall not be responsible for any statement or recital herein or any statement in the Securities other than its certificate of authentication.

SECTION 7.05 *Notice of Defaults.*

If a Default or Event of Default with respect to the Securities of any series occurs and is continuing and it is known to the Trustee, the Trustee shall mail to Holders of Securities of that series a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium (if any) and interest on and Additional Amounts or any sinking fund installment with respect to the Securities of that series, the Trustee may withhold the notice if and so long as a committee of its Trust

Officers in good faith determines that withholding the notice is in the interests of Holders of Securities of that series.

SECTION 7.06 Reports by Trustee to Holders.

Within 60 days after each May 15 of each year after the execution of this Indenture, the Trustee shall mail to Holders of a series and the Company a brief report dated as of that reporting date that complies with TIA § 313(a); provided, however, that if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date with respect to a series, no report need be transmitted to Holders of that series. The Trustee also shall comply with TIA § 313(b). The Trustee shall also transmit by mail all reports if and as required by TIA §§ 313(c) and 313(d).

A copy of each report at the time of its mailing to Holders of a series of Securities shall be filed by the Company with the SEC and each securities exchange, if any, on which the Securities of that series are listed. The Company shall notify the Trustee if and when any series of Securities is listed on any stock exchange.

SECTION 7.07 Compensation and Indemnity.

The Company agrees to pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company agrees to reimburse the Trustee on request for all reasonable disbursements, advances and expenses incurred by it. Those expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company hereby indemnifies the Trustee against any loss, liability or expense incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, except as set forth in the next paragraph. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel, and the Company shall pay the reasonable fees and expenses of that counsel. The Company need not pay for any settlement made without its consent.

The Company shall not be obligated to reimburse any expense or indemnify against any loss or liability incurred by the Trustee through negligence or bad faith.

To secure the payment obligations of the Company in this Section 7.07, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of any series. That lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(4) or (5) occurs, the expenses and the compensation for the services are

intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.08 Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only on the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign and be discharged at any time with respect to the Securities of one or more series by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Securities of any series may remove the Trustee with respect to the Securities of that series by so notifying the Trustee and the Company. The Company may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a Bankruptcy Custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, with respect to the Securities of one or more series, the Company shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of those series and that at any time there shall be only one Trustee with respect to the Securities of any particular series). Within one year after the successor Trustee with respect to the Securities of any series takes office, the Holders of a majority in principal amount of the Securities of that series may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee with respect to the Securities of any series does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% in principal amount of the then outstanding Securities of that series may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of that series.

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

In case of the appointment of a successor Trustee with respect to all Securities, each such successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the retiring Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.07.

In case of the appointment of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more (but not all) series shall execute and deliver an indenture supplemental hereto in which each successor Trustee shall accept that appointment and that (1) shall confer to each successor Trustee all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall confirm that all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee. Nothing herein or in that supplemental indenture shall constitute those Trustees co-trustees of the same trust, and each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee. Upon the execution and delivery of that supplemental indenture, the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, and each such successor Trustee shall have all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates. On the request of the Company or any successor Trustee, that retiring Trustee shall transfer to that successor Trustee all property held by that retiring Trustee as Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates. Such retiring Trustee shall, however, have the right to deduct its unpaid fees and expenses.

Notwithstanding replacement of the Trustee or Trustees pursuant to this Section 7.08, the obligations of the Company under Section 7.07 shall continue for the benefit of the retiring Trustee or Trustees.

SECTION 7.09 *Successor Trustee by Merger, etc.*

Subject to Section 7.10, if the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee; provided, however, that in the case of a transfer of all or substantially all of its corporate trust business to another corporation, the transferee corporation expressly assumes all of the Trustee's liabilities hereunder.

In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to that authenticating Trustee may adopt that authentication and deliver the Securities so authenticated; and in case at that time any of the Securities shall not have been authenticated, any successor to the Trustee may authenticate those Securities either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all those cases those certificates shall have the full force which it is anywhere in the Securities or in this Indenture provided that the certificate of the Trustee shall have.

SECTION 7.10 Eligibility; Disqualification.

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States, any State thereof or the District of Columbia and authorized under those laws to exercise corporate trust power, shall be subject to supervision or examination by Federal or State (or the District of Columbia) authority and shall have, or be a subsidiary of a bank or bank holding company having, a combined capital and surplus of at least \$50 million as set forth in its most recent published annual report of condition.

The Indenture shall always have a Trustee who satisfies the requirements of TIA §§ 310(a)(1), 310(a)(2) and 310(a)(5). The Trustee is subject to and shall comply with the provisions of TIA § 310(b) during the period of time required by this Indenture. Nothing in this Indenture shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA § 310(b).

SECTION 7.11 Preferential Collection of Claims Against Company.

The Trustee is subject to and shall comply with the provisions of TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

ARTICLE VIII
DISCHARGE OF INDENTURE

SECTION 8.01 Termination of Company's Obligations.

(a) This Indenture shall cease to be of further effect with respect to the Securities of a series (except as to any surviving rights of conversion or of registration of transfer or exchange of Securities expressly provided for herein and except that the Company's obligations under Section 7.07, the Trustee's and Paying Agent's obligations under Section 8.03 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive), and the Trustee, on demand of the Company, shall execute proper instruments acknowledging the satisfaction and discharge of this Indenture with respect to the Securities of that series, when:

- (1) either

(A) all outstanding Securities of that series theretofore authenticated and issued (other than destroyed, lost or stolen Securities that have been replaced or paid) have been delivered to the Trustee for cancellation; or

(B) all outstanding Securities of that series not theretofore delivered to the Trustee for cancellation:

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and, in the case of clause (i), (ii) or (iii) above, the Company has irrevocably deposited or caused to be deposited with the Trustee as funds (immediately available to the Holders in the case of clause (i)) in trust for that purpose (x) cash in an amount, or (y) Government Obligations, maturing as to principal and interest at such times and in such amounts as will ensure the availability of cash in an amount or (z) a combination thereof, which will be sufficient, in the opinion (in the case of clauses (y) and (z)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness on the Securities of that series for principal and any interest and any Additional Amounts to the date of that deposit (in the case of Securities which have become due and payable) or for principal, premium, if any, interest and any Additional Amounts to the Stated Maturity or Redemption Date, as the case may be; or

(C) the Company has properly fulfilled such other means of satisfaction and discharge as is specified, as contemplated by Section 2.01, to be applicable to the Securities of that series;

(2) the Company has paid or caused to be paid all other sums payable by it hereunder with respect to the Securities of that series; and

(3) the Company has delivered to the Trustee an Officers' Certificate stating that all conditions precedent to satisfaction and discharge of this Indenture with respect to the Securities of that series have been complied with, together with an Opinion of Counsel to the same effect.

(b) Unless this Section 8.01(b) is specified as not being applicable to Securities of a series as contemplated by Section 2.01, the Company may terminate certain of its obligations under this Indenture ("covenant defeasance") with respect to the Securities of a series if:

(1) the Company has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for and dedicated solely to the benefit of the Holders of Securities of that series, (i) money in the currency in which payment of the Securities of that series is to be made in an amount, or (ii) Government Obligations with respect to that series, maturing as to principal and interest at such times and in such amounts as will ensure the availability of money in the currency in which payment of the Securities of that series is to be made in an amount or (iii) a combination thereof, that is sufficient, in the opinion (in the case of clauses (ii) and (iii)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay, without consideration of the reinvestment of any such amounts and after payment of all taxes or other charges or assessments in respect thereof payable by the Trustee, the principal of and premium (if any) and interest on and any Additional Amounts with respect to all Securities of that series on each date that such principal, premium (if any), interest or Additional Amounts are due and payable and (at the Stated Maturity thereof or on redemption as provided in Section 8.01(e)) to pay all other sums payable by it hereunder; provided that the Trustee shall have been irrevocably instructed to apply that money and/or the proceeds of those Government Obligations to the payment of said principal, premium (if any), interest and Additional Amounts with respect to the Securities of that series as the same shall become due;

(2) the Company has delivered to the Trustee an Officers' Certificate stating that all conditions precedent to satisfaction and discharge of this Indenture with respect to the Securities of that series have been complied with, and an Opinion of Counsel to the same effect;

(3) no Default or Event of Default with respect to the Securities of that series shall have occurred and be continuing on the date of that deposit;

(4) the Company shall have delivered to the Trustee an Opinion of Counsel from counsel reasonably acceptable to the Trustee or a private letter ruling issued by the United States Internal Revenue Service to the effect that the Holders of Securities of that series will not recognize income, gain or loss for Federal income tax purposes as a result of the Company's exercise of its option under this Section 8.01(b) and will be subject to Federal income tax on the same amount and in the same manner and at the same times as would have been the case if that option had not been exercised;

(5) the Company has complied with any additional conditions specified pursuant to Section 2.01 to be applicable to the discharge of Securities of that series pursuant to this Section 8.01; and

(6) that deposit and discharge shall not cause the Trustee to have a conflicting interest as defined in TIA § 310(b).

In that event, this Indenture shall cease to be of further effect (except as set forth in this paragraph), and the Trustee, on demand of the Company, shall execute proper instruments acknowledging satisfaction and discharge under this Indenture. However, the Company's obligations in Sections 2.05, 2.06, 2.07, 2.08, 2.09, 4.01, 4.02, 5.01, 7.07, 7.08 and 8.04, the Trustee's and Paying Agent's obligations in Section 8.03 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive until all Securities of that series are no longer outstanding. Thereafter, only the Company's obligations in Section 7.07 and the Trustee's and Paying Agent's obligations in Section 8.03 shall survive with respect to Securities of that series.

After making the irrevocable deposit pursuant to this Section 8.01(b) and following satisfaction of the other conditions set forth herein, the Trustee on request shall acknowledge in writing the discharge of the Company's obligations under this Indenture with respect to the Securities of that series, except for those surviving obligations specified above.

In order to have money available on a payment date to pay principal of or premium (if any) or interest on or any Additional Amounts with respect to the Securities, the Government Obligations shall be payable as to principal or interest on or before that payment date in such amounts as will provide the necessary money. Any such Government Obligations shall not be callable at the issuer's option.

(c) If the Company has previously complied or is concurrently complying with Section 8.01(b) (other than any additional conditions specified pursuant to Section 2.01 that are expressly applicable only to covenant defeasance) with respect to Securities of a series, then, unless this Section 8.01(c) is specified as not being applicable to Securities of that series as contemplated by Section 2.01, the Company may elect to be discharged ("legal defeasance") from its obligations to make payments with respect to Securities of that series, if:

(1) no Default or Event of Default under clauses (4) and (5) of Section 6.01 hereof shall have occurred at any time during the period ending on the 91st day after the date of deposit contemplated by Section 8.01(b) (it being understood that this condition shall not be deemed satisfied until the expiration of that period);

(2) unless otherwise specified with respect to Securities of that series as contemplated by Section 2.01, the Company has delivered to the Trustee an Opinion of Counsel from counsel reasonably acceptable to the Trustee to the effect referred to in Section 8.01(b)(4) with respect to that legal defeasance, which opinion is based on (i) a private ruling of the Internal Revenue Service addressed to the Company, (ii) a published ruling of the United States Internal Revenue Service pertaining to a comparable form of transaction or (iii) a change in the applicable federal income tax law (including regulations) after the date of this Indenture;

(3) the Company has complied with any other conditions specified pursuant to Section 2.01 to be applicable to the legal defeasance of Securities of that series pursuant to this Section 8.01(c); and

(4) the Company has delivered to the Trustee a Company Request requesting legal defeasance of the Securities of that series and an Officers' Certificate stating that all conditions precedent with respect to legal defeasance of the Securities of that series have been complied with, together with an Opinion of Counsel to the same effect.

In that event, the Company will be discharged from its obligations under this Indenture and the Securities of that series to pay principal of, premium (if any) and interest on, and any Additional Amounts with respect to, Securities of that series, the Company's obligations under Sections 4.01, 4.02 and 5.01 shall terminate with respect to those Securities, and the entire indebtedness of the Company evidenced by those Securities shall be deemed paid and discharged.

(d) If and to the extent additional or alternative means of satisfaction, discharge or defeasance of Securities of a series are specified to be applicable to that series as contemplated by Section 2.01, the Company may terminate any or all of its obligations under this Indenture with respect to Securities of a series and any or all of its obligations under the Securities of that series if it fulfills such other means of satisfaction and discharge as may be so specified, as contemplated by Section 2.01, to be applicable to the Securities of that series.

(e) If Securities of any series subject to subsections (a), (b), (c) or (d) of this Section 8.01 are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory or optional sinking fund provisions, the terms of the applicable trust arrangement shall provide for that redemption, and the Company shall make such arrangements as are reasonably satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company.

SECTION 8.02 *Application of Trust Money.*

The Trustee or a trustee reasonably satisfactory to the Trustee and the Company shall hold in trust money or Government Obligations deposited with it pursuant to Section 8.01 hereof. It shall apply the deposited money and the money from Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series with respect to which the deposit was made.

SECTION 8.03 *Repayment to Company.*

The Trustee and the Paying Agent shall promptly pay to the Company at any time on the written request of the Company any excess money or Government Obligations (or proceeds therefrom) held by them.

Subject to the requirements of any applicable abandoned property laws, the Trustee and the Paying Agent shall pay to the Company on written request any money held by them for the payment of principal, premium (if any), interest or any Additional Amounts that remain unclaimed for two years after the date on which that payment shall have become due. After payment to the Company, Holders entitled to the money must look to the Company for

payment as general creditors unless an applicable abandoned property law designates another Person, and all liability of the Trustee and the Paying Agent with respect to that money shall cease.

SECTION 8.04 Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money or Government Obligations deposited with respect to Securities of any series 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 that application, the obligations of the Company under this Indenture with respect to the Securities of that series and under the Securities of that series shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.01 until such time as the Trustee or the Paying Agent is permitted to apply all such money or Government Obligations in accordance with Section 8.01; provided, however, that if the Company has made any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of those Securities to receive such payment from the money or Government Obligations held by the Trustee or the Paying Agent.

ARTICLE IX
SUPPLEMENTAL INDENTURES AND AMENDMENTS

SECTION 9.01 Without Consent of Holders.

The Company and the Trustee may amend or supplement this Indenture or the Securities or waive any provision hereof or thereof without the consent of any Holder:

- (1) to cure any ambiguity, omission, defect or inconsistency;
- (2) to comply with Section 5.01;
- (3) to provide for uncertificated Securities in addition to or in place of certificated Securities, or to provide for the issuance of bearer Securities (with or without coupons);
- (4) to provide any security for any series of Securities or to add guarantees of any series of Securities;
- (5) to comply with any requirement in order to effect or maintain the qualification of this Indenture under the TIA;
- (6) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if those covenants are to be for the benefit of less than all series of Securities, stating that those covenants are expressly being included solely

for the benefit of that series), or to surrender any right or power herein conferred on the Company;

(7) to add any additional Events of Default with respect to all or any series of the Securities (and, if any such Event of Default is applicable to less than all series of Securities, specifying the series to which that Event of Default is applicable);

(8) to change or eliminate any of the provisions of this Indenture; provided that any such change or elimination shall become effective only when there is no outstanding Security of any series created prior to the execution of that amendment or supplemental indenture that is adversely affected in any material respect by that change in or elimination of that provision;

(9) to establish the form or terms of Securities of any series as permitted by Section 2.01;

(10) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Section 8.01; provided, however, that any such action shall not adversely affect the interest of the Holders of Securities of that series or any other series of Securities in any material respect; or

(11) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 7.08.

Upon the request of the Company, accompanied by a Board Resolution, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall, subject to Section 9.06, join with the Company in the execution of any supplemental indenture authorized or permitted by the terms of this Indenture and make any further appropriate agreements and stipulations that may be therein contained.

SECTION 9.02 *With Consent of Holders.*

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture with the written consent (including consents obtained in connection with a tender offer or exchange offer for Securities of any one or more series or all series or a solicitation of consents in respect of Securities of any one or more series or all series, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of each such series (but the terms of that offer or solicitation may vary from series to series)) of the Holders of at least a majority in principal amount of the then outstanding Securities of all series affected by that amendment or supplement (acting as one class).

Upon the request of the Company, accompanied by a Board Resolution, and upon the filing with the Trustee of evidence of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall, subject to Section 9.06, join with the Company in the execution of that amendment or supplemental indenture.

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

The Holders of a majority in principal amount of the then outstanding Securities of one or more series or of all series may waive compliance in a particular instance by the Company with any provision of this Indenture with respect to Securities of that series (including waivers obtained in connection with a tender offer or exchange offer for Securities of that series or a solicitation of consents in respect of Securities of that series, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of that series (but the terms of that offer or solicitation may vary from series to series)).

However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not:

- (1) reduce the amount of Securities whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the rate of or change the time for payment of interest, including default interest, on any Security;
- (3) reduce the principal of, premium on or any mandatory sinking fund payment with respect to, or change the Stated Maturity of, any Security or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable on a declaration of acceleration of the Maturity thereof pursuant to Section 6.02;
- (4) reduce the premium, if any, payable on the redemption of any Security or change the time at which any Security may or shall be redeemed;
- (5) change any obligation of the Company to pay Additional Amounts with respect to any Security;
- (6) change the coin or currency or currencies (including composite currencies) in which any Security or any premium, interest or Additional Amounts with respect thereto are payable;
- (7) impair the right to institute suit for the enforcement of any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Security pursuant to Sections 6.07 and 6.08, except as limited by Section 6.06;

(8) make any change in the percentage of principal amount of Securities necessary to waive compliance with certain provisions of this Indenture pursuant to Section 6.04 or 6.07 or make any change in this sentence of Section 9.02;

(9) waive a continuing Default or Event of Default in the payment of principal of, premium (if any) or interest on or Additional Amounts with respect to the Securities; or

(10) if applicable, make any change that materially and adversely affects the right to convert any Security.

A supplemental indenture that changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of that series with respect to that covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

The right of any Holder to participate in any consent required or sought pursuant to any provision of this Indenture (and the obligation of the Company to obtain any such consent otherwise required from that Holder) may be subject to the requirement that such Holder shall have been the Holder of record of any Securities with respect to which that consent is required or sought as of a date identified by the Company in a notice furnished to Holders in accordance with the terms of this Indenture.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall mail to the Holders of each Security affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail that notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

SECTION 9.03 *Compliance with Trust Indenture Act.*

Every amendment or supplement to this Indenture or the Securities shall comply in form and substance with the TIA as then in effect.

SECTION 9.04 *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 and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to his or her Security or portion of a Security if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver 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 (which need not comply with Section 316(c) of the TIA) for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver or to take any other action under this Indenture. If a record date is fixed, then notwithstanding the provisions of the immediately preceding paragraph, those Persons who were Holders at that record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to that amendment, supplement or waiver or to revoke any consent previously given, whether or not those Persons continue to be Holders after that record date. No consent shall be valid or effective for more than 90 days after that record date unless consents from Holders of the principal amount of Securities required hereunder for that amendment or waiver to be effective shall have also been given and not revoked within that 90-day period.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it is of the type described in any of clauses (1) through (9) of Section 9.02 hereof. In that case, the amendment, supplement or waiver shall bind each Holder who has consented to it and every subsequent Holder that evidences the same debt as the consenting Holder's Security.

SECTION 9.05 *Notation on or Exchange of Securities.*

If an amendment or supplement changes the terms of an outstanding Security, the Company may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security at the request of the Company regarding the changed terms and return it to the Holder. Alternatively, if the Company so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms. Failure to make the appropriate notation or to issue a new Security shall not affect the validity of that amendment or supplement.

Securities of any series authenticated and delivered after the execution of any amendment or supplement may, and shall if required by the Company, bear a notation in form approved by the Company as to any matter provided for in that amendment or supplement.

SECTION 9.06 *Trustee to Sign Amendments, etc.*

The Trustee shall sign any amendment or supplement authorized pursuant to this Article if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, but need not, sign it. In signing or refusing to sign that amendment or supplement, the Trustee shall be entitled to receive, and, subject to Section 7.01 hereof, shall be fully protected in relying on, an Opinion of Counsel provided at the expense of the Company as conclusive evidence that such amendment or supplement is authorized or permitted by this Indenture, that it is not inconsistent herewith, and that it will be valid and binding on the Company in accordance with its terms.

ARTICLE X MISCELLANEOUS

SECTION 10.01 *Trust Indenture Act Controls.*

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by operation of TIA § 318(c), the imposed duties shall control.

SECTION 10.02 *Notices.*

Any notice or communication by the Company or the Trustee to the other is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), telex, facsimile or overnight air courier guaranteeing next day delivery, to the other's address:

If to the Company:

Dawson Geophysical Company
508 West Wall, Suite 800
Midland, Texas 79701
Attention: Christina W. Hagan
Telephone: (432) 684-3000
Facsimile: (432) 684-____

If to the Trustee:

Attention: Corporate Trust Administration
Telephone: _____
Facsimile: _____

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

All notices and communications 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 answered back, if telexed; when receipt acknowledged, if by facsimile; 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, postage prepaid, to the Holder's address shown on the register kept by the Registrar. 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, except in the case of notice to the Trustee, it is duly given only when received.

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.

All notices or communications, including without limitation notices to the Trustee or the Company by Holders, shall be in writing, except as otherwise set forth herein.

In case by reason of the suspension of regular mail service, or by reason of any other cause, it shall be impossible to mail any notice required by this Indenture, then such method of notification as shall be made with the approval of the Trustee shall constitute a sufficient mailing of that notice.

SECTION 10.03 Communication by Holders with Other Holders.

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

SECTION 10.04 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall, if requested by the Trustee, furnish to the Trustee at the expense of the Company:

(1) an Officers' Certificate (which shall include the statements set forth in Section 10.05) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel (which shall include the statements set forth in Section 10.05 hereof) stating that, in the opinion of that counsel, all those conditions precedent and covenants have been complied with.

SECTION 10.05 Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) shall comply with the provisions of TIA § 314(e) and shall include:

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

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

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

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

SECTION 10.06 Rules by Trustee and Agents.

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

SECTION 10.07 Legal Holidays.

If a payment date is a Legal Holiday at a Place of Payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

SECTION 10.08 No Recourse Against Others.

A director, officer, employee, stockholder, partner or other owner of the Company or the Trustee, as such, shall not have any liability for any obligations of the Company under the Securities or for any obligations of the Company or the Trustee under this Indenture or for any claim based on, in respect of or by reason of those obligations or their creation. Each Holder by accepting a Security waives and releases all that liability. The waiver and release shall be part of the consideration for the issue of Securities.

SECTION 10.09 Governing Law.

THIS INDENTURE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY PRINCIPLES OF CONFLICTS OF LAWS THEREUNDER TO THE EXTENT THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

SECTION 10.10 No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Company. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 10.11 Successors.

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

SECTION 10.12 *Severability.*

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

SECTION 10.13 *Counterpart Originals.*

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 10.14 *Table of Contents, Headings, etc.*

The table of contents, cross-reference table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

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

DAWSON GEOPHYSICAL COMPANY

By: _____

Name:

Title:

[_____]

as Trustee

By: _____

Name:

Title:

FORM OF SUBORDINATED INDENTURE

DAWSON GEOPHYSICAL COMPANY
as Issuer

and

[_____]
as Trustee

Indenture

Dated as of _____, 200_

Subordinated Debt Securities

DAWSON GEOPHYSICAL COMPANY

**Reconciliation and tie between Trust Indenture Act of 1939
and Indenture, dated as of _____, 200_**

Section of Trust Indenture Act of 1939	Section(s) of Indenture
§ 310	7.10
	7.10
	Not Applicable
	Not Applicable
	7.10
	7.08, 7.10
§ 311	7.11
	7.11
	Not Applicable
§ 312	2.07
	11.03
	11.03
§ 313	7.06
	7.06
	7.06
	7.06
§ 314	4.03, 4.04
	Not Applicable
	11.04
	11.04
	Not Applicable
	Not Applicable
	11.05
§ 315	7.01(b)
	7.05
	7.01(a)
	7.01(c)
	7.01(c)(1)
	7.01(c)(2)
	7.01(c)(3)
	6.11
§ 316	6.05
	6.04
	Not Applicable
	2.11
	6.07
§ 317	6.08
	6.09
	2.06
§ 318	11.01

Note: This reconciliation and tie shall not, for any purpose, be deemed to be a part of the Indenture.

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INDENTURE dated as of _____, 200__ between Dawson Geophysical Company, a Texas corporation (the “Company”), and [_____], as trustee (the “Trustee”).

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of the Company’s unsecured subordinated debentures, notes or other evidences of indebtedness (the “Securities”) to be issued from time to time in one or more series as provided in this Indenture:

ARTICLE I
DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01 *Definitions.*

“Additional Amounts” means any additional amounts required by the express terms of a Security or by or pursuant to a Board Resolution, under circumstances specified therein or pursuant thereto, to be paid by the Company with respect to certain taxes, assessments or other governmental charges imposed on certain Holders and that are owing to those Holders.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, that specified Person. For purposes of this definition, “control” of a Person shall mean the power to direct the management and policies of that Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” shall have meanings correlative to the foregoing.

“Agent” means any Registrar or Paying Agent.

“Bankruptcy Law” means Title 11 of the United States Code or any similar federal, state or foreign law for the relief of debtors.

“Board of Directors” means the Board of Directors of the Company or any committee thereof duly authorized, with respect to any particular matter, to act by or on behalf of the Board of Directors of the Company.

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

“Business Day” means any day that is not a Legal Holiday.

“Capital Stock” means, with respect to any corporation, any and all shares, interests, rights to purchase (other than convertible or exchangeable Debt), warrants, options, participations or other equivalents of or interests (however designated) in stock issued by that corporation.

“Capitalized Lease Obligation” of any Person means any obligation of that Person to pay rent or other amounts under a lease of property, real or personal, that is required to be capitalized for financial reporting purposes in accordance with GAAP; and the amount of that obligation shall be the capitalized amount thereof determined in accordance with GAAP.

“Company” means the Person named as the “Company” in the first paragraph of this instrument until a successor corporation shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean that successor corporation; provided, however, that for purposes of any provision contained herein which is required by the TIA, “Company” shall also mean each other obligor (if any) on the Securities of a series.

“Company Order” and “Company Request” mean, respectively, a written order or request signed in the name of the Company by two Officers of the Company, and delivered to the Trustee.

“Corporate Trust Office” of the Trustee means the office of the Trustee located at [_____], and as may be located at such other address as the Trustee may give notice to the Company.

“Debt” of any Person means, without duplication, (i) all indebtedness of that Person for borrowed money (whether or not the recourse of the lender is to the whole of the assets of that Person or only to a portion thereof), (ii) all obligations of that Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of that Person in respect of letters of credit or other similar instruments (or reimbursement obligations with respect thereto), other than standby letters of credit, bid or performance bonds and other similar obligations issued by or for the account of that Person in the ordinary course of business, to the extent not drawn or, to the extent drawn, if that drawing is reimbursed not later than 30 Business Days following demand for reimbursement, (iv) all obligations of that Person to pay the deferred and unpaid purchase price of property or services, except trade payables, advances on contracts and accrued expenses arising in the ordinary course of business, (v) all Capitalized Lease Obligations of that Person, (vi) all Debt of others secured by a lien (as defined in the indenture supplement relating to a series of Securities) on any asset of that Person, whether or not that Debt is assumed by that Person (provided that if the obligations so secured have not been assumed in full by that Person or are not otherwise that Person’s legal liability in full, then those obligations shall be deemed to be in an amount equal to the greater of (a) the lesser of (1) the full amount of those obligations and (2) the fair market value of those assets, as determined in good faith by the board of directors or other managing body of that Person and (b) the amount of obligations as have been assumed by that Person or which are otherwise that Person’s legal liability), and (vii) all guarantees by that Person of or with respect to Debt of others (other than endorsements in the ordinary course of business), in each case to the extent of the Debt guaranteed.

“Default” means any event, act or condition that is, or after notice or the passage of time or both would be, an Event of Default.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in global form, the Person specified pursuant to Section 2.01 hereof as the

initial Depository with respect to the Securities of that series, until a successor shall have been appointed and become such pursuant to the applicable provision of this Indenture, and thereafter “Depository” shall mean or include that successor.

“Designated Senior Debt,” unless otherwise provided with respect to the Securities of a series as contemplated by Section 2.01, means any Senior Debt of the Company that (i) in the instrument evidencing the same or the assumption or guarantee thereof (or related documents to which the Company is a party) is expressly designated as “Designated Senior Debt” for purposes of this Indenture and (ii) satisfies such other conditions as may be provided with respect to the Securities of that series; provided that those instruments or documents may place limitations and conditions on the right of that Senior Debt to exercise the rights of Designated Senior Debt.

“Disqualified Capital Stock” means, when used with respect to the Securities of any series, (i) except as set forth in (ii), with respect to any Person, Capital Stock of that Person that, by its terms or by the terms of any security into which it is convertible, exercisable or exchangeable, is, or on the happening of an event or the passage of time would be, required to be redeemed or repurchased (including at the option of the holder thereof) by that Person or any subsidiary of that Person, in whole or in part, on or prior to the last Stated Maturity of the Securities of that series, and (ii) with respect to any subsidiary of that Person (including with respect to any subsidiary of the Company), any Capital Stock other than any common stock with no preference, privileges, or redemption or repayment provisions.

“Dollar” or “\$” means a dollar or other equivalent unit in such coin or currency of the United States as at the time shall be legal tender for the payment of public and private debt.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and any successor statute.

“GAAP” means generally accepted accounting principles in the United States as in effect from time to time set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and the 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, which are applicable to the circumstances as of the date of determination.

“Global Security” of any series means a Security of that Series that is issued in global form in the name of the Depository with respect thereto or its nominee.

“Government Obligations” means, with respect to a series of Securities, direct obligations of the government that issues the currency in which the Securities of the series are payable for the payment of which the full faith and credit of that government is pledged, or obligations of a Person controlled or supervised by and acting as an agency or instrumentality of that government, the payment of which is unconditionally guaranteed as a full faith and credit obligation by that government.

“Holder” means a Person in whose name a Security is registered.

“Indenture” means this Indenture as amended or supplemented from time to time pursuant to the provisions hereof, and includes the terms of a particular series of Securities established as contemplated by Section 2.01.

“interest” means, with respect to an Original Issue Discount Security that by its terms bears interest only after Maturity, interest payable after Maturity.

“Interest Payment Date,” when used with respect to any Security, shall have the meaning assigned to that term in the Security as contemplated by Section 2.01.

“Issue Date” means, with respect to Securities of a series, the date on which the Securities of that series are originally issued under this Indenture.

“Junior security” of a Person means, when used with respect to the Securities of any series, any Qualified Capital Stock of that Person or any Debt of that Person that is subordinated in right of payment to Senior Debt of the Company to substantially the same extent as, or to a greater extent than, the Securities of that series and has no scheduled installment of principal due, by redemption, sinking fund payment or otherwise, on or prior to the last Stated Maturity of the Securities of that series.

“Legal Holiday” means a Saturday, a Sunday or a day on which banking institutions in any of The City of New York, New York, Midland, Texas or a Place of Payment are authorized or obligated by law, regulation or executive order to remain closed.

“Maturity” means, with respect to any Security, the date on which the principal of that Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity thereof, or by declaration of acceleration, call for redemption or otherwise.

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

“Officers’ Certificate” means a certificate signed by two Officers of a Person.

“Opinion of Counsel” means a written opinion from legal counsel who is reasonably acceptable to the Trustee. That counsel may be an employee of or counsel to the Company or the Trustee.

“Original Issue Discount Security” means any Security that provides for an amount less than the principal amount thereof to be due and payable on a declaration of acceleration of the Maturity thereof pursuant to Section 6.02.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, incorporated or unincorporated association, joint stock company, trust, unincorporated organization or government or other agency or political subdivision thereof or other entity of any kind.

“Place of Payment” means, with respect to the Securities of any series, the place or places where, subject to the provisions of Section 4.02, the principal of, premium (if any) on and interest on the Securities of that series are payable as specified in accordance with Section 2.01.

“principal” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on the Security.

“Qualified Capital Stock” means any Capital Stock of the Company that is not Disqualified Capital Stock.

“Redemption Date” means, with respect to any Security to be redeemed, the date fixed for that redemption by or pursuant to this Indenture.

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

“Rule 144A Securities” means Securities of a series designated pursuant to Section 2.01 as entitled to the benefits of Section 4.03(b).

“SEC” means the Securities and Exchange Commission.

“Securities” has the meaning stated in the preamble of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture.

“Security Custodian” means, with respect to Securities of a series issued in global form, the Trustee for Securities of that series, as custodian with respect to the Securities of that series, or any successor entity thereto.

“Senior Debt” of the Company, unless otherwise provided with respect to the Securities of a series as contemplated by Section 2.01, means (i) the principal of and premium, if any, and interest on (including interest accruing or becoming owing prior to or subsequent to the commencement of any proceeding against or with respect to the Company under any bankruptcy law) and other amounts due on or in connection with any Debt of the Company, whether currently outstanding or hereafter incurred, issued or assumed, unless, by the terms of the instrument creating or evidencing that Debt, it is provided that such Debt is not superior in right of payment to the Securities or to other Debt which is pari passu with or subordinated to the Securities, and (ii) any modifications, refunding, deferrals, renewals or extensions of any such Debt or securities, notes or other evidences of Debt issued in exchange for that Debt; provided that in no event shall “Senior Debt” of the Company include Debt of the Company for borrowed

money owed or owing to any subsidiary of the Company or any executive officer or director of the Company.

“Stated Maturity” means, when used with respect to any Security or any installment of principal thereof or interest thereon, the date specified in that Security as the fixed date on which the principal of that Security or that installment of principal or interest is due and payable.

“TIA” means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb), as in effect on the date hereof.

“Trust Officer” means any officer or assistant officer of the Trustee assigned by the Trustee to administer its corporate trust matters.

“Trustee” means the Person named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter “Trustee” means each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series means the Trustee with respect to Securities of that series.

“United States” means the United States of America (including the States and the District of Columbia) and its territories and possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands).

“United States Alien” means any Person who, for United States federal income tax purposes, is a foreign corporation, a nonresident alien individual, a nonresident alien or foreign fiduciary of an estate or trust, or a foreign partnership.

“U.S. Government Obligations” means Government Obligations with respect to Securities payable in Dollars.

SECTION 1.02 *Other Definitions.*

Term	Defined in Section
“Agent Members”	2.17
“Bankruptcy Custodian”	6.01
“Conversion Event”	6.01
“covenant defeasance”	8.01
“Event of Default”	6.01
“Exchange Rate”	2.11
“Judgment Currency”	6.10
“legal defeasance”	8.01
“mandatory sinking fund payment”	3.09
“optional sinking fund payment”	3.09
“Paying Agent”	2.05

Term	Defined in Section
“Payment Blocking Notice”	10.02
“Payment Default”	10.02
“Registrar”	2.05
“Required Currency”	6.10
“Successor”	5.01

SECTION 1.03 *Incorporation by Reference of Trust Indenture Act.*

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

“Commission” means the SEC.

“indenture securities” means the Securities.

“indenture security holder” means a Holder.

“indenture to be qualified” means this Indenture.

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

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

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

SECTION 1.04 *Rules of Construction.*

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) “or” is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) provisions apply to successive events and transactions; and

(6) all references in this instrument to Articles and Sections are references to the corresponding Articles and Sections in and of this instrument.

ARTICLE II
THE SECURITIES

SECTION 2.01 *Amount Unlimited; Issuable in Series.*

The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution, and set forth, or determined in a manner provided, in an Officers' Certificate or in a Company Order, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series:

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

(2) if there is to be a limit, the limit on the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered on registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.08, 2.09, 2.12, 2.17, 3.07 or 9.05 and except for any Securities that, pursuant to Section 2.04 or 2.17, are deemed never to have been authenticated and delivered hereunder); provided, however, that unless otherwise provided in the terms of the series, the authorized aggregate principal amount of that series may be increased before or after the issuance of any Securities of the series by a Board Resolution (or action pursuant to a Board Resolution) to that effect;

(3) whether any Securities of the series are to be issuable initially in temporary global form and whether any Securities of the series are to be issuable in permanent global form, as Global Securities or otherwise, and, if so, whether beneficial owners of interests in any such Global Security may exchange those interests for Securities of that series and of like tenor of any authorized form and denomination and the circumstances under which those exchanges may occur, if other than in the manner provided in Section 2.17, and the initial Depository and Security Custodian, if any, for any Global Security or Securities of that series;

(4) (i) if other than provided herein, the Person to whom any interest on Securities of the series shall be payable, and (ii) the manner in which any interest payable on a temporary Global Security on any Interest Payment Date will be paid if other than in the manner provided in Section 2.14;

(5) the date or dates on which the principal of (and premium, if any, on) the Securities of the series is payable or the method of determination thereof;

(6) the rate or rates, or the method of determination thereof, at which the Securities of the series shall bear interest, if any, whether and under what circumstances Additional Amounts with respect to those Securities shall be payable, the date or dates from which that interest shall accrue, the Interest Payment Dates on which that interest shall be payable and the record date for the interest payable on any Securities on any Interest Payment Date;

(7) the place or places where, subject to the provisions of Section 4.02, the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series shall be payable;

(8) the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions on which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option, and the manner in which the Company may exercise any such option, if different from those set forth herein;

(9) the obligation, if any, of the Company to redeem, purchase or repay Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions on which Securities of the series shall be redeemed, purchased or repaid in whole or in part pursuant to that obligation;

(10) if other than denominations of \$1,000 and any integral multiple thereof, the denomination in which any Securities of that series shall be issuable;

(11) if other than Dollars, the currency or currencies (including composite currencies) or the form, including equity securities, other debt securities (including Securities), warrants or any other securities or property of the Company or any other Person, in which payment of the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series shall be payable;

(12) if the principal of, premium (if any) or interest on or any Additional Amounts with respect to the Securities of the series are to be payable, at the election of the Company or a Holder thereof, in a currency or currencies (including composite currencies) other than that in which the Securities are stated to be payable, the currency or currencies (including composite currencies) in which payment of the principal, premium (if any), interest and any Additional Amounts with respect to Securities of that series as to which that election is made shall be payable, and the periods within which and the terms and conditions on which that election is to be made;

(13) if the amount of payments of principal, premium (if any), interest and any Additional Amounts with respect to the Securities of the series may be determined with

reference to any commodities, currencies or indices, values, rates or prices or any other index or formula, the manner in which those amounts shall be determined;

(14) if other than the entire principal amount thereof, the portion of the principal amount of Securities of the series that shall be payable on declaration of acceleration of the Maturity thereof pursuant to Section 6.02;

(15) any additional means of satisfaction and discharge of this Indenture and any additional conditions or limitations to discharge with respect to Securities of the series pursuant to Article VIII or any modifications of or deletions from those conditions or limitations;

(16) any deletions or modifications of or additions to the Events of Default set forth in Section 6.01 or covenants of the Company set forth in Article IV pertaining to the Securities of the series;

(17) any restrictions or other provisions with respect to the transfer or exchange of Securities of the series, which may amend, supplement, modify or supersede those contained in this Article II;

(18) if the Securities of the series are to be convertible into or exchangeable for Capital Stock, other debt securities (including Securities), warrants, other equity securities or any other securities or property of the Company or any other Person, at the option of the Company or the Holder or on the occurrence of any condition or event, the terms and conditions for that conversion or exchange;

(19) if the Securities of the series are to be entitled to the benefit of Section 4.03(b) (and accordingly constitute Rule 144A Securities);

(20) any modifications to, or qualifications contemplated by, the definition of "Designated Senior Debt," any modifications to the definition of "Senior Debt" of the Company or any modifications to Article X or the other provisions regarding subordination with respect to the Securities of that series; and

(21) any other terms of the series (which terms shall not be prohibited by the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 2.03) set forth, or determined in the manner provided, in the Officers' Certificate or Company Order referred to above or in any such indenture supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of that action together with that Board Resolution shall be set forth in an Officers' Certificate or certified by the Secretary or an

Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate or Company Order setting forth the terms of the series.

The Securities shall be subordinated in right of payment to Senior Debt of the Company as provided in Article X.

SECTION 2.02 Denominations.

The Securities of each series shall be issuable in such denominations as shall be specified as contemplated by Section 2.01. In the absence of any such provisions with respect to the Securities of any series, the Securities of that series denominated in Dollars shall be issuable in denominations of \$1,000 and any integral multiples thereof.

SECTION 2.03 Forms Generally.

The Securities of each series shall be in fully registered form and in substantially the form or forms (including temporary or permanent global form) established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto. The Securities may have notations, legends or endorsements required by law, securities exchange rule, the Company's certificate of incorporation, bylaws or other similar governing documents, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form acceptable to the Company). A copy of the Board Resolution establishing the form or forms of Securities of any series shall be delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 2.04 for the authentication and delivery of those Securities.

The definitive Securities of each series shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the Officers executing those Securities, as evidenced by their execution thereof.

The Trustee's certificate of authentication shall be in substantially the following form:

"This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[_____], as Trustee

By: _____
Authorized Officer".

SECTION 2.04 Execution, Authentication, Delivery and Dating.

Two Officers of the Company shall sign the Securities of each series on behalf of the Company by manual or facsimile signature. If an Officer of the Company whose signature is

on a Security no longer holds that office at the time the Security is authenticated, the Security shall be valid nevertheless.

A Security shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of an authorized signatory of the Trustee, which signature shall be conclusive evidence that the Security has been authenticated under this Indenture. Notwithstanding the foregoing, if any Security has been authenticated and delivered hereunder but never issued and sold by the Company, and the Company delivers that Security to the Trustee for cancellation as provided in Section 2.13 together with a written statement (which need not comply with Section 11.05 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture that Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, and the Trustee shall authenticate and deliver those Securities for original issue on a Company Order for the authentication and delivery of those Securities or pursuant to such procedures reasonably acceptable to the Trustee as may be specified from time to time by Company Order. That order shall specify the amount of the Securities to be authenticated, the date on which the original issue of Securities is to be authenticated, the name or names of the initial Holder or Holders and any other terms of the Securities of that series not otherwise determined. If provided for in those procedures, that Company Order may authorize (1) authentication and delivery of Securities of that series for original issue from time to time, with certain terms (including, without limitation, the Maturity date or dates, original issue date or dates and interest rate or rates) that differ from Security to Security and (2) may authorize authentication and delivery pursuant to oral or electronic instructions from the Company or its duly authorized agent, which instructions shall be promptly confirmed in writing.

If the form or terms of the Securities of the series have been established in or pursuant to one or more Board Resolutions as permitted by Section 2.01, in authenticating those Securities, and accepting the additional responsibilities under this Indenture in relation to those Securities, the Trustee shall be entitled to receive (in addition to the Company Order referred to above and the other documents required by Section 11.04), and (subject to Section 7.01) shall be fully protected in relying on,

(a) an Officers' Certificate setting forth the Board Resolution and, if applicable, an appropriate record of any action taken pursuant thereto, as contemplated by the last paragraph of Section 2.01; and

(b) an Opinion of Counsel to the effect that:

(i) if the form of those Securities has been established by or pursuant to Board Resolution, as is permitted by Section 2.01, that such form has been established in conformity with the provisions of this Indenture;

(ii) if the terms of those Securities have been established by or pursuant to Board Resolution, as is permitted by Section 2.01, that such terms have been established in conformity with the provisions of this Indenture; and

(iii) those Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in that Opinion of Counsel, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws in effect from time to time affecting the rights of creditors generally, and the application of general principles of equity (regardless of whether that enforceability is considered in a proceeding in equity or at law).

If all the Securities of any series are not to be issued at one time, it shall not be necessary to deliver an Officers' Certificate and Opinion of Counsel at the time of issuance of each such Security, but that Officers' Certificate and Opinion of Counsel shall be delivered at or before the time of issuance of the first Security of the series to be issued.

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

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. Unless limited by the terms of that appointment, an authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by that agent. An authenticating agent has the same rights as an Agent to deal with the Company or an Affiliate of the Company.

Each Security shall be dated the date of its authentication.

SECTION 2.05 Registrar and Paying Agent.

The Company shall maintain an office or agency for each series of Securities where Securities of that series may be presented for registration of transfer or exchange ("Registrar") and an office or agency where Securities of that series may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Securities of that series and of their transfer and exchange. 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.

The Company shall enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to that Agent. The Company shall notify the Trustee of

the name and address of any Agent not a party to this Indenture. The Company may change any Paying Agent or Registrar without notice to any Holder. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints the Trustee as Registrar and Paying Agent.

SECTION 2.06 *Paying Agent to Hold Money in Trust.*

With respect to each series of Securities, 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 of Securities of that series or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, or interest on or any Additional Amounts with respect to Securities of that series and will notify the Trustee 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 and to account for any funds disbursed. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. Upon payment over to the Trustee and upon accounting for any funds disbursed, the Paying Agent (if other than the Company) shall have no further liability for the money. If the Company acts as Paying Agent with respect to a series of Securities, it shall segregate and hold in a separate trust fund for the benefit of the Holders of Securities of that series all money held by it as Paying Agent. Each Paying Agent shall otherwise comply with TIA § 317(b).

SECTION 2.07 *Holder Lists.*

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders of each series of Securities and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar with respect to a series of Securities, the Company shall furnish to the Trustee at least five Business Days before each Interest Payment Date with respect to that series of Securities, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders of the Securities of that series, and the Company shall otherwise comply with TIA § 312(a).

SECTION 2.08 *Transfer and Exchange.*

Except as set forth in Section 2.17 or as may be provided pursuant to Section 2.01, when Securities of any series are presented to the Registrar with the request to register the transfer of those Securities or to exchange those Securities for an equal principal amount of Securities of the same series of like tenor and of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements and the requirements of this Indenture for those transactions are met; provided, however, that the Securities presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instruction of transfer in form reasonably satisfactory to

the Registrar duly executed by the Holder thereof or by his attorney, duly authorized in writing, on which instruction the Registrar can rely.

To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Securities at the Registrar's written request and submission of the Securities (other than Global Securities). No service charge shall be made to a Holder for any registration of transfer or exchange (except as otherwise expressly permitted herein), but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than such transfer tax or similar governmental charge payable on exchanges pursuant to Section 2.12, 3.07 or 9.05). The Trustee shall authenticate Securities in accordance with the provisions of Section 2.04. Notwithstanding any other provisions of this Indenture to the contrary, the Company shall not be required to register the transfer or exchange of (a) any Security selected for redemption in whole or in part pursuant to Article III, except the unredeemed portion of any Security being redeemed in part or (b) any Security during the period beginning 15 Business Days before the mailing of notice of any offer to repurchase Securities of the series required pursuant to the terms thereof or of redemption of Securities of a series to be redeemed and ending at the close of business on the date of mailing.

SECTION 2.09 *Replacement Securities.*

If any mutilated Security is surrendered to the Trustee, or if the Holder of a Security claims that the Security has been destroyed, lost or stolen and the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of that Security, the Company shall issue and the Trustee shall authenticate a replacement Security of the same series if the Trustee's requirements are met. If any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay that Security. If required by the Trustee or the Company, the Holder must furnish an indemnity bond that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent or any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Security.

Every replacement Security is an additional obligation of the Company.

SECTION 2.10 *Outstanding Securities.*

The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Security effected by the Trustee hereunder and those described in this Section 2.10 as not outstanding.

If a Security is replaced pursuant to Section 2.09, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the principal amount of any Security is considered paid under Section 4.01, it ceases to be outstanding and interest on it ceases to accrue.

A Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

SECTION 2.11 Original Issue Discount, Foreign-Currency Denominated and Treasury Securities.

In determining whether the Holders of the required principal amount of Securities have concurred in any direction, amendment, supplement, waiver or consent, (a) the principal amount of an Original Issue Discount Security shall be the principal amount thereof that would be due and payable as of the date of that determination upon acceleration of the Maturity thereof pursuant to Section 6.02, (b) the principal amount of a Security denominated in a foreign currency shall be the Dollar equivalent, as determined by the Company by reference to the noon buying rate in The City of New York for cable transfers for that currency, as that rate is certified for customs purposes by the Federal Reserve Bank of New York (the "Exchange Rate") on the date of original issuance of that Security, of the principal amount (or, in the case of an Original Issue Discount Security, the Dollar equivalent, as determined by the Company by reference to the Exchange Rate on the date of original issuance of that Security, of the amount determined as provided in (a) above), of that Security and (c) Securities owned by the Company or any other obligor on the Securities or any Affiliate of the Company or of that other obligor shall be disregarded, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, amendment, supplement, waiver or consent, only Securities that the Trustee actually knows are so owned shall be so disregarded.

SECTION 2.12 Temporary Securities.

Until definitive Securities of any series are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Securities. Temporary Securities shall be substantially in the form of definitive Securities, but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Securities in exchange for temporary Securities. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

SECTION 2.13 Cancellation.

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange, payment or redemption or for credit against any sinking fund payment. The Trustee shall cancel all Securities surrendered for registration of transfer, exchange, payment, redemption, replacement or cancellation or for credit against any sinking fund. Unless the Company shall direct in writing that canceled Securities be returned to it, after written notice to the Company all canceled Securities held by the Trustee shall be disposed of in accordance with the usual disposal procedures of the Trustee, and the Trustee

shall maintain a record of their disposal. The Company may not issue new Securities to replace Securities that have been paid or that have been delivered to the Trustee for cancellation.

SECTION 2.14 *Payments; Defaulted Interest.*

Unless otherwise provided as contemplated by Section 2.01 with respect to the Securities of any series, interest (except defaulted interest) on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Persons who are registered Holders of that Security at the close of business on the record date next preceding that Interest Payment Date, even if those Securities are canceled after that record date and on or before that Interest Payment Date. The Holder must surrender a Security to a Paying Agent to collect principal payments. Unless otherwise provided with respect to the Securities of any series, the Company will pay the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities in Dollars. Those amounts shall be payable at the offices of the Trustee, provided that at the option of the Company, the Company may pay those amounts (1) by wire transfer with respect to Global Securities or (2) by check payable in that money mailed to a Holder's registered address with respect to any Securities.

If the Company defaults in a payment of interest on the Securities of any series, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest on the defaulted interest, in each case at the rate provided in the Securities of that series and in Section 4.01. The Company may pay the defaulted interest to the Persons who are Holders on a subsequent special record date. At least 15 days before any special record date selected by the Company, the Company (or the Trustee, in the name of and at the expense of the Company upon 20 days' prior written notice from the Company setting forth that record date and the interest amount to be paid) shall mail to Holders of any such series of Securities a notice that states the special record date, the related payment date and the amount of that interest to be paid.

SECTION 2.15 *Persons Deemed Owners.*

The Company, the Trustee, any Agent and any authenticating agent may treat the Person in whose name any Security is registered as the owner of that Security for the purpose of receiving payments of principal of, premium (if any) or interest on, or any Additional Amounts with respect to that Security and for all other purposes. None of the Company, the Trustee, any Agent or any authenticating agent shall be affected by any notice to the contrary.

SECTION 2.16 *Computation of Interest.*

Except as otherwise specified as contemplated by Section 2.01 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a year comprising twelve 30-day months.

SECTION 2.17 *Global Securities; Book-Entry Provisions.*

If Securities of a series are issuable in global form as a Global Security, as contemplated by Section 2.01, then, notwithstanding clause (10) of Section 2.01 and the

provisions of Section 2.02, any such Global Security shall represent those of the outstanding Securities of that series as shall be specified therein and may provide that it shall represent the aggregate amount of outstanding Securities from time to time endorsed thereon and that the aggregate amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges or redemptions. Any endorsement of a Global Security to reflect the amount, or any increase or decrease in the amount, of outstanding Securities represented thereby shall be made by the Trustee (i) in such manner and upon instructions given by such Person or Persons as shall be specified in that Security or in a Company Order to be delivered to the Trustee pursuant to Section 2.04 or (ii) otherwise in accordance with written instructions or such other written form of instructions as is customary for the Depositary for that Security, from that Depositary or its nominee on behalf of any Person having a beneficial interest in that Global Security. Subject to the provisions of Section 2.04 and, if applicable, Section 2.12, the Trustee shall deliver and redeliver any Security in permanent global form in the manner and upon instructions given by the Person or Persons specified in that Security or in the applicable Company Order. With respect to the Securities of any series that are represented by a Global Security, the Company authorizes the execution and delivery by the Trustee of a letter of representations or other similar agreement or instrument in the form customarily provided for by the Depositary appointed with respect to that Global Security. Any Global Security may be deposited with the Depositary or its nominee, or may remain in the custody of the Trustee or the Security Custodian therefor pursuant to a FAST Balance Certificate Agreement or similar agreement between the Trustee and the Depositary. If a Company Order has been, or simultaneously is, delivered, any instructions by the Company with respect to endorsement or delivery or redelivery of a Security in global form shall be in writing but need not comply with Section 11.05 and need not be accompanied by an Opinion of Counsel.

Members of, or participants in, the Depositary (“Agent Members”) shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depositary, or the Trustee or the Security Custodian as its custodian, or under that Global Security, and the Depositary may be treated by the Company, the Trustee or the Security Custodian and any agent of the Company, the Trustee or the Security Custodian as the absolute owner of that Global Security for all purposes whatsoever. Notwithstanding the foregoing, (i) the registered holder of a Global Security of any series 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 of Securities of that series is entitled to take under this Indenture or the Securities of that series and (ii) nothing herein shall prevent the Company, the Trustee or the Security Custodian or any agent of the Company, the Trustee, or the Security Custodian from giving effect to any written certification, proxy or other authorization furnished by the Depositary or shall impair, as between the Depositary and its Agent Members, the operation of customary practices governing the exercise of the rights of a beneficial owner of any Security.

Notwithstanding Section 2.08, and except as otherwise provided pursuant to Section 2.01, transfers of a Global Security shall be limited to transfers of that Global Security in whole, but not in part, to the Depositary, its successors or their respective nominees. Interests of beneficial owners in a Global Security may be transferred in accordance with the rules and procedures of the Depositary. Securities of any series shall be transferred to all beneficial

owners of a Global Security of that series in exchange for their beneficial interests in that Global Security if, and only if, either (1) the Depositary notifies the Company that it is unwilling or unable to continue as Depositary for that Global Security and a successor Depositary is not appointed by the Company within 90 days of that notice, (2) an Event of Default has occurred with respect to that series and is continuing and the Registrar has received a request from the Depositary to issue Securities of that series in lieu of all or a portion of that Global Security (in which case the Company shall deliver Securities of that series within 30 days of that request) or (3) the Company determines not to have the Securities of that series represented by a Global Security.

In connection with any transfer of a portion of the beneficial interests in a Global Security to beneficial owners pursuant to this Section 2.17, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the Global Security in an amount equal to the principal amount of the beneficial interest in the Global Security to be transferred, and the Company shall execute, and the Trustee on receipt of a Company Order for the authentication and delivery of Securities shall authenticate and deliver, one or more Securities of the same series of like tenor and amount.

In connection with the transfer of all the beneficial interests in a Global Security of any series to beneficial owners pursuant to this Section 2.17, the Global Security shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and the Trustee shall authenticate and deliver, to each beneficial owner identified by the Depositary in exchange for its beneficial interest in the Global Security, an equal aggregate principal amount of Securities of that series of authorized denominations.

Neither the Company nor the Trustee will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Securities by the Depositary, or for maintaining, supervising or reviewing any records of the Depositary relating to those Securities. Neither the Company nor the Trustee shall be liable for any delay by the related Global Security Holder or the Depositary in identifying the beneficial owners, and each such Person may conclusively rely on, and shall be protected in relying on, instructions from that Global Security Holder or the Depositary for all purposes (including with respect to the registration and delivery, and the respective principal amounts, of the Securities to be issued).

The provisions of the last sentence of the third paragraph of Section 2.04 shall apply to any Global Security if that Global Security was never issued and sold by the Company and the Company delivers to the Trustee the Global Security together with written instructions (which need not comply with Section 11.05 and need not be accompanied by an Opinion of Counsel) with regard to the cancellation or reduction in the principal amount of Securities represented thereby, together with the written statement contemplated by the last sentence of the third paragraph of Section 2.04.

Notwithstanding the provisions of Sections 2.03 and 2.14, unless otherwise specified as contemplated by Section 2.01 with respect to Securities of any series, payment of principal of and premium (if any) and interest on and any Additional Amounts with respect to any Global Security shall be made to the Person or Persons specified therein.

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

Notwithstanding anything herein to the contrary, delivery or surrender of a Security shall not be required in the case of Global Securities in order to obtain the rights and benefits provided hereunder upon the delivery or surrender of a Security.

ARTICLE III REDEMPTION

SECTION 3.01 *Applicability of Article.*

Securities of any series that are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 2.01 for Securities of any series) in accordance with this Article III.

SECTION 3.02 *Notice to the Trustee.*

If the Company elects to redeem Securities of any series pursuant to this Indenture, it shall notify the Trustee of the Redemption Date and principal amount of Securities of that series to be redeemed. The Company shall so notify the Trustee at least 45 days before the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee) by delivering to the Trustee an Officers' Certificate stating that the redemption will comply with the provisions of this Indenture and of the Securities of that series. Any such notice may be canceled at any time prior to the mailing of that notice of redemption to any Holder of the Securities of that series and shall thereupon be void and of no effect.

SECTION 3.03 *Selection of Securities To Be Redeemed.*

If less than all the Securities of any series are to be redeemed (unless all of the Securities of that series of a specified tenor are to be redeemed), the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the outstanding Securities of that series (and tenor) not previously called for redemption, either pro rata, by lot or by such other method as the Trustee shall deem fair and appropriate. That redemption may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the principal amount of Securities of that series of a denomination larger than the minimum

authorized denomination for Securities of that series or of the principal amount of Global Securities of that series.

The Trustee shall promptly notify the Company and the Registrar in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Securities of any series shall relate, in the case of any of the Securities redeemed or to be redeemed only in part, to the portion of the principal amount thereof which has been or is to be redeemed.

SECTION 3.04 *Notice of Redemption.*

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 (or not less than 15 days in the case of convertible Securities) nor more than 60 days prior to the Redemption Date, to each Holder of Securities of a series to be redeemed, at the address of that Holder appearing in the register of Securities for that series maintained by the Registrar.

All notices of redemption shall identify the Securities to be redeemed and shall state:

(1) the Redemption Date;

(2) the Redemption Price (or the method of calculating or determining the Redemption Price);

(3) that, unless the Company defaults in making the redemption payment, interest on Securities called for redemption ceases to accrue on and after the Redemption Date, and the only remaining right of the Holders of those Securities is to receive payment of the Redemption Price on surrender to the Paying Agent of the Securities redeemed;

(4) if any Security is to be redeemed in part, the portion of the principal amount thereof to be redeemed and that on and after the Redemption Date, on surrender for cancellation of that Security to the Paying Agent, a new Security or Securities in the aggregate principal amount equal to the unredeemed portion thereof will be issued without charge to the Holder;

(5) that Securities called for redemption must be surrendered to the Paying Agent to collect the Redemption Price and the name and address of the Paying Agent;

(6) that the redemption is for a sinking or analogous fund, if that is the case;

(7) if such Securities are convertible into or exchangeable for capital stock, other debt securities (including Securities), warrants, other equity securities or any securities or property of the Company or any other Person, the name and address of the conversion or exchange agent, the date on which the right to convert or exchange is terminated and the conversion or exchange rate; and

(8) the CUSIP number, if any, relating to those Securities.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's written request, by the Trustee in the name and at the expense of the Company.

SECTION 3.05 Effect of Notice of Redemption.

Once notice of redemption is mailed, Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price. Upon surrender to the Paying Agent, those Securities called for redemption shall be paid at the Redemption Price, but interest installments whose maturity is on or prior to that Redemption Date will be payable on the relevant Interest Payment Dates to the Holders of record at the close of business on the relevant record dates specified pursuant to Section 2.01.

SECTION 3.06 Deposit of Redemption Price.

On or prior to any Redemption Date, the Company shall deposit with the Trustee or the Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 2.06) an amount of money in same day funds sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on and any Additional Amounts with respect to, the Securities or portions thereof which are to be redeemed on that date, other than Securities or portions thereof called for redemption on that date which have been delivered by the Company to the Trustee for cancellation.

If the Company complies with the preceding paragraph, then, unless the Company defaults in the payment of that Redemption Price, interest on the Securities to be redeemed will cease to accrue on and after the applicable Redemption Date, whether or not those Securities are presented for payment, and the Holders of those Securities shall have no further rights with respect to those Securities except for the right to receive the Redemption Price on surrender of those Securities. If any Security called for redemption shall not be so paid on surrender thereof for redemption, the principal of and premium, if any, any Additional Amounts, and, to the extent lawful, accrued interest thereon shall, until paid, bear interest from the Redemption Date at the rate specified pursuant to Section 2.01 or provided in the Securities or, in the case of Original Issue Discount Securities, their initial yield to maturity.

SECTION 3.07 Securities Redeemed or Purchased in Part.

Upon surrender to the Paying Agent of a Security to be redeemed in part, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of that Security without service charge a new Security or Securities, of the same series and of any authorized denomination as requested by that Holder in aggregate principal amount equal to, and in exchange for, the unredeemed portion of the principal of the Security so surrendered that is not redeemed.

SECTION 3.08 *Purchase of Securities.*

Unless otherwise specified as contemplated by Section 2.01, the Company and any Affiliate of the Company may at any time purchase or otherwise acquire Securities in the open market or by private agreement. Any such acquisition shall not operate as or be deemed for any purpose to be a redemption of the indebtedness represented by those Securities. Any Securities purchased or acquired by the Company may be delivered to the Trustee for cancellation and, upon that cancellation, the indebtedness represented thereby shall be deemed to be satisfied. Section 2.13 shall apply to all Securities so delivered.

SECTION 3.09 *Mandatory and Optional Sinking Funds.*

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “mandatory sinking fund payment,” and any payment in excess of the minimum amount provided for by the terms of Securities of any series is herein referred to as an “optional sinking fund payment.” Unless otherwise provided by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.10. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of that series and by this Article III.

SECTION 3.10 *Satisfaction of Sinking Fund Payments with Securities.*

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

SECTION 3.11 *Redemption of Securities for Sinking Fund.*

Not less than 45 days prior (unless a shorter period shall be satisfactory to the Trustee) to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officers' Certificate of the Company specifying the amount of the next ensuing

sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, that is to be satisfied by payment of cash and the portion thereof, if any, that is to be satisfied by delivery of or by crediting Securities of that series pursuant to Section 3.10 and will also deliver to the Trustee any Securities to be so delivered. Failure of the Company to timely deliver that Officers' Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute the election of the Company (i) that the mandatory sinking fund payment for that series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of that series in respect thereof and (ii) that the Company will make no optional sinking fund payment with respect to that series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed \$100,000 (or the Dollar equivalent thereof based on the applicable Exchange Rate on the date of original issue of the applicable Securities) or a lesser sum if the Company shall so request with respect to the Securities of any particular series, that cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of that series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If that amount shall be \$100,000 (or the Dollar equivalent thereof as aforesaid) or less and the Company makes no such request, then it shall be carried over until a sum in excess of \$100,000 (or the Dollar equivalent thereof as aforesaid) is available. Not less than 30 days before each such sinking fund payment date, the Trustee shall select the Securities to be redeemed on that sinking fund payment date in the manner specified in Section 3.03 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.04. That notice having been duly given, the redemption of those Securities shall be made on the terms and in the manner stated in Sections 3.05, 3.06 and 3.07.

ARTICLE IV COVENANTS

SECTION 4.01 *Payment of Securities.*

The Company shall pay the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of each series on the dates and in the manner provided in the Securities of that series and in this Indenture. Principal, premium, interest and any Additional Amounts shall be considered paid on the date due if the Paying Agent, other than the Company, holds on that date money deposited by the Company designated for and sufficient to pay all principal, premium (if any), interest and any Additional Amounts then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal of and premium (if any) on Securities of any series, at a rate equal to the then applicable interest rate on the Securities of that series to the extent lawful; and it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest on and any overdue payments of

Additional Amounts with respect to Securities of that series (without regard to any applicable grace period) at the same rate to the extent lawful.

SECTION 4.02 Maintenance of Office or Agency.

The Company will maintain in each Place of Payment for any series of Securities an office or agency (which may be an office of the Trustee, the Registrar or the Paying Agent) where Securities of that series may be presented for registration of transfer or exchange, where Securities of that series may be presented for payment and where notices and demands to or on the Company in respect of the Securities of that series and this Indenture may be served. Unless otherwise designated by the Company by written notice to the Trustee, that office or agency shall be the office of the Trustee in the City of New York, which on the date hereof is located at [_____], New York, New York [_____]. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of that 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, those presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all those purposes and may from time to time rescind those 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 each Place of Payment for Securities of any series for those purposes. The Company will 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.

SECTION 4.03 SEC Reports; Financial Statements.

(a) The Company shall file with the Trustee, within 15 days after it files the same with the SEC, copies of the annual reports and the information, documents and other reports (or copies of those portions of any of the foregoing as the SEC may by rules and regulations prescribe) that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. If this Indenture is qualified under the TIA, but not otherwise, the Company shall also comply with the provisions of TIA § 314(a).

(b) If the Company is not subject to the requirements of Section 13 or 15(d) of the Exchange Act, the Company shall furnish to all Holders of Rule 144A Securities and prospective purchasers of Rule 144A Securities designated by the Holders of Rule 144A Securities, promptly on their request, the information required to be delivered pursuant to Rule 144A(d)(4) promulgated under the Securities Act of 1933, as amended.

(c) The Company intends to file the reports, information and documents referred to in Section 4.03(a) hereof with the SEC in electronic form pursuant to Regulation S-T promulgated by the SEC using the SEC's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system. The Company shall notify the Trustee in the manner prescribed herein of each such filing. The Trustee is hereby authorized and directed to access the EDGAR system for

purposes of retrieving the reports so filed. Compliance with the foregoing shall constitute delivery by the Company of such reports to the Trustee in compliance with the provisions of TIA Section 314(a). The Trustee shall have no duty to search for or obtain any electronic or other filings that the Company makes with the SEC, regardless of whether such filings are periodic, supplemental or otherwise. Delivery of the reports, information and documents to the Trustee pursuant to this Section 4.03 shall be solely for the purposes of compliance with this Section 4.03 and with TIA Section 314(a). The Trustee's receipt of such reports, information and documents shall not constitute notice to it of the content thereof or of any matter determinable from the content thereof, including the Company's compliance with any of its covenants hereunder, as to which the Trustee is entitled to rely upon Officers' Certificates.

SECTION 4.04 *Compliance Certificate.*

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company, a statement signed by an Officer of the Company, which need not constitute an Officers' Certificate, complying with TIA § 314(a)(4) and stating that, in the course of performance by the signing Officer of the Company of his or her duties as such Officer of the Company, he or she would normally obtain knowledge of the keeping, observing, performing and fulfilling by the Company of its obligations under this Indenture, and further stating that, to the best of his or her knowledge, the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which that Officer may have knowledge and what action the Company is taking or proposes to take with respect thereto).

(b) The Company shall, so long as Securities of any series are outstanding, deliver to the Trustee, promptly on any Officer of the Company becoming aware of any Default or Event of Default under this Indenture, an Officers' Certificate specifying that Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

SECTION 4.05 *Existence.*

Subject to Article V hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

SECTION 4.06 *Waiver of Stay, Extension or Usury Laws.*

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist on, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law that would prohibit or forgive the Company from paying all or any portion of the principal of or interest on the Securities as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture; and (to the extent that it may lawfully do so) the Company hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein

granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 4.07 *Additional Amounts.*

If the Securities of a series expressly provide for the payment of Additional Amounts, the Company will pay to the Holder of any Security of that series Additional Amounts as expressly provided therein. Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium or interest on, or in respect of, any Security of any series or the net proceeds received from the sale or exchange of any Security of any series, that mention shall be deemed to include mention of the payment of Additional Amounts provided for in this Section 4.07 to the extent that, in that context, Additional Amounts are, were or would be payable in respect thereof pursuant to the provisions of this Section 4.07, and express mention of the payment of Additional Amounts (if applicable) in any provisions hereof shall not be construed as excluding Additional Amounts in those provisions hereof where that express mention is not made.

Unless otherwise provided pursuant to Section 2.01 with respect to Securities of any series, if the Securities of a series provide for the payment of Additional Amounts, at least ten days prior to the first Interest Payment Date with respect to that series of Securities (or if the Securities of that series will not bear interest prior to Maturity, the first day on which a payment of principal and any premium is made), and at least ten days prior to each date of payment of principal and any premium or interest if there has been any change with respect to the matters set forth in the below-mentioned Officers' Certificate, the Company shall furnish the Trustee and the Company's principal Paying Agent or Paying Agents, if other than the Trustee, with an Officers' Certificate instructing the Trustee and such Paying Agent or Paying Agents whether that payment of principal of and any premium or interest on the Securities of that series shall be made to Holders of Securities of that series who are United States Aliens without withholding for or on account of any tax, assessment or other governmental charge described in the Securities of that series. If any such withholding shall be required, then that Officers' Certificate shall specify by country the amount, if any, required to be withheld on those payments to those Holders of Securities, and the Company will pay to that Paying Agent the Additional Amounts required by this Section. The Company covenants to indemnify the Trustee and any Paying Agent for and to hold them harmless against any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Officers' Certificate furnished pursuant to this Section 4.07.

ARTICLE V SUCCESSORS

SECTION 5.01 *Limitations on Mergers, Consolidations and Other Transactions.*

The Company shall not, in any transaction or series of related transactions, consolidate with any other Person into, or merge into, any other Person, or sell, lease, convey, transfer or otherwise dispose of its assets substantially as an entirety to any Person, unless:

(1) either (a) the Company shall be the continuing Person or (b) the Person formed by that consolidation or into which the Company is merged, or to which that sale, lease, conveyance, transfer or other disposition shall be made (collectively, the "Successor"), expressly assumes by supplemental indenture the due and punctual payment of the principal of (and premium, if any) and interest on and Additional Amounts with respect to all the Securities and the performance of the Company's covenants and obligations under this Indenture and the Securities;

(2) immediately after giving effect to that transaction or series of related transactions, no Default or Event of Default shall have occurred and be continuing; and

(3) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that the transaction and that supplemental indenture comply with this Indenture.

SECTION 5.02 *Successor Person Substituted.*

Upon any consolidation or merger of the Company or any sale, lease, conveyance, transfer or other disposition of the assets of the Company substantially as an entirety in accordance with Section 5.01, any Successor formed by that consolidation or into or with which the Company is merged or to which that sale, lease, conveyance, transfer or other disposition is made shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Indenture and the Securities with the same effect as if that Successor had been named as the Company herein and the predecessor Company, in the case of a sale, conveyance, transfer or other disposition, shall be released from all obligations under this Indenture and the Securities.

ARTICLE VI DEFAULTS AND REMEDIES

SECTION 6.01 *Events of Default.*

Unless either inapplicable to a particular series or specifically deleted or modified in or pursuant to the supplemental indenture or Board Resolution establishing that series of Securities or in the form of Security for that series, an "Event of Default," wherever used herein with respect to Securities of any series, occurs if:

(1) the Company defaults in the payment of interest on or any Additional Amounts with respect to any Security of that series when the same becomes due and payable and that default continues for a period of 30 days;

(2) the Company defaults in the payment of (A) the principal of any Security of that series at its Maturity or (B) premium (if any) on any Security of that series when the same becomes due and payable, regardless of whether such payment became due because of maturity, redemption, acceleration or otherwise, or is required by any sinking fund established with respect to such series;

(3) the Company fails to comply with any of its other covenants or agreements in, or provisions of, the Securities of that series or this Indenture (other than an agreement, covenant or provision that has expressly been included in this Indenture solely for the benefit of one or more series of Securities other than that series) which shall not have been remedied within the specified period after written notice, as specified in the last paragraph of this Section 6.01;

(4) the Company pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case,

(B) consents to the entry of an order for relief against it in an involuntary case,

(C) consents to the appointment of a Bankruptcy Custodian of it or for all or substantially all of its property, or

(D) makes a general assignment for the benefit of its creditors;

(5) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that remains unstayed and in effect for 90 days and that:

(A) is for relief against the Company as debtor in an involuntary case,

(B) appoints a Bankruptcy Custodian of the Company or a Bankruptcy Custodian for all or substantially all of the property of the Company, or

(C) orders the liquidation of the Company;

(6) the Company defaults with respect to its Debt (other than the Securities for that series) in an aggregate principal amount in excess of that dollar amount specified in the supplemental indenture for the Securities, which

(A) consists of the failure to make any payment at maturity, or

(B) results in acceleration of the maturity of such Debt; or

(7) any other Event of Default provided with respect to Securities of that series occurs.

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

When a Default is cured, it ceases.

Notwithstanding the foregoing provisions of this Section 6.01, if the principal of, premium (if any) or interest on or Additional Amounts with respect to any Security is payable in a currency or currencies (including a composite currency) other than Dollars and such currency or currencies are not available to the Company for making payment thereof due to the imposition of exchange controls or other circumstances beyond the control of the Company (a "Conversion Event"), the Company will be entitled to satisfy its obligations to Holders of the Securities by making that payment in Dollars in an amount equal to the Dollar equivalent of the amount payable in such other currency, as determined by the Company by reference to the Exchange Rate on the date of that payment, or, if that rate is not then available, on the basis of the most recently available Exchange Rate. Notwithstanding the foregoing provisions of this Section 6.01, any payment made under such circumstances in Dollars where the required payment is in a currency other than Dollars will not constitute an Event of Default under this Indenture.

Promptly after the occurrence of a Conversion Event, the Company shall give written notice thereof to the Trustee; and the Trustee, promptly after receipt of that notice, shall give notice thereof in the manner provided in Section 11.02 to the Holders. Promptly after the making of any payment in Dollars as a result of a Conversion Event, the Company shall give notice in the manner provided in Section 11.02 to the Holders, setting forth the applicable Exchange Rate and describing the calculation of those payments.

A Default under clause (3) of this Section 6.01 is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in principal amount of the then outstanding Securities of the series affected by that Default, or, if outstanding Securities of other series are affected by that Default, then at least 25% in principal amount of the then outstanding Securities so affected, notify the Company and the Trustee, of the Default, and the Company fails to cure the Default within 90 days after receipt of the notice. The notice must specify the Default, demand that it be remedied and state that the notice is a "Notice of Default."

SECTION 6.02 *Acceleration.*

If an Event of Default with respect to any Securities of any series at the time outstanding (other than an Event of Default specified in clause (4) or (5) of Section 6.01 hereof) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the then outstanding Securities of the series affected by that default (or, in the case of an Event of Default described in clause (3) of Section 6.01, if outstanding Securities of other series are affected by that Default, then at least 25% in principal amount of the then outstanding Securities so affected) by notice to the Company and the Trustee, may declare the principal of (or, if any of those Securities are Original Issue Discount Securities, that portion of the principal amount as may be specified in the terms of that series) and all accrued and unpaid interest on all then outstanding Securities of that series or of all series, as the case may be, to be due and payable. Upon any such declaration, the amounts due and payable on those Securities shall be due and payable immediately. If an Event of Default specified in clause (4) or (5) of Section 6.01 hereof occurs, those amounts shall ipso facto become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee or any Holder. The Holders of a majority in principal amount of the then outstanding Securities of the series affected by that default or all series, as the case may be, by written notice to the Trustee may rescind an

acceleration and its consequences (other than nonpayment of principal of or premium or interest on or any Additional Amounts with respect to the Securities) if the rescission would not conflict with any judgment or decree and if all existing Events of Default with respect to Securities of that series (or of all series, as the case may be) have been cured or waived, except nonpayment of principal, premium, interest or any Additional Amounts that has become due solely because of the acceleration.

SECTION 6.03 *Other Remedies.*

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, or premium, if any, or interest on the Securities of that series or to enforce the performance of any provision of the Securities of that series or this Indenture.

The Trustee may maintain a proceeding with respect to Securities of any series even if it does not possess any of the Securities of that series or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing on 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 6.04 *Waiver of Defaults.*

Subject to Sections 6.07 and 9.02, the Holders of a majority in principal amount of the then outstanding Securities of any series or of all series (acting as one class) by notice to the Trustee may waive an existing or past Default or Event of Default with respect to that series or all series, as the case may be, and its consequences (including waivers obtained in connection with a tender offer or exchange offer for Securities of that series or all series or a solicitation of consents in respect of Securities of that series or all series, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of that series or all series (but the terms of that offer or solicitation may vary from series to series)), except (1) a continuing Default or Event of Default in the payment of the principal of, or premium, if any, or interest on or any Additional Amounts with respect to any Security or (2) a continued Default in respect of a provision that under Section 9.02 cannot be amended or supplemented without the consent of each Holder affected. Upon any such waiver, that Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 6.05 *Control by Majority.*

With respect to Securities of any series, the Holders of a majority in principal amount of the then outstanding Securities of that series may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it relating to or arising under an Event of Default described in

clause (1), (2) or (7) of Section 6.01, and with respect to all Securities, the Holders of a majority in principal amount of all the then outstanding Securities affected may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it not relating to or arising under such an Event of Default. However, the Trustee may refuse to follow any direction that conflicts with applicable law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of other Holders, or that may involve the Trustee in personal liability; provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with that direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion from Holders directing the Trustee against all losses and expenses caused by taking or not taking that action.

SECTION 6.06 *Limitations on Suits.*

Subject to Section 6.07 hereof, a Holder of a Security of any series may pursue a remedy with respect to this Indenture or the Securities of that series only if:

- (1) the Holder gives to the Trustee written notice of a continuing Event of Default with respect to that series;
- (2) the Holders of at least 25% in principal amount of the then outstanding Securities of that series make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee indemnity reasonably satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity; and
- (5) during that 60-day period, the Holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

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

SECTION 6.07 *Rights of Holders to Receive Payment.*

Notwithstanding any other provision of this Indenture, the right of any Holder of a Security to receive payment of principal of and premium, if any, and interest on and any Additional Amounts with respect to that Security, on or after the respective due dates expressed in that Security, or to bring suit for the enforcement of any such payment on or after those respective dates, is absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

SECTION 6.08 *Collection Suit by Trustee.*

If an Event of Default specified in clause (1) or (2) of Section 6.01 hereof occurs and is continuing with respect to Securities of any series, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the amount of principal, premium (if any), interest and any Additional Amounts remaining unpaid on the Securities of that series, and interest on overdue principal and premium, if any, and, to the extent lawful, interest on overdue 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.

SECTION 6.09 Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents and to take such actions, including participating as a member, voting or otherwise, of any committee of creditors, as may be necessary or advisable 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 proceeding relative to the Company or its creditors or properties 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 Bankruptcy Custodian in any such judicial proceeding is hereby authorized by each Holder to make those payments to the Trustee, and in the event that the Trustee shall consent to the making of those 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 7.07. 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 7.07 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 which the Holders of the Securities may be entitled to receive in that 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 Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.10 Priorities.

If the Trustee collects any money pursuant to this Article VI, subject to Article X, it shall pay out the money in the following order:

First: to the Trustee for amounts due under Section 7.07;

Second: to Holders for amounts due and unpaid on the Securities in respect of which or for the benefit of which that money has been collected, for principal, premium (if any), interest and any Additional Amounts ratably, without preference or priority of any kind,

according to the amounts due and payable on those Securities for principal, premium (if any), interest and any Additional Amounts, respectively; and

Third: to the Company.

The Trustee, on prior written notice to the Company, may fix record dates and payment dates for any payment to Holders pursuant to this Article VI.

To the fullest extent allowed under applicable law, if for the purpose of obtaining a judgment against the Company in any court it is necessary to convert the sum due in respect of the principal of, premium (if any) or interest on or Additional Amounts with respect to the Securities of any series (the "Required Currency") into a currency in which a judgment will be rendered (the "Judgment Currency"), the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the New York Business Day next preceding that on which final judgment is given. Neither the Company nor the Trustee shall be liable for any shortfall nor shall it benefit from any windfall in payments to Holders of Securities under this Section 6.10 caused by a change in exchange rates between the time the amount of a judgment against it is calculated as above and the time the Trustee converts the Judgment Currency into the Required Currency to make payments under this Section to Holders of Securities, but payment of that judgment shall discharge all amounts owed by the Company on the claim or claims underlying that judgment.

SECTION 6.11 *Undertaking for Costs.*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as 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, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by a Holder or Holders of more than 10% in principal amount of the then outstanding Securities of any series.

ARTICLE VII TRUSTEE

SECTION 7.01 *Duties of Trustee.*

(a) If an Event of Default with respect to the Securities of any series has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture with respect to the Securities of that series, and use the same degree of care and skill in that exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of an Event of Default with respect to the Securities of any series:

(1) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, on certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine those certificates and opinions to determine whether, on their face, they appear to conform to the requirements of this Indenture.

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

(1) this paragraph does not limit the effect of Section 7.01(b);

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to the provisions of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity reasonably 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 held in trust by the Trustee need not be segregated from other funds except to the extent required by law. All money received by the Trustee with respect to Securities of any series shall, until applied as herein provided, be held in trust for the payment of the principal of, premium (if any) and interest on and Additional Amounts with respect to the Securities of that series.

SECTION 7.02 *Rights of Trustee.*

(a) The Trustee may rely 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 instruction, an Officers' Certificate or an Opinion of Counsel or both to be provided. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on that instruction, Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel, and the written advice of that counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(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 which it believes to be authorized or within its rights or powers conferred on it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Securities, unless either (1) a Trust Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to the Trustee by the Company or by any Holder of the Securities, and such notice references the Securities and this Indenture.

(g) The permissive rights of the Trustee enumerated herein shall not be construed as duties.

SECTION 7.03 *May Hold Securities.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any of its Affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights and duties. However, the Trustee is subject to Sections 7.10 and 7.11.

SECTION 7.04 *Trustee's Disclaimer.*

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Securities; it shall not be accountable for the Company's use of the proceeds from the Securities or any money paid to the Company or upon the Company's direction under any provision hereof; it shall not be responsible for the use or application of any money received

by any Paying Agent other than the Trustee; and it shall not be responsible for any statement or recital herein or any statement in the Securities other than its certificate of authentication.

SECTION 7.05 Notice of Defaults.

If a Default or Event of Default with respect to the Securities of any series occurs and is continuing and it is known to the Trustee, the Trustee shall mail to Holders of Securities of that series a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium (if any) and interest on and Additional Amounts or any sinking fund installment with respect to the Securities of that series, the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of Holders of Securities of that series.

SECTION 7.06 Reports by Trustee to Holders.

Within 60 days after each May 15 of each year after the execution of this Indenture, the Trustee shall mail to Holders of a series and the Company a brief report dated as of that reporting date that complies with TIA § 313(a); provided, however, that if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date with respect to a series, no report need be transmitted to Holders of that series. The Trustee also shall comply with TIA § 313(b). The Trustee shall also transmit by mail all reports if and as required by TIA §§ 313(c) and 313(d).

A copy of each report at the time of its mailing to Holders of a series of Securities shall be filed by the Company with the SEC and each securities exchange, if any, on which the Securities of that series are listed. The Company shall notify the Trustee if and when any series of Securities is listed on any stock exchange.

SECTION 7.07 Compensation and Indemnity.

The Company agrees to pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company agrees to reimburse the Trustee on request for all reasonable disbursements, advances and expenses incurred by it. Those expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company hereby indemnifies the Trustee against any loss, liability or expense incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, except as set forth in the next paragraph. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel, and the Company shall pay the reasonable fees and expenses of that counsel. The Company need not pay for any settlement made without its consent.

The Company shall not be obligated to reimburse any expense or indemnify against any loss or liability incurred by the Trustee through negligence or bad faith.

To secure the payment obligations of the Company in this Section 7.07, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of any series. That lien shall survive the satisfaction and discharge of this Indenture.

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

SECTION 7.08 *Replacement of Trustee.*

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only on the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign and be discharged at any time with respect to the Securities of one or more series by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Securities of any series may remove the Trustee with respect to the Securities of that series by so notifying the Trustee and the Company. The Company may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a Bankruptcy Custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, with respect to the Securities of one or more series, the Company shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of those series and that at any time there shall be only one Trustee with respect to the Securities of any particular series). Within one year after the successor Trustee with respect to the Securities of any series takes office, the Holders of a majority in principal amount of the Securities of that series may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee with respect to the Securities of any series does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% in principal amount of the then outstanding Securities of that series may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of that series.

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

In case of the appointment of a successor Trustee with respect to all Securities, each such successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the retiring Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.07.

In case of the appointment of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more (but not all) series shall execute and deliver an indenture supplemental hereto in which each successor Trustee shall accept that appointment and that (1) shall confer to each successor Trustee all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall confirm that all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee. Nothing herein or in that supplemental indenture shall constitute those Trustees co-trustees of the same trust, and each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee. Upon the execution and delivery of that supplemental indenture, the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, and each such successor Trustee shall have all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates. On the request of the Company or any successor Trustee, that retiring Trustee shall transfer to that successor Trustee all property held by that retiring Trustee as Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates. Such retiring Trustee shall, however, have the right to deduct its unpaid fees and expenses.

Notwithstanding replacement of the Trustee or Trustees pursuant to this Section 7.08, the obligations of the Company under Section 7.07 shall continue for the benefit of the retiring Trustee or Trustees.

SECTION 7.09 *Successor Trustee by Merger, etc.*

Subject to Section 7.10, if the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee; provided, however, that in the case of a transfer of all or substantially all of its corporate trust business to another corporation, the transferee corporation expressly assumes all of the Trustee's liabilities hereunder.

In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to that authenticating Trustee may adopt that authentication and deliver the Securities so authenticated; and in case at that time any of the Securities shall not have been authenticated, any successor to the Trustee may authenticate those Securities either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all those cases those certificates shall have the full force which it is anywhere in the Securities or in this Indenture provided that the certificate of the Trustee shall have.

SECTION 7.10 *Eligibility; Disqualification.*

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States, any State thereof or the District of Columbia and authorized under those laws to exercise corporate trust power, shall be subject to supervision or examination by Federal or State (or the District of Columbia) authority and shall have, or be a subsidiary of a bank or bank holding company having, a combined capital and surplus of at least \$50 million as set forth in its most recent published annual report of condition.

The Indenture shall always have a Trustee who satisfies the requirements of TIA §§ 310(a)(1), 310(a)(2) and 310(a)(5). The Trustee is subject to and shall comply with the provisions of TIA § 310(b) during the period of time required by this Indenture. Nothing in this Indenture shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA § 310(b).

SECTION 7.11 *Preferential Collection of Claims Against Company.*

The Trustee is subject to and shall comply with the provisions of TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

ARTICLE VIII
DISCHARGE OF INDENTURE

SECTION 8.01 *Termination of Company's Obligations.*

(a) This Indenture shall cease to be of further effect with respect to the Securities of a series (except as to any surviving rights of conversion or of registration of transfer or exchange of Securities expressly provided for herein and except that the Company's obligations under Section 7.07, the Trustee's and Paying Agent's obligations under Section 8.03 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive), and the Trustee, on demand of the Company, shall execute proper instruments acknowledging the satisfaction and discharge of this Indenture with respect to the Securities of that series, when:

(1) either

(A) all outstanding Securities of that series theretofore authenticated and issued (other than destroyed, lost or stolen Securities that have been replaced or paid) have been delivered to the Trustee for cancellation; or

(B) all outstanding Securities of that series not theretofore delivered to the Trustee for cancellation:

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and, in the case of clause (i), (ii) or (iii) above, the Company has irrevocably deposited or caused to be deposited with the Trustee as funds (immediately available to the Holders in the case of clause (i)) in trust for that purpose (x) cash in an amount, or (y) Government Obligations, maturing as to principal and interest at such times and in such amounts as will ensure the availability of cash in an amount or (z) a combination thereof, which will be sufficient, in the opinion (in the case of clauses (y) and (z)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness on the Securities of that series for principal and any interest and any Additional Amounts to the date of that deposit (in the case of Securities which have become due and payable) or for principal, premium, if any, interest and any Additional Amounts to the Stated Maturity or Redemption Date, as the case may be; or

(C) the Company has properly fulfilled such other means of satisfaction and discharge as is specified, as contemplated by Section 2.01, to be applicable to the Securities of that series;

(2) the Company has paid or caused to be paid all other sums payable by it hereunder with respect to the Securities of that series; and

(3) the Company has delivered to the Trustee an Officers' Certificate stating that all conditions precedent to satisfaction and discharge of this Indenture with respect to the Securities of that series have been complied with, together with an Opinion of Counsel to the same effect.

(b) Unless this Section 8.01(b) is specified as not being applicable to Securities of a series as contemplated by Section 2.01, the Company may terminate certain of its obligations under this Indenture ("covenant defeasance") with respect to the Securities of a series if:

(1) the Company has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for and dedicated solely to the benefit of the Holders of Securities of that series, (i) money in the currency in which payment of the Securities of that series is to be made in an amount, or (ii) Government Obligations with respect to that series, maturing as to principal and interest at such times and in such amounts as will ensure the availability of money in the currency in which payment of the Securities of that series is to be made in an amount or (iii) a combination thereof, that is sufficient, in the opinion (in the case of clauses (ii) and (iii)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay, without consideration of the reinvestment of any such amounts and after payment of all taxes or other charges or assessments in respect thereof payable by the Trustee, the principal of and premium (if any) and interest on and any Additional Amounts with respect to all Securities of that series on each date that such principal, premium (if any), interest or Additional Amounts are due and payable and (at the Stated Maturity thereof or on redemption as provided in Section 8.01(e)) to pay all other sums payable by it hereunder; provided that the Trustee shall have been irrevocably instructed to apply that money and/or the proceeds of those Government Obligations to the payment of said principal, premium (if any), interest and Additional Amounts with respect to the Securities of that series as the same shall become due;

(2) the Company has delivered to the Trustee an Officers' Certificate stating that all conditions precedent to satisfaction and discharge of this Indenture with respect to the Securities of that series have been complied with, and an Opinion of Counsel to the same effect;

(3) no Default or Event of Default with respect to the Securities of that series shall have occurred and be continuing on the date of that deposit;

(4) the Company shall have delivered to the Trustee an Opinion of Counsel from counsel reasonably acceptable to the Trustee or a private letter ruling issued by the United States Internal Revenue Service to the effect that the Holders of Securities of that series will not recognize income, gain or loss for Federal income tax purposes as a result

of the Company's exercise of its option under this Section 8.01(b) and will be subject to Federal income tax on the same amount and in the same manner and at the same times as would have been the case if that option had not been exercised;

(5) the Company has complied with any additional conditions specified pursuant to Section 2.01 to be applicable to the discharge of Securities of that series pursuant to this Section 8.01; and

(6) that deposit and discharge shall not cause the Trustee to have a conflicting interest as defined in TIA § 310(b).

In that event, this Indenture shall cease to be of further effect (except as set forth in this paragraph), and the Trustee, on demand of the Company, shall execute proper instruments acknowledging satisfaction and discharge under this Indenture. However, the Company's obligations in Sections 2.05, 2.06, 2.07, 2.08, 2.09, 4.01, 4.02, 5.01, 7.07, 7.08 and 8.04, the Trustee's and Paying Agent's obligations in Section 8.03 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive until all Securities of that series are no longer outstanding. Thereafter, only the Company's obligations in Section 7.07 and the Trustee's and Paying Agent's obligations in Section 8.03 shall survive with respect to Securities of that series.

After making the irrevocable deposit pursuant to this Section 8.01(b) and following satisfaction of the other conditions set forth herein, the Trustee on request shall acknowledge in writing the discharge of the Company's obligations under this Indenture with respect to the Securities of that series, except for those surviving obligations specified above.

In order to have money available on a payment date to pay principal of or premium (if any) or interest on or any Additional Amounts with respect to the Securities, the Government Obligations shall be payable as to principal or interest on or before that payment date in such amounts as will provide the necessary money. Any such Government Obligations shall not be callable at the issuer's option.

(c) If the Company has previously complied or is concurrently complying with Section 8.01(b) (other than any additional conditions specified pursuant to Section 2.01 that are expressly applicable only to covenant defeasance) with respect to Securities of a series, then, unless this Section 8.01(c) is specified as not being applicable to Securities of that series as contemplated by Section 2.01, the Company may elect to be discharged ("legal defeasance") from its obligations to make payments with respect to Securities of that series, if:

(1) no Default or Event of Default under clauses (4) and (5) of Section 6.01 hereof shall have occurred at any time during the period ending on the 91st day after the date of deposit contemplated by Section 8.01(b) (it being understood that this condition shall not be deemed satisfied until the expiration of that period);

(2) unless otherwise specified with respect to Securities of that series as contemplated by Section 2.01, the Company has delivered to the Trustee an Opinion of

Counsel from counsel reasonably acceptable to the Trustee to the effect referred to in Section 8.01(b)(4) with respect to that legal defeasance, which opinion is based on (i) a private ruling of the Internal Revenue Service addressed to the Company, (ii) a published ruling of the United States Internal Revenue Service pertaining to a comparable form of transaction or (iii) a change in the applicable federal income tax law (including regulations) after the date of this Indenture;

(3) the Company has complied with any other conditions specified pursuant to Section 2.01 to be applicable to the legal defeasance of Securities of that series pursuant to this Section 8.01(c); and

(4) the Company has delivered to the Trustee a Company Request requesting legal defeasance of the Securities of that series and an Officers' Certificate stating that all conditions precedent with respect to legal defeasance of the Securities of that series have been complied with, together with an Opinion of Counsel to the same effect.

In that event, the Company will be discharged from its obligations under this Indenture and the Securities of that series to pay principal of, premium (if any) and interest on, and any Additional Amounts with respect to, Securities of that series, the Company's obligations under Sections 4.01, 4.02 and 5.01 shall terminate with respect to those Securities, and the entire indebtedness of the Company evidenced by those Securities shall be deemed paid and discharged.

(d) If and to the extent additional or alternative means of satisfaction, discharge or defeasance of Securities of a series are specified to be applicable to that series as contemplated by Section 2.01, the Company may terminate any or all of its obligations under this Indenture with respect to Securities of a series and any or all of its obligations under the Securities of that series if it fulfills such other means of satisfaction and discharge as may be so specified, as contemplated by Section 2.01, to be applicable to the Securities of that series.

(e) If Securities of any series subject to subsections (a), (b), (c) or (d) of this Section 8.01 are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory or optional sinking fund provisions, the terms of the applicable trust arrangement shall provide for that redemption, and the Company shall make such arrangements as are reasonably satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company.

SECTION 8.02 Application of Trust Money.

The Trustee or a trustee reasonably satisfactory to the Trustee and the Company shall hold in trust money or Government Obligations deposited with it pursuant to Section 8.01 hereof. It shall apply the deposited money and the money from Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series with respect to which the deposit was made. Money and securities held in trust are not subject to Article X.

SECTION 8.03 *Repayment to Company.*

The Trustee and the Paying Agent shall promptly pay to the Company at any time on the written request of the Company any excess money or Government Obligations (or proceeds therefrom) held by them.

Subject to the requirements of any applicable abandoned property laws, the Trustee and the Paying Agent shall pay to the Company on written request any money held by them for the payment of principal, premium (if any), interest or any Additional Amounts that remain unclaimed for two years after the date on which that payment shall have become due. After payment to the Company, Holders entitled to the money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person, and all liability of the Trustee and the Paying Agent with respect to that money shall cease.

SECTION 8.04 *Reinstatement.*

If the Trustee or the Paying Agent is unable to apply any money or Government Obligations deposited with respect to Securities of any series 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 that application, the obligations of the Company under this Indenture with respect to the Securities of that series and under the Securities of that series shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.01 until such time as the Trustee or the Paying Agent is permitted to apply all such money or Government Obligations in accordance with Section 8.01; provided, however, that if the Company has made any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of those Securities to receive such payment from the money or Government Obligations held by the Trustee or the Paying Agent.

ARTICLE IX
SUPPLEMENTAL INDENTURES AND AMENDMENTS

SECTION 9.01 *Without Consent of Holders.*

The Company and the Trustee may amend or supplement this Indenture or the Securities or waive any provision hereof or thereof without the consent of any Holder:

- (1) to cure any ambiguity, omission, defect or inconsistency;
- (2) to comply with Section 5.01;

(3) to provide for uncertificated Securities in addition to or in place of certificated Securities, or to provide for the issuance of bearer Securities (with or without coupons);

(4) to provide any security for any series of Securities or to add guarantees of any series of Securities;

(5) to comply with any requirement in order to effect or maintain the qualification of this Indenture under the TIA;

(6) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if those covenants are to be for the benefit of less than all series of Securities, stating that those covenants are expressly being included solely for the benefit of that series), or to surrender any right or power herein conferred on the Company;

(7) to add any additional Events of Default with respect to all or any series of the Securities (and, if any such Event of Default is applicable to less than all series of Securities, specifying the series to which that Event of Default is applicable);

(8) to change or eliminate any of the provisions of this Indenture; provided that any such change or elimination shall become effective only when there is no outstanding Security of any series created prior to the execution of that amendment or supplemental indenture that is adversely affected in any material respect by that change in or elimination of that provision;

(9) to establish the form or terms of Securities of any series as permitted by Section 2.01;

(10) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Section 8.01; provided, however, that any such action shall not adversely affect the interest of the Holders of Securities of that series or any other series of Securities in any material respect; or

(11) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 7.08.

Upon the request of the Company, accompanied by a Board Resolution, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall, subject to Section 9.06, join with the Company in the execution of any supplemental indenture authorized or permitted by the terms of this Indenture and make any further appropriate agreements and stipulations that may be therein contained.

SECTION 9.02 *With Consent of Holders.*

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture with the written consent (including consents obtained in connection with a tender offer or exchange offer for Securities of any one or more series or all series or a solicitation of consents in respect of Securities of any one or more series or all series, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of each such series (but the terms of that offer or solicitation may vary from series to series)) of the Holders of at least a majority in principal amount of the then outstanding Securities of all series affected by that amendment or supplement (acting as one class).

Upon the request of the Company, accompanied by a Board Resolution, and upon the filing with the Trustee of evidence of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall, subject to Section 9.06, join with the Company in the execution of that amendment or supplemental indenture.

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

The Holders of a majority in principal amount of the then outstanding Securities of one or more series or of all series may waive compliance in a particular instance by the Company with any provision of this Indenture with respect to Securities of that series (including waivers obtained in connection with a tender offer or exchange offer for Securities of that series or a solicitation of consents in respect of Securities of that series, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of that series (but the terms of that offer or solicitation may vary from series to series)).

However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not:

- (1) reduce the amount of Securities whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the rate of or change the time for payment of interest, including default interest, on any Security;
- (3) reduce the principal of, premium on or any mandatory sinking fund payment with respect to, or change the Stated Maturity of, any Security or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable on a declaration of acceleration of the Maturity thereof pursuant to Section 6.02;
- (4) reduce the premium, if any, payable on the redemption of any Security or change the time at which any Security may or shall be redeemed;

(5) change any obligation of the Company to pay Additional Amounts with respect to any Security;

(6) change the coin or currency or currencies (including composite currencies) in which any Security or any premium, interest or Additional Amounts with respect thereto are payable;

(7) impair the right to institute suit for the enforcement of any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Security pursuant to Sections 6.07 and 6.08, except as limited by Section 6.06;

(8) make any change in the percentage of principal amount of Securities necessary to waive compliance with certain provisions of this Indenture pursuant to Section 6.04 or 6.07 or make any change in this sentence of Section 9.02;

(9) modify the provisions of this Indenture with respect to the subordination of any Security in a manner adverse to the Holder thereof;

(10) waive a continuing Default or Event of Default in the payment of principal of, premium (if any) or interest on or Additional Amounts with respect to the Securities; or

(11) if applicable, make any change that materially and adversely affects the right to convert any Security.

An amendment under this Section may not make any change that adversely affects the rights under Article X of any holder of an issue of Senior Debt of the Company unless the holders of the issue pursuant to its terms consent to the change.

A supplemental indenture that changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of that series with respect to that covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

The right of any Holder to participate in any consent required or sought pursuant to any provision of this Indenture (and the obligation of the Company to obtain any such consent otherwise required from that Holder) may be subject to the requirement that such Holder shall have been the Holder of record of any Securities with respect to which that consent is required or sought as of a date identified by the Company in a notice furnished to Holders in accordance with the terms of this Indenture.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall mail to the Holders of each Security affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail

that notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

SECTION 9.03 Compliance with Trust Indenture Act.

Every amendment or supplement to this Indenture or the Securities shall comply in form and substance with the TIA as then in effect.

SECTION 9.04 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 and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to his or her Security or portion of a Security if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver 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 (which need not comply with Section 316(c) of the TIA) for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver or to take any other action under this Indenture. If a record date is fixed, then notwithstanding the provisions of the immediately preceding paragraph, those Persons who were Holders at that record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to that amendment, supplement or waiver or to revoke any consent previously given, whether or not those Persons continue to be Holders after that record date. No consent shall be valid or effective for more than 90 days after that record date unless consents from Holders of the principal amount of Securities required hereunder for that amendment or waiver to be effective shall have also been given and not revoked within that 90-day period.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it is of the type described in any of clauses (1) through (9) of Section 9.02 hereof. In that case, the amendment, supplement or waiver shall bind each Holder who has consented to it and every subsequent Holder that evidences the same debt as the consenting Holder's Security.

SECTION 9.05 Notation on or Exchange of Securities.

If an amendment or supplement changes the terms of an outstanding Security, the Company may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security at the request of the Company regarding the changed terms and return it to the Holder. Alternatively, if the Company so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms. Failure to make the appropriate notation or to issue a new Security shall not affect the validity of that amendment or supplement.

Securities of any series authenticated and delivered after the execution of any amendment or supplement may, and shall if required by the Company, bear a notation in form approved by the Company as to any matter provided for in that amendment or supplement.

SECTION 9.06 Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment or supplement authorized pursuant to this Article if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, but need not, sign it. In signing or refusing to sign that amendment or supplement, the Trustee shall be entitled to receive, and, subject to Section 7.01 hereof, shall be fully protected in relying on, an Opinion of Counsel provided at the expense of the Company as conclusive evidence that such amendment or supplement is authorized or permitted by this Indenture, that it is not inconsistent herewith, and that it will be valid and binding on the Company in accordance with its terms.

ARTICLE X
SUBORDINATION

SECTION 10.01 Securities Subordinated to Senior Debt.

The Company and each Holder of a Security, by his or her acceptance thereof, agree that (a) the payment of the principal of, premium (if any) and interest on and any Additional Amounts with respect to each and all the Securities and (b) any other payment in respect of the Securities, including on account of the acquisition or redemption of Securities by the Company, is subordinated, to the extent and in the manner provided in this Article X, to the prior payment in full of all Senior Debt of the Company, whether outstanding at the date of this Indenture or thereafter created, incurred, assumed or guaranteed, and that these subordination provisions are for the benefit of the holders of Senior Debt of the Company.

Each Holder of a Security, by his or her acceptance thereof, acknowledges and agrees that the provisions of this Article X are, and are intended to be, an inducement and a consideration to all Persons who, in reliance on such provisions, become holders of, or continue to hold, Senior Debt of the Company, and such provisions are made for the benefit of the holders of Senior Debt of the Company, and those holders are made obligees hereunder, and any one or more of them may enforce such provisions.

SECTION 10.02 No Payment on Securities in Certain Circumstances.

(a) Unless otherwise specified with respect to Securities of a series as contemplated by Section 2.01, no payment shall be made by or on behalf of the Company on account of the principal of, premium (if any) or interest on or any Additional Amounts with respect to the Securities of any series or to acquire any of those Securities (including any repurchases of those Securities pursuant to the provisions thereof at the option of the Holder of those Securities) for cash or property (other than Junior securities of the Company), or on account of any redemption provisions of those Securities, in the event of default in payment of any principal of, premium (if any) or interest on any Senior Debt of the Company when the same

becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration of acceleration or otherwise (a “Payment Default”), unless and until that Payment Default has been cured or waived or otherwise has ceased to exist or such Senior Debt has been discharged or paid in full.

(b) Unless otherwise specified with respect to Securities of a series as contemplated by Section 2.01, no payment shall be made by or on behalf of the Company on account of the principal of, premium (if any) or interest on or any Additional Amounts with respect to the Securities of any series or to acquire any of those Securities (including any repurchases of those Securities pursuant to the provisions thereof at the option of the Holder of those Securities) for cash or property (other than Junior securities of the Company), or on account of the redemption provisions of those Securities, in the event of any event of default (other than a Payment Default) with respect to any Designated Senior Debt permitting the holders of that Designated Senior Debt (or a trustee or other representative on behalf of the holders thereof) to declare that Designated Senior Debt due and payable prior to the date on which it would otherwise have become due and payable, on written notice thereof to the Company and the Trustee by any holders of Designated Senior Debt (or a trustee or other representative on behalf of the holders thereof) (the “Payment Blocking Notice”), unless and until that event of default shall have been cured or waived or otherwise has ceased to exist; provided, that such payments may not be prevented pursuant to this Section 10.02(b) for more than 179 days after an applicable Payment Blocking Notice has been received by the Trustee unless the Designated Senior Debt in respect of which that event of default exists has been declared due and payable in its entirety, in which case no such payment may be made until that acceleration has been rescinded or annulled or that Designated Senior Debt has been paid in full. Unless otherwise specified with respect to Securities of a series as contemplated by Section 2.01, no event of default that existed or was continuing on the date of any Payment Blocking Notice (whether or not that event of default is on the same issue of Designated Senior Debt) may be made the basis for the giving of a second Payment Blocking Notice, and only one such Payment Blocking Notice may be given in any period of 365 consecutive days.

(c) In furtherance of the provisions of Section 10.01, in the event that, notwithstanding the foregoing provisions of this Section 10.02, any payment or distribution of assets of the Company (other than Junior securities of the Company) shall be received by the Trustee or the Holders of the Securities of any series or any Paying Agent with respect thereto at a time when that payment or distribution was prohibited by the provisions of this Section 10.02, then, unless that payment or distribution is no longer prohibited by this Section 10.02, that payment or distribution (subject to the provisions of Section 10.07) shall be received and held in trust by the Trustee or such Holders or Paying Agent for the benefit of the holders of Senior Debt of the Company, and shall be paid or delivered by the Trustee or such Holders or Paying Agent, as the case may be, to the holders of Senior Debt of the Company remaining unpaid or unprovided for or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing that Senior Debt of the Company may have been issued, ratably, according to the aggregate amounts remaining unpaid on account of that Senior Debt of the Company held or represented by each, for application to the payment of all Senior Debt of the Company in full after giving effect to all concurrent payments and distributions to or for the holders of that Senior Debt.

SECTION 10.03 Securities Subordinated to Prior Payment of All Senior Debt on Dissolution, Liquidation or Reorganization.

Upon any distribution of assets of the Company or upon any dissolution, winding up, total or partial liquidation or reorganization of the Company, whether voluntary or involuntary, in bankruptcy, insolvency, receivership or similar proceeding or upon assignment for the benefit of creditors:

(a) the holders of all Senior Debt of the Company shall first be entitled to receive payments in full before the Holders of Securities of any series are entitled to receive any payment (other than in the form of Junior securities of the Company) on account of the principal of, premium (if any) or interest on or any Additional Amounts with respect to those Securities;

(b) any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (other than Junior securities of the Company), to which the Holders of Securities of any series or the Trustee on behalf of those Holders would be entitled, except for the provisions of this Article X, shall be paid by the liquidating trustee or agent or other Person making such a payment or distribution directly to the holders of that Senior Debt or their representative, ratably according to the respective amounts of Senior Debt held or represented by each, to the extent necessary to make payment in full of all that Senior Debt remaining unpaid after giving effect to all concurrent payments and distributions to the holders of that Senior Debt; and

(c) in the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities (other than Junior securities of the Company), shall be received by the Trustee or the Holders of Securities of any series or any Paying Agent with respect thereto (or, if the Company or any Affiliate of the Company is acting as its own Paying Agent, money for any such payment or distribution shall be segregated or held in trust) on account of the principal of, premium (if any) or interest on or any Additional Amounts with respect to the Securities of that series before all Senior Debt of the Company is paid in full, that payment or distribution (subject to the provisions of Section 10.07) shall be received and held in trust by the Trustee or such Holder or Paying Agent for the benefit of the holders of that Senior Debt, or their respective representatives, ratably according to the respective amounts of that Senior Debt held or represented by each, to the extent necessary to make payment as provided herein of all that Senior Debt remaining unpaid after giving effect to all concurrent payments and distributions and all provisions therefor to or for the holders of that Senior Debt, but only to the extent that as to any holder of that Senior Debt, as promptly as practical following notice from the Trustee to the holders of that Senior Debt that such prohibited payment has been received by the Trustee, Holder(s) or Paying Agent (or has been segregated as provided above), that holder (or a representative therefor) notifies the Trustee of the amounts then due and owing on that Senior Debt, if any, held by that holder, and only the amounts specified in those notices to the Trustee shall be paid to the holders of that Senior Debt.

SECTION 10.04 Subrogation to Rights of Holders of Senior Debt.

Subject to the payment in full of all Senior Debt of the Company as provided herein, the Holders of the Securities shall be subrogated (to the extent of the payments or distributions made to the holders of that Senior Debt pursuant to the provisions of this Article X) to the rights of the holders of that Senior Debt to receive payments or distributions of assets of the Company applicable to that Senior Debt until all amounts owing on the Securities shall be paid in full. For the purpose of that subrogation, no such payments or distributions to the holders of that Senior Debt by the Company, or by or on behalf of the Holders of the Securities by virtue of this Article X, which otherwise would have been made to those Holders shall, as among the Company, its creditors other than the holders of Senior Debt of the Company and those Holders, be deemed to be payment by the Company or on account of that Senior Debt, it being understood that the provisions of this Article X are and are intended solely for the purpose of defining the relative rights of the Holders of the Securities, on the one hand, and the holders of that Senior Debt, on the other hand.

If any payment or distribution to which the Holders of the Securities would otherwise have been entitled but for the provisions of this Article X shall have been applied, pursuant to the provisions of this Article X, to the payment of amounts payable under Senior Debt of the Company, then those Holders shall be entitled to receive from the holders of that Senior Debt any payments or distributions received by those holders of Senior Debt of the Company in excess of the amount sufficient to pay all amounts payable under or in respect of that Senior Debt in full.

SECTION 10.05 Obligations of the Company Unconditional.

Nothing contained in this Article X or elsewhere in this Indenture or in the Securities is intended to or shall impair, as between the Company and the Holders of the Securities of any series, the obligation of the Company, which is absolute and unconditional, to pay to those Holders the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of that series as and when the same shall become due and payable in accordance with their terms, or is intended to or shall affect the relative rights of those Holders and creditors of the Company other than the holders of Senior Debt of the Company, nor shall anything herein or therein prevent the Trustee or any Holder from exercising all remedies otherwise permitted by applicable law on default under this Indenture, subject to the rights, if any, under this Article X, of the holders of Senior Debt of the Company in respect of cash, property or securities of the Company received on the exercise of any such remedy. Notwithstanding anything to the contrary in this Article X or elsewhere in this Indenture or in the Securities, on any distribution of assets of the Company referred to in this Article X, the Trustee, subject to the provisions of Sections 7.01 and 7.02, and the Holders of the Securities shall be entitled to rely on any order or decree made by any court of competent jurisdiction in which such dissolution, winding up, liquidation or reorganization proceedings are pending, or a certificate of the liquidating trustee or agent or other Person making any distribution to the Trustee or to those Holders for the purpose of ascertaining the Persons entitled to participate in that distribution, the holders of Senior Debt of the Company and other Debt of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article X so long as that court has been apprised of the

provisions of, or the order, decree or certificate makes reference to, the provisions of this Article X.

SECTION 10.06 Trustee Entitled to Assume Payments Not Prohibited in Absence of Notice.

The Trustee shall not at any time be charged with knowledge of the existence of any facts that would prohibit the making of any payment to or by the Trustee unless and until a Responsible Officer of the Trustee or any Paying Agent shall have received, no later than two Business Days prior to that payment, written notice thereof from the Company or from one or more holders of Senior Debt of the Company or from any representative therefor and, prior to the receipt of any such written notice, the Trustee, subject to the provisions of Sections 7.01 and 7.02, shall be entitled in all respects conclusively to assume that no such fact exists.

SECTION 10.07 Application by Trustee of Amounts Deposited with It.

Amounts deposited in trust with the Trustee pursuant to and in accordance with Article VIII shall be for the sole benefit of Holders of the Securities of the series for the benefit of which those amounts were deposited, and, to the extent allocated for the payment of Securities of that series, shall not be subject to the subordination provisions of this Article X. Otherwise, any deposit of assets with the Trustee or the Paying Agent (whether or not in trust) for the payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Securities shall be subject to the provisions of Sections 10.01, 10.02, 10.03 and 10.04; provided that if prior to two Business Days preceding the date on which by the terms of this Indenture any such assets may become distributable for any purpose (including, without limitation, the payment of either principal of, premium (if any) or interest on or any Additional Amounts with respect to any Security), the Trustee or such Paying Agent shall not have received with respect to those assets the written notice provided for in Section 10.06, then the Trustee or such Paying Agent shall have full power and authority to receive those assets and to apply the same to the purpose for which they were received, and shall not be affected by any notice to the contrary that may be received by it on or after that date; and provided further that nothing contained in this Article X shall prevent the Company from making, or the Trustee from receiving or applying, any payment in connection with the redemption of Securities if the first publication of notice of that redemption (whether by mail or otherwise in accordance with this Indenture) has been made, and the Trustee has received that payment from the Company, prior to the occurrence of any of the contingencies specified in Section 10.02 or 10.03.

SECTION 10.08 Subordination Rights Not Impaired by Acts or Omissions of the Company or Holders of Senior Debt.

No right of any present or future holders of any Senior Debt of the Company to enforce the subordination provisions contained in this Article X shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms of this Indenture, regardless of any knowledge thereof that any such holder may have or be otherwise charged with. The holders of Senior Debt of the Company may extend, renew, modify or amend the terms of the Senior Debt or any security therefor and release, sell or

exchange that security and otherwise deal freely with the Company, all without affecting the liabilities and obligations of the parties to this Indenture or the Holders of the Securities.

SECTION 10.09 Trustee to Effectuate Subordination of Securities.

Each Holder of a Security by his acceptance thereof authorizes and expressly directs the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination provisions contained in this Article X and to protect the rights of the Holders of the Securities pursuant to this Indenture, and appoints the Trustee his attorney-in-fact for that purpose, including, in the event of any dissolution, winding up, liquidation or reorganization of the Company (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors of the Company), the filing of a claim for the unpaid balance of his Securities in the form required in said proceedings and cause said claim to be approved. If the Trustee does not file a proper claim or proof of debt in the form required in that proceeding prior to 30 days before the expiration of the time to file such claim or claims, then the holders of Senior Debt of the Company or their representative is hereby authorized to have the right to file and is hereby authorized to file an appropriate claim for and on behalf of the Holders of said Securities. Nothing herein contained shall be deemed to authorize the Trustee or the holders of Senior Debt of the Company or their representative to authorize or consent to or accept or adopt on behalf of any Holder of Securities any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof, or to authorize the Trustee or the holders of Senior Debt of the Company or their representative to vote in respect of the claim of any Holder of the Securities in any such proceeding.

SECTION 10.10 Right of Trustee to Hold Senior Debt.

The Trustee in its individual capacity shall be entitled to all of the rights set forth in this Article X in respect of any Senior Debt of the Company at any time held by it to the same extent as any other holder of Senior Debt of the Company, and nothing in this Indenture shall be construed to deprive the Trustee of any of its rights as such holder.

SECTION 10.11 Article X Not to Prevent Events of Default.

The failure to make a payment on account of principal of or premium (if any) or interest on or any Additional Amounts with respect to the Securities by reason of any provision of this Article X shall not be construed as preventing the occurrence of a Default or an Event of Default under Section 6.01 or in any way prevent the Holders of the Securities from exercising any right hereunder other than the right to receive payment on the Securities.

SECTION 10.12 No Fiduciary Duty of Trustee to Holders of Senior Debt.

The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt of the Company, and shall not be liable to any of those holders (other than for its willful misconduct or gross negligence) if it shall in good faith mistakenly pay over or distribute to the Holders of the Securities or the Company or any other Person, cash, property or securities to which any holders of Senior Debt of the Company shall be entitled by virtue of this Article X

or otherwise. Nothing in this Section 10.12 shall affect the obligation of any other such Person to hold that payment for the benefit of, and to pay that payment over to, the holders of Senior Debt of the Company or their representative.

SECTION 10.13 *Article Applicable to Paying Agent.*

In case at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article X shall in that case (unless the context shall otherwise require) be construed as extending to and including that Paying Agent within its meaning as fully for all intents and purposes as if that Paying Agent were named in this Article in addition to or in place of the Trustee; provided, however, that this Section 10.13 shall not apply to the Company or any Affiliate of the Company if it or that Affiliate acts as Paying Agent.

ARTICLE XI
MISCELLANEOUS

SECTION 11.01 *Trust Indenture Act Controls.*

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by operation of TIA § 318(c), the imposed duties shall control.

SECTION 11.02 *Notices.*

Any notice or communication by the Company or the Trustee to the other is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), telex, facsimile or overnight air courier guaranteeing next day delivery, to the other's address:

If to the Company:

Dawson Geophysical Company
508 West Wall, Suite 800
Midland, Texas 79701
Attention: Christina W. Hagan
Telephone: (432) 684-3000
Facsimile: (432) 684- ____

If to the Trustee:

Attention: Corporate Trust Administration
Telephone: _____
Facsimile: _____

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

All notices and communications 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 answered back, if telexed; when receipt acknowledged, if by facsimile; 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, postage prepaid, to the Holder's address shown on the register kept by the Registrar. 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, except in the case of notice to the Trustee, it is duly given only when received.

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.

All notices or communications, including without limitation notices to the Trustee or the Company by Holders, shall be in writing, except as otherwise set forth herein.

In case by reason of the suspension of regular mail service, or by reason of any other cause, it shall be impossible to mail any notice required by this Indenture, then such method of notification as shall be made with the approval of the Trustee shall constitute a sufficient mailing of that notice.

SECTION 11.03 *Communication by Holders with Other Holders.*

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 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 Indenture, the Company shall, if requested by the Trustee, furnish to the Trustee at the expense of the Company:

(1) an Officers' Certificate (which shall include the statements set forth in Section 11.05) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel (which shall include the statements set forth in Section 11.05 hereof) stating that, in the opinion of that counsel, all those conditions precedent and covenants have been complied with.

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 Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) shall comply with the provisions of TIA § 314(e) and shall include:

- (1) a statement that the Person making that certificate or opinion has read that covenant or condition;
- (2) a brief statement as to the nature and scope of the examination or investigation on which the statements or opinions contained in that certificate or opinion are based;
- (3) a statement that, in the opinion of that Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not that covenant or condition has been complied with; and
- (4) a statement as to whether or not, in the opinion of that Person, that condition or covenant has been complied with.

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 the Paying Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 11.07 Legal Holidays.

If a payment date is a Legal Holiday at a Place of Payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

SECTION 11.08 No Recourse Against Others.

A director, officer, employee, stockholder, partner or other owner of the Company or the Trustee, as such, shall not have any liability for any obligations of the Company under the Securities or for any obligations of the Company or the Trustee under this Indenture or for any claim based on, in respect of or by reason of those obligations or their creation. Each Holder by accepting a Security waives and releases all that liability. The waiver and release shall be part of the consideration for the issue of Securities.

SECTION 11.09 *Governing Law.*

THIS INDENTURE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY PRINCIPLES OF CONFLICTS OF LAWS THEREUNDER TO THE EXTENT THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

SECTION 11.10 *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Company. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 11.11 *Successors.*

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

SECTION 11.12 *Severability.*

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

SECTION 11.13 *Counterpart Originals.*

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 11.14 *Table of Contents, Headings, etc.*

The table of contents, cross-reference table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

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

DAWSON GEOPHYSICAL COMPANY

By: _____

Name:

Title:

[_____]

as Trustee

By: _____

Name:

Title:

BAKER BOTTS LLP

2001 ROSS AVENUE
DALLAS, TEXAS
75201-2980
214.953.6500
FAX 214.953.6503

AUSTIN
BAKU
DALLAS
DUBAI
HONG KONG
HOUSTON
LONDON
MOSCOW
NEW YORK
RIYADH
WASHINGTON

EXHIBIT 5.1

August 5, 2005

Dawson Geophysical Company
508 West Wall, Suite 800
Midland, Texas 79701

Ladies and Gentlemen:

We have acted as counsel for Dawson Geophysical Company, a Texas corporation (the "Company"), in connection with the Registration Statement on Form S-3 (the "Registration Statement") filed on this date by the Company with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"). The Registration Statement relates to the proposed issuance and sale from time to time pursuant to Rule 415 under the Securities Act of up to \$75,000,000 aggregate initial offering price of (a) the Company's senior debt securities (the "Senior Debt Securities"), (b) the Company's subordinated debt securities (the "Subordinated Debt Securities"), (c) shares of common stock, par value \$0.33¹/₃ per share (the "Common Stock"), of the Company, (d) shares of preferred stock, par value \$1.00 per share ("Preferred Stock"), of the Company and (e) warrants of the Company to purchase other securities (the "Warrants"). The Senior Debt Securities, Subordinated Debt Securities, Common Stock, Preferred Stock and Warrants may be hereinafter referred to as the "Securities."

Each series of the Senior Debt Securities will be issued pursuant to an indenture to be entered into in connection with the first series of Senior Debt Securities issued thereunder between the Company and the trustee thereunder (the "Senior Indenture"), and each series of the Subordinated Debt Securities will be issued pursuant to an indenture to be entered into in connection with the first series of Subordinated Debt Securities issued thereunder between the Company and the trustee thereunder (the "Subordinated Indenture"), as each such indenture will be supplemented, in connection with the issuance of each such series, by a supplemental indenture or other appropriate action of the Company creating such series (each, a "Supplemental Indenture").

In furnishing this opinion, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of the Restated Articles of Incorporation and Bylaws of the Company, as amended to date (together, the "Charter Documents"), resolutions adopted by the Board of Directors of the Company (the Board of Directors, or to the extent permitted by the Texas Business Corporation Act and the Charter Documents, a duly constituted and acting committee thereof, being referred to herein as the "Board"), the Senior Indenture and the Subordinated Indenture filed as exhibits to the Registration Statement, corporate records of the Company, including minute books of the Company, certificates of public officials and of representatives of the Company, statutes and other instruments and documents as we have deemed necessary or appropriate to form a basis for the opinions hereinafter expressed. In such examination, we have assumed, without independent investigation, the authenticity of all documents submitted to us as originals and the conformity to the originals of all documents submitted to us as copies.

In connection with this opinion, we have assumed: (a) the Registration Statement, and any amendments thereto (including post-effective amendments) will have become effective under the Securities Act; (b) a prospectus supplement will have been filed with the Commission describing the Securities offered thereby; (c) all Securities will be issued and sold in compliance with applicable federal and state securities laws and in the manner stated in the Registration Statement and the applicable prospectus supplement; (d) each of the Senior Indenture and the Subordinated Indenture under which the Senior Debt Securities and the Subordinated Debt Securities, respectively, will be issued will have become qualified under the Trust Indenture Act of 1939, as amended; (e) a definitive purchase, underwriting or similar agreement with respect to any Securities offered will have been duly authorized and validly executed and delivered by the Company and the other parties thereto; (f) any securities issuable upon conversion, exchange, redemption or exercise of any Securities being offered will be duly authorized, created and, if appropriate, reserved for issuance upon such conversion, exchange, redemption or exercise; and (h) with respect to shares of Common Stock or Preferred Stock offered, there will be sufficient shares of Common Stock or Preferred Stock authorized under the Company's Charter Documents and not otherwise issued or reserved for issuance.

On the basis of the foregoing, and subject to the assumptions, limitations and qualifications set forth herein, we are of the opinion that:

1. With respect to a series of Senior Debt Securities, when (a) the Senior Indenture has been duly authorized and validly executed and delivered by the parties thereto, (b) any applicable Supplemental Indenture relating to such series has been duly authorized and validly executed and delivered by each of the parties thereto, (c) the Board has taken all necessary corporate action to approve and establish the terms of the offering thereof and related matters, and (d) the Senior Debt Securities of such series have been duly executed, authenticated, issued and delivered in accordance with the Senior Indenture, any applicable Supplemental Indenture relating to such series and the applicable definitive purchase, underwriting or similar agreement approved by the Board in exchange for payment of the consideration therefor provided therein, the Senior Debt

Securities of such series will constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforceability thereof may be subject to the effect of (i) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other laws relating to or affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) any implied covenants of good faith and fair dealing.

2. With respect to a series of Subordinated Debt Securities, when (a) the Subordinated Indenture has been duly authorized and validly executed and delivered by the parties thereto, (b) any applicable Supplemental Indenture relating to such series has been duly authorized and validly executed and delivered by each of the parties thereto, (c) the Board has taken all necessary corporate action to approve and establish the terms of the offering thereof and related matters, and (d) the Subordinated Debt Securities of such series have been duly executed, authenticated, issued and delivered in accordance with the Subordinated Indenture, any applicable Supplemental Indenture relating to such series and the applicable definitive purchase, underwriting or similar agreement approved by the Board in exchange for payment of the consideration therefor provided therein, the Subordinated Debt Securities of such series will constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforceability thereof may be subject to the effect of (i) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other laws relating to or affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) any implied covenants of good faith and fair dealing.

3. With respect to shares of Common Stock, when (a) the Board has taken all necessary corporate action to approve the issuance thereof and the terms of the offering of shares of Common Stock and related matters, and (b) certificates representing the shares of Common Stock have been duly executed, countersigned, registered and delivered, or, if uncertificated, valid book-entry notations have been made in the share register of the Company, either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement approved by the Board in exchange for payment of the consideration therefor (not less than the par value of the Common Stock) provided for therein, or (ii) upon conversion, exchange, redemption or exercise of any other Security, in accordance with the terms of such Security or the instrument governing such Security providing for such conversion, exchange, redemption or exercise as approved by the Board, for the consideration approved by the Board (not less than the par value of the Common Stock), the shares of Common Stock will be duly authorized, validly issued, fully paid and non-assessable.

4. With respect to shares of Preferred Stock, when (a) the Board has taken all necessary corporate action to approve and establish the terms of the shares of Preferred Stock, to approve the issuance thereof and the terms of the offering thereof and related matters, including the adoption of resolutions designating and establishing the terms of such series of Preferred Stock and causing any required statements respecting such series

of Preferred Stock to be prepared and filed with the Secretary of State of the State of Texas, and (b) certificates representing the shares of Preferred Stock have been duly executed, countersigned, registered and delivered, or, if uncertificated, valid book-entry notations have been made in the share register of the Company, either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement approved by the Board in exchange for payment of the consideration therefor (not less than the par value of the Preferred Stock) provided for therein, or (ii) upon conversion, exchange, redemption or exercise of any other Security, in accordance with the terms of such Security or the instrument governing such Security providing for such conversion, exchange, redemption or exercise as approved by the Board, for the consideration approved by the Board (not less than the par value of the Preferred Stock), the shares of Preferred Stock will be duly authorized, validly issued, fully paid and non-assessable.

5. With respect to Warrants, when (a) the Board has taken all necessary corporate action to approve the creation of and the issuance and terms of the Warrants, the terms of the offering thereof and related matters, (b) the warrant agreement or agreements relating to the Warrants have been duly authorized and validly executed and delivered by the Company and the warrant agent appointed by the Company, and (c) the Warrants or certificates representing the Warrants have been duly executed, countersigned, registered and delivered in accordance with the appropriate warrant agreement or agreements and the applicable definitive purchase, underwriting or similar agreement approved by the Board in exchange for payment of the consideration therefor provided for therein, the Warrants will be duly authorized and validly issued and will constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforceability thereof may be subject to the effect of (i) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other laws relating to or affecting creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) any implied covenants of good faith and fair dealing.

We express no opinions concerning (i) the validity or enforceability of any provisions contained in any agreement or instrument pertaining to any Security that purport to waive or not give effect to rights to notices, defenses, subrogation or other rights or benefits that cannot be effectively waived under applicable law or (ii) the enforceability of indemnification provisions to the extent they purport to relate to liabilities resulting from or based upon negligence or any violation of federal or state securities or blue sky laws.

The foregoing opinions are limited in all respects to matters of contract law of the State of New York, the laws of the State of Texas and applicable federal laws of the United States, each as in effect on the date hereof.

We hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement and to the reference to us under “Legal Matters” in the prospectus forming a part of the Registration Statement. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Baker Botts L.L.P.

DAWSON GEOPHYSICAL COMPANY
COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES
(in thousands)

	Six Months Ended March 31, 2005	Fiscal Years Ended September 30,				
		2004	2003	2002	2001	2000
Pretax income from continuing operations	\$ 5,234	\$ 7,082	\$ (847)	\$ (2,763)	\$ (4,978)	\$(13,772)
Fixed charges and amortization of capitalized interest	—	—	—	—	—	—
Capitalized interest	—	—	—	—	—	—
Earnings	\$ 5,234	\$ 7,082	\$ (847)	\$ (2,763)	\$ (4,978)	\$(13,772)
Interest expensed and capitalized	\$ 65	—	—	—	—	—
Amortized premiums	—	—	—	—	—	—
Portion of rent representative of interest	—	—	—	—	—	—
Total fixed charges:	\$ 65	—	—	—	—	—
Ratio of earnings to fixed charges:	80.52x	N/A	N/A	N/A	N/A	N/A

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-3 of our report dated November 11, 2004, except as to Note 12, which is as of January 18, 2005, and our report dated November 11, 2004, with respect to the balance sheets of Dawson Geophysical Company as of September 30, 2004 and 2003, and the related statements of operations, changes in stockholder's equity, cash flows, and comprehensive income for each of the years in the three-year period ended September 30, 2004, which reports appear in Dawson Geophysical Company's Annual Report on Form 10-K/A (Amendment No.1) for the year ended September 30, 2004. We also consent to the reference to our firm under the heading "Experts" in such Registration Statement.

/s/ KPMG LLP

Midland, Texas
August 5, 2005