

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): May 7, 2020

INSEEGO CORP.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or other jurisdiction
of incorporation)

001-38358
(Commission
file number)

81-3377646
(IRS Employer
Identification No.)

**12600 Deerfield Parkway, Suite 100
Alpharetta, Georgia 30004**
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (858) 812-3400

Not Applicable
(Former Name, or Former Address, if Changed Since Last Report)

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

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

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	INSG	NASDAQ Global Select Market
Preferred Stock Purchase Rights		

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.*Completion of Senior Convertible Notes Offering*

On May 12, 2020, Inseego Corp. (the “Company”) completed its registered underwritten public offering of \$100,000,000 aggregate principal amount of 3.25% Convertible Senior Notes due 2025 (such notes, the “Notes,” and such offering, the “Offering”) pursuant to an underwriting agreement, dated May 7, 2020 (the “Underwriting Agreement”), between the Company and Stifel, Nicolaus & Company, Incorporated on behalf of itself and as representative of the several underwriters named in Schedule I thereto (the “Underwriters”). Pursuant to the terms of the Underwriting Agreement, the Company also granted the Underwriters a 30-day option to purchase up to an additional \$15,000,000 aggregate principal amount of Notes in connection with the Offering, solely to cover over-allotments.

The Notes were offered and sold in a public offering registered under the Securities Act of 1933, as amended (the “Securities Act”), pursuant to a registration statement on Form S-3ASR (the “Registration Statement”) filed with the Securities and Exchange Commission (the “Commission”) on May 7, 2020, which became effective immediately upon filing (Registration No. 333-238057), including the prospectus supplement filed by the Company with the Commission pursuant to Rule 424(b)(5) under the Securities Act, dated May 7, 2020, to the base prospectus filed with the Registration Statement.

Base Indenture and Supplemental Indenture

The Company issued the Notes under an indenture, dated May 12, 2020 (the “Base Indenture”), between the Company and Wilmington Trust, National Association, as trustee (the “Trustee”), as supplemented by the first supplemental indenture, dated May 12, 2020 (the “Supplemental Indenture” and, together with the Base Indenture, the “Indenture”), between the Company and the Trustee.

The Notes will mature on May 1, 2025, unless earlier repurchased, redeemed or converted. The Notes are senior unsecured obligations of the Company and bear interest at an annual rate of 3.25%, payable semi-annually in arrears on May 1 and November 1 of each year, beginning on November 1, 2020.

Holders of the Notes may convert their Notes at their option, at any time, until the close of business on the scheduled trading day immediately before the maturity date. Upon conversion of the Notes, the Company will deliver for each \$1,000 principal amount of Notes converted a number of shares of the Company’s common stock, par value \$0.001 per share (the “Common Stock”) (together with cash in lieu of any fractional share), equal to the conversion rate. Consistent with the Company’s intent to preserve the availability of its net operating loss carryforwards under the Internal Revenue Code of 1986, as amended, beneficial owners of the Notes will be subject to a conversion limitation.

The initial conversion rate for the Notes is 79.2896 shares of Common Stock per \$1,000 principal amount of Notes, which represents an initial conversion price of approximately \$12.61 per share, and is subject to adjustment upon the occurrence of certain events, including, but not limited to, certain stock dividends, splits and combinations, the issuance of certain rights, options or warrants to holders of the Common Stock, certain distributions of assets, debt securities, capital stock or other property to holders of the Common Stock, cash dividends on the Common Stock and certain Company tender or exchange offers. Holders of the Notes who convert their Notes may also be entitled to receive, under certain circumstances, an interest make-whole payment payable in, at the Company’s election, either cash or shares of the Common Stock (together with cash in lieu of any fractional share).

The Notes will be redeemable, in whole or in part, at the Company’s option at any time, and from time to time, on or after May 6, 2023 and on or before the scheduled trading day before the maturity date, at a cash redemption price equal to the principal amount of the Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date but only if the last reported sale price per share of the Common Stock exceeds 130% of the conversion price on (i) each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice; and (ii) the trading day immediately before the date the Company sends such notice.

The Indenture contains customary events of default. If an event of default (other than certain events of bankruptcy, insolvency or reorganization involving the Company) occurs and is continuing, the Trustee, by notice to the Company, or the holders of the Notes representing at least 25% in aggregate principal amount of the outstanding Notes, by notice to the Company and the Trustee, may declare 100% of the principal of, and all accrued and unpaid interest on, all of the then outstanding Notes to be due and payable immediately. Upon the occurrence of certain events of bankruptcy, insolvency or reorganization involving the Company, 100% of the principal of, and all accrued and unpaid interest on, all of the then outstanding Notes will automatically become immediately due and payable. Notwithstanding the foregoing, the Indenture provides that, to the extent the Company elects, the sole remedy for an event of default relating to certain failures by the Company to comply with certain reporting covenants in the Indenture will, for the first 360 days after such event of default, consist exclusively of the right to receive additional interest on the Notes.

The foregoing description of the Indenture does not purport to be complete and is qualified in its entirety by the full text of the Base Indenture and the Supplemental Indenture that are filed as Exhibits 4.1 and 4.2, respectively, to this Current Report on Form 8-K and are incorporated by reference herein. The Form of Note is attached as Exhibit 4.3 to this Current Report on Form 8-K.

Underwriting Agreement

In connection with the Offering, on May 7, 2020, the Company entered into the Underwriting Agreement. The Underwriting Agreement includes customary representations, warranties and covenants. Under the terms of the Underwriting Agreement, the Company has agreed to indemnify the Underwriters against certain liabilities, including liabilities under the Securities Act, or contribute to payments that the Underwriters may be required to make in respect of those liabilities. The foregoing description of the Underwriting Agreement does not purport to be complete and is qualified in its entirety by the full text of the Underwriting Agreement that is filed as Exhibit 1.1 to this Current Report on Form 8-K and is incorporated herein by reference.

2022 Notes Exchanges

On May 12, 2020, the Company entered into separate privately-negotiated exchange agreements (each, an “Exchange Agreement”) with Golden Harbor Ltd. and North Sound Trading, L.P. (the “Participating Stockholders”) of the Company’s outstanding 5.50% convertible senior notes due 2022 (the “2022 Notes”). Pursuant to each respective Exchange Agreement, each of the Participating Stockholders agreed to exchange the 2022 Notes that they currently hold (representing an aggregate of \$44,816,000 principal amount of 2022 Notes) for an aggregate of \$32,062,000 in cash and \$80,000,000 principal amount of the Notes in concurrent private placement transactions (the “Private Exchange Transactions”).

The Notes issued in the Private Exchange Transactions (the “Participating Stockholder Notes”) are part of the same series as the Notes issued in the Offering, but are subject to certain transfer restrictions that will not be applicable to the Notes issued in the Offering. In particular, the Participating Stockholder Notes are not freely transferable until twelve months following their sale by the Participating Stockholders to a non-affiliate of the Company unless sold in a transaction registered under the Securities Act or pursuant to Rule 144 under the Securities Act. The Company did not receive any cash proceeds from the Participating Stockholders in connection with the Private Exchange Transactions.

In connection with the Private Exchange Transactions, the Company expects to enter into a registration rights agreement with the Participating Stockholders. Pursuant to the terms of such registration rights agreement, the Company will agree to file a registration statement with the Commission, promptly following the closing date of the Private Exchange Transactions, in order to effect a registration for the resale by the Participating Stockholders of the Participating Stockholder Notes and any shares of Common Stock issuable upon conversion of the Participating Stockholder Notes. Following the closing of the Private Exchange Transactions, \$152,000 aggregate principal amount of the 2022 Notes remained outstanding.

The Participating Stockholder Notes were offered and sold in reliance on an exemption from registration provided by the Securities Act. Each Participating Stockholder represented to the Company that it was an “accredited investor” within the meaning of Rule 501 of Regulation D promulgated under the Securities Act. The Participating Stockholders include Golden Harbor Ltd. and North Sound Trading, L.P. James Avery, a member of the Company’s board of directors, serves as a Vice President of Golden Harbor Ltd., and Brian Miller, a member of Company’s board of directors, is a principal of North Sound Trading, L.P.

The foregoing descriptions of the Exchange Agreements do not purport to be complete and are qualified in their entirety by the full text of the form of Exchange Agreement that is filed as Exhibit 1.2 to this Current Report on Form 8-K and is incorporated herein by reference.

Letter Agreement

On May 7, 2020, the Company entered into a letter agreement (the “Letter Agreement”) with Cantor Fitzgerald Securities, as administrative agent, and the banks, financial institutions and other institutional lenders (the “Lenders”) parties to the credit agreement, dated August 23, 2017 (as amended, the “Credit Agreement”), among the Company and certain of its direct and indirect subsidiaries (collectively, the “Loan Parties”), Cantor Fitzgerald Securities, as administrative agent and collateral agent, and certain lenders party thereto.

Pursuant to the Letter Agreement, the Lenders, among other things, consented to the issuance by the Company of up to \$218,750,000 in aggregate principal amount of the Notes so long as the proceeds thereof are used to prepay the Loan Parties’ obligations under the Credit Agreement in full and substantially concurrently with the receipt of cash proceeds in respect of the issuance of the Notes (the date of such prepayment, being the “Prepayment Date”). In consideration for the foregoing consent, the Company agreed to (i) pay, on the Prepayment Date, the prepayment and exit fees due under the Credit Agreement in cash, rather than making payment of such fees in shares of the Company’s Series E Fixed-Rate Cumulative Perpetual Preferred Stock, par value \$0.001 per share (the “Series E Preferred Stock”), and (ii) redeem, in cash, on the Prepayment Date, the shares of the Company’s Series E Preferred Stock previously issued to the Lenders in satisfaction of certain deferred interest obligations pursuant to the terms and conditions of the Credit Agreement.

Item 1.02 Termination of a Material Definitive Agreement.

On May 12, 2020, the Company used a portion of the proceeds from the Offering to repay in full and terminate the Credit Agreement. The amounts paid included \$47,500,000 in outstanding principal, approximately \$500,000 in interest accrued thereon, a prepayment fee of \$760,000 and an exit fee of \$570,000. In accordance with the terms of the Letter Agreement, the prepayment and exit fees were paid in cash. South Ocean Funding, LLC, the Lender under Credit Agreement, is an affiliate of Golden Harbor Ltd.

The information set forth in Item 1.01 with respect to the Letter Agreement is incorporated by reference into this Item 1.02.

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

The information set forth in Item 1.01 is incorporated by reference into this Item 2.03.

Item 2.04 Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement.

The information set forth in Item 1.01 and 1.02 is incorporated by reference into this Item 2.04.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth in Item 1.01 with respect to the Private Exchange Transactions is incorporated by reference into this Item 3.02.

Item 8.01 Other Events.

In connection with the Offering, the Company is filing the opinion and consent of its counsel, Paul Hastings LLP, regarding the validity of the securities being registered as Exhibits 5.1 and 23.1 to this Current Report on Form 8-K, which are incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

- 1.1 [Underwriting Agreement, dated May 7, 2020, between Inseego Corp. and Stifel, Nicolaus & Company, v Incorporated as representative of the several underwriters named therein.](#)
- 1.2 [Form of Exchange Agreement, dated May 12, 2020, between Inseego Corp. and certain investors holding the Company's 5.50% Convertible Senior Notes due 2022.](#)
- 4.1 [Base Indenture, dated May 12, 2020, between Inseego Corp. and Wilmington Trust, National Association, as trustee.](#)
- 4.2 [First Supplemental Indenture, dated May 12, 2020, between Inseego Corp. and Wilmington Trust, National Association, as trustee.](#)
- 4.3 [Form of 3.25% convertible senior note due 2025 \(included in Exhibit 4.2\).](#)
- 5.1 [Opinion of Paul Hastings LLP.](#)
- 23.1 [Consent of Paul Hastings LLP \(included in Exhibit 5.1\).](#)

SIGNATURES

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

INSEEGO CORP.

Date: May 12, 2020

By: /s/ Stephen Smith

Name: Stephen Smith

Title: Executive Vice President and Chief Financial Officer

\$100,000,000
INSEGO CORP.
3.25% Convertible Notes due 2025
Underwriting Agreement

May 7, 2020

STIFEL, NICOLAUS & COMPANY, INCORPORATED

As representative of the several Underwriters named in Schedule I hereto

c/o Stifel, Nicolaus & Company, Incorporated
One Montgomery Street
Suite 3700
San Francisco, California 94104

Ladies and Gentlemen:

Insego Corp., a Delaware corporation (the “Company”), proposes, subject to the terms and conditions stated herein, to sell to the Underwriters named in Schedule I hereto (the “Underwriters”), for whom Stifel, Nicolaus & Company, Incorporated is acting as representative (the “Representative” or “you”), the respective principal amounts set forth in said Schedule I of \$100,000,000 aggregate principal amount of the Company’s 3.25% Convertible Notes due 2025 (the “Firm Securities”) and, at the election of the Underwriters solely to cover over-allotments, up to \$15,000,000 aggregate principal amount of the Company’s 3.25% Convertible Notes due 2025 (the “Optional Securities”). To the extent there are no additional underwriters listed on Schedule I, the term “Representative” as used herein shall mean you, as Underwriter, and the term “Underwriters” shall mean either the singular or the plural, as the context requires. The Firm Securities and the Optional Securities that the Underwriters elect to purchase pursuant to Section 2 hereof are herein collectively called the “Securities.” The Securities will be convertible into cash, shares of common stock of the Company, par value \$0.001 per share (including related rights to purchase Series D Preferred Stock, the “Stock”), or a combination of cash and shares of Stock (any shares of Stock issuable upon conversion of the Securities, including, for the avoidance of doubt, any additional shares deliverable upon conversion in connection with a “make-whole fundamental change,” are referred to as the “Underlying Securities”). The Securities are to be issued pursuant to an indenture to be dated on or about the First Time of Delivery (as defined below) (the “Base Indenture”), between the Company and Wilmington Trust, National Association, as trustee (the “Trustee”), which will be substantially in the form filed as an exhibit to the Registration Statement (as defined below), as supplemented and/or amended by a supplemental indenture to be dated on or about the First Time of Delivery, by and between the Company and the Trustee (the “Supplemental Indenture” and, together with the Base Indenture, as supplemented and/or amended, the “Indenture”). This Agreement, the Indenture and the Securities are collectively called the “Transaction Documents.”

The Company understands that the Underwriters propose to make a public offering of the Securities as soon as you deem advisable after this Agreement has been executed and delivered and the Indenture has been qualified under the Trust Indenture Act of 1939, as amended, and the rules and regulations promulgated thereunder (collectively, the “Trust Indenture Act”).

The Company has prepared and filed with the Securities and Exchange Commission (the “Commission”) an automatic shelf registration statement on Form S-3 (File No. 333-238057), which contains a base prospectus (the “Base Prospectus”), to be used in connection with the public offering and sale of debt securities, including the Securities, and other securities of the Company under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (collectively, the “Securities Act”), in accordance with Rule 415 under the Securities Act. Such registration statement, including the financial statements, exhibits and schedules thereto, in the form in which it became effective under the Securities Act pursuant to Rule 462(e) promulgated thereunder, including any required information deemed to be a part thereof at the time of effectiveness pursuant to Rule 430B under the Securities Act, is called the “Registration Statement.” The term “Prospectus” shall mean the final prospectus supplement relating to the Securities, together with the Base Prospectus, that is first filed with the Commission pursuant to Rule 424(b) under the Securities Act after the Applicable Time (as defined in Section 1(iii) hereof). The term “Preliminary Prospectus” shall mean any preliminary prospectus supplement relating to the

Securities, together with the Base Prospectus, that is first filed with the Commission pursuant to Rule 424(b) under the Securities Act. Any reference herein to the Registration Statement, the Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents that are incorporated by reference therein or are deemed to be incorporated by reference therein pursuant to Item 12 of Form S-3 under the Securities Act prior to the Applicable Time. All references in this Agreement to the Registration Statement, the Preliminary Prospectus, the Prospectus, or any amendments or supplements to any of the foregoing, shall include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval System ("EDGAR").

All references in this Agreement to financial statements and schedules and other information which is "contained," "included" or "stated" (or other references of like import) in the Registration Statement, the Prospectus or the Preliminary Prospectus shall be deemed to mean and include all such financial statements and schedules and other information which is or is deemed to be incorporated by reference in the Registration Statement, the Prospectus or the Preliminary Prospectus, as the case may be, prior to the Applicable Time; and all references in this Agreement to amendments or supplements to the Registration Statement, the Prospectus or the Preliminary Prospectus shall be deemed to include the filing of any document under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the "Exchange Act"), which is or is deemed to be incorporated by reference in the Registration Statement, the Prospectus or the Preliminary Prospectus, as the case may be, after the Applicable Time.

1. The Company represents and warrants to, and agrees with, each of the Underwriters that:

(i) The Registration Statement and any post-effective amendment thereto, each in the form heretofore delivered to you, has become effective under the Securities Act in such form; no other document with respect to the Registration Statement or any document incorporated by reference in the Base Prospectus has been filed with the Commission from the date of filing the Registration Statement through the date hereof; any request on the part of the Commission for additional information has been complied with; and no stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued and no proceeding for that purpose has been initiated or, to the Company's knowledge, threatened by the Commission;

(ii) No order preventing or suspending the use of any Preliminary Prospectus or any "issuer free writing prospectus" as defined in Rule 433 under the Securities Act (an "Issuer Free Writing Prospectus") has been issued by the Commission; and each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Securities Act, and did not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information (as defined below) or relating to that part of the Registration Statement that constitutes the Statement of Eligibility (Form T-1) of the Trustee under the Trust Indenture Act;

(iii) For the purposes of this Agreement, the "Applicable Time" is 6:00 p.m. (New York City time) on the date of this Agreement. The Preliminary Prospectus, taken together with the information listed on Schedule II(a)-(c) hereto (collectively, the "Pricing Disclosure Package"), as of the Applicable Time, did not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information or relating to that part of the Registration Statement that constitutes the Statement of Eligibility (Form T-1) of the Trustee under the Trust Indenture Act; and each Issuer Free Writing Prospectus listed on Schedule II(a) hereto did not, as of its date of issue, conflict with the information contained in the Registration Statement, the Preliminary Prospectus or the Prospectus, as in existence on such date;

(iv) The Company (i) has not alone engaged in any Testing-the-Waters Communications other than Testing-the-Waters Communications with the consent of the Representative with entities that the Company reasonably believed to be qualified institutional buyers within the meaning of Rule 144A under the Securities Act or institutions that are accredited investors within the meaning of Rule 501(a)(1), (a)(2), (a)(3), (a)(7) or (a)(8) under the Securities Act and otherwise in compliance with the requirements of Rule 163B under the Securities Act and (ii) has not authorized anyone other than the Representative to engage in Testing-the-Waters Communications; the

Company reconfirms that the Representative has been authorized to act on its behalf in undertaking Testing-the-Waters Communications. The Company has not distributed or approved for distribution any Written Testing-the-Waters Communications other than those listed on Schedule II(d) hereto.

“Testing-the-Waters Communication” means any oral or written communication with potential investors undertaken in reliance on Rule 163B under the Securities Act. “Written Testing-the-Waters Communication” means any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act. Any individual Written Testing-the-Waters Communication does not conflict in any material respect with the information contained in the Registration Statement or the Pricing Disclosure Package, complied in all material respects with the Securities Act, and when taken together with the Pricing Disclosure Package as of the Applicable Time, did not, and as of any Time of Delivery, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information;

(v) The documents incorporated by reference in the Preliminary Prospectus and the Prospectus, when they were filed with the Commission, conformed in all material respects to the requirements of the Exchange Act, and none of such incorporated documents contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(vi) The Company satisfies the requirements set forth in General Instruction I of Form S-3; the Registration Statement is an “automatic shelf registration statement,” as defined in Rule 405 under the Securities Act, that automatically became effective not more than three years prior to the Applicable Time; the Company has not received from the Commission any notice pursuant to Rule 401(g)(2) under the Securities Act objecting to use of the automatic shelf registration statement form and the Company has not otherwise ceased to be eligible to use the automatic shelf registration form; the Company meets the requirements for use of Form S-3 under the Securities Act specified in Rule 5110(B)(7)(C)(i) of the Financial Industry Regulatory Authority (“FINRA”);

(vii) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, in all material respects, to the requirements of the Securities Act and the Trust Indenture Act and do not and will not, as of the applicable effective date as to each part of the Registration Statement and the applicable effective date of any amendment thereto and as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, taken together, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information or relating to that part of the Registration Statement that constitutes the Statement of Eligibility (Form T-1) of the Trustee under the Trust Indenture Act;

(viii) Neither the Company nor any of its subsidiaries has sustained since the date of the latest audited financial statements included or incorporated by reference in the Pricing Disclosure Package any material loss or interference with its business, direct or contingent, including from pandemic, fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as described or contemplated in the Pricing Disclosure Package; and, since the respective dates as of which information is given in the Registration Statement and the Pricing Disclosure Package, (i) the Company and its subsidiaries have not incurred any material liability or obligation, direct or contingent, nor entered into any material transaction outside the ordinary course of business; (ii) the Company has not purchased any of its outstanding capital stock, nor declared, paid or otherwise made any dividend or distribution of any kind on its capital stock; (iii) there has not been any change in the capital stock, short-term debt or long-term debt of the Company or any of its subsidiaries, taken as a whole, other than, in the case of clauses (i), (ii) and (iii), changes described or contemplated in the Pricing Disclosure Package; and (iv) there has not been any material adverse change, or any development involving a prospective material adverse change, in or affecting the business, properties, management, financial position, stockholders’ equity, results of operations or prospects of the Company and its subsidiaries taken as a whole;

(ix) The Company and its subsidiaries have good and marketable title to all property owned by them which is material to the business of the Company and its subsidiaries, in each case free and clear of all liens, encumbrances and defects except such as are described in the Pricing Disclosure Package or such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; and any real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not materially interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries, in each case except as described in the Pricing Disclosure Package;

(x) The Company and its subsidiaries (i) are in compliance with any and all applicable foreign, federal, state and local laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (“Environmental Laws”), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) are in compliance with all terms and conditions of any such permit, license or approval, except where such noncompliance with Environmental Laws, failure to receive required permits, licenses or other approvals or failure to comply with the terms and conditions of such permits, licenses or approvals would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the business, properties, management, financial position, stockholders’ equity or results of operations of the Company and its subsidiaries taken as a whole or on the performance by the Company of its obligations under the Transaction Documents (a “Material Adverse Effect”); there are no costs or liabilities associated with Environmental Laws (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties) which would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(xi) The Company (i) has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, with corporate power and corporate authority to own its properties and conduct its business as described in the Pricing Disclosure Package, and (ii) has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except in the case of clause (ii), where the failure to be so qualified or in good standing would not have a Material Adverse Effect; and each subsidiary of the Company (x) has been duly incorporated or formed, as the case may be, and is validly existing as a corporation or limited liability company, as applicable, in good standing under the laws of its jurisdiction of incorporation or formation, with the company power and authority to own its properties and conduct its business as described in the Pricing Disclosure Package, and (y) has been duly qualified as a foreign corporation or limited liability company for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except in the case of clauses (x) or (y), where the failure to be so organized, qualified or in good standing would not have a Material Adverse Effect;

(xii) The Company has an authorized capitalization as set forth in the Pricing Disclosure Package under the captions “Capitalization” and “Description of Capital Stock” and all of the issued shares of capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable and conform in all material respects to the description of the Stock contained in the Pricing Disclosure Package and Prospectus under the captions “Capitalization” and “Description of Capital Stock”; and all of the issued shares of capital stock of each subsidiary of the Company have been duly authorized and validly issued, are fully paid and non-assessable and, except as would not be material to the Company and its subsidiaries, taken as a whole, are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims; the Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act and is listed on the Nasdaq Global Select Market (“Nasdaq”), and the Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Stock under the Exchange Act or delisting the Stock from Nasdaq, nor has the Company received any notification that the Commission or Nasdaq is contemplating terminating such registration or listing; to the Company’s knowledge, it is in compliance with all applicable listing requirements for the listing of the Stock on Nasdaq;

(xiii) (a) At the time of filing the Registration Statement, (b) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Securities Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (c) as of the Applicable Time, the Company was and is a “well known seasoned issuer” as defined in Rule 405 under the Securities Act;

(xiv) The Company’s execution and delivery, and the performance by the Company of each of its obligations under, the Transaction Documents and the consummation of the transactions contemplated by the Registration Statement, the Pricing Disclosure Package and the Prospectus (including the use of proceeds from the sale of the Securities as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus under the caption “Use of Proceeds”) and the issuance of the Underlying Securities upon conversion of the Securities (A) will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, except for any such breaches, violations or defaults that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (B) will not violate any of the provisions of the Amended and Restated Certificate of the Company or the Amended and Restated Bylaws of the Company, or the organizational documents of any subsidiary, (C) will not violate any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties, except for any such violations that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect and (D) will not require any consent, approval, authorization, order, registration or qualification of or with any court, governmental agency or body or third party, except for (x) such consents, approvals, authorizations, orders, registrations or qualifications that have been obtained or made and are in full force and effect and (y) such consents, approvals, authorizations, orders, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Securities by the Underwriters;

(xv) Neither the Company nor any of its subsidiaries is (A) in violation of its certificate of incorporation, bylaws or other organizational documents or (B) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound, except in the case of clause (B), to the extent that such default would not have a Material Adverse Effect;

(xvi) The statements set forth (A) in the Pricing Disclosure Package and Prospectus under the caption “Description of Capital Stock,” insofar as they purport to constitute a summary of the terms of the Stock, (B) in the Pricing Disclosure Package and Prospectus under the captions “Description of Notes” and “Description of Debt Securities,” insofar as they purport to constitute a summary of the terms of the Securities or the Indenture, and (C) in the Pricing Disclosure Package and Prospectus under the captions “Material U.S. Federal Income Tax Considerations,” and “Underwriting,” insofar as they purport to describe the provisions of the laws, matters and documents referred to therein, fairly summarize in all material respects such laws, matters and documents; and the Securities and the Indenture will be in substantially the respective forms filed or incorporated by reference, as the case may be, as exhibits to the Registration Statement;

(xvii) Other than as set forth in the Pricing Disclosure Package, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject which (A) if determined adversely to the Company or any of its subsidiaries or any officer or director, would individually or in the aggregate reasonably be expected to have a Material Adverse Effect or materially adversely affect the power or ability of the Company to perform its obligations under this Agreement or to consummate the transactions contemplated by the Preliminary Prospectus or (B) are required to be described in the Registration Statement or the Prospectus and are not so described; and, to the Company’s knowledge, no such proceedings are threatened by governmental authorities or threatened by others;

(xviii) The Company is not and, after giving effect to the offering and sale of the Securities and the application of the proceeds thereof, will not be required to register as an “investment company” under the Investment Company Act of 1940, as amended (the “Investment Company Act”);

(xix) At the time of filing the Registration Statement the Company was not and is not, as of the date hereof, an “ineligible issuer,” as defined under Rule 405 under the Securities Act;

(xx) Marcum LLP, who have audited certain financial statements of the Company and its subsidiaries, are independent certified public accountants with respect to the Company as required by the Securities Act and the Public Company Accounting Oversight Board (United States);

(xxi) The Company maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) that complies with the requirements of the Exchange Act and has been designed by the Company’s principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States (“GAAP”) and the Commission’s rules and guidelines applicable thereto; except as disclosed in the Pricing Disclosure Package, the Company’s internal control over financial reporting is effective and the Company is not aware of any material weaknesses in its internal control over financial reporting; the Company and its subsidiaries maintain internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences and (v) interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement, the Prospectus and the Pricing Disclosure Package fairly presents the information called for in all material respects and is prepared in accordance with the Commission’s rules and guidelines applicable thereto;

(xxii) Since the date of the latest audited financial statements included in the Pricing Disclosure Package, there has been no change in the Company’s internal control over financial reporting that has materially and adversely affected, or is reasonably likely to materially and adversely affect, the Company’s internal control over financial reporting;

(xxiii) The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that material information relating to the Company and its subsidiaries is made known to the Company’s principal executive officer and principal financial officer by others within those entities; the Company and its subsidiaries have carried out evaluations of the effectiveness of their disclosure controls and procedures as required by Rule 13a-15 of the Exchange Act; and except as disclosed in the Pricing Disclosure Package, such disclosure controls and procedures are effective to perform the functions for which they were established;

(xxiv) This Agreement has been duly authorized, executed and delivered by the Company;

(xxv) The Indenture has been duly authorized by the Company and duly qualified under the Trust Indenture Act and, at each Time of Delivery, will have been duly executed and delivered by the Company and will constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors’ rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law);

(xxvi) The Securities have been duly authorized and, at each Time of Delivery, will have been duly executed by the Company and, when authenticated, issued and delivered in the manner provided for in the Indenture and delivered against payment of the purchase price therefor as provided in this Agreement, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors’ rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is

considered in a proceeding in equity or at law), and will be in the form contemplated by, and entitled to the benefits of, the Indenture;

(xxvii) Upon issuance and delivery of the Securities in accordance with this Agreement and the Indenture, the Securities will be convertible at the option of the holder thereof into cash, shares of the Stock or a combination of cash and shares of Stock in accordance with the terms of the Securities; the maximum number of Underlying Securities issuable upon conversion of the Securities have been duly authorized and reserved for issuance upon such conversion by all necessary corporate action and such Underlying Securities, when issued upon such conversion, will be validly issued and will be fully paid and non-assessable; no holder of such Underlying Securities will be subject to personal liability by reason of being such a holder; and the issuance of the maximum number of Underlying Securities upon such conversion will not be subject to the preemptive or other similar rights of any securityholder of the Company;

(xxviii) Neither the Company nor any of its subsidiaries, nor any director, officer or employee of the Company or any of its subsidiaries nor, to the knowledge of the Company, any agent, affiliate or other person associated with or acting on behalf of the Company or any of its subsidiaries has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made or taken an act in furtherance of an offer, promise or authorization of any direct or indirect unlawful payment or benefit to any foreign or domestic government official or employee, including of any government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended, or any applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or committed an offence under the Bribery Act 2010 of the United Kingdom, or any other applicable anti-bribery or anti-corruption law; or (iv) made, offered, agreed, requested or taken an act in furtherance of any unlawful bribe or other unlawful benefit, including, without limitation, any rebate, payoff, influence payment, kickback or other unlawful or improper payment or benefit; the Company and its subsidiaries have instituted, maintain and enforce, and will continue to maintain and enforce, policies and procedures designed to promote and ensure compliance with all applicable anti-bribery and anti-corruption laws;

(xxix) (a) To the Company's knowledge, the Company and its Subsidiaries own (free and clear of all liens or security interests except such as are described in the Pricing Disclosure Package or such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company and its Subsidiaries), possess, license or have other rights to use, all patents, patent applications, trade and service marks and other protectable source code indicators, trade and service mark applications and registrations, copyrights, trade secrets (including inventions, technology and know-how), domain names, mask works and other intellectual property rights and similar proprietary rights necessary or material to the conduct of their respective businesses as currently conducted (collectively, the "Intellectual Property Rights"), except as would not reasonably be expected to have a Material Adverse Effect. To the Company's knowledge, the issued patents, trademark registrations and copyright registrations owned by the Company and its Subsidiaries included within the Intellectual Property Rights are valid, enforceable and subsisting, except as would not reasonably be expected to have a Material Adverse Effect. (b) To the Company's knowledge, there is no infringement by third parties of any of the Intellectual Property Rights owned by the Company or any of its Subsidiaries and material to the conduct of their respective businesses (collectively, "Owned Intellectual Property Rights"). Except as would not be material to the Company and its subsidiaries, taken as a whole, no action, suit, claim or other proceeding is pending or, to the Company's knowledge, threatened, challenging the validity, enforceability or use by the Company or any of its Subsidiaries of any of the Owned Intellectual Property Rights (other than routine office actions issued by the United States Patent and Trademark Office or other applicable intellectual property office). Except as would not be material to the Company and its subsidiaries, taken as a whole, no action, suit, claim or other proceeding is pending or, to the Company's knowledge, threatened, challenging the Company's or any Subsidiary's ownership rights in or to any Owned Intellectual Property Rights (other than routine office actions issued by the United States Patent and Trademark Office or other applicable intellectual property office). To the Company's knowledge, the use, manufacture and sale by the Company and its Subsidiaries of any of their respective proprietary products and processes referred to in the Registration Statement, Pricing Disclosure Package and Prospectus in the current conduct of their respective businesses do not currently infringe any Intellectual Property Right (with respect to patents, any valid patent claim) of any third party, except as would not have or reasonably be expected to have a

Material Adverse Effect. (c) To the Company's knowledge, no third party has any ownership right in or to any Owned Intellectual Property Rights. To the Company's knowledge, no employee, consultant or independent contractor that has developed any Owned Intellectual Property Rights is in violation in any material respect of any term of any invention assignment agreement or nondisclosure agreement with a former employer or third party with whom they were engaged as an independent contractor where the basis of such violation relates to such employee's or independent contractor's development of Intellectual Property Rights undertaken while employed or engaged with the Company or any Subsidiary. (d) The Company and its Subsidiaries have taken commercially reasonable measures to protect its trade secrets constituting Owned Intellectual Property Rights and to maintain and safeguard such Intellectual Property Rights, including the execution of nondisclosure and confidentiality agreements. (e) All of the agreements containing licenses and sublicenses granting to the Company or its Subsidiaries a right to use third party Intellectual Property Rights which are material to the conduct of the Company's and each of its Subsidiaries' respective businesses as currently conducted (other than non-exclusive licenses for commercially available software or software services) (collectively, the "License Agreements") are binding obligations of the Company or its Subsidiaries that are parties thereto and, to the Company's knowledge, the other parties thereto. To the Company's knowledge, neither the Company nor any of its Subsidiaries is in material breach of or default under, nor has provided or received any notice of any intention to terminate, any such License Agreement. (f) The consummation of the transactions contemplated hereby and by the other Transaction Documents will not result in a material loss, impairment of or restriction on the Company's or any Subsidiaries' ownership or right to use any of the Owned Intellectual Property Rights or Intellectual Property Rights licensed or sublicensed to the Company or its Subsidiary pursuant to a License Agreement, in each case, that are material to and necessary for the conduct of the Company's and each of its Subsidiaries' respective businesses as currently conducted.

(xxx) The financial statements, including the notes thereto, and the supporting schedules included in the Pricing Disclosure Package present fairly, in all material respects, the financial position at the dates indicated and the results of operations and cash flows for the periods indicated of the Company and its consolidated subsidiaries; except as otherwise stated in the Pricing Disclosure Package, such financial statements have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved; and the supporting schedules, if any, included in the Pricing Disclosure Package present fairly the information required to be stated therein; the historical financial data set forth or included in the Pricing Disclosure Package under the caption "Management's Discussion and Analysis of Financial Condition and Results of Operations" present fairly in all material respects the information included therein; no other financial statements (including, but not limited to, pro forma financial statements) or supporting schedules are required to be included in the Registration Statement; the other financial information included in the Pricing Disclosure Package presents fairly in all material respects the information included therein and has been prepared on a basis consistent with that of the financial statements that are included in the Pricing Disclosure Package and the books and records of the respective entities presented therein; the interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto;

(xxxi) The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are, in the Company's reasonable judgment, prudent and customary in the businesses in which they are engaged; neither the Company nor any of its subsidiaries has been refused any insurance coverage sought or applied for; and neither the Company nor any of its subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect, except as described in the Preliminary Prospectus;

(xxxii) The Company is in compliance in all material respects with all applicable provisions of the Sarbanes-Oxley Act of 2002, as amended, including Section 402 related to loans and Sections 302 and 906 related to certifications, and all rules and regulations promulgated thereunder currently in effect and with which the Company is required to comply;

(xxxiii) Except as described in the Pricing Disclosure Package, the Company has not sold, issued or distributed any shares of Stock during the six-month period preceding the date hereof, including any sales pursuant to Rule 144A under, or Regulation D or S of, the Securities Act, other than shares issued pursuant to employee

benefit plans, qualified stock option plans or other employee compensation plans or pursuant to outstanding options, rights or warrants;

(xxxiv) There are no statutes, regulations, contracts or other documents which are required to be described in the Registration Statement, the Preliminary Prospectus or the Prospectus or to be filed as an exhibit to the Registration Statement which have not been described or filed as required;

(xxxv) All United States federal tax returns and state tax returns required to be filed by the Company and its subsidiaries in all jurisdictions in which the Company or its subsidiaries are incorporated or formed or are qualified to do business have been timely and duly filed, or the Company and its subsidiaries have requested and received extensions thereof, other than those filings being contested in good faith, and except where the failure to file would not have a Material Adverse Effect; other than as disclosed in the Pricing Disclosure Package, there are no tax returns of the Company and its subsidiaries that are currently being audited by state, local or federal taxing authorities or agencies (and with respect to which the Company or its subsidiaries has received notice); all material taxes, including withholding taxes, penalties and interest, assessments, fees and other charges due or claimed to be due to such entities (and with respect to which the Company or its subsidiaries have received notice), have been paid, other than those being contested in good faith and for which adequate reserves have been provided or those currently payable without penalty or interest;

(xxxvi) The operations of the Company and its subsidiaries are and have been conducted at all times in material compliance with the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder, and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “Employee Benefit Laws”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator to which the Company or any of its subsidiaries is a party with respect to the Employee Benefit Laws is pending or, to the knowledge of the Company, threatened;

(xxxvii) No material labor dispute with the employees of the Company or any of its subsidiaries exists, except as described in the Preliminary Prospectus, or, to the knowledge of the Company, is imminent;

(xxxviii) Except as disclosed in the Pricing Disclosure Package, there are no contracts, agreements or understandings between the Company or its subsidiaries and any person (A) that would give rise to a valid claim against the Company or any Underwriter for a brokerage commission, finder’s fee or other like payment in connection with this offering; or (B) granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to the Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Securities Act;

(xxxix) None of the outstanding shares of Stock were issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company; there are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company or any of its subsidiaries other than those described in the Pricing Disclosure Package; and the description of the Company’s stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder, included in the Pricing Disclosure Package fairly presents the information required to be shown with respect to such plans, arrangements, options and rights;

(xl) Neither the Company nor any of its subsidiaries, directors, or officers, nor, to the knowledge of the Company, any employee, agent, affiliate or other person associated with or acting on behalf of the Company or any of its subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. government (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State and including, without limitation, the designation as a “specially designated national” or “blocked person”), the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority (collectively, “Sanctions”), nor is the Company or any of its subsidiaries located, organized or resident in a country or territory that is the subject or target of Sanctions,

including, without limitation, Crimea, Cuba, Iran, North Korea, and Syria (each, a “Sanctioned Country”); and the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (i) to fund or facilitate any activities of or business with any person that, at the time of such funding or facilitation, is the subject or target of Sanctions, (ii) to fund or facilitate any activities of or business in any Sanctioned Country or (iii) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions; for the past five years, the Company and its subsidiaries have not knowingly engaged in and are not now knowingly engaged in any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country;

(xli) The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements, including those of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the applicable money laundering statutes of all jurisdictions where the Company or any of its subsidiaries conducts business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “Anti-Money Laundering Laws”), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Company, threatened;

(xlii) The Company and its subsidiaries possess all certificates, authorizations, registrations and permits issued by the appropriate federal, state, self-regulatory organization or foreign regulatory authorities necessary to conduct their respective businesses, except where the failure to possess any such certificate, authorization, registration or permit would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization, registration or permit which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to have a Material Adverse Effect, except as described in the Preliminary Prospectus;

(xliii) No relationship, direct or indirect, exists between or among the Company or any of its subsidiaries, on the one hand, and the directors, officers, stockholders, customers, suppliers or other affiliates of the Company or any of its subsidiaries, on the other, that is required by the Securities Act to be described in each of the Registration Statement and the Prospectus and that is not so described in such documents and in the Pricing Disclosure Package;

(xliv) The Company will not take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities or the Stock and will not take any action prohibited by Regulation M under the Exchange Act in connection with the distribution of the Securities or the Underlying Securities contemplated hereby;

(xlv) Neither the issuance, sale and delivery of the Securities nor the application of the proceeds thereof by the Company as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board of Governors;

(xlvi) All of the information provided to the Underwriters or to counsel for the Underwriters by the Company and its counsel in connection with the offering of the Securities is true, complete and correct, in all material respects; to the Company’s knowledge, the underwriting terms and arrangements relating to the offering of the Securities do not violate FINRA Rule 5121; to the Company’s knowledge and except as disclosed to the Representative in writing, no (i) officer or director of the Company or its subsidiaries, (ii) owner of 5% or more of any class of the Company’s securities or (iii) owner of any amount of the Company’s unregistered securities acquired within the 180-day period prior to the date of this Agreement, has any direct or indirect affiliation or association with any FINRA member; the Company will advise the Representative and counsel to the Underwriters if it becomes aware that any officer, director of the Company or its subsidiaries or any owner of 5% or more of any class of the Company’s securities is or becomes an affiliate or associated person of a FINRA member participating in the offering;

(xlvii) The Company and its subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its subsidiaries, as applicable, as currently conducted, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants; the Company and its subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including all personal, personally identifiable, sensitive, confidential or regulated data ("Personal Data")) used in connection with their businesses, and there have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without material cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same; the Company and its subsidiaries are presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification; and

(xlviii) No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith; nothing has come to the attention of the Company that has caused the Company to believe that the statistical and market-related data included or incorporated by reference in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus is not based on or derived from sources that are reliable and accurate in all material respects.

2. Subject to the terms and conditions herein set forth, (a) the Company agrees to sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at the purchase price set forth in Schedule I, the aggregate principal amount of Firm Securities set forth opposite their respective names in Schedule I and (b) in the event and to the extent that the Underwriters shall exercise the election to purchase Optional Securities as provided below, the Company agrees to sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at the purchase price set forth in clause (a) of this Section 2, that portion of the number of Optional Securities as to which such election shall have been exercised.

The Company hereby grants to the Underwriters the right to purchase at their election up to \$15,000,000 aggregate principal amount of Optional Securities, at the purchase price set forth in the paragraph above, for the sole purpose of covering over-allotments. Any such election to purchase Optional Securities may be exercised only by written notice from the Representative to the Company, given within a period of 30 calendar days after the date of this Agreement and setting forth the aggregate principal amount of Optional Securities to be purchased and the date on which such Optional Securities are to be delivered, as determined by you but in no event earlier than the First Time of Delivery (as defined in Section 4 hereof) or, unless you and the Company otherwise agree in writing, earlier than two or later than ten business days after the date of such notice.

3. Upon the authorization by you of the release of the Firm Securities, the several Underwriters propose to offer the Firm Securities for sale upon the terms and conditions set forth in the Prospectus.

4. (a) The Securities to be purchased by each Underwriter hereunder shall be in such authorized denominations and registered in such names as the Representative may request upon at least twenty-four hours' prior notice to the Company and shall be delivered to the Representative through the facilities of DTC, for the account of such Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representative at least forty-eight hours in advance. The Company will cause the one or more global notes representing the Securities to be made available for inspection by the Representative not later than 1:00 P.M., New York City time, on the New York Business Day (as defined below) prior to each Time of Delivery (as defined below). The time and date of such delivery and payment shall be, with respect to the Firm Securities, 9:30 a.m., New York City time, on May 12, 2020 or such other time and date as the Representative and the Company may agree upon in writing, and, with respect to the Optional Securities,

9:30 a.m., New York City time, on the date specified by the Representative in the written notice given by the Representative of the Underwriters' election to purchase such Optional Securities, or such other time and date as the Representative and the Company may agree upon in writing. Such time and date for delivery of the Firm Securities is herein called the "First Time of Delivery," such time and date for delivery of the Optional Securities, if not the First Time of Delivery, is herein called the "Second Time of Delivery," and each such time and date for delivery is herein called a "Time of Delivery."

(b) The documents to be delivered at each Time of Delivery by or on behalf of the parties hereto pursuant to Section 8 hereof, including the cross receipt for the Securities and any additional documents requested by the Underwriters pursuant to Section 8(o) hereof, will be delivered at the offices of Goodwin Procter LLP, at The New York Times Building, 620 Eighth Avenue, New York, NY 10018. A meeting will be held at 3:00 p.m., New York City time, on the New York Business Day immediately preceding such Time of Delivery, or such other time and date as the Representative and the Company may agree, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto.

5. The Company agrees with each of the Underwriters:

(a) To comply with the requirements of Rule 430B under the Securities Act; to prepare the Prospectus in a form approved by you and to file such Prospectus pursuant to Rule 424(b) under the Securities Act not later than the Commission's close of business on the second business day following the execution and delivery of this Agreement; to make no further amendment or any supplement to the Registration Statement or the Prospectus prior to the last Time of Delivery to which you reasonably object after notice thereof; to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed and to furnish you with a reasonable number of copies thereof (provided that, following the last Time of Delivery, such obligation shall only extend to amendments to the Registration Statement or amendments or supplements to the Prospectus in respect of the Securities); to file promptly all material required to be filed by the Company with the Commission pursuant to Rule 433(d) under the Securities Act prior to the last Time of Delivery; to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus in respect of the Securities, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information in respect of the Securities; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus relating to the Securities or suspending any such qualification, to promptly use its commercially reasonable efforts to obtain the withdrawal of such order;

(b) Promptly from time to time to take such action as you may reasonably request to qualify the Securities for offering and sale under the securities laws of such jurisdictions as you may reasonably request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction or subject itself to taxation in any jurisdiction in which it is not otherwise subject to taxation on the date hereof;

(c) Prior to 10:00 a.m., New York City time, on the second New York Business Day following the date of this Agreement (or such later time as may be agreed to by the Company and the Representative on behalf of the Underwriters) and from time to time, to furnish the Underwriters with written and electronic copies of the Prospectus in New York City in such quantities as you may reasonably request, and, if the delivery of a prospectus in the reasonable opinion of counsel for the Underwriters (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Securities and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) is delivered, not misleading, or, if, in the reasonable opinion of counsel for the

Underwriters, for any other reason it shall be necessary during such same period to amend or supplement the Prospectus in order to comply with the Securities Act, to notify you and upon your request to prepare and furnish without charge to each Underwriter, and to any dealer in securities as many written and electronic copies as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance and in case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) in connection with sales of any of the Securities at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many written and electronic copies as you may reasonably request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Securities Act;

(d) To make generally available to its securityholders as soon as practicable (which may be satisfied by filing with EDGAR), but in any event not later than sixteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Securities Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Securities Act (including, at the option of the Company, Rule 158);

(e) During the period commencing on the date hereof and continuing to and including the date 90 days after the date of the Prospectus, not to (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, pledge, hypothecate or otherwise transfer or dispose of, directly or indirectly, any shares of Stock or any other securities convertible into or exercisable or exchangeable for Stock or (2) enter into any swap, hedge or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Stock or such other securities, in cash or otherwise or (3) file any registration statement with the Commission relating to the offering of any shares of Stock or any securities convertible into or exercisable or exchangeable for Stock, without the prior written consent of you on behalf of the Underwriters (other than (a) the Company's sale of the Securities hereunder including the issuance of shares of Common Stock upon conversion of the Securities, (b) the entry by the Company into, and its exercise of rights and performance of obligations under, the Private Exchange Transactions described in the Pricing Disclosure Package (or the filing of a registration statement to register the Participating Stockholder notes (as defined in the Pricing Disclosure Package) and any shares of Common Stock issuable upon exercise thereof), (c) the grant of options to purchase shares of Stock, restricted shares, restricted stock units or other equity incentive awards pursuant to the Company's existing employee benefit plans or the issuance of shares of Stock upon the exercise of any option or the settlement or vesting of any other equity incentive award issued pursuant to the Company's employee benefit plans (or the filing of a registration statement on Form S-8 to register shares of Stock issuable under such plans), (d) the grant of options, restricted stock, restricted stock units or other equity incentive awards to newly hired employees, including granting inducement grant awards, as permitted by Nasdaq Stock Market Rule 5635 (or the filing of a registration statement on Form S-8 to register shares of Stock issuable under such awards), (e) the issuance by the Company of shares of Stock upon the exercise of warrants or the conversion, exchange or redemption of securities outstanding on the date hereof, (f) the issuance by the Company of shares of Stock in an amount up to 10% of the Company's outstanding shares of Stock as of the date hereof in connection with a merger, acquisition or other transaction and (g) the issuance by the Company of shares of Stock pursuant to any pre-existing contractual obligation of the Company identified in the Registration Statement);

(f) During a period of three years from the date of the Prospectus, so long as the Company is subject to the reporting requirements of either Section 13 or Section 15(d) of the Exchange Act, to furnish to its stockholders as soon as practicable after the end of each fiscal year an annual report (including a balance sheet and statements of income, stockholders' equity and cash flows of the Company and its consolidated subsidiaries certified by independent public accountants) and, as soon as practicable after the end of each of the first three quarters of each fiscal year (beginning with the fiscal quarter ending after the effective date of the Registration Statement), to make available to its stockholders consolidated summary financial information of the Company and its subsidiaries for such quarter in reasonable detail; *provided, however*, that the Company may satisfy the requirements of this subsection by making such reports or information available on its website or by electronically filing such information through EDGAR as long as such posting or filing complies with the Exchange Act;

(g) During a period of three years from the date of the Prospectus, so long as the Company is subject to the reporting requirements of either Section 13 or Section 15(d) of the Exchange Act, to furnish to the Representative copies of all reports or other communications (financial or other) furnished to stockholders, and to deliver to the Representative (i) as soon as they are available, copies of any reports and financial statements furnished to or filed with the Commission or any national securities exchange on which any class of securities of the Company is listed; and (ii) such additional information concerning the business and financial condition of the Company as the Representative may from time to time reasonably request (such financial statements to be on a consolidated basis to the extent the accounts of the Company and its subsidiaries are consolidated in reports furnished to its stockholders generally or to the Commission), *provided* that, if any such information would, if disclosed, result in a violation of Regulation FD, then such disclosure would be conditioned upon the Representative agreeing to keep such information confidential and *provided, further*, that any information or documents available on EDGAR shall be considered furnished for purposes of this Section 5(g);

(h) To pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) under the Securities Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Securities Act;

(i) If immediately prior to the third anniversary (the “Renewal Deadline”) of the initial effective date of the Registration Statement, any of the Securities remain unsold by the Underwriters, the Company will prior to the Renewal Deadline, if it has not already done so and is eligible to do so, file a new shelf registration statement relating to the Securities, in a form reasonably satisfactory to the Representative, and will use its reasonable best efforts to cause such registration statement to be declared effective within 60 days after the Renewal Deadline. The Company will take all other action reasonably necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the expired registration statement relating to the Securities. References herein to the Registration Statement shall include such new shelf registration statement;

(j) To prepare a final term sheet (the “Final Term Sheet”), in the form set forth in Schedule III hereto, reflecting the final terms of the Securities, in form and substance reasonably satisfactory to the Representative, and file such Final Term Sheet as an “issuer free writing prospectus” pursuant to Rule 433 under the Securities Act prior to the close of business two business days after the date hereof; provided that the Company shall furnish the Representative with copies of any such Final Term Sheet a reasonable amount of time prior to such proposed filing and will not use or file any such document to which the Representative or counsel to the Underwriters shall reasonably object;

(k) To at all times and from time to time reserve and keep available, free from preemptive rights, out of its authorized but unissued Stock that is not committed for any other purpose, for the purpose of issuance upon conversion of Securities, a number of shares of Stock equal to the maximum number of Underlying Securities for the purpose of enabling the Company to satisfy all obligations to issue the Underlying Securities; and

(l) To use its commercially reasonable efforts to maintain the listing of the shares of Stock (including the Underlying Securities) on Nasdaq.

6. (a) The Company represents and agrees that, without the prior consent of the Representative, it has not made and will not make any offer relating to the Securities that would constitute a “free writing prospectus” as defined in Rule 405 under the Securities Act; and each Underwriter represents and agrees that, without the prior consent of the Company and the Representative, it has not made and will not make any offer relating to the Securities that would constitute a free writing prospectus; any such free writing prospectus the use of which has been consented to by the Company and the Representative is listed on Schedule II(a) hereto;

(b) The Company has complied and will comply with the requirements of Rule 433 under the Securities Act applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending; and the Company represents that it has satisfied and agrees that it will satisfy the conditions under Rule 433 under the Securities Act to avoid a requirement to file with the Commission any electronic road show;

(c) The Company agrees that if at any time following issuance of an Issuer Free Writing Prospectus any event occurred or occurs as a result of which such Issuer Free Writing Prospectus would conflict with the information in the Registration Statement, the Pricing Disclosure Package or the Prospectus, it will give prompt notice thereof to the Representative and, if requested by the Representative, will prepare and furnish without charge to each Underwriter an Issuer Free Writing Prospectus or other document which will correct such conflict; provided, however, that this representation and warranty shall not apply to any statements or omissions in an Issuer Free Writing Prospectus made in reliance upon and in conformity with the Underwriter Information.

7. The Company covenants and agrees with the several Underwriters that the Company will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company's counsel and accountants in connection with the registration of the Securities under the Securities Act and all other expenses in connection with the preparation, printing, reproduction and filing of the Registration Statement, any Preliminary Prospectus, any Issuer Free Writing Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Underwriters and dealers; (ii) the cost of printing or producing any agreement among Underwriters, this Agreement, the Transaction Documents, the Blue Sky survey, closing documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) the expenses in connection with the qualification of the Securities for offering and sale under state securities laws as provided in Section 5(b) hereof, including the reasonable fees and disbursements of one counsel in each jurisdiction for the Underwriters in connection with such qualification and in connection with the Blue Sky survey (which shall not exceed \$5,000 in the aggregate); (iv) all fees and expenses in connection with listing the Underlying Securities on Nasdaq; (v) the filing fees incident to, and the fees and disbursements of counsel for the Underwriters in connection with, any required review by FINRA of the terms of the sale of the Securities (which fees and disbursements of counsel shall not exceed \$5,000 in the aggregate); (vi) the reasonable out-of-pocket expenses of the Underwriters related to the fees and expenses of their outside legal counsel incurred in connection with this offering, which expenses shall be payable as they are incurred upon request by the Representative and shall not exceed \$25,000 without the Company's prior written approval, which may be by email and which shall not be unreasonably withheld, conditioned or delayed; (vii) the cost of preparing stock certificates, if applicable; (viii) the cost and charges of any transfer agent or registrar; (ix) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the Securities, including without limitation, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and the cost of aircraft and other transportation chartered in connection with the road show; and (x) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section. It is understood, however, that, except as provided in this Section 7, and Sections 9 and 12 hereof, the Underwriters will pay all of their own costs and expenses, including the fees of their counsel, stock transfer taxes on resale of any of the Securities by them, and any advertising expenses connected with any offers they may make.

8. The obligations of the Underwriters hereunder, as to the Securities to be delivered at each Time of Delivery, shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company herein are, at and as of such Time of Delivery, true and correct, the condition that the Company shall have performed all of its obligations hereunder theretofore to be performed, and the following additional conditions:

(a) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Securities Act within the applicable time period prescribed for such filing by the rules and regulations under the Securities Act and in accordance with Section 5(a) hereof; all material required to be filed by the Company pursuant to Rule 433(d) under the Securities Act shall have been filed with the Commission within the applicable time period prescribed for such filing by Rule 433; no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or threatened by the Commission; no stop order suspending or preventing the use of the Prospectus or any Issuer Free Writing Prospectus shall have been initiated or threatened by the Commission; and all requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Goodwin Procter LLP, counsel for the Underwriters, shall have furnished to you their written opinion and 10b-5 statement, dated such Time of Delivery, in form and substance reasonably satisfactory to you,

with respect to the matters you may reasonably request, and such counsel shall have received such papers and information as they may reasonably request to enable them to pass upon such matters;

(c) Paul Hastings LLP, counsel for the Company, shall have furnished to you their written opinion and 10b-5 statement, dated such Time of Delivery, in form and substance reasonably satisfactory to you, with respect to the matters you may reasonably request;

(d) On the date of the Prospectus at a time prior to the execution of this Agreement and also at each Time of Delivery, Marcum LLP, independent certified public accountants with respect to the Company, shall have furnished to you a letter or letters, dated the respective dates of delivery thereof, in form and substance satisfactory to you;

(e) (i) Neither the Company nor any of its subsidiaries shall have sustained since the date of the latest audited financial statements included or incorporated by reference in the Pricing Disclosure Package any loss or interference with its business from pandemic, fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Pricing Disclosure Package, and (ii) since the respective dates as of which information is given in the Pricing Disclosure Package there shall not have been any change in the capital stock, short-term debt or long-term debt of the Company or any of its subsidiaries or any change, or any development involving a prospective change, in or affecting the business, properties, management, financial position, stockholders' equity, results of operations or prospects of the Company and its subsidiaries taken as a whole, otherwise than as set forth or contemplated in the Pricing Disclosure Package, the effect of which, in any such case described in clause (i) or (ii), is in your judgment so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Prospectus;

(f) On or after the Applicable Time there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on Nasdaq; (ii) a suspension or material limitation in trading in the Company's securities on Nasdaq; (iii) a general moratorium on commercial banking activities declared by either Federal or New York authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war or (v) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in your judgment makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Prospectus;

(g) No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of such Time of Delivery, prevent the issuance or sale of the Securities; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of such Time of Delivery, prevent the issuance or sale of the Securities;

(h) On the date of the Prospectus at a time prior to the execution of this Agreement and also at each Time of Delivery, the Company shall have furnished to the Representative a certificate, dated the respective dates of delivery thereof, in form and substance satisfactory to you, of its chief financial officer with respect to certain financial data contained in the Pricing Disclosure Package and the Prospectus, providing "management comfort" with respect to such information;

(i) The Company shall have filed a Notification Listing of Additional Shares with Nasdaq and shall have received no objection thereto from Nasdaq;

(j) The Representative shall have received satisfactory evidence of the good standing of the Company and its subsidiaries in their respective jurisdictions of organization and their good standing in such other jurisdictions as the Representative may reasonably request, in each case in writing or any standard form of telecommunication from the appropriate governmental authorities of such jurisdictions;

(k) The Company shall have obtained and delivered to the Underwriters executed copies of a lock-up agreement from each of the persons listed on Schedule IV hereto substantially in the form attached hereto as Schedule V, and such agreements shall be in full force and effect;

(l) The Company shall have complied with the provisions of Section 5(c) hereof with respect to the furnishing of prospectuses;

(m) The Company shall have furnished or caused to be furnished to you at such Time of Delivery a certificate of officers of the Company reasonably satisfactory to you as to the accuracy of the representations and warranties of the Company herein at and as of such Time of Delivery, as to the performance by the Company of all of its obligations hereunder to be performed at or prior to such Time of Delivery and as to such other matters as you may reasonably request, and the Company shall have furnished or caused to be furnished certificates as to the matters set forth in subsections (a) and (e)(i) of this Section 8 and as to the absence, since the respective dates as of which information is given in the Pricing Disclosure Package, of any material adverse change in the capital stock, short-term debt or long-term debt of the Company or any of its subsidiaries or any material adverse change, or any development involving a prospective material adverse change, in or affecting the business, properties, management, financial position, stockholders' equity, results of operations or prospects of the Company and its subsidiaries taken as a whole, otherwise than as set forth or contemplated in the Pricing Disclosure Package;

(n) The Secretary of the Company shall have furnished to the Representative a certificate, at such Time of Delivery, certifying, among other things: (i) that the certificate of incorporation of the Company is true and complete, has not been modified and is in full force and effect; (ii) that the bylaws of the Company are true and complete, have not been modified and are in full force and effect; (iii) that the resolutions of the Company's board of directors (including, as applicable, a pricing committee of the board of directors) relating to the offering contemplated by this Agreement are in full force and effect and have not been modified; and (iv) as to the incumbency of the officers of the Company; and the documents referred to in such certificate shall be attached to such certificate; and

(o) The Company shall have furnished to the Representative such further certificates and documents as the Representative may reasonably request.

9. (a) The Company will indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, any Preliminary Prospectus, the Pricing Disclosure Package or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus, any "road show" (as defined in Rule 433 under the Securities Act) not constituting an Issuer Free Writing Prospectus (a "Non-Prospectus Road Show"), any Written Testing-the-Waters Communication or any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Securities Act, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such action or claim as such expenses are incurred; *provided, however*, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, any Preliminary Prospectus, the Pricing Disclosure Package or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus, Written Testing-the-Waters Communication or Non-Prospectus Road Show, in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representative expressly for use therein, it being understood that the only information furnished to the Company for such use is the information contained in the first sentence of the fourteenth paragraph, the last sentence of the fifteenth paragraph and the sixteenth paragraph under the caption "Underwriting" in the Preliminary Prospectus and the Prospectus and the concession figure appearing in the fourth paragraph in the Prospectus (the "Underwriter Information").

(b) Each Underwriter, severally but not jointly, will indemnify and hold harmless the Company, each of its directors and each of its officers who signed the Registration Statement against any losses, claims, damages or liabilities to which any of them may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, any Preliminary Prospectus, the Pricing Disclosure Package or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, Written Testing-the-Waters Communication or Non-Prospectus Road Show, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, any Preliminary Prospectus, the Pricing Disclosure Package or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, Written Testing-the-Waters Communication or Non-Prospectus Road Show, in reliance upon and in conformity with the Underwriter Information; and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred.

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party under such subsection, except to the extent that the indemnifying party has been materially prejudiced by such failure. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(d) If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (c) above, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the net proceeds from the offering (net of underwriting discounts and commissions but before deducting any other expenses) (the "Net Proceeds") received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other and the parties' relative intent, knowledge, access to information and

opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by *pro rata* allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 9 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each person, if any, who controls any Underwriter within the meaning of the Securities Act and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act, including, without limitation, the officers, directors, partners and members of each such Underwriter and its broker-dealer affiliates; and the obligations of the Underwriters under this Section 9 shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company and to each person, if any, who controls the Company within the meaning of the Securities Act.

10. (a) If any Underwriter shall default in its obligation to purchase the Securities which it has agreed to purchase hereunder at a Time of Delivery, you may in your discretion arrange for you or another party or other parties to purchase such Securities on the terms contained herein. If within thirty-six hours after such default by any Underwriter you do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of thirty-six hours within which to procure another party or other parties satisfactory to you to purchase such Securities on such terms. In the event that, within the respective prescribed periods, you notify the Company that you have so arranged for the purchase of such Securities, or the Company notifies you that it has so arranged for the purchase of such Securities, you or the Company shall have the right to postpone such Time of Delivery for a period of not more than seven days, in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees to file promptly any amendments or supplements to the Registration Statement or the Prospectus which in your opinion may thereby be made necessary. The term "Underwriter" as used in this Agreement shall include any person substituted under this Section with like effect as if such person had originally been a party to this Agreement with respect to such Securities.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate principal amount of such Securities which remains unpurchased does not exceed one-eleventh of the aggregate principal amount of all the Securities to be purchased at such Time of Delivery, then the Company shall have the right to require each non-defaulting Underwriter to purchase the aggregate principal amount of Securities which such Underwriter agreed to purchase hereunder at such Time of Delivery and, in addition, to require each non-defaulting Underwriter to purchase its *pro rata* share (based on the aggregate principal amount of Securities which such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate principal amount of such Securities which remains unpurchased exceeds one-eleventh of the aggregate principal amount of all the Securities to be purchased at such Time of Delivery, or if the Company shall not exercise the right described in subsection (b) above to require non-defaulting Underwriters to purchase Securities of a defaulting Underwriter or Underwriters, then this Agreement (or, with respect to the Second Time of Delivery, the obligations of the

Underwriters to purchase and of the Company to sell the Optional Securities) shall thereupon terminate, without liability on the part of any non-defaulting Underwriter or the Company, except for the expenses to be borne by the Company and the Underwriters as provided in Section 7 hereof and the indemnity and contribution agreements in Section 9 hereof; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

11. The respective indemnities, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Underwriter or any controlling person of any Underwriter, or the Company, or any officer or director or controlling person of the Company, and shall survive delivery of and payment for the Securities.

12. If this Agreement shall be terminated pursuant to Section 10 hereof, the Company shall not then be under any liability to any Underwriter except as provided in Sections 7 and 9 hereof; but, if for any other reason (other than the failure of the condition set forth in Section 8(f)(i), (iii), (iv) or (v)), any Securities are not delivered by or on behalf of the Company as provided herein, the Company will reimburse the Underwriters through you for all out-of-pocket expenses approved in writing by you, including fees and disbursements of counsel, reasonably incurred by the Underwriters in making preparations for the purchase, sale and delivery of the Securities not so delivered, but the Company shall then be under no further liability to any Underwriter except as provided in Sections 7 and 9 hereof.

13. In all dealings hereunder, you shall act on behalf of each of the Underwriters, the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Underwriter made or given by the Representative and any action under this Agreement taken by the Representative will be binding upon all the Underwriters.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Underwriters shall be delivered or sent by mail or facsimile transmission to the Representative in care of Stifel, Nicolaus & Company, Incorporated, One Montgomery Street, Suite 3700, San Francisco, CA 94104, Attn: Syndicate Department, Facsimile: (415) 364-2799; and if to the Company shall be delivered or sent by mail or facsimile transmission to the address of the Company set forth on the cover of the Registration Statement, Attn: Secretary, Facsimile: (858) 408-4345 (with copies to those parties specified thereon). Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

14. This Agreement shall be binding upon, and inure solely to the benefit of, the Underwriters, the Company and, to the extent provided in Sections 9 and 11 hereof, the officers and directors of the Company and each person who controls the Company or any Underwriter, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Securities from any Underwriter shall be deemed a successor or assign by reason merely of such purchase.

15. Time shall be of the essence of this Agreement. As used herein, the term "business day" shall mean any day when the Commission's office in Washington, D.C. is open for business and "New York Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

16. The Company acknowledges and agrees that (i) the purchase and sale of the Securities pursuant to this Agreement is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other, (ii) in connection therewith and with the process leading to such transaction each Underwriter is acting solely as a principal and not the agent or fiduciary of the Company, (iii) no Underwriter has assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated

hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement and (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Underwriters, or any of them, has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to it, in connection with such transaction or the process leading thereto.

17. The Company acknowledges that the Underwriters' research analysts and research departments are required to be independent from their respective investment banking divisions and are subject to certain regulations and internal policies, and that such Underwriters' research analysts may hold views and make statements or investment recommendations and/or publish research reports with respect to the Company and/or the offering that differ from the views of their respective investment banking divisions. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that the Company may have against the Underwriters with respect to any conflict of interest that may arise from the fact that the views expressed by their independent research analysts and research departments may be different from or inconsistent with the views or advice communicated to the Company by such Underwriters' investment banking divisions. The Company acknowledges that each of the Underwriters is a full service securities firm and as such from time to time, subject to applicable securities laws, may effect transactions for its own account or the account of its customers and hold long or short positions in debt or equity securities of the companies that may be the subject of the transactions contemplated by the Transaction Documents.

18. This Agreement supersedes all prior agreements and understandings (whether written or oral) between or among the Company and the Underwriters, or any of them, with respect to the subject matter hereof.

19. THIS AGREEMENT AND ANY MATTERS RELATED TO THIS TRANSACTION SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAWS OF THE STATE OF NEW YORK. The Company agrees that any suit or proceeding arising in respect of this Agreement or your engagement will be tried exclusively in the U.S. District Court for the Southern District of New York or, if that court does not have subject matter jurisdiction, in any state court located in The City and County of New York and the Company agrees to submit to the jurisdiction of, and to venue in, such courts.

20. The Company and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

21. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

22. If any term or other provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions of this Agreement shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

23. Except as otherwise expressly provided herein, the provisions of this Agreement may be amended or waived at any time only by the written agreement of the parties hereto. Any waiver, permit, consent or approval of any kind or character on the part of any such holders of any provision or condition of this Agreement must be made in writing and shall be effective only to the extent specifically set forth in writing. The failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

24. *Recognition of the U.S. Special Resolution Regimes.*

(i) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(ii) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

As used in this Section 24:

“BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

“Covered Entity” means any of the following:

- (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

[signature page follows]

Please indicate your acceptance of this Agreement as of the date first written above by signing in the space provided below.

Very truly yours,

INSEEGO CORP.

By: /s/ Stephen Smith

Name: Stephen Smith

Title: EVP & Chief Financial Officer

Signature Page to Underwriting Agreement

Accepted as of the date hereof:

STIFEL, NICOLAUS & COMPANY, INCORPORATED

By: /s/ Larry Phillips

Name: Larry Phillips

Title: Managing Director

On behalf of itself and each of the other Underwriters

Signature Page to Underwriting Agreement

SCHEDULE I

The initial public offering price of the Securities shall be 100% of the principal amount thereof, plus accrued interest, if any, from May 12, 2020.

The purchase price to be paid by the Underwriters for the Securities shall be 97.5% of the principal amount thereof, plus accrued interest, if any, from May 12, 2020.

<u>Underwriter</u>	<u>Principal Amount of Firm Securities to be Purchased</u>	<u>Principal Amount of Optional Securities to be Purchased if Maximum Option Exercised</u>
Stifel, Nicolaus & Company, Incorporated	\$100,000,000	\$15,000,000
Total	\$100,000,000	\$15,000,000

SCHEDULE II

(a) Issuer Free Writing Prospectuses

Final Term Sheet, in the form attached as Schedule III

(b) Additional documents incorporated by reference

None

(c) Information other than the Preliminary Prospectus or the Final Term Sheet that comprises the Pricing Disclosure Package

None

(d) Written Testing-the-Waters Communications

Investor Presentation dated April 2020

SCHEDULE III

Pricing Term Sheet

[See attached.]

PRICING TERM SHEET
May 7, 2020

Inseego Corp.

Offering of
\$100,000,000 Aggregate Principal Amount of
3.25% Convertible Senior Notes due 2025

The information in this pricing term sheet supplements Inseego Corp.'s preliminary prospectus supplement, dated May 7, 2020 (the "Preliminary Prospectus Supplement"), and supersedes the information in the Preliminary Prospectus Supplement to the extent inconsistent with the information in the Preliminary Prospectus Supplement. Terms used, but not defined, in this pricing term sheet have the respective meanings set forth in the Preliminary Prospectus Supplement. As used in this pricing term sheet, "we," "our" and "us" refer to Inseego Corp. and not to its subsidiaries.

Issuer	Inseego Corp.
Ticker / Exchange for Common Stock	INSG / The Nasdaq Global Select Market ("Nasdaq").
Pricing Date	May 7, 2020
Trade Date	May 8, 2020
Settlement Date	May 12, 2020
Notes	3.25% convertible senior notes due 2025 (the "Notes").
Principal Amount	\$100,000,000 (or, if the underwriter fully exercises its over-allotment option, \$115,000,000) aggregate principal amount of Notes.
Offering Price	100% of the principal amount of the Notes, plus accrued interest, if any, from the Settlement Date.
Maturity	May 1, 2025, unless earlier repurchased, redeemed or converted.
Stated Interest Rate	3.25% per annum.
Interest Payment Dates	May 1 and November 1 of each year, beginning on November 1, 2020.
Record Dates	April 15 and October 15.
Last Reported Sale Price per Share of Common Stock on Nasdaq on May 7, 2020	\$10.51.
Conversion Premium	Approximately 20% above the last reported sale price per share of common stock on Nasdaq on May 7, 2020.

Initial Conversion Price	Approximately \$12.61 per share of our common stock.
Initial Conversion Rate	79.2896 shares of our common stock per \$1,000 principal amount of Notes.
Optional Redemption	The Notes will be redeemable, in whole or in part, at our option at any time, and from time to time, on or after May 6, 2023 and on or before the scheduled trading day before the maturity date, at a cash redemption price equal to the principal amount of the Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date, but only if the last reported sale price per share of our common stock exceeds 130% of the conversion price on (1) each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date we send the related redemption notice; and (2) the trading day immediately before the date we send such notice.
Private Exchange Transactions	<p>Each of the Participating Stockholders has agreed to exchange the 2022 Notes that they currently hold (representing an aggregate of \$44,816,000 principal amount of 2022 Notes) for an aggregate of approximately \$32.1 million in cash and \$80,000,000 aggregate principal amount of 3.25% convertible senior notes due 2025 in concurrent private exchange transactions that are expected to close immediately following this offering of notes (the “Participating Exchange Transactions”). We refer to any of our 3.25% convertible senior notes due 2025 issued to the Participating Stockholders in the Private Exchange Transactions as the “Participating Stockholder notes.” The Participating Stockholder notes will constitute part of the same series as the notes offered hereby, may initially be issued in certificated form, will initially not be fungible with the notes offered hereby (and will initially have a separate CUSIP number) and will be subject to certain transfer restrictions that are not applicable to the notes offered hereby. In particular, the Participating Stockholder notes will not become freely transferable until twelve months following their sale by the Participating Stockholders to a non-affiliate of ours unless sold in a transaction registered under the Securities Act or pursuant to Rule 144 under the Securities Act. This offering is not conditioned upon the closing of the Private Exchange Transactions, but the Private Exchange Transactions are conditioned upon the closing of this offering. We will not receive any cash proceeds from the Participating Stockholders in connection with the Private Exchange Transactions.</p> <p>Pursuant to the terms of a registration rights agreement to be entered into between us and the Participating Stockholders, we will agree to file a registration statement with the SEC, promptly following the closing date of the Private Exchange Transactions, in order to effect a registration for resale by the Participating Stockholders of the Participating Stockholder notes and any shares of common stock issuable upon conversion of the Participating Stockholder notes. We expect that notes sold under such registration statement will be fungible with the notes offered hereby. Until the Participating Stockholder notes become freely tradeable, we expect the Participating Stockholder notes to trade, if at all, separately from the notes offered hereby, and we cannot assure you that the Participating Stockholder notes will ever trade with the notes offered hereby.</p>

Use of Proceeds

We estimate that the net proceeds to us from this offering will be approximately \$97.0 million (or approximately \$111.6 million if the underwriter fully exercises its over-allotment option), after deducting the underwriter's discounts and commissions and our estimated offering expenses. We intend to use approximately \$49.3 million of the net proceeds from this offering to repay in full and terminate our existing Credit Agreement. Such amount includes the repayment of \$47.5 million in outstanding principal, approximately \$500,000 in interest accrued thereon, the Prepayment Fee of \$760,000 and the Exit Fee of \$570,000.

In addition, we intend to use approximately \$2.3 million of the net proceeds from this offering to repurchase the Series E Preferred Stock we issued to South Ocean Funding, LLC, and approximately \$32.1 million of the net proceeds from this offering to pay the aggregate cash amount due to the Participating Stockholders under the Private Exchange Transactions. We intend to use the remainder of the net proceeds for general corporate purposes. Pending application of the net proceeds as described above, we may invest the net proceeds in interest-bearing investment grade securities.

Sole Book-Running Manager

Stifel, Nicolaus & Company, Incorporated

CUSIP / ISIN Numbers

45782B AD6 / US45782BAD64

Interest Make-Whole Payment

If the last reported sale price of our common stock for each of the five trading days immediately preceding a conversion date is greater than or equal to \$10.51 (which price is subject to adjustment in a manner directly inverse to the manner in which, but otherwise at the same time and for the same events for which, the conversion rate is required to be adjusted pursuant to the provisions described in the Preliminary Prospectus Supplement under the caption "Description of Notes—Conversion Rate Adjustments—Generally"), we will, in addition to the other consideration payable or deliverable in connection with any conversion of Notes, make an interest make-whole payment to the converting holder equal to the sum of the present values of the scheduled payments of interest that would have been made on the Notes to be converted had such Notes remained outstanding from the conversion date through the earlier of (i) the date that is three years after the conversion date and (ii) the maturity date if the Notes had not been so converted or otherwise repurchased.

If a conversion date occurs after the close of business on a regular record date for the payment of interest but prior to the open of business on the interest payment date corresponding to such regular record date, we will not pay accrued interest to any converting holder and will instead pay the full amount of the relevant interest payment on such interest payment date to the holder of record on such regular record date. In such case, the interest make-whole payment to such converting holders will equal the present value of all remaining interest payments, starting with the next interest payment date for which interest has not been provided for until the earlier of (i) the date that is three years after the conversion date and (ii) the maturity date if the Notes had not been so converted or otherwise repurchased.

The present values will be computed using a discount rate equal to 1.0% by a U.S. nationally recognized independent investment banking firm, which may be the underwriter of this offering, retained by us for this purpose.

We will satisfy our obligation to pay any interest make-whole payment, at our election, in cash or shares of our common stock (together with cash in lieu of fractional shares) as described in the Preliminary Prospectus Supplement under the caption "Description of Notes—Interest Make-Whole Payment."

If we pay an interest make-whole payment in shares of our common stock, then the number of shares of common stock (together with cash in lieu of any fractional share) a holder will receive will be that number of shares that have a value equal to the amount of the interest make-whole payment to be paid to such holder in shares, divided by the product of the simple average of the daily VWAP of our common stock for the five VWAP trading days immediately preceding the conversion date; provided, that in no event will the effective conversion price of the Notes, after giving effect to any interest make-whole payment (whether paid in cash or shares of our common stock (together with cash in lieu of any fractional share)), be less than \$10.51, which price is subject to adjustment in a manner directly inverse to the manner in which, but otherwise at the same time and for the same events for which, the conversion rate is required to be adjusted pursuant to the provisions described in the Preliminary Prospectus Supplement under the caption “Description of Notes—Conversion Rate Adjustments—Generally”.

Notwithstanding the foregoing, if in connection with any conversion the conversion rate is adjusted as described in the Preliminary Prospectus Supplement under the caption “Description of Notes—Conversion Rights—Increase to Conversion Rate upon Conversion upon a Make-Whole Fundamental Change,” then such holder will not receive the interest make-whole payment with respect to such Note.

Increase to Conversion Rate in Connection with a Make-Whole Fundamental Change

If a “make-whole fundamental change” (as defined in the Preliminary Prospectus Supplement) occurs and the conversion date for the conversion of a Note occurs during the related make-whole fundamental change conversion period, then, subject to the provisions described in the Preliminary Prospectus Supplement under the caption “Description of Notes—Conversion Rights—Increase in Conversion Rate in Connection with a Make-Whole Fundamental Change,” the conversion rate applicable to such conversion will be increased by a number of shares (the “additional shares”) set forth in the table below corresponding (after interpolation, as described below) to the make-whole fundamental change effective date and the stock price of such make-whole fundamental change:

Make-Whole Fundamental Change Effective Date

	Stock Price										
	\$10.51	\$11.50	\$12.61	\$14.00	\$16.40	\$19.00	\$22.00	\$25.00	\$30.00	\$40.00	\$50.00
May 12, 2020	15.8578	12.6313	10.0159	7.7350	5.3000	3.7553	2.6309	1.8636	1.0127	0.1710	0.0000
May 1, 2021	15.8578	11.8435	9.0896	6.7893	4.4896	3.1358	2.1918	1.5564	0.8467	0.1338	0.0000
May 1, 2022	15.8578	10.9078	7.9635	5.6429	3.5366	2.4279	1.6991	1.2120	0.6607	0.0950	0.0000
May 1, 2023	15.8578	9.8365	6.5845	4.2421	2.4354	1.6453	1.1618	0.8360	0.4570	0.0600	0.0000
May 1, 2024	15.8578	8.5678	4.7034	2.4143	1.1951	0.8111	0.5836	0.4248	0.2350	0.0245	0.0000
May 1, 2025	15.8578	7.6670	0.0127	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

If such make-whole fundamental change effective date or stock price is not set forth in the table above, then:

- if such stock price is between two stock prices in the table above or the make-whole fundamental change effective date is between two make-whole fundamental change effective dates in the table above, then the number of additional shares will be determined by a straight-line interpolation between the numbers of additional shares set forth for the higher and lower stock prices in the table above and/or the earlier and later make-whole fundamental change effective dates in the table above, based on a 365- or 366-day year, as applicable; and

- if the stock price is greater than \$50.00 (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above are adjusted, as described in the Preliminary Prospectus Supplement under the caption “Description of Notes—Conversion Rights—Increase in Conversion Rate in Connection with a Make-Whole Fundamental Change—Adjustment of Stock Prices and Number of Additional Shares”), or less than \$10.51 (subject to adjustment in the same manner), per share, then no additional shares will be added to the conversion rate.

Notwithstanding anything to the contrary, in no event will the conversion rate be increased to an amount that exceeds 95.1474 shares of our common stock per \$1,000 principal amount of Notes, which amount is subject to adjustment in the same manner as, and at the same time and for the same events for which, the conversion rate is required to be adjusted pursuant to the provisions described in the Preliminary Prospectus Supplement under the caption “Description of Notes—Conversion Rights—Conversion Rate Adjustments—Generally.”

* * *

We have filed a registration statement (including a prospectus) and the Preliminary Prospectus Supplement with the SEC for the offering to which this communication relates. Before you invest, you should read the Preliminary Prospectus Supplement and the prospectus in that registration statement and other documents we have filed with the SEC for more complete information about us and this offering. You may get these documents for free by visiting EDGAR on the SEC website at www.sec.gov. Alternatively, we, the underwriter, or any dealer participating in the offering will arrange to send you the Preliminary Prospectus Supplement (or, when available, the final prospectus supplement) and the accompanying prospectus upon request to: Stifel, Nicolaus & Company, Incorporated, Attn: Syndicate, One Montgomery Street, Suite 3700, San Francisco, CA 94104, by telephone at 415-364-2720 or by email at syndprospectus@stifel.com.

You should rely only on the information contained or incorporated by reference in the Preliminary Prospectus Supplement and the accompanying prospectus, as supplemented by this pricing term sheet, in making an investment decision with respect to the Notes.

Neither this pricing term sheet, nor the Preliminary Prospectus Supplement and accompanying prospectus constitute an offer to sell or a solicitation of an offer to buy any Notes in any jurisdiction where it is unlawful to do so, where the person making the offer is not qualified to do so or to any person who cannot legally be offered the Notes.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

SCHEDULE IV

Parties Executing Lock-Up Agreements

Name

Dan Mondor

James Avery

Christopher Harland

Brian Miller

Jeffrey Tudor

Stephen Smith

Ashish Sharma

Douglas Kahn

SCHEDULE V

Form of Lock-Up Agreement

LOCK-UP AGREEMENT

INSEEGO CORP.
12600 Deerfield Parkway, Suite 100
Alpharetta, Georgia 30004

STIFEL, NICOLAUS & COMPANY, INCORPORATED
As Representative of the Several Underwriters

c/o Stifel Nicolaus & Company, Incorporated
One Montgomery Street
Suite 3700
San Francisco, California 94104

Ladies and Gentlemen:

The undersigned refers to the proposed Underwriting Agreement (the "Underwriting Agreement") between Inseego Corp., a Delaware corporation (the "Company"), and Stifel, Nicolaus & Company, Incorporated (the "Representative"), as representative of the several underwriters named therein (the "Underwriters").

As an inducement to the Underwriters to enter into the Underwriting Agreement in connection with the proposed public offering (the "Offering") of the Company's convertible senior notes (the "Notes") pursuant to a Registration Statement on Form S-3ASR, the undersigned hereby agrees that, from the date hereof and until 90 days after the public offering date set forth on the final prospectus supplement used for the Offering (the "Public Offering Date") pursuant to the Underwriting Agreement (such 90 day period being referred to herein as the "Lock-Up Period"), to which you are or expect to become parties, the undersigned will not (and will cause any immediate family member of the undersigned living in the undersigned's household, any partnership, corporation or other entity within the undersigned's control, and any trustee of any trust that holds shares of the Company's common stock, par value \$0.001 per share (the "Common Stock"), or other securities of the Company for the benefit of the undersigned or such immediate family member not to) offer, sell, contract to sell (including any short sale), pledge, hypothecate, establish an open "put equivalent position" within the meaning of Rule 16a-1(h) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), grant any option, right or warrant for the sale of, purchase any option or contract to sell, sell any option or contract to purchase, or otherwise encumber, dispose of or transfer, or grant any rights with respect to, directly or indirectly, any shares of Common Stock or securities convertible into or exchangeable or exercisable for any shares of Common Stock, enter into a transaction which would have the same effect, or enter into any swap, hedge or other arrangement that transfers, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such aforementioned transaction is to be settled by delivery of the Common Stock or such other securities, in cash or otherwise, or publicly disclose the intention to make any such offer, sale, pledge or disposition, or to enter into any such transaction, swap, hedge or other arrangement, without, in each case, the prior written consent of the Representative, which consent may be withheld in the Representative's sole discretion. As used herein, "immediate family member" shall have the meaning set forth in Rule 16a-1(e) under the Exchange Act.

The foregoing restrictions shall not apply to: (a) *bona fide* gifts to any immediate family member of the undersigned or to a trust the beneficiaries of which are exclusively the undersigned or immediate family members of the undersigned; (b) transfers by will or intestate succession upon the death of the undersigned; (c) *bona fide* gifts to charity or educational institutions; (d) transfers by operation of law, such as pursuant to a qualified domestic order or as required by a divorce settlement; provided that, in the case of any transfer, distribution or transaction pursuant to clauses (a), (b), (c) or (d) above, (i) each resulting transferee of the Company's securities executes and delivers to the Representative an agreement reasonably satisfactory to the Representative certifying that such transferee is bound by the terms of this Agreement as if it had been an original party hereto, (ii) to the extent any interest in the Company's securities is retained by the undersigned (or such immediate family member), such securities shall remain subject to

the restrictions contained in this Agreement and (iii) no filing by any party (transferor or transferee) under the Exchange Act or other public announcement shall be required or shall be made voluntarily in connection with such transfer (other than (i) a Form 5 filing made after the expiration of the Lock-up Period and (ii) in the case of a transfer pursuant to clauses (b) or (d) above, a Form 4 filing required to be made under the Exchange Act provided that such filing indicates by footnote disclosure the nature of the transaction or disposition); (e) exercises or settlements of any stock options or other awards issued pursuant to the Company's equity incentive plans or warrants, which equity incentive plans and warrants are described or incorporated by reference in the prospectus relating to the Offering; provided that any securities received upon such exercise will also be subject to this Agreement; (f) the forfeiture or transfer of shares of Common Stock or any securities convertible into Common Stock upon a vesting event of the Company's securities or upon the exercise of options, warrants or other rights to purchase the Company's securities, in each case on a "cashless" or "net exercise" basis or to cover tax withholding obligations of the undersigned in connection with such vesting or exercise; provided that any filing under Section 16(a) of the Exchange Act as a result of such forfeiture or transfer will contain a footnote disclosing the nature of such forfeiture or transfer; (g) the entry into any trading plan established pursuant to Rule 10b5-1 under the Exchange Act (a "10b5-1 Plan"), provided that such plan does not provide for the sale or transfer of [more than]¹ shares of Common Stock or securities convertible into or exchangeable or exercisable for shares of Common Stock during the Lock-Up Period; [provided further that (i) no such sales shall occur during the period beginning on the date hereof and ending 45 days after the Public Offering Date and (ii) any filing under Section 16(a) of the Exchange Act as a result of such sales will contain a footnote disclosing that such sales were pursuant to a trading plan established pursuant to Rule 10b5-1 under the Exchange Act;] and provided further that no filing by any party under the Exchange Act or other public announcement shall be required or shall be made voluntarily in connection with the entry into such 10b5-1 Plan; (h) sales, transfers or distributions pursuant to any *bona fide* third-party tender offer, merger, consolidation or other similar transaction made to all holders of the Company's capital stock involving a Change of Control of the Company, provided that in the event that such tender offer, merger, consolidation or other such transaction is not completed, the shares of Common Stock and other securities convertible, exercisable or exchangeable for shares of Common Stock held by the undersigned shall remain subject to the provisions of this Agreement; and (i) the sale or transfer of any Common Stock or securities convertible into or exchangeable or exercisable for any shares of Common Stock acquired by the undersigned in the open market on or after the Public Offering Date. For purposes of this paragraph, the term "Change of Control" shall mean any transaction or series of related transactions pursuant to which any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as such term is defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the Common Stock entitled to vote in elections for the Company's Board of Directors on a fully diluted basis.

[Furthermore, the foregoing restrictions shall not apply to the sale, transfer, exchange or other disposition to the Company of the Company's convertible notes outstanding as of the date hereof in connection with the concurrent private placement described in the prospectus relating to the Offering (the "Concurrent Private Placement") or the sale, transfer, exchange or other disposition of the Company's convertible notes acquired in the Concurrent Private Placement.]²

In addition, the undersigned agrees that, during the Lock-Up Period, without the prior written consent of the Representative (which consent may be withheld in the Representative's sole discretion): (a) the undersigned will not request, make any demand for or exercise any right with respect to, the registration under the Securities Act of 1933, as amended, of any Common Stock or any security convertible into or exercisable or exchangeable for Common Stock; and (b) the undersigned waives any and all notice requirements and rights with respect to the registration of any such security pursuant to any agreement, understanding or otherwise to which the undersigned is a party.

In furtherance of the foregoing, the Company and its transfer agent and registrar are hereby authorized to (a) decline to make any transfer of shares of Common Stock if such transfer would constitute a violation or breach of this Agreement and (b) place legends and stop transfer instructions on any such shares of Common Stock owned or beneficially owned by the undersigned.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Agreement. This Agreement is irrevocable and shall be binding on the undersigned and the successors, heirs,

¹ Note to draft: bracketed language to be included in lock-ups for certain signatories only.

² Note to draft: bracketed language to be included in lock-ups for certain signatories only.

personal representatives and assigns of the undersigned. The undersigned understands that the Underwriters are entering into the Underwriting Agreement and proceeding with the Offering in reliance upon this Agreement. This Agreement and any claim, controversy or dispute arising under or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New York. This Agreement shall lapse and become null and void and the undersigned shall be released from all obligations under this Agreement if the Underwriting Agreement does not become effective by May 31, 2020, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Notes to be sold thereunder.

[Signature Page Follows]

Very truly yours,

Printed Name: _____

Date: _____

EXCHANGE AGREEMENT

This Exchange Agreement (this “Agreement”) is made and entered into as of May 12, 2020, by and between _____ (the “Holder”), and Inseego Corp., a Delaware corporation (the “Company”).

RECITALS

WHEREAS, the Holder is the beneficial owner of certain of the Company’s 5.50% Convertible Senior Notes due 2022 (the “Notes”) issued pursuant to a note in global form registered in the name of Cede & Co. (the “Global Note”) in accordance with that certain Indenture, dated January 9, 2017, by and between the Company and Wilmington Trust, National Association (the “Trustee”), as trustee (as amended, the “Indenture”);

WHEREAS, the Company is publicly offering \$100 million aggregate principal amount of Convertible Senior Notes due 2025 (the “Notes due 2025”) pursuant to a Registration Statement on Form S-3ASR (File No. 333-238057), filed with the U.S. Securities Exchange Commission (the “SEC”) on May 7, 2020 (the “Registration Statement”), which contains a base prospectus (the “Base Prospectus”), and a final prospectus supplement relating thereto (together with the Base Prospectus, the “Prospectus”), to be filed with the SEC pursuant to Rule 424(b) under the Securities Act of 1933, as amended (the “Securities Act”) (the “Public Offering”);

WHEREAS, subject to the terms and conditions set forth herein, the Company and the Holder desire to exchange the principal amount of the Notes set forth on Exhibit A hereto (the “Exchange Notes”), in advance of the maturity date, for (i) \$ _____ million aggregate principal amount of Notes due 2025 (the “New Notes”) and (ii) \$ _____ in cash (the “Cash Consideration”) and together with the New Notes, the “Exchange Consideration”), pursuant to a private placement exemption under the Securities Act;

WHEREAS, the consummation of the Exchange (as defined below) will occur immediately following and contingent upon the closing of the Public Offering; and

WHEREAS, the Company agrees to register the New Notes, including shares of the Company’s common stock, par value \$0.001 per share (the “Common Stock”), issuable upon conversion of the New Notes, on the terms and subject to the conditions to be set forth in the Registration Rights Agreement (as defined below).

NOW, THEREFORE, in consideration of the premises and the agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I
Exchange

Section 1.01 Exchange. Upon the terms and subject to the conditions set forth in this Agreement, the Holder shall surrender the Exchange Notes to the Trustee for cancellation, pursuant to Section 2.13 of the Indenture, and the Company shall issue and pay the Exchange Consideration to the Holder. Upon cancellation of the Exchange Notes, and issuance and payment of the New Notes and the Cash Consideration, as described below, the Holder hereby

releases all claims arising out of or related to the Exchange Notes, including, but not limited to, any accrued and unpaid interest payable with respect to the Exchange Notes. On the Closing Date (as defined below), the following transactions shall occur (collectively, the “Exchange”):

(a) the Holder shall instruct its custodian to post a one-sided Deposit and Withdrawal at Custodian (“DWAC”) withdrawal request through the DWAC facilities of The Depository Trust Company (“DTC”) for the aggregate amount of the Exchange Notes identified by CUSIP/ISIN #: 45782BAA2/US45782BAA26, and the Company shall instruct the Trustee to cancel the Exchange Notes upon receipt, thereby reducing the outstanding principal amount of the Global Note;

(b) the Company shall cause the Trustee to deliver the New Notes to the Holder in certificated form or to the Holder’s DTC account(s) through the DWAC facilities set forth opposite the Holder’s name on Exhibit B hereto, in accordance with the terms of the New Indentures (as defined below), against delivery of the Exchange Notes pursuant to subsection (a) above; and

(c) the Company shall pay to the Holder, by wire transfer of immediately available funds, to the account set forth on Exhibit B hereto, an amount in cash equal to the Cash Consideration.

Section 1.02 Closing.

(a) The closing of the Exchange (the “Closing”) will take place at the offices of Paul Hastings LLP, 4747 Executive Drive, Twelfth Floor, San Diego, CA 92121, or such other location as may be agreed upon by the parties, immediately following the closing of the Public Offering or at such other time and place as may be agreed upon by the parties (the “Closing Date”).

(b) The obligations of the Holder to deliver (or cause to be delivered) the Exchange Notes is subject to the following conditions: (i) the representations and warranties of the Company as set forth in Article III shall be true and correct and (ii) no litigation, statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by or in any court or governmental authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby which prohibits the consummation of any of the transactions contemplated by this Agreement.

(c) The obligations of the Company to deliver the Exchange Consideration is subject to: (i) the Holder properly submitting (or causing to be submitted) the Exchange Notes for withdrawal through the DWAC program; (ii) the representations and warranties of the Holder as set forth in Article II shall be true and correct; (iii) no litigation, statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by or in any court or governmental authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby which prohibits the consummation of any of the transactions contemplated by this Agreement and (iv) the Company shall have entered into the New Indentures and consummated the Public Offering.

ARTICLE II
Representations, Warranties and Covenants of the Holder

The Holder represents and warrants to, and agrees with, the Company as set forth below in this Article II, as of the date hereof and as of the Closing, each of which is being relied upon by the Company, as the case may be, as a material inducement to enter into and perform this Agreement:

Section 2.01 Existence and Power.

(a) The Holder is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and has all requisite entity power and authority to carry out the transactions contemplated hereby in accordance with the terms hereof.

(b) Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby by the Holder (i) will contravene any formation documents of the Holder, (ii) will constitute a violation of or a default under, or conflict with or require a filing with, or consent, approval or authorization under, any contract, commitment, agreement, understanding, arrangement, restriction, law, statute, rule, regulation, judgment, order, injunction, suit, action or proceeding of any kind to which the Holder is a party or by which the Holder or any of its assets are bound, or (iii) will require the Holder to make any filing to any governmental or quasi-governmental authority.

Section 2.02 Valid and Enforceable Agreement; Authorization. The execution, delivery and performance by the Holder of this Agreement has been duly authorized by all requisite entity action. This Agreement constitutes the legal, valid and binding obligation of the Holder, enforceable against the Holder in accordance with its terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights and remedies of creditors generally and to the effect of general principles of equity.

Section 2.03 Title to Exchange Notes. The Holder is the sole beneficial owner of and, at the Closing, will be the sole legal and beneficial owner of the Exchange Notes. The Holder has good, valid and marketable title to the Exchange Notes, free and clear of any mortgage, lien, pledge, charge, security interest, encumbrance, title retention agreement, option, equity or other adverse claim thereto created by the Holder, other than pledges or security interests that the Holder may have created in favor of a prime broker under and in accordance with its prime brokerage agreement with such broker, which will be terminated in connection with Closing. The Holder has not, in whole or in part (except as described in the preceding sentence), (a) assigned, transferred, hypothecated, pledged or otherwise disposed of the Exchange Notes or its rights in the Exchange Notes, or (b) given any person or entity any transfer order, power of attorney or other authority of any nature whatsoever with respect to the Exchange Notes.

Section 2.04 Reliance on Exemptions. The Holder acknowledges that the New Notes are being offered and exchanged in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying upon the truth and accuracy of the representations, warranties, agreements, acknowledgments and understandings

of the Holder set forth herein in order to determine the availability of such exemptions and the eligibility of the Holder to acquire the New Notes.

Section 2.05 Purchase Entirely for Own Account. The New Notes to be received by the Holder hereunder will be acquired for the Holder's own account, not as nominee or agent, and not with a view to the resale or distribution of any part thereof in violation of the Securities Act; provided, however, that by making the representations herein, the Holder does not agree to hold any of the New Notes (or the shares of Common Stock issuable upon conversion thereof) for any minimum period of time and reserves the right, subject to the provisions of this Agreement and the Registration Rights Agreement, at all times to sell or otherwise dispose of all or any part of such New Notes pursuant to an effective registration statement under the Securities Act or under an exemption from such registration and in compliance with applicable federal and state securities laws. The Holder is acquiring the New Notes hereunder in the ordinary course of its business. The Holder does not presently have any agreement or understanding, directly or indirectly with any person to distribute or effect any distribution of the New Notes (or the shares of Common Stock issuable upon conversion thereof) to or through any person or entity. The Holder is not, nor is any affiliate of the Holder, a broker-dealer registered with the SEC under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or an entity engaged in business that would require it to be so registered.

Section 2.06 Investment Experience. The Holder understands that the purchase of the New Notes involves a substantial risk and acknowledges that it can bear the economic risk and complete loss of its investment in the New Notes and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of transactions contemplated hereby.

Section 2.07 Disclosure of Information. The Holder has had an opportunity to receive, review and understand all information related to the Company requested by it and to ask questions of and receive answers from the Company regarding the Company, its business and the terms and conditions of the New Notes, and has conducted and completed its own independent due diligence. The Holder acknowledges that no officer, director, attorney, broker-dealer, placement agent, finder or other person affiliated with the Company has given the Holder any information or made any representations, oral or written, other than as expressly provided in this Agreement, on which the Holder has relied upon in deciding to enter into the transactions contemplated hereby. Based on the information the Holder has deemed appropriate, it has independently made its own analysis and decision to enter into this Agreement. The Holder has sought its own accounting, legal and tax advice as it has considered necessary to make an informed decision with respect to the transactions contemplated hereby. Neither such inquiries nor any other due diligence investigation conducted by the Holder shall modify, limit or otherwise affect the Holder's right to rely on the Company's representations and warranties contained in this Agreement.

Section 2.08 Restricted Securities. The Holder understands that the New Notes (and any shares of Common Stock issued upon the conversion thereof) will be "restricted securities" under the U.S. federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such securities may be resold without registration under the Securities Act only in certain limited circumstances. The Holder acknowledges and agrees that the New Notes will constitute part of the

same series as the Notes due 2025 offered in the Public Offering, but will not be fungible with such notes (and will have a separate CUSIP number).

Section 2.09 Legends. It is understood that the New Notes may bear the following or any similar legend that may be required by the terms of the New Indentures:

THE OFFER AND SALE OF THIS NOTE AND THE SHARES OF COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER, AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL PLEDGE OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

- (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF;
- (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT;
- (C) TO A PERSON THAT IT REASONABLY BELIEVES TO BE A QUALIFIED INSTITUTIONAL BUYER AND IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;
- (D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT; OR
- (E) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH 2(D) OR (E) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

Section 2.10 Accredited Investor. At the time the Holder was offered the New Notes, it was, and as of the date hereof and the Closing Date, is an "accredited investor" within the meaning of Rule 501 under the Securities Act and has previously executed and delivered to the Company an Investor Questionnaire, which the Holder represents and warrants is true, correct and complete. The Holder is a sophisticated institutional investor with sufficient knowledge and experience in investing in private equity transactions to properly evaluate the risks and merits of the transactions contemplated hereby.

Section 2.11 No General Solicitation. The Holder acknowledges that the New Notes were offered to it solely by direct contact between the Holder and the Company or the authorized

representatives of the Company, and not by any other means, including any form of “general solicitation” or “general advertising” (as such terms are used in Regulation D under the Securities Act).

Section 2.12 Consultation with Own Advisors. The Holder has been advised to consult with its own attorney and other financial and tax advisers regarding all legal matters concerning an investment in the Company and the tax consequences of acquiring the New Notes and consummation of the Exchange, and has done so, to the extent the Holder considers necessary.

Section 2.13 No Rule 506 Disqualifying Activities. The Holder has not taken any of the actions set forth in, and is not subject to, the disqualification provisions of Rule 506(d)(1) of the Securities Act.

Section 2.14 Residency. The Holder is a resident of the jurisdiction specified in its address on the signature page hereto.

Section 2.15 No Government Recommendation or Approval. The Holder understands that no United States federal or state agency, or similar agency of any other country, has reviewed, approved, passed upon, or made any recommendation or endorsement of the Company or the offering of the New Notes.

ARTICLE III Representations, Warranties and Covenants of the Company

The Company represents and warrants to, and agrees with, the Holder as set forth below in this Article III, as of the date hereof and as of the Closing, each of which is being relied upon by the Holder, as the case may be, as a material inducement to enter into and perform this Agreement:

Section 3.01 Existence and Power.

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the power, authority and capacity to execute and deliver this Agreement, to perform the Company’s obligations hereunder, and to consummate the transactions contemplated hereby.

(b) Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby by the Company (i) will contravene the certificate of incorporation or the bylaws of the Company, (ii) will constitute a violation of or a default under, or conflict with or require a consent, approval or authorization under, any contract, commitment, agreement, understanding, arrangement, restriction, law, statute, rule, regulation, judgment, order, injunction, suit, action or proceeding of any kind to which the Company is a party or by which the Company or any of its assets are bound, or (iii) will require the Company to make any filing to any governmental or quasi-governmental authority, except for filings related to the Public Offering, the filing of a Form 8-K with the SEC and any filing that may be required by the Nasdaq Stock Market or pursuant to applicable blue sky laws, each of which has been filed or will be filed on a timely basis.

Section 3.02 Valid and Enforceable Agreement; Authorization. The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action. This Agreement constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights and remedies of creditors generally and to the effect of general principles of equity.

Section 3.03 Disclosure. The Company has timely filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Act and the Exchange Act (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits to such documents) incorporated by reference therein, being hereinafter referred to herein as the “SEC Documents”), or has timely filed for a valid extension of such time of filing and has filed any such SEC Documents prior to the expiration of any such extension. As of their respective dates, the SEC Documents complied in all material respects with the requirements of the Securities Act and the Exchange Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 3.04 Compliance with Securities Laws. The transactions contemplated hereby do not contravene with any applicable securities laws and the rules and regulations promulgated thereunder.

Section 3.05 Terms of the New Notes. The New Notes will be issued pursuant to an indenture, as supplemented by a supplemental indenture, each to be dated as of the closing date of the Public Offering (collectively, the “New Indentures”), and shall contain such terms as described in Exhibit C hereto. The Registration Statement, as of its effective date, and the Prospectus, as of its filing date, taken together, do not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

ARTICLE IV Miscellaneous Provisions

Section 4.01 Agreement to Enter into Registration Rights Agreement. The parties hereby agree, following the Closing Date, to negotiate in good faith and enter into a registration rights agreement, pursuant to which, subject to the terms and conditions set forth therein, the Company would agree to file a registration statement, promptly following the Closing Date, for the purpose of effecting the registration for resale of the Notes and any shares of Common Stock issuable upon conversion of the Notes (the “Registration Rights Agreement”).

Section 4.02 Specific Performance. The parties acknowledge that money damages are not an adequate remedy for violations of this Agreement and that any party may, in its sole discretion, apply to a court of competent jurisdiction for specific performance or injunctive or such

other relief as such court may deem just and proper in order to enforce this Agreement or prevent any violation hereof and, to the extent permitted by applicable law, each party waives any objection to the imposition of such relief, this being in addition to any other remedy to which such party is entitled at law or in equity.

Section 4.03 Entire Agreement. This Agreement and the other documents and agreements executed in connection with the Exchange embody the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior and contemporaneous oral or written agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any term sheets, emails or draft documents.

Section 4.04 Assignment; Binding Agreement. This Agreement and the various rights and obligations arising hereunder shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Holder.

Section 4.05 Counterparts. This Agreement may be executed in multiple counterparts, and on separate counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any counterpart or other signature hereupon delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such party.

Section 4.06 Remedies Cumulative. Except as otherwise provided herein, all rights and remedies of the parties under this Agreement are cumulative and without prejudice to any other rights or remedies available at law.

Section 4.07 Governing Law; Jurisdiction; Jury Trial. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to its conflicts of laws provisions. Each of the parties hereto irrevocably submits to the exclusive jurisdiction of the courts of the State of New York, City of New York, for the purpose of any suit, action, proceeding or judgment relating to or arising out of this Agreement and the transactions contemplated hereby. Service of process in connection with any such suit, action or proceeding may be served on each party hereto anywhere in the world by the same methods as are specified for the giving of notices under this Agreement. Each of the parties hereto irrevocably consents to the jurisdiction of any such court in any such suit, action or proceeding and to the laying of venue in such court. Each party hereto irrevocably waives any objection to the laying of venue of any such suit, action or proceeding brought in such courts and irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. **EACH OF THE PARTIES HERETO WAIVES ANY RIGHT TO REQUEST A TRIAL BY JURY IN ANY LITIGATION WITH RESPECT TO THIS AGREEMENT AND REPRESENTS THAT COUNSEL HAS BEEN CONSULTED SPECIFICALLY AS TO THIS WAIVER.** The parties hereto agree and acknowledge that each party has retained counsel in connection with the negotiation and preparation of this Agreement, and that any rule of construction to the effect that any ambiguities are to be resolved against the

drafting party shall not be employed in the interpretation of the foregoing agreements or any amendment, schedule or exhibits thereto.

Section 4.08 Survival. The representations, warranties and covenants of the Company and Holder contained in Articles II, III and IV shall survive the survive cancellation of the Exchange Notes and issuance of the New Notes, until the expiration of the applicable statute of limitations.

Section 4.09 No Third Party Beneficiaries or Other Rights. Nothing herein shall grant to or create in any person not a party hereto, or any such person's dependents or heirs, any right to any benefits hereunder, and no such party shall be entitled to sue any party to this Agreement with respect thereto.

Section 4.10 Waiver; Consent. This Agreement may not be changed, amended, terminated, augmented, rescinded or discharged (other than in accordance with its terms), in whole or in part, except by a writing executed by the parties hereto. No waiver of any of the provisions or conditions of this Agreement or any of the rights of a party hereto shall be effective or binding unless such waiver shall be in writing and signed by the party claimed to have given or consented thereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

Section 4.11 Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (a) upon receipt, when delivered personally, (b) upon receipt, when sent by facsimile or other electronic transmission (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party), or (c) one (1) business day after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. The addresses and telephone numbers for such communications shall be:

If to the Company:

Inseego Corp.
9710 Scranton Road, Suite 200
San Diego, California 92121
Attention: Stephen M. Smith
Telephone: (858) 247-2149
Email: stephen.smith@inseego.com

with a copy (for informational purposes only) to:

Paul Hastings LLP
4747 Executive Drive, Twelfth Floor
San Diego, CA 92121
Attention: Teri O'Brien

If to Holder, to the address specified on the signature page hereto.

Any party hereto may change his or its address for notice by giving notice thereof in the manner herein above provided.

Section 4.12 Interpretations. The words such as “herein,” “hereinafter,” “hereof,” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural, and vice versa, unless the context otherwise requires. The masculine shall include the feminine and neuter, and vice versa, unless the context otherwise requires.

Section 4.13 Further Assurances. The Holder and the Company each hereby agree to execute and deliver, or cause to be executed and delivered, such other documents, instruments and agreements, and take such other actions, as either party may reasonably request in connection with the transactions contemplated by this Agreement.

Section 4.14 Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

Section 4.15 Severability. If any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY.]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

THE COMPANY:

INSEEGO CORP.

By: _____

Name: Stephen M. Smith

Title: Executive Vice President and Chief
Financial Officer

HOLDER:

By: _____

Name:

Title:

Address:

**Insego Corp.,
Issuer**

AND

**Wilmington Trust, National Association,
Trustee**

INDENTURE

Dated as of May 12, 2020

Senior Debt Securities

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INDENTURE

INDENTURE, dated as of May 12, 2020, among INSEEGO CORP., a Delaware corporation (the “Company”), and WILMINGTON TRUST, NATIONAL ASSOCIATION, as trustee (the “Trustee”):

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

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

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

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

ARTICLE 1

DEFINITIONS

Section 1.01 Definitions of Terms.

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

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

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

“**Board of Directors**” means the Board of Directors (or the functional equivalent thereof) of the Company or any duly authorized committee of such Board.

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

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

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

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

“**Corporate Trust Office**” means the office of the Trustee at which, at any particular time, its corporate trust business relating to this Indenture shall be administered, which office at the date hereof is located at.

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

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

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

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

“**Exchange Act**” means the United States Securities and Exchange Act of 1934, as amended, and the rules and regulations promulgated by the Commission thereunder.

The term “**given**”, “**mailed**”, “**notify**” or “**sent**” with respect to any notice to be given to a Securityholder pursuant to this Indenture, shall mean notice (x) given to the Depository (or its designee) pursuant to the standing instructions from the Depository or its designee, including by electronic mail in accordance with accepted practices or procedures at the Depository (in the case of a Global Security) or (y) mailed to such Securityholder by first class mail, postage prepaid, at its address as it appears on the Security Register (in the case of a definitive Security). Notice so “given” shall be deemed to include any notice to be “mailed” or “delivered,” as applicable, under this Indenture.

“**Global Security**” means a Security issued to evidence all or a part of any series of Securities which is executed by the Company and authenticated and delivered by the Trustee to the Depository or pursuant to the Depository’s instruction, all in accordance with the Indenture, which shall be registered in the name of the Depository or its nominee.

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

“**herein**”, “**hereof**” and “**hereunder**”, and other words of similar import, refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

“**Indenture**” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into in accordance with the terms hereof and shall include the terms of particular series of Securities established as contemplated by Section 2.01.

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

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

“Officer’s Certificate” means a certificate signed by any Officer. Each such certificate shall include the statements provided for in Section 13.07, if and to the extent required by the provisions thereof.

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

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

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

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

“Responsible Officer” when used with respect to the Trustee means any officer within the Corporate Trust Office of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter relating to this Indenture, any other officer to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject and, in each case, who shall have direct responsibility for the administration of this Indenture.

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

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

“Securityholder”, **“holder of Securities”**, **“registered holder”**, or other similar term, means the Person or Persons in whose name or names a particular Security is registered on the Security Register kept for that purpose in accordance with the terms of this Indenture.

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

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

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

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

“**U.S.A. Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, as amended and signed into law October 26, 2001.

ARTICLE 2

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

Section 2.01 Designation and Terms of Securities.

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

- (1) the title of the Securities of the series (which shall distinguish the Securities of that series from all other Securities);
- (2) any limit upon the aggregate principal amount of the Securities of that series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of that series);
- (3) the maturity date or dates on which the principal of the Securities of the series is payable;
- (4) the form of the Securities of the series including the form of the certificate of authentication for such series;
- (5) the applicability of any guarantees;
- (6) whether or not the Securities will be secured or unsecured, and the terms of any secured debt;
- (7) whether the Securities rank as senior debt, senior subordinated debt, subordinated debt or any combination thereof, and the terms of any subordination;

(8) if the price (expressed as a percentage of the aggregate principal amount thereof) at which such Securities will be issued is a price other than the principal amount thereof, the portion of the principal amount thereof payable upon declaration of acceleration of the maturity thereof, or if applicable, the portion of the principal amount of such Securities that is convertible into another security or the method by which any such portion shall be determined;

(9) the interest rate or rates, which may be fixed or variable, or the method for determining the rate or rates and the date interest will begin to accrue, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining such dates;

(10) the Company's right, if any, to defer the payment of interest and the maximum length of any such deferral period;

(11) if applicable, the date or dates after which, or the period or periods during which, and the price or prices at which, the Company may at its option, redeem the series of Securities pursuant to any optional or provisional redemption provisions and the terms of those redemption provisions;

(12) the date or dates, if any, on which, and the price or prices at which the Company is obligated, pursuant to any mandatory sinking fund or analogous fund provisions or otherwise, to redeem, or at the Securityholder's option to purchase, the series of Securities and the currency or currency unit in which the Securities are payable;

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

(14) any and all terms, if applicable, relating to any auction or remarketing of the Securities of that series and any security for the obligations of the Company with respect to such Securities and any other terms which may be advisable in connection with the marketing of Securities of that series;

(15) whether the Securities of the series shall be issued in whole or in part in the form of a Global Security or Securities; the terms and conditions, if any, upon which such Global Security or Securities may be exchanged in whole or in part for other individual Securities; and the Depositary for such Global Security or Securities;

(16) if applicable, the provisions relating to conversion or exchange of any Securities of the series and the terms and conditions upon which such Securities will be so convertible or exchangeable, including the conversion or exchange price, as applicable, or how it will be calculated and may be adjusted, any mandatory or optional (at the Company's option or the holders' option) conversion or exchange features, the applicable conversion or exchange period and the manner of settlement for any conversion or exchange, which may, without limitation, include the payment of cash as well as the delivery of securities;

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

(18) additions to or changes in the covenants applicable to the series of Securities being issued, including, among others, the consolidation, merger or sale covenant;

(19) additions to or changes in the Events of Default with respect to the Securities and any change in the right of the Trustee or the Securityholders to declare the principal, premium, if any, and interest, if any, with respect to such Securities to be due and payable;

(20) additions to or changes in or deletions of the provisions relating to covenant defeasance and legal defeasance;

- (21) additions to or changes in the provisions relating to satisfaction and discharge of this Indenture;
- (22) additions to or changes in the provisions relating to the modification of this Indenture both with and without the consent of Securityholders of Securities issued under this Indenture;
- (23) the currency of payment of Securities if other than U.S. dollars and the manner of determining the equivalent amount in U.S. dollars;
- (24) whether interest will be payable in cash or additional Securities at the Company's or the Securityholders' option and the terms and conditions upon which the election may be made;
- (25) the terms and conditions, if any, upon which the Company shall pay amounts in addition to the stated interest, premium, if any and principal amounts of the Securities of the series to any Securityholder that is not a "United States person" for federal tax purposes;
- (26) any restrictions on transfer, sale or assignment of the Securities of the series; and
- (27) any other specific terms, preferences, rights or limitations of, or restrictions on, the Securities, any other additions or changes in the provisions of this Indenture, and any terms that may be required by us or advisable under applicable laws or regulations.

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

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

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

Section 2.02 Form of Securities and Trustee's Certificate.

The Securities of any series and the Trustee's certificate of authentication to be borne by such Securities shall be substantially of the tenor and purport as set forth in one or more indentures supplemental hereto or as provided in a Board Resolution, and set forth in an Officer's Certificate, and they may have such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange on which Securities of that series may be listed, or to conform to usage.

Section 2.03 Denominations: Provisions for Payment.

Unless otherwise set forth in a Board Resolution or one or more indentures supplemental hereto establishing the terms of any series of Securities pursuant to Section 2.01 hereof, the Securities shall be issuable as registered Securities and in minimum denominations of one thousand U.S. dollars (\$1,000) or any integral multiple in excess thereof. The Securities of a particular series shall bear interest payable on the dates and at the rate specified with respect to that series. Subject to Section 2.01(a)(23), the principal of and the interest on the Securities of any series, as well as any premium thereon in case of redemption or repurchase thereof prior to maturity, and any cash amount due upon conversion or exchange thereof, shall be payable in the coin or currency of the United States of America that at the time is legal tender for public and private debt, at the office or agency of the Company

maintained for that purpose. Each Security shall be dated the date of its authentication. Interest on the Securities shall be computed on the basis of a 360-day year composed of twelve 30-day months.

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

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

(1) The Company may make payment of any Defaulted Interest on Securities to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered in the Security Register at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Company shall fix a special record date for the payment of such Defaulted Interest which shall not be more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee of such special record date and, at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be sent, to each Securityholder not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been sent as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered in the Security Register on such special record date.

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

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

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

Section 2.04 Execution and Authentications.

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

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

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

Upon the Company's delivery of any such authentication order to the Trustee at any time after the initial issuance of Securities under this Indenture, the Trustee shall be provided with, and (subject to Sections 315(a) through 315(d) of the Trust Indenture Act) shall be fully protected in relying upon, (1) an Opinion of Counsel or reliance letter and (2) an Officer's Certificate stating that all conditions precedent to the execution, authentication and delivery of such Securities are in conformity with the provisions of this Indenture.

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

Section 2.05 Registration of Transfer and Exchange.

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

(b) The Company shall keep, or cause to be kept, at its office or agency designated for such purpose a register or registers (herein referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall register the Securities and the transfers of Securities as in this Article provided and which at all reasonable times shall be open for inspection by the Trustee. The registrar for the purpose of registering Securities and transfer of Securities as herein provided shall be appointed as authorized by Board Resolution or Supplemental Indenture (the "Security Registrar").

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

The Company initially appoints the Trustee as initial Security Registrar for each series of Securities.

All Securities presented or surrendered for exchange or registration of transfer, as provided in this Section, shall be accompanied (if so required by the Company or the Security Registrar) by a written instrument or

instruments of transfer, in form satisfactory to the Company or the Security Registrar, duly executed by the registered holder or by such holder's duly authorized attorney in writing.

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

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

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Security (including any transfers between or among Depository participants or beneficial owners of interests in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Neither the Trustee nor any Agent shall have any responsibility or liability for any actions taken or not taken by the Depository. The Trustee shall have no responsibility or obligation to any Securityholder that is a member of (or a participant in) the Depository or any other Person with respect to the accuracy of the records of the Depository (or its nominee) or of any participant or member thereof, with respect to any ownership interest in the Securities or with respect to the delivery of any notice (including any notice of redemption) or the payment of any amount or delivery of any Securities (or other security or property) under or with respect to the Securities. The Trustee may rely (and shall be fully protected in relying) upon information furnished by the Depository with respect to its members, participants and any beneficial owners in the Securities.

Section 2.06 Temporary Securities.

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

Section 2.07 Mutilated, Destroyed, Lost or Stolen Securities.

In case any temporary or definitive Security shall become mutilated or be destroyed, lost or stolen, the Company (subject to the next succeeding sentence) shall execute, and upon the Company's written request the Trustee (subject as aforesaid) shall authenticate and deliver, a new Security of the same series, bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Security, or in lieu of and in substitution for the Security so destroyed, lost or stolen. In every case the applicant for a substituted Security shall furnish to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company and the Trustee evidence to their satisfaction of the destruction, loss or theft of the applicant's Security and of the ownership thereof. The Trustee may authenticate any such substituted Security and deliver the same upon the written request or authorization of any officer of the Company. Upon the issuance of any substituted Security, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

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

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

Section 2.08 Cancellation.

All Securities surrendered for the purpose of payment, redemption, repurchase, exchange, registration of transfer or conversion shall, if surrendered to the Company or any paying agent (or any other applicable agent), be delivered to the Trustee for cancellation, or, if surrendered to the Trustee, shall be cancelled by it, and no Securities shall be issued in lieu thereof except as expressly required or permitted by any of the provisions of this Indenture. On request of the Company, the Trustee shall deliver to the Company certification of the cancellation. The Trustee may dispose of cancelled Securities in accordance with its standard procedures and the record retention requirements of the Securities Act. If the Company shall otherwise acquire any of the Securities, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee for cancellation.

Section 2.09 Benefits of Indenture.

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

Section 2.10 Authenticating Agent.

So long as any of the Securities of any series remain Outstanding there may be an Authenticating Agent for any or all such series of Securities which the Trustee shall have the right to appoint. Said Authenticating Agent shall

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

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

Section 2.11 Global Securities.

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

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

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

deliver such Securities to the Depository for delivery to the Persons in whose names such Securities are so registered.

Section 2.12 CUSIP Numbers.

The Company in issuing the Securities 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 Securityholders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other elements of identification printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the "CUSIP" numbers.

ARTICLE 3

REDEMPTION OF SECURITIES AND SINKING FUND PROVISIONS

Section 3.01 Redemption.

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

Section 3.02 Notice of Redemption.

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

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

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

(b) If less than all the Securities of a series are to be redeemed, the Company shall give the Trustee at least 45 days' notice (unless a shorter notice shall be satisfactory to the Trustee) in advance of the date fixed for redemption as to the aggregate principal amount of Securities of the series to be redeemed, and thereupon

the Securities to be redeemed shall be selected, by lot, on a pro rata basis, or in such other manner as the Company shall deem appropriate and fair in its discretion, and in the case of Global Securities, in accordance with the applicable rules and procedures of the Depository, and that may provide for the selection of a portion or portions (equal to a minimum of one thousand U.S. dollars (\$1,000) or any integral multiple in excess thereof) of the principal amount of such Securities of a denomination larger than \$1,000, the Securities to be redeemed and shall thereafter promptly notify the Company in writing of the numbers of the Securities to be redeemed, in whole or in part. The Company may, if and whenever it shall so elect, by delivery of instructions signed on its behalf by an Officer, instruct the Trustee or any paying agent to call all or any part of the Securities of a particular series for redemption and to give notice of redemption in the manner set forth in this Section, such notice to be in the name of the Company or its own name as the Trustee or such paying agent may deem advisable. In any case in which notice of redemption is to be given by the Trustee or any such paying agent, the Company shall deliver or cause to be delivered to, or permit to remain with, the Trustee or such paying agent, as the case may be, such Security Register, transfer books or other records, or suitable copies or extracts therefrom, sufficient to enable the Trustee or such paying agent to give any notice by mail that may be required under the provisions of this Section.

Section 3.03 Payment Upon Redemption.

(a) If the giving of notice of redemption shall have been completed as above provided, the Securities or portions of Securities of the series to be redeemed specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to, but excluding, the date fixed for redemption and interest on such Securities or portions of Securities shall cease to accrue on and after the date fixed for redemption, unless the Company shall default in the payment of such redemption price and accrued interest with respect to any such Security or portion thereof. On presentation and surrender of such Securities on or after the date fixed for redemption at the place of payment specified in the notice, said Securities shall be paid and redeemed at the applicable redemption price for such series, together with interest accrued thereon to, but excluding, the date fixed for redemption (but if the date fixed for redemption is an Interest Payment Date, the interest installment payable on such date shall be payable to the registered holder at the close of business on the applicable record date pursuant to Section 2.03).

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

Section 3.04 Sinking Fund.

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

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

Section 3.05 Satisfaction of Sinking Fund Payments with Securities.

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

Section 3.06 Redemption of Securities for Sinking Fund.

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

ARTICLE 4

COVENANTS

Section 4.01 Payment of Principal, Premium and Interest.

The Company will duly and punctually pay or cause to be paid the principal of (and premium, if any) and interest on the Securities of that series at the time and place and in the manner provided herein and established with respect to such Securities. Payments of principal on the Securities may be made at the time provided herein and established with respect to such Securities by U.S. dollar check drawn on and mailed to the address of the Securityholder entitled thereto as such address shall appear in the Security Register, or U.S. dollar wire transfer to, a U.S. dollar account if such Securityholder shall have furnished wire instructions to the Trustee no later than 15 days prior to the relevant payment date. Payments of interest on the Securities may be made at the time provided herein and established with respect to such Securities by U.S. dollar check mailed to the address of the Securityholder entitled thereto as such address shall appear in the Security Register, or U.S. dollar wire transfer to, a U.S. dollar account if such Securityholder shall have furnished wire instructions in writing to the Security Registrar and the Trustee no later than 15 days prior to the relevant payment date.

Section 4.02 Maintenance of Office or Agency.

So long as any series of the Securities remain Outstanding, the Company agrees to maintain an office or agency with respect to each such series and at such other location or locations as may be designated as provided in this Section 4.02, where (i) Securities of that series may be presented for payment, (ii) Securities of that series may be presented as herein above authorized for registration of transfer and exchange, and (iii) notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be given or served, such designation to continue with respect to such office or agency until the Company shall, by written notice signed by any officer authorized to sign an Officer's Certificate and delivered to the Trustee, designate some other office or agency for such purposes or any of them. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, notices and demands. The Company initially appoints the Corporate Trust Office of the Trustee as its paying agent with respect to the Securities; provided that, no office of the Trustee shall be an office or agency for the purpose of service of legal process against the Company.

Section 4.03 Paying Agents.

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

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

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

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

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

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

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

Section 4.04 Appointment to Fill Vacancy in Office of Trustee.

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

ARTICLE 5

SECURITYHOLDERS' LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE

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

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

Section 5.02 Preservation of Information; Communications with Securityholders.

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

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

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

Section 5.03 Reports by the Company.

(a) The Company will at all times comply with Section 314(a) of the Trust Indenture Act. The Company covenants and agrees to provide (which delivery may be via electronic mail) to the Trustee within 30 days, after the Company files the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) that the Company is required to file with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act; provided, however, the Company shall not be required to deliver to the Trustee any correspondence filed with the Commission or any materials for which the Company has sought and received confidential treatment by the Commission; and provided further, that so long as such filings by the Company are available on the Commission's Electronic Data Gathering, Analysis and Retrieval System (EDGAR), or any successor system, such filings shall be deemed to have been delivered to the Trustee for purposes hereof without any further action required by the Company. For the avoidance of doubt, a failure by the Company to file annual reports, information and other reports with the Commission within the time period prescribed thereof by the Commission shall not be deemed a breach of this Section 5.03.

(b) Delivery of reports, information and documents to the Trustee under Section 5.03 is for informational purposes only and the information and the Trustee's receipt of the foregoing shall not constitute actual or constructive notice of any information contained therein, or determinable from information contained therein including the Company's compliance with any of their covenants thereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate). The Trustee is under no duty to examine any such reports, information or documents delivered to the Trustee or filed with the Commission via EDGAR to ensure compliance with the provision of this Indenture or to ascertain the correctness or otherwise of the information or the statements contained therein. The Trustee shall have no responsibility or duty whatsoever to ascertain or determine whether the above referenced filings with the Commission on EDGAR (or any successor system) has occurred.

Section 5.04 Reports by the Trustee.

(a) If required by Section 313(a) of the Trust Indenture Act, the Trustee, within sixty (60) days after each May 1, shall send to the Securityholders a brief report dated as of such May 1, which complies with Section 313(a) of the Trust Indenture Act.

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

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

REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT

Section 6.01 Events of Default.

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

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

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

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

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

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

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

(c) At any time after the principal of (and premium, if any, on) and accrued and unpaid interest on the Securities of that series shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the holders of

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

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

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

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

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

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

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

making of such payments directly to such Securityholders, to pay to the Trustee any amount due it under Section 7.06.

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

In case of an Event of Default hereunder, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in the Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

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

Section 6.03 Application of Moneys Collected.

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

FIRST: To the payment of costs and expenses of collection and of all amounts payable to the Trustee under this Indenture;

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

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

Section 6.04 Limitation on Suits.

No holder of any Security of any series shall have any right by virtue of or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless (i) such Securityholder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof with respect to the Securities of such series specifying such Event of Default, as hereinbefore provided; (ii) the holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder; (iii) such Securityholder or Securityholders shall have offered, and if requested, provided to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request; (iv) the Trustee for 90 days after its receipt of such notice, request and offer of indemnity, shall have failed to institute any such action, suit or proceeding and (v) during such 90-day

period, the holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

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

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

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

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

Section 6.06 Control by Securityholders.

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

Section 6.07 Undertaking to Pay Costs.

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

ARTICLE 7

CONCERNING THE TRUSTEE

Section 7.01 Certain Duties and Responsibilities of Trustee.

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

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

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

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

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

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

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

(iv) none of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Indenture or adequate indemnity against such risk is not reasonably assured to it;

(v) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers or duties hereunder;

(vi) the permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee;

and

(vii) no Trustee shall have any duty or responsibility for any act or omission of any other Trustee appointed with respect to a series of Securities hereunder.

Section 7.02 Certain Rights of Trustee.

Except as otherwise provided in Section 7.01:

(a) The Trustee may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, judgment, approval, bond, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

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

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

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

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

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, judgment, approval, bond, security, or other papers or documents or inquire as to the performance by the Company of one of its

covenants under this Indenture, unless requested in writing so to do by the holders of not less than a majority in principal amount of the Outstanding Securities of the particular series affected thereby (determined as provided in Section 8.04); provided, however, that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require security or indemnity acceptable to the Trustee against such costs, expenses or liabilities as a condition to so proceeding. The reasonable expense of every such examination shall be paid by the Company or, if paid by the Trustee, shall be repaid by the Company upon demand;

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for the acts or omissions of any agent or attorney appointed with due care by it hereunder;

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

(i) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods; provided, however, that such instructions or directions shall be signed by an authorized representative of the party providing such instructions or directions. If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties. The Trustee may request that the Company deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to furnish the Trustee with Officer's Certificates, Company Orders and any other matters or directions pursuant to this Indenture;

(j) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder and under the Securities, and each agent, custodian or other person employed to act under this Indenture; and

(k) The Trustee shall not be deemed to have knowledge of any Default or Event of Default (other than an Event of Default constituting the failure to pay the interest on, or the principal of, the Securities if the Trustee also serves the paying agent for such Securities) until the Trustee shall have received written notification in the manner set forth in this Indenture or a Responsible Officer of the Trustee shall have obtained actual knowledge.

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

(a) The recitals contained herein and in the Securities shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee shall not be responsible for any statement in any registration statement, prospectus, or any other document in connection with the sale of Securities. The Trustee shall not be responsible for any rating on the Securities or any action or omission of any rating agency.

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

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

Section 7.04 May Hold Securities.

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

Section 7.05 Moneys Held in Trust.

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

Section 7.06 Compensation and Reimbursement.

(a) The Company shall pay to the Trustee for each of its capacities hereunder from time to time compensation for its services as the Company and the Trustee shall from time to time agree upon in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred by it. Such expenses shall include the reasonable compensation and expenses of the Trustee's agents and counsel.

(b) The Company shall indemnify each of the Trustee in each of its capacities hereunder against any loss, liability or expense (including the cost of defending itself and including the reasonable compensation and expenses of the Trustee's agents and counsel) incurred by it except as set forth in Section 7.06(c) in the exercise or performance of its powers, rights or duties under this Indenture as Trustee or Agent and the enforcement of this Indenture (including this Section). 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 such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. This indemnification shall apply to officers, directors, employees, shareholders and agents of the Trustee.

(c) The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee or by any officer, director, employee, shareholder or agent of the Trustee through negligence or willful misconduct as determined by a final order of a court of competent jurisdiction.

(d) To ensure the Company's payment obligations in this Section, the Trustee shall have a lien prior to the Securities on all funds or property held or collected by the Trustee, except that held in trust to pay principal of or interest on particular Securities. When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 6.01(a)(4) or (5), the expenses (including the reasonable fees and expenses of its counsel) and the compensation for services in connection therewith are to constitute expenses of administration under any bankruptcy law. The provisions of this Section 7.06 shall survive the termination of this Indenture and the resignation or removal of the Trustee.

Section 7.07 Reliance on Officer's Certificate.

Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it reasonably necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to take any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Trustee, be

deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee and such certificate, in the absence of negligence or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Indenture upon the faith thereof.

Section 7.08 Disqualification; Conflicting Interests.

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

Section 7.09 Corporate Trustee Required; Eligibility.

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

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

Section 7.10 Resignation and Removal; Appointment of Successor.

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

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

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

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

(iii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or commence a voluntary bankruptcy proceeding, or a receiver of the Trustee or of its property shall be appointed or consented to, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Company may remove the Trustee with respect to all Securities and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or any Securityholder who has been a bona fide holder of a Security or Securities for at least six months may, on behalf of that holder and all others similarly situated, petition any court of competent jurisdiction, at the expense of the Company, for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

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

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

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

Section 7.11 Acceptance of Appointment by Successor.

(a) In case of the appointment hereunder of a successor trustee with respect to all Securities, every such successor trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor trustee, such retiring Trustee shall, upon payment of any amounts due to it pursuant to the provisions of Section 7.06, execute and deliver an instrument transferring to such successor trustee all the rights, powers, and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor trustee shall accept such appointment and which (i) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor trustee relates, (ii) shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (iii) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust, that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee and that no Trustee shall be responsible for any act or failure to act on the part of any other Trustee hereunder; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, such retiring Trustee shall with respect to the Securities of that or those series to which the appointment of such successor trustee relates have no further responsibility for the exercise of rights and powers or for the performance of the duties and obligations vested in the Trustee under this Indenture, and each such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor trustee relates; but, on request of the Company or any successor trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor trustee, to the extent contemplated by such

supplemental indenture, the property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor trustee relates.

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

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

(e) Upon acceptance of appointment by a successor trustee as provided in this Section, the Company shall send notice of the succession of such trustee hereunder to the Securityholders. If the Company fails to transmit such notice within 10 days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be transmitted at the expense of the Company.

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

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

Section 7.13 Preferential Collection of Claims Against the Company.

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

Section 7.14 Notice of Default.

If any Event of Default occurs and is continuing and if such Event of Default is actually known to a Responsible Officer of the Trustee, the Trustee shall send to each Securityholder in the manner and to the extent provided in Section 313(c) of the Trust Indenture Act notice of the Event of Default within the earlier of 90 days after it occurs and 30 days after it is actually known to a Responsible Officer of the Trustee or written notice of it is received by the Trustee, unless such Event of Default has been cured; *provided, however*, that, except in the case of a default in the payment of the principal of (or premium, if any) or interest on any Security, the Trustee shall be protected in withholding such notice if and so long as the Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interest of the Securityholders.

ARTICLE 8

CONCERNING THE SECURITYHOLDERS

Section 8.01 Evidence of Action by Securityholders.

Whenever in this Indenture it is provided that the holders of a majority or specified percentage in aggregate principal amount of the Securities of a particular series may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such majority or specified percentage of that series have joined therein may be

evidenced by any instrument or any number of instruments of similar tenor executed by such holders of Securities of that series in person or by agent or proxy appointed in writing.

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

Section 8.02 Proof of Execution by Securityholders.

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

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

(b) The ownership of Securities shall be proved by the Security Register of such Securities or by a certificate of the Security Registrar thereof.

The Trustee may require such additional proof of any matter referred to in this Section as it shall deem necessary.

Section 8.03 Who May be Deemed Owners.

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

Section 8.04 Certain Securities Owned by Company Disregarded.

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

or indirect common control with the Company or any such other obligor. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 8.05 Actions Binding on Future Securityholders.

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

ARTICLE 9

SUPPLEMENTAL INDENTURES

Section 9.01 Supplemental Indentures Without the Consent of Securityholders.

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

- (a) to cure any ambiguity, defect, or inconsistency herein or in the Securities of any series;
- (b) to comply with Article Ten;
- (c) to provide for uncertificated Securities in addition to or in place of certificated Securities;

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

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

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

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

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

(i) to conform the text of this Indenture, any indentures supplemental hereto or the forms or terms of such series of Securities issued hereunder to any provision of the "Description of Notes" section of the relevant offering document of such series to the extent that such provision in such "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture, as provided in an Officer's Certificate; or

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

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

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

Section 9.02 Supplemental Indentures With Consent of Securityholders.

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

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

Section 9.03 Effect of Supplemental Indentures.

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

Section 9.04 Securities Affected by Supplemental Indentures.

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

Section 9.05 Execution of Supplemental Indentures.

Upon the request of the Company, accompanied by its Board Resolutions authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Securityholders required to consent thereto as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion but shall not be obligated to enter into such supplemental indenture. The Trustee, subject to the provisions of Section 7.01, shall receive an Officer's Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article is authorized or permitted by the terms of this Article, such supplemental indenture is the legal, valid and binding obligation of the Company and that all conditions precedent to the execution of the supplemental indenture have been complied with.

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

ARTICLE 10

SUCCESSOR ENTITY

Section 10.01 Company May Consolidate, Etc.

Nothing contained in this Indenture shall prevent any consolidation or merger of the Company with or into any other Person (whether or not affiliated with the Company) or successive consolidations or mergers in which the Company or its successor or successors shall be a party or parties, or shall prevent any sale, conveyance, transfer or other disposition of the property of the Company or its successor or successors as an entirety, or substantially as an entirety, to any other Person (whether or not affiliated with the Company or its successor or successors); provided, however, the Company hereby covenants and agrees that, upon any such consolidation or merger (in each case, if the Company is not the survivor of such transaction) or any such sale, conveyance, transfer or other disposition (other than a sale, conveyance, transfer or other disposition to a Subsidiary of the Company), the due and punctual payment of the principal of (premium, if any) and interest on all of the Securities of all series in accordance with the terms of each series, according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this Indenture with respect to each series or established with respect to such series pursuant to Section 2.01 to be kept or performed by the Company shall be expressly assumed, by supplemental indenture (which shall conform to the provisions of the Trust Indenture Act, as then in effect) reasonably satisfactory in form to the Trustee executed and delivered to the Trustee by the entity formed by such consolidation, or into which the Company shall have been merged, or by the entity which shall have acquired such property.

Section 10.02 Successor Entity Substituted.

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

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

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

ARTICLE 11

SATISFACTION AND DISCHARGE

Section 11.01 Satisfaction and Discharge of Indenture.

If at any time: (a) the Company shall have delivered to the Trustee for cancellation all Securities of a series theretofore authenticated and not delivered to the Trustee for cancellation (other than any Securities that shall have been destroyed, lost or stolen and that shall have been replaced or paid as provided in Section 2.07 and Securities for whose payment money or Governmental Obligations have theretofore been deposited in trust or segregated and held in trust by the Company and thereupon repaid to the Company or discharged from such trust, as provided in Section 11.05); or (b) all such Securities of a particular series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Company shall deposit or cause to be deposited with the Trustee as trust funds the entire amount in moneys or Governmental Obligations or a combination thereof, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay at maturity or upon redemption all Securities of that series not theretofore delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder with respect to such series by the Company then this Indenture shall thereupon cease to be of further effect with respect to such series except for the provisions of Sections 2.03, 2.05, 2.07, 4.01, 4.02, 4.03, 7.10, 11.5 and 13.04, that shall survive until the date of maturity or redemption date, as the case may be, and Sections 7.06 and 11.05, that shall survive to such date and thereafter, and the Trustee, on demand of the Company and at the cost and expense of the Company shall execute such instruments reasonably requested by the Company acknowledging satisfaction of and discharging this Indenture with respect to such series.

Section 11.02 Discharge of Obligations.

If at any time all such Securities of a particular series not heretofore delivered to the Trustee for cancellation or that have not become due and payable as described in Section 11.01 shall have been paid by the Company by depositing irrevocably with the Trustee as trust funds moneys or an amount of Governmental Obligations sufficient to pay at maturity or upon redemption all such Securities of that series not theretofore delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder by the Company with respect to such series, then after the date such moneys or Governmental Obligations, as the case may be, are deposited with the Trustee the obligations of the Company under this Indenture with respect to such series shall cease to be of further effect except for the provisions of Sections 2.03, 2.05, 2.07, 4.01, 4.02, 4.03, 7.06, 7.10, 11.05 and 13.04 hereof that shall survive until such Securities shall mature and be paid.

Thereafter, Sections 7.06 and 11.05 shall survive.

Section 11.03 Deposited Moneys to be Held in Trust.

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

Section 11.04 Payment of Moneys Held by Paying Agents.

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

Section 11.05 Repayment to Company.

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

ARTICLE 12

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

Section 12.01 No Recourse.

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

ARTICLE 13

MISCELLANEOUS PROVISIONS

Section 13.01 Effect on Successors and Assigns.

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

Section 13.02 Actions by Successor.

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

Section 13.03 Surrender of Company Powers.

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

Section 13.04 Notices.

Except as otherwise expressly provided herein, any notice, request or demand that by any provision of this Indenture is required or permitted to be given, made or served by the Trustee, the Security Registrar, any paying or other agent under this Indenture or by the holders of Securities or by any other Person pursuant to this Indenture to or on the Company may be given or served by being deposited in first class mail, postage prepaid, addressed (until another address is filed in writing by the Company with the Trustee), as follows:

Any notice, election, request or demand by the Company or any Securityholder or by any other Person pursuant to this Indenture to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made in writing at the Corporate Trust Office of the Trustee.

Section 13.05 Governing Law; Jurisdiction; Jury Trial Waiver.

This Indenture and each Security shall be governed by, and construed in accordance with, the internal laws of the State of New York, except to the extent that the Trust Indenture Act is applicable.

Each party hereto irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any U.S. Federal or New York State court sitting in the Borough of Manhattan, New York, New York in any action or proceeding arising out of or relating to this Indenture, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Indenture shall affect any right that the parties hereto may otherwise have to bring any action or proceeding relating to this Indenture against any party hereto or its properties in the courts of any jurisdiction.

EACH PARTY HERETO, AND EACH HOLDER OF A SECURITY BY ACCEPTANCE THEREOF, HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INDENTURE.

Section 13.06 Treatment of Securities as Debt.

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

Section 13.07 Certificates and Opinions as to Conditions Precedent.

(a) Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officer's Certificate stating that

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

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant in this Indenture (other than the certificate to be delivered pursuant to Section 13.12 of this Indenture or Section 314(a)(1) of the Trust Indenture Act) shall include (i) a statement that the Person making such certificate or opinion has read such covenant or condition; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (iii) a statement that, in the opinion of such Person, he has made such examination or investigation as is reasonably necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (iv) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 13.08 Payments on Business Days.

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

Section 13.09 Conflict with Trust Indenture Act.

If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by Section 318(c) of the Trust Indenture Act, such imposed duties shall control.

Section 13.10 Counterparts.

This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile, pdf or other electronic transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, pdf or other electronic methods shall be deemed to be their original signatures for all purposes.

Section 13.11 Severability.

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

Section 13.12 Compliance Certificates.

The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year during which any Securities of any series were outstanding, an Officer's Certificate stating whether or not the signers know of any Event of Default that occurred during such fiscal year. Such Officer's Certificate shall contain a certification from the principal executive officer, principal financial officer or principal accounting officer of the Company that a review has been conducted of the activities of the Company and the Company's performance under this Indenture and that the Company has complied with all conditions and covenants under this Indenture. For purposes of this

Section 13.12, such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture. If the officer of the Company signing such certificate has knowledge of such an Event of Default, the certificate shall describe any such Event of Default and its status.

Section 13.13 U.S.A. Patriot Act.

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

Section 13.14 Force Majeure.

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

Section 13.15 Table of Contents; Headings.

The table of contents and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof, and will not modify or restrict any of the terms or provisions hereof.

Section 13.16 E-Signatures.

Unless otherwise provided herein, the words “execute”, “execution”, “signed”, and “signature” and words of similar import used in or related to any document to be signed in connection with this Indenture or any of the transactions contemplated hereby (including amendments, waivers, consents and other modifications) shall be deemed to include electronic signatures and the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature in ink or the use of a paper-based recordkeeping system, as applicable, to the fullest extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, and any other similar state laws based on the Uniform Electronic Transactions Act, provided that, notwithstanding anything herein to the contrary, the Trustee is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Trustee pursuant to procedures approved by the Trustee.

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

INSEEGO CORP.

By: /s/ Stephen Smith
Name: Stephen Smith
Title: EVP & Chief Financial Officer

**WILMINGTON TRUST, NATIONAL ASSOCIATION, as
Trustee**

By: /s/ Sarah Vilhauer
Name: Sarah Vilhauer
Title: Banking Officer

CROSS-REFERENCE TABLE (1)

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

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

INSEGO CORP.

and

WILMINGTON TRUST, NATIONAL ASSOCIATION

as Trustee

FIRST SUPPLEMENTAL INDENTURE

Dated as of May 12, 2020

3.25% Convertible Senior Notes due 2025

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THIS FIRST SUPPLEMENTAL INDENTURE, dated as of May 12, 2020 (the “**Supplemental Indenture**”), to the Indenture, dated as of May 12, 2020 (the “**Base Indenture**” and, as amended, modified and supplemented by this Supplemental Indenture, the “**Indenture**”), between Inseego Corp., a Delaware corporation, as issuer (the “**Company**”) and Wilmington Trust, National Association, a national banking association, as trustee (the “**Trustee**”).

WHEREAS, Sections 2.01, 2.02 and 9.01(g) of the Base Indenture authorizes the Company to execute a supplemental indenture thereto to set forth the terms and other provisions of any new series of Securities;

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the establishment of a new series of Securities to be titled the Company’s “3.25% Convertible Senior Notes due 2025” (the “**Notes**”), and has duly authorized the issuance of Notes initially in an aggregate principal amount not to exceed one hundred eighty million three hundred seventy-five thousand dollars (\$180,375,000) (as increased by an amount equal to the aggregate principal amount of any Notes issued pursuant to the exercise of the Shoe Option by the Underwriter), comprised of the following (i) one hundred million dollars (\$100,000,000) of Notes issued pursuant to the Underwriting Agreement (as defined below) (the “**Underwritten Notes**”) and (ii) eighty million three hundred seventy-five thousand dollars (\$80,375,000) of Notes issued pursuant to an exemption from the registration requirements of the Securities Act (as defined below) (the “**Private Placement Notes**”);

WHEREAS, in order to provide the terms and conditions of the Notes, the Company has duly authorized the execution and delivery of this Supplemental Indenture; and

WHEREAS, all acts and things necessary to make the Notes, when executed by the Company and authenticated and delivered by the Trustee or a duly authorized authenticating agent, as provided in the Indenture, the valid, binding and legal obligations of the Company, and the Indenture a valid agreement according to its terms, have been done and performed, and the execution of this Supplemental Indenture and the issuance under the Indenture of the Notes have in all respects been duly authorized.

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH, that in order to declare the terms and conditions upon which the Notes are, and are to be, authenticated, issued and delivered, and in consideration of the premises and of the purchase and acceptance of the Notes by the Holders, the Company covenants and agrees with the Trustee for the equal and proportionate benefit of the respective Holders from time to time (except as otherwise provided in the Indenture) as follows:

Article 1

DEFINITIONS; RULES OF CONSTRUCTION

Section 1.01. DEFINITIONS.

Except as otherwise expressly provided herein, capitalized terms used in this Supplemental Indenture and not otherwise defined in this Supplemental Indenture have the meanings assigned to them in the Base Indenture. The terms defined in this **Section 1.01** (except as otherwise expressly provided or unless the context otherwise requires) will apply for all purposes of the Indenture (and any further supplement thereto) as it relates to the Notes. The terms defined in this **Section 1.01** will be deemed, for purposes of the Notes, to supersede the definitions of the same terms in the Base Indenture, if applicable.

“**Acquiring Person**” has the meaning set forth in the Rights Agreement as of the date hereof (for the avoidance of doubt regardless of whether such Rights Agreement is then in effect).

“**Affiliate**” of any specified Person means any other Person directly or indirectly through one or more intermediaries controlling or controlled by or under direct or indirect common control with such specified Person.

For the purposes of this definition, “control,” when used with respect to any specified Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through

the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Authorized Denomination**” means, with respect to a Note, a principal amount thereof equal to \$1,000 or any integral multiple of \$1,000 in excess thereof.

“**Bankruptcy Law**” means Title 11, United States Code, or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

“**Board of Directors**” means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

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

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

“**Close of Business**” means 5:00 p.m., New York City time.

“**Common Stock**” means the common stock, \$0.001 par value per share, of the Company, subject to **Section 5.09**.

“**Company**” means the Person named as such in the first paragraph of this Supplemental Indenture and, subject to **Article 6**, its successors and assigns.

“**Company Order**” means a written request or order signed on behalf of the Company by one (1) of its Officers and delivered to the Trustee.

“**Conversion Agent**” means an office or agency in the contiguous United States where Notes may be presented for conversion pursuant to Section 4.02(iv) of the Base Indenture (as such section is amended pursuant to **Section 2.05(A)**).

“**Conversion Date**” means, with respect to a Note, the first Business Day on which the requirements set forth in **Section 5.02(A)** to convert such Note are satisfied.

“**Conversion Price**” means, as of any time, an amount equal to (A) one thousand dollars (\$1,000) *divided by* (B) the Conversion Rate in effect at such time.

“**Conversion Rate**” initially means 79.2896 shares of Common Stock per \$1,000 principal amount of Notes; *provided, however*, that the Conversion Rate is subject to adjustment pursuant to **Article 5**; *provided, further*, that whenever the Indenture refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

“**Conversion Share**” means any share of Common Stock issued or issuable upon conversion of any Note.

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

“**Default**” means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

“**Depository Procedures**” means, with respect to any conversion, transfer, exchange or transaction involving a Global Note or any beneficial interest therein, the rules and procedures of the Depository applicable to such conversion, transfer, exchange or transaction.

“**Ex-Dividend Date**” means, with respect to an issuance, dividend or distribution on the Common Stock, the first date on which shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Common Stock under a separate ticker symbol or CUSIP number will not be considered “regular way” for this purpose.

“**Exempted Fundamental Change**” means any Fundamental Change with respect to which, in accordance with **Section 4.02(I)**, the Company does not offer to repurchase any Notes.

“**Fundamental Change**” means any of the following events:

(A) a “person” or “group” (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company, any of its Wholly Owned Subsidiaries or any employee benefit plans of the Company or any of its Wholly Owned Subsidiaries, has become and has filed any report with the SEC indicating that such person or group has become the direct or indirect “beneficial owner” (as defined below) of shares of the Common Stock representing more than fifty percent (50%) of the voting power of all of the Company’s then-outstanding Common Stock; *provided, however*, that, for these purposes, no “person” or “group” will be deemed to be the beneficial owner of any securities tendered pursuant to a tender or exchange offer made by or on behalf of such “person” or “group” until such tendered securities are accepted for purchase or exchange under such offer;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company’s Wholly Owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Common Stock is exchanged for, converted into, acquired for, or constitutes solely the right to receive, other securities, cash or other property (other than changes resulting solely from a subdivision or combination, or a change in par value, of the Common Stock); *provided, however*, that any merger, consolidation, share exchange or combination of the Company pursuant to which the Persons that directly or indirectly “beneficially owned” (as defined below) all classes of the Company’s common equity immediately before such transaction directly or indirectly “beneficially own,” immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)**;

(C) the Company’s stockholders approve any plan or proposal for the liquidation or dissolution of the Company; or

(D) the Common Stock ceases to be listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Market or The Nasdaq Global Select Market (or any of their respective successors);

provided, however, that a transaction or event described in **clause (A)** or **(B)** above will not constitute a Fundamental Change if at least ninety percent (90%) of the consideration received or to be received by the holders of Common Stock (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of shares of Common Stock (exclusive of depository receipts representing shares of Common Stock) listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Market or The Nasdaq Global Select Market (or any of their respective successors), or that will be so listed when issued or exchanged in connection with such transaction or event, and such transaction or event constitutes a Common Stock

Change Event whose Reference Property consists of such consideration. For purposes of this definition, any transaction that constitutes a Fundamental Change pursuant to both **clause (A)** or **(B)** above (without regard to the proviso in **clause (B)** above) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso).

For the purposes of this definition, whether a Person is a “**beneficial owner**” and whether shares are “**beneficially owned**” will be determined in accordance with Rule 13d-3 under the Exchange Act, subject to the proviso to **clause (A)** above.

“**Fundamental Change Repurchase Date**” means the date fixed for the repurchase of any Notes by the Company pursuant to a Repurchase Upon Fundamental Change.

“**Fundamental Change Repurchase Notice**” means a notice (including a notice substantially in the form of the “Fundamental Change Repurchase Notice” set forth in **Exhibit A**) containing the information, or otherwise complying with the requirements, set forth in **Section 4.02(F)(i)** and **Section 4.02(F)(ii)**.

“**Fundamental Change Repurchase Price**” means the cash price payable by the Company to repurchase any Note upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 4.02(D)**.

“**Global Note**” means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Depository or its nominee, duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee, as custodian for the Depository.

“**Global Note Legend**” means a legend substantially in the form set forth in **Exhibit B-3**.

“**Holder**” means a person in whose name a Note is registered on the Registrar’s books for the Notes.

“**Indenture**” has the meaning specified in the recitals of this Supplemental Indenture.

“**Interest Payment Date**,” with respect to a Note, means, notwithstanding anything to the contrary in Section 1.01 of the Base Indenture, each May 1 and November 1 of each year, commencing on November 1, 2020 (or commencing on such other date specified in the certificate representing such Note). For the avoidance of doubt the Maturity Date is an Interest Payment Date.

“**Issue Date**” means May 12, 2020.

“**Last Reported Sale Price**” of the Common Stock for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per share) of Common Stock on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is then listed. If the Common Stock is not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per share of Common Stock on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock is not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per share of Common Stock on such Trading Day from each of at least three (3) nationally recognized independent investment banking firms selected by the Company, which may include the Underwriter. Neither the Trustee nor the Conversion Agent will have any duty to determine the Last Reported Sale Price. The Last Reported Sale Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session hours.

“**Make-Whole Fundamental Change**” means a Fundamental Change (determined after giving effect to the proviso immediately after **clause (D)** of the definition thereof, but without regard to the proviso to **clause (B)(ii)** of such definition).

“**Make-Whole Fundamental Change Conversion Period**” means the period from, and including, the Make-Whole Fundamental Change Effective Date of such Make-Whole Fundamental Change to, and including, the thirty fifth

(35th) Trading Day after such Make-Whole Fundamental Change Effective Date (or, if such Make-Whole Fundamental Change also constitutes a Fundamental Change (other than an Exempted Fundamental Change), to, and including, the Business Day immediately before the related Fundamental Change Repurchase Date).

“**Make-Whole Fundamental Change Effective Date**” means the date on which such Make-Whole Fundamental Change occurs or becomes effective.

“**Market Disruption Event**” means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common Stock is listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Stock or in any options, contracts or futures contracts relating to the Common Stock.

“**Maturity Date**” means May 1, 2025.

“**Note Agent**” means any Registrar, Paying Agent or Conversion Agent.

“**Notes**” means the 3.25% Convertible Senior Notes due 2025 issued by the Company pursuant to the Indenture.

“**Open of Business**” means 9:00 a.m., New York City time.

“**Outstanding**” means, with respect to the Notes, those Notes that, at the relevant time, are deemed to be outstanding pursuant to **Section 2.10**.

“**Paying Agent**” means an office or agency in the contiguous United States where Notes may be presented for payment, as established pursuant to Sections 4.02(i) and 4.03 of the Base Indenture.

“**Person**” or “**person**” means any individual, corporation, partnership, limited liability company (or series thereof), joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate “person.”

“**Physical Note**” means a Note (other than a Global Note) that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

“**Redemption**” means the repurchase of any Note by the Company pursuant to **Section 4.03**.

“**Redemption Date**” means the date fixed for the repurchase of any Notes by the Company pursuant to a Redemption.

“**Redemption Notice Date**” means, with respect to a Redemption, the date on which the Company sends the Redemption Notice for such Redemption pursuant to **Section 4.03(F)**.

“**Redemption Price**” means the cash price payable by the Company to redeem any Note upon its Redemption, calculated pursuant to **Section 4.03(E)**.

“**Register**” means the Security Register of the Notes.

“**Registrar**” means the Security Registrar for the Notes.

“**Regular Record Date**” has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on May 1, the immediately preceding April 15; and (B) if such Interest Payment Date occurs on November 1, the immediately preceding October 15.

“**Repurchase Upon Fundamental Change**” means the repurchase of any Note by the Company pursuant to **Section 4.02**.

“**Restricted Note Legend**” means a legend substantially in the form set forth in **Exhibit B-1**.

“**Restricted Stock Legend**” means a legend substantially in the form set forth in **Exhibit B-2**.

“**Rights Agreement**” means that certain Rights Agreement, dated January 22, 2018, between the Company and Computershare Trust Company, N.A., a federally chartered trust company, as Rights Agent, as such agreement may be amended, supplemented, extended or restated.

“**Scheduled Trading Day**” means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded. If the Common Stock is not so listed or traded, then “Scheduled Trading Day” means a Business Day.

“**SEC**” means the U.S. Securities and Exchange Commission.

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

“**Security**” means any Note or Conversion Share.

“**Shoe Option**” means the Underwriter’s option to purchase up to fifteen million dollars (\$15,000,000) aggregate principal amount of Notes as provided for in the Underwriting Agreement.

“**Significant Subsidiary**” means, with respect to any Person, any Subsidiary of such Person that constitutes, or any group of Subsidiaries of such Person that, in the aggregate, would constitute, a “significant subsidiary” (as defined in Rule 1-02(w) of Regulation S-X under the Exchange Act) of such Person.

“**Special Interest**” means any interest that accrues on any Note pursuant to **Section 7.03**.

“**Stock Price**” has the following meaning for any Make-Whole Fundamental Change: (A) if the holders of Common Stock receive only cash in consideration for their shares of Common Stock in such Make-Whole Fundamental Change and such Make-Whole Fundamental Change is pursuant to **clause (B)** of the definition of “Fundamental Change,” then the Stock Price is the amount of cash paid per share of Common Stock in such Make-Whole Fundamental Change; and (B) in all other cases, the Stock Price is the average of the Last Reported Sale Prices per share of Common Stock for the five (5) consecutive Trading Days ending on, and including, the Trading Day immediately before the Make-Whole Fundamental Change Effective Date of such Make-Whole Fundamental Change.

“**Subsidiary**” means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

“**Supplemental Indenture**” has the meaning specified in the recitals of this Supplemental Indenture.

“**Trading Day**” means any day on which (A) trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded; and (B) there is no Market Disruption Event. If the Common Stock is not so listed or traded, then “Trading Day” means a Business Day.

“**Transfer-Restricted Security**” means any Security that constitutes a “restricted security” (as defined in Rule 144); *provided, however*, that such Security will cease to be a Transfer-Restricted Security upon the earlier to occur of the following events:

(A) such Security is sold or otherwise transferred to a Person (other than the Company, an Affiliate of the Company or a Person that was an Affiliate of the Company in the three months immediately preceding) pursuant to a registration statement that was effective under the Securities Act at the time of such sale or transfer; and

(B) such Security is sold or otherwise transferred to a Person (other than the Company, an Affiliate of the Company or a Person that was an Affiliate of the Company in the three months immediately preceding) pursuant to an available exemption (including Rule 144) from the registration and prospectus-delivery requirements of, or in a transaction not subject to, the Securities Act and, immediately after such sale or transfer, such Security ceases to constitute a “restricted security” (as defined in Rule 144).

“**Underwriter**” has the meaning set forth in the Underwriting Agreement.

“**Underwriting Agreement**” means that certain Underwriting Agreement, dated as of May 7, 2020, between the Company and, as representative of the several underwriters named in Schedule I thereto, Stifel, Nicolaus & Company, Incorporated.

“**VWAP Market Disruption Event**” means, with respect to any date, (A) the failure by the principal U.S. national or regional securities exchange on which the Common Stock is then listed, or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, the principal other market on which the Common Stock is then traded, to open for trading during its regular trading session on such date; or (B) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

“**VWAP Trading Day**” means a day on which (A) there is no VWAP Market Disruption Event; and (B) trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded. If the Common Stock is not so listed or traded, then “VWAP Trading Day” means a Business Day.

“**Wholly Owned Subsidiary**” of a Person means any Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

Section 1.02. OTHER DEFINITIONS.

<u>Term</u>	<u>Defined in Section</u>
“ Acceleration ”	7.01(A)(vii)(2)
“ Additional Shares ”	5.07(A)
“ Business Combination Event ”	6.01(A)
“ Common Stock Change Event ”	5.09(A)(iii)
“ Conversion Consideration ”	5.03(B)(i)
“ Default Interest ”	2.04(B)

“Defaulted Amount”	2.04(B)
“Event of Default”	7.01(A)
“Expiration Date”	5.05(A)(v)
“Expiration Time”	5.05(A)(v)
“Fundamental Change Notice”	4.02(E)
“Fundamental Change Repurchase Right”	4.02(A)
“Initial Notes”	2.02(A)
“Interest Make-Whole Payment”	5.03(B)(iv)(1)
“Private Placement Notes”	Preamble
“Redemption Notice”	4.03(F)
“Reference Price”	5.05(A)(v)
“Reference Property”	5.09(A)(iii)
“Reference Property Unit”	5.09(A)(iii)
“Reporting Event of Default”	7.03(A)
“Section 382 Conversion Blocker”	5.01(C)(iii)(1)
“Specified Courts”	10.05
“Spin-Off”	5.05(A)(iii)(2)
“Spin-Off Valuation Period”	5.05(A)(iii)(2)
“Stated Interest”	2.04(A)
“Successor Corporation”	6.01(A)(i)
“Successor Person”	5.09(A)
“Tender/Exchange Offer Valuation Period”	5.05(A)(v)
“Underwritten Notes”	Preamble

Section 1.03. RULES OF CONSTRUCTION.

For purposes of the Indenture:

(A) “or” is not exclusive;

(B) “including” means “including without limitation”;

(C) “will” expresses a command;

(D) the “average” of a set of numerical values refers to the arithmetic average of such numerical values;

(E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

(F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;

(G) “herein,” “hereof” and other words of similar import refer to the Indenture as a whole and not to any particular Article, Section or other subdivision of the Indenture, unless the context requires otherwise;

(H) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;

(I) the exhibits, schedules and other attachments to this Supplemental Indenture are deemed to form part of the Indenture;

(J) the term “**interest**,” when used with respect to a Note, includes any Special Interest, unless the context requires otherwise; and

(K) to the extent any provision of this Supplemental Indenture limits, qualifies or conflicts with a provision of the Base Indenture, such provision of this Supplemental Indenture will control.

Section 1.04. SCOPE OF SUPPLEMENTAL INDENTURE.

This Supplemental Indenture supplements the provisions of the Base Indenture, to which provisions reference is hereby made. The changes, modifications and supplements to the Base Indenture effected by this Supplemental Indenture will be applicable only with respect to, and will only govern the terms of, the Notes, which may be issued from time to time, and will not apply to any other Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other securities specifically incorporates such changes, modifications and supplements. For all purposes under the Base Indenture, the Notes will constitute a single series of Notes, and with regard to any matter requiring the consent under the Base Indenture of Holders of multiple series of Notes voting together as a single class, the consent of Holders of the Notes voting as a separate class will also be required and the same threshold will apply. The provisions of this Supplemental Indenture will supersede any conflicting provisions in the Base Indenture.

Article 2 THE NOTES

Section 2.01. FORM, DATING AND DENOMINATIONS.

The Notes and the Trustee’s certificate of authentication will be substantially in the form set forth in **Exhibit A**. The Notes will bear the legends required by **Section 2.06** and may bear notations, legends or endorsements required by law, stock exchange rule or usage or the Depository. Each Note will be dated as of the date of its authentication.

Except to the extent otherwise provided in a Company Order delivered to the Trustee in connection with the issuance and authentication thereof, the Notes will be issued initially in the form of one or more Global Notes. Global Notes may be exchanged for Physical Notes, and Physical Notes may be exchanged for Global Notes, only as provided in Section 2.11 of the Base Indenture.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of the Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of the Indenture, agree to such terms and to be bound thereby; *provided, however*, that, to the extent that any provision of any Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control for purposes of the Indenture and such Note.

Section 2.02. INITIAL NOTES AND ADDITIONAL NOTES.

(A) *Initial Notes*. On the Issue Date, there will be originally issued one hundred eighty million three hundred seventy-five thousand dollars (\$180,375,000) aggregate principal amount of Notes, subject to the provisions of the Indenture (including Section 2.04 of the Base Indenture). If the Underwriter exercises the Shoe Option, then there will be originally issued up to an additional fifteen million dollars (\$15,000,000) principal amount of Notes pursuant to such exercise, subject to the provisions of the Indenture (including Section 2.04 of the Base Indenture). The Underwritten Notes, the Private Placement Notes and any Notes issued in exchange therefor or in substitution thereof, are referred to in the Indenture as the “**Initial Notes**.” The Underwritten Notes and the Private Placement Notes are not initially fungible for federal income tax or federal securities laws purposes, and will therefore be identified by separate CUSIP numbers. The Private Placement Notes will be issued as Transfer-Restricted

Securities and will not become freely transferable until the satisfaction of the conditions required to terminate such restriction pursuant to the definition of "Transfer-Restricted Security".

(B) *Additional Notes*. The Company may, subject to the provisions of the Indenture (including Section 2.04 of the Base Indenture), originally issue additional Notes with the same terms as the Initial Notes (except, to the extent applicable, with respect to the date as of which interest begins to accrue on such additional Notes, the first Interest Payment Date of such additional Notes and, if applicable, restrictions on transfer in respect of such additional Notes), which additional Notes will, subject to the foregoing, be considered to be part of the same series of, and rank equally and ratably with all other, Notes issued under the Indenture; *provided, however*, that if any such additional Notes are not fungible with other Notes issued under the Indenture for federal income tax or federal securities laws purposes, then such additional Notes will be identified by a separate CUSIP number or by no CUSIP number. In authenticating additional Notes, the Trustee will receive:

(i) a copy of the resolution or resolutions of the Board of Directors in or pursuant to which the terms and form of the Notes were established, and if the terms and form of such Notes are established by an Officer's Certificate pursuant to general authorization of the Board of Directors, such Officer's Certificate;

(ii) an executed supplemental indenture, if any; and

(iii) an Opinion of Counsel which will state:

(1) that the conditions precedent to the issuance, authentication and delivery of such Notes have been complied with;

(2) that the form and terms of such Notes have been established in conformity with the provisions of the Indenture; and

(3) that such Notes, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting the enforcement of creditors' rights and to general equity principles.

Section 2.03. METHOD OF PAYMENT.

(A) *Global Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, interest on, and any cash Conversion Consideration for, any Global Note to the Depositary by wire transfer of immediately available funds no later than the time the same is due as provided in the Indenture.

(B) *Physical Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, interest on, and any cash Conversion Consideration for, any Physical Note no later than the time the same is due as provided in the Indenture as follows: (i) if the principal amount of such Physical Note is at least five million dollars (\$5,000,000) (or such lower amount as the Company may choose in its sole and absolute discretion) and the Holder of such Physical Note entitled to such payment has delivered to the Paying Agent or the Trustee, no later than the time set forth in the immediately following sentence, a written request that the Company make such payment by wire transfer to an account of such Holder within the United States, by wire transfer of immediately available funds to such account; and (ii) in all other cases, by check mailed to the address of the Holder of such Physical Note entitled to such payment as set forth in the Register. To be timely, such written request must be so delivered no later than the Close of Business on the following date: (x) with respect to the payment of any interest due on an Interest Payment Date, the immediately preceding Regular Record Date; (y) with respect to any cash Conversion Consideration, the relevant Conversion Date; and (z) with respect to any other payment, the date that is fifteen (15) calendar days immediately before the date such payment is due.

Section 2.04. ACCRUAL OF INTEREST; DEFAULTED AMOUNTS; WHEN PAYMENT DATE IS NOT A BUSINESS DAY.

(A) *Accrual of Interest.* Each Note will accrue interest at a rate per annum equal to 3.25% (the “**Stated Interest**”), plus any Special Interest that may accrue pursuant to **Section 7.03**. Stated Interest on each Note will (i) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in the certificate representing such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest; and (ii) be, subject to **Sections 4.02(D)**, **4.03(E)** and **5.02(D)** (but without duplication of any payment of interest), payable semi-annually in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date. Stated Interest, and, if applicable, Special Interest, on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months and, for a partial month, on the basis of the number of days actually elapsed in a 30-day month.

(B) *Defaulted Amounts.* If the Company fails to pay any amount (a “**Defaulted Amount**”) payable on a Note on or before the due date therefor as provided in the Indenture, then, regardless of whether such failure constitutes an Event of Default, (i) such Defaulted Amount will forthwith cease to be payable to the Holder of such Note otherwise entitled to such payment; (ii) to the extent lawful, interest (“**Default Interest**”) will accrue on such Defaulted Amount at a rate per annum equal to the rate per annum at which Stated Interest accrues, from, and including, such due date to, but excluding, the date of payment of such Defaulted Amount and Default Interest; (iii) such Defaulted Amount and Default Interest will be paid on a payment date selected by the Company to the Holder of such Note as of the Close of Business on a special record date selected by the Company, *provided* that such special record date must be no more than fifteen (15), nor less than ten (10), calendar days before such payment date; and (iv) at least fifteen (15) calendar days before such special record date, the Company will send notice to the Trustee and the Holders that states such special record date, such payment date and the amount of such Defaulted Amount and Default Interest to be paid on such payment date.

(C) *Delay of Payment when Payment Date is Not a Business Day.* If the due date for a payment on a Note as provided in the Indenture is not a Business Day, then, notwithstanding anything to the contrary in the Indenture or the Notes, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a “Business Day.”

Section 2.05. REGISTRAR, PAYING AGENT, CONVERSION AGENT AND DEPOSITARY.

(A) *Conversion Agent.* For purposes of the Notes, the first sentence of Section 4.02 of the Base Indenture is amended to (x) delete the “and” immediately preceding clause (iii) thereof; and (y) adding the following text immediately before the comma following the phrase “given or served”: “, and (iv) Notes may be presented for conversion”.

(B) *Initial Appointments.* The Company appoints (i) the Trustee as the initial Paying Agent, the initial Registrar and the initial Conversion Agent for the Notes; and (ii) The Depository Trust Company (or its successor) as the initial Depository for the Notes.

Section 2.06. LEGENDS.

(A) *Global Note Legend.* Each Global Note will bear the Global Note Legend (or any similar legend, not inconsistent with the Indenture, required by the Depository for such Global Note).

(B) *Restricted Note Legend.* Subject to **Section 2.12**,

(i) each Note that is a Transfer-Restricted Security shall bear the Restricted Note Legend; and

(ii) if a Note is issued in exchange for, in substitution of, or to effect a partial conversion of, another Note (such other Note being referred to as the “old Note” for purposes of this **Section 2.06(B)(ii)**), such Note will bear the Restricted Note Legend if such old Note bore the Restricted Note Legend at the time of such exchange or substitution, or on the related Conversion Date with respect to such conversion, as applicable; *provided, however*, that such Note need not bear the Restricted Note Legend if such Note does not constitute a Transfer-Restricted Security immediately after such exchange or substitution, or as of such Conversion Date, as applicable.

(C) *Other Legends*. A Note may bear any other legend or text, not inconsistent with the Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted.

(D) *Acknowledgement and Agreement by the Holders*. A Holder’s acceptance of any Note bearing any legend required by this **Section 2.06** will constitute such Holder’s acknowledgement of, and agreement to comply with, the restrictions set forth in such legend.

(E) *Restricted Stock Legend*.

(i) Each Conversion Share will bear the Restricted Stock Legend if the Note upon the conversion of which such Conversion Share was issued was (or would have been had it not been converted) a Transfer-Restricted Security at the time such Conversion Share was issued; *provided, however*, that such Conversion Share need not bear the Restricted Stock Legend if the Company determines, in its reasonable discretion, that such Conversion Share need not bear the Restricted Stock Legend.

(ii) Notwithstanding anything to the contrary in this **Section 2.06(E)**, a Conversion Share need not bear a Restricted Stock Legend if such Conversion Share is issued in an uncertificated form that does not permit affixing legends thereto, *provided* the Company takes measures (including the assignment thereto of a “restricted” CUSIP number) that it reasonably deems appropriate to enforce the transfer restrictions referred to in the Restricted Stock Legend.

Section 2.07. CERTAIN TRANSFER RESTRICTIONS ON NOTES SUBJECT TO REDEMPTION, REPURCHASE OR CONVERSION.

Notwithstanding anything to the contrary in the Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) has been surrendered for conversion, except to the extent that any portion of such Note is not subject to conversion; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 4.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the applicable Redemption Price when due.

Section 2.08. EXCHANGE AND CANCELLATION OF NOTES TO BE CONVERTED, REDEEMED OR REPURCHASED.

(A) *Partial Conversions, Redemptions and Repurchases of Physical Notes*. If only a portion of a Physical Note of a Holder is to be converted pursuant to **Article 5**, repurchased pursuant to a Repurchase Upon Fundamental Change, or redeemed pursuant to a Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such conversion, repurchase or Redemption, the Company will cause such Physical Note to be exchanged, pursuant and subject to Section 2.05 of the Base Indenture, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted, repurchased or redeemed, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be so converted, repurchased or redeemed, which Physical Note will be converted, repurchased or redeemed, as applicable, pursuant to the terms of the Indenture; *provided, however*, that the Physical Note referred to in this clause (ii) need not be issued at any time

after which such principal amount subject to such conversion, repurchase or redemption is deemed to cease to be Outstanding pursuant to **Section 2.10**.

(B) Cancellation of Converted, Redeemed and Repurchased Notes.

(i) *Physical Notes.* If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.08(A)**) of a Holder is to be converted pursuant to **Article 5**, repurchased pursuant to a Repurchase Upon Fundamental Change or redeemed pursuant to a Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be Outstanding pursuant to **Section 2.10** and the time such Physical Note is surrendered for such conversion, repurchase or redemption, as applicable, (1) such Physical Note will be cancelled pursuant to Section 2.08 of the Base Indenture; and (2) in the case of a partial conversion, repurchase or redemption, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with Section 2.04 of the Base Indenture, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted, repurchased or redeemed; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.06**.

(ii) *Global Notes.* If a Global Note (or any portion thereof) is to be converted pursuant to **Article 5**, repurchased pursuant to a Repurchase Upon Fundamental Change or redeemed pursuant to a Redemption, then, promptly after the time such Note (or such portion) is deemed to cease to be Outstanding pursuant to **Section 2.10**, the Trustee will reflect a decrease of the principal amount of such Global Note in an amount equal to the principal amount of such Global Note to be so converted, repurchased or redeemed, as applicable, by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if the principal amount of such Global Note is zero following such notation, cancel such Global Note pursuant to Section 2.08 of the Base Indenture).

Section 2.09. NOTES HELD BY THE COMPANY OR ITS AFFILIATES.

Without limiting the generality of **Section 3.06**, in determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any of its Affiliates will be deemed not to be Outstanding; *provided, however*, that, for purposes of determining whether the Trustee is protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee actually knows are so owned will be so disregarded.

Section 2.10. OUTSTANDING NOTES.

(A) *Generally.* The Notes that are Outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with Section 2.08 of the Base Indenture; (ii) assigned a principal amount of zero by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of any a Global Note representing such Note; (iii) paid in full in accordance with the Indenture; or (iv) deemed to cease to be Outstanding to the extent provided in, and subject to, **clause (B), (C) or (D)** of this **Section 2.10**.

(B) *Replaced Notes.* If a Note is replaced pursuant to Section 2.07 of the Base Indenture, then such Note will cease to be Outstanding at the time of its replacement, unless the Trustee and the Company receive proof reasonably satisfactory to them that such Note is held by a "*bona fide* purchaser" under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase.* If, on a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price, Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a Default in the payment of any such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be Outstanding, except to the extent provided in **Sections 4.02(D), 4.03(E) or 5.02(D)**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will

terminate with respect to such Notes (or such portions thereof), other than the right to receive the Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest, if any, on, such Notes (or such portions thereof), in each case as provided in the Indenture.

(D) *Notes to Be Converted.* At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **Section 5.02(D)**, upon such conversion) be deemed to cease to be Outstanding, except to the extent provided in **Section 5.02(D)**.

(E) *Cessation of Accrual of Interest.* Except as provided in **Sections 4.02(D)**, **4.03(E)** or **5.02(D)**, interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this **Section 2.10**, to cease to be Outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

Section 2.11. REPURCHASES BY THE COMPANY.

Without limiting the generality of Section 2.08 of the Base Indenture, the Company or its Subsidiaries may, from time to time, directly or indirectly, repurchase Notes in open market purchases or otherwise, whether through private or public tender or exchange offers, cash-settled swaps or other cash-settled derivatives without delivering prior notice to Holders.

Section 2.12. REMOVAL OF TRANSFER RESTRICTIONS.

(A) *Requirement to Deliver Documentation and Other Evidence.* If a Holder of any Note that is identified by a “restricted” CUSIP number or that bears a Restricted Note Legend or is a Transfer-Restricted Security requests to:

- (i) cause such Note to be identified by an “unrestricted” CUSIP number;
- (ii) remove such Restricted Note Legend; or
- (iii) register the transfer of such Note to the name of another Person,

then the Company, the Trustee and the Registrar may refuse to effect such identification, removal or transfer, as applicable, unless there is delivered to the Company, the Trustee and the Registrar such certificates, opinions or other documentation or evidence as the Company, Trustee or Registrar may reasonably require to determine that such identification, removal or transfer, as applicable, complies with the Securities Act and other applicable securities laws; *provided, however*, that no such certificates, documentation or evidence need be so delivered (x) in connection with any transfer of such Note pursuant to Rule 144A; (y) in connection with any transfer of such Note to the Company or one of its Subsidiaries; or (z) in connection with any transfer of such Note pursuant to an effective registration statement under the Securities Act. All Notes presented or surrendered for registration of transfer or exchange will be duly endorsed, or accompanied by a written instrument or instruments of transfer in accordance with the Trustee’s customary procedures, and such Notes will be duly endorsed by the Holder thereof or such Holder’s attorney duly authorized in writing, in each case subject to the Depositary Procedures in the case of any Global Note. Except as otherwise provided in this Indenture, and in addition to the requirements set forth in the Restricted Note Legend, in connection with any transfer of a Transfer-Restricted Security, any request for transfer thereof will be accompanied by a certification to the Trustee relating to the manner of such transfer substantially in the form of the “Transferor Acknowledgement” set forth in **Exhibit A**.

(B) *Deemed Removal.* Without limiting the generality of any other provision of this Indenture, the Restricted Note Legend affixed to any Note will be deemed, pursuant to this **Section 2.12(B)** and the footnote to such Restricted Note Legend, to be removed therefrom upon the Company’s delivery to the Trustee of notice, signed on behalf of the Company by one (1) of its Officers, to such effect and an Officer’s Certificate. If such Note bears a “restricted” CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this **Section 2.12(B)** and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the “unrestricted” CUSIP and ISIN numbers identified in

such footnotes; *provided, however*, that if such Note is a Global Note and the Depositary thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by “unrestricted” CUSIP and ISIN numbers in the facilities of such Depositary, then the Company will effect such exchange or procedure as soon as reasonably practicable and deliver such certificates and opinions to the Trustee as may be required by the Trustee.

Section 2.13. NO LIABILITY OF TRUSTEE.

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary participants or beneficial owners of interests in any Global Notes), including without limitation determining whether Holders can hold Private Placement Notes or Underwritten Notes other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Neither the Trustee nor any Agent shall have any responsibility or liability for any actions taken or not taken by the Depositary. The Trustee shall have no responsibility or obligation to any Holder that is a member of (or a participant in) the Depositary or any other Person with respect to the accuracy of the records of the Depositary (or its nominee) or of any participant or member thereof, with respect to any ownership interest in the Securities or with respect to the delivery of any notice (including any notice of redemption) or the payment of any amount or delivery of any Securities (or other security or property) under or with respect to the Notes. The Trustee may rely (and shall be fully protected in relying) upon information furnished by the Depositary with respect to its members, participants and any beneficial owners in the Notes.

Article 3 COVENANTS

Subject to **Section 1.03(J)** and except as provided in this **Article 3**, the provisions of Articles 4 and 5 of the Base Indenture, as supplemented by the provisions of this Supplemental Indenture, will apply to the Notes.

Section 3.01. PAYMENT ON NOTES.

(A) *Generally*. The Company will pay or cause to be paid all the principal of, the Fundamental Change Repurchase Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in the Indenture.

(B) *Deposit of Funds*. Before 12:00 p.m., New York City time, on each Redemption Date, Fundamental Change Repurchase Date or Interest Payment Date, and on the Maturity Date or any other date on which any cash amount is due on the Notes, the Company will deposit, or will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose.

Section 3.02. EXCHANGE ACT REPORTS.

This **Section 3.02** will apply to the Notes in lieu of Section 5.03 of the Base Indenture, which will be deemed to be replaced with this **Section 3.02**, *mutatis mutandis*.

(A) *Generally*. The Company will send to the Trustee copies of all reports that the Company is required to file with or furnish to the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to file or furnish the same (after giving effect to all applicable grace periods under the Exchange Act); *provided, however*, that the Company need not send to the Trustee any material for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by

the SEC. Any report that the Company files with or furnishes to the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Holders at the time such report is so filed or furnished via the EDGAR system (or such successor). The Company will also comply with its other obligations under Section 314(a)(1) of the Trust Indenture Act.

(B) *Trustee's Disclaimer.* The Trustee need not determine whether the Company has filed or furnished any material via the EDGAR system (or such successor). The delivery of reports to the Trustee pursuant to **Section 3.02(A)** is for informational purposes only and the Trustee's receipt thereof shall not constitute actual or constructive notice to the Trustee of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants under the Indenture (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate). The Trustee will have no liability or responsibility for the filing, timeliness or content of any such report or information.

Section 3.03. COMPLIANCE AND DEFAULT CERTIFICATES.

Default Certificate. If a Default or Event of Default occurs, then, within thirty (30) days after an Officer obtains knowledge of the occurrence thereof, the Company will deliver an Officer's Certificate to the Trustee describing the same and what action the Company is taking or proposes to take with respect thereto, except that the Company will not be required to deliver such an Officer's Certificate if such Default or Event of Default has been cured. The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company during which any Securities of any series were outstanding, an Officer's Certificate stating whether or not the signers know of any Default or Event of Default (i) that occurred during such fiscal year and (ii) of which the Company did not previously make the Trustee aware pursuant to the immediately preceding sentence.

Section 3.04. STAY, EXTENSION AND USURY LAWS.

To the extent that it may lawfully do so, the Company (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of the Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee by the Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 3.05. CORPORATE EXISTENCE.

Subject to **Article 6**, the Company will cause to preserve and keep in full force and effect:

(A) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents of the Company and its Subsidiaries; and

(B) the material rights (charter and statutory), licenses and franchises of the Company and the Subsidiaries; *provided, however*, that the Company need not preserve or keep in full force and effect any such existence, right, license or franchise if the Board of Directors determines that (x) the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole; and (y) the loss thereof is not, individually or in the aggregate, materially adverse to the Holders.

Section 3.06. RESTRICTION ON ACQUISITION OF NOTES BY THE COMPANY.

The Company will promptly deliver to the Trustee for cancellation all Notes that the Company or any of its Subsidiaries have purchased or otherwise acquired.

Section 3.07. FURTHER INSTRUMENTS AND ACTS.

At the Trustee's request, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to more effectively carry out the purposes of the Indenture.

Article 4
REPURCHASE AND REDEMPTION

This **Article 4** will apply to the Notes in lieu of Article 3 of the Base Indenture, which will be deemed to be replaced with this **Article 4**, *mutatis mutandis*.

Section 4.01. NO SINKING FUND.

No sinking fund is required to be provided for the Notes.

Section 4.02. RIGHT OF HOLDERS TO REQUIRE THE COMPANY TO REPURCHASE NOTES UPON A FUNDAMENTAL CHANGE.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change.* Subject to the other terms of this **Section 4.02**, if a Fundamental Change occurs, then each Holder will have the right (the “**Fundamental Change Repurchase Right**”) to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Repurchase Prohibited in Certain Circumstances.* If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (except in the case of an acceleration resulting solely from a default by the Company in the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to **Section 4.02(D)**, on such Fundamental Change Repurchase Date), then (i) the Company may not repurchase any Notes pursuant to this **Section 4.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase upon Fundamental Change to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Notes in accordance with the Depositary Procedures).

(C) *Fundamental Change Repurchase Date.* The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company’s choosing that is no more than thirty five (35), nor less than twenty (20), Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 4.02(E)**.

(D) *Fundamental Change Repurchase Price.* The Fundamental Change Repurchase Price for any Note to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to the principal amount of such Note plus accrued and unpaid interest, if any, on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided, however*, that if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company’s election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date); and (ii) the Fundamental Change Repurchase Price will not include accrued and unpaid interest on such Note to, but excluding, such Fundamental Change Repurchase Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.04(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.04(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Fundamental Change Repurchase Price will include interest on Notes to be repurchased from, and including, such Interest Payment Date.

(E) *Fundamental Change Notice*. On or before the twentieth (20th) calendar day after the occurrence of a Fundamental Change, the Company will send to each Holder and the Trustee a notice of such Fundamental Change (a “**Fundamental Change Notice**”).

Such Fundamental Change Notice must state:

(i) briefly, the events causing such Fundamental Change;

(ii) the effective date of such Fundamental Change;

(iii) the procedures that a Holder must follow to require the Company to repurchase its Notes pursuant to this **Section 4.02**, including the deadline for exercising the Fundamental Change Repurchase Right and the procedures for submitting and withdrawing a Fundamental Change Repurchase Notice;

(iv) the Fundamental Change Repurchase Date for such Fundamental Change;

(v) the Fundamental Change Repurchase Price per \$1,000 principal amount of Notes for such Fundamental Change (and, if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.02(D)**);

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

(vii) the Conversion Rate in effect on the date of such Fundamental Change Notice and a description of any adjustments to the Conversion Rate that may result from such Fundamental Change (including pursuant to **Section 5.07**);

(viii) that Notes for which a Fundamental Change Repurchase Notice has been duly tendered and not duly withdrawn must be delivered to the Paying Agent for the Holder thereof to be entitled to receive the Fundamental Change Repurchase Price;

(ix) that Notes (or any portion thereof) that are subject to a Fundamental Change Repurchase Notice that has been duly tendered may be converted only if such Fundamental Change Repurchase Notice is withdrawn in accordance with the Indenture; and

(x) the CUSIP and ISIN numbers, if any, of the Notes.

Neither the failure to deliver a Fundamental Change Notice nor any defect in a Fundamental Change Notice will limit the Fundamental Change Repurchase Right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) *Procedures to Exercise the Fundamental Change Repurchase Right*.

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased*. To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer (if such Note is a Physical Note) or by book-entry transfer (if such Note is a Global Note).

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices.* Each Fundamental Change Repurchase Notice with respect to a Note must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be repurchased, which must be an Authorized Denomination; and

(3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note; *provided, however*, that if such Note is a Global Note, then such Fundamental Change Repurchase Notice must comply with the Depository Procedures (and any such Fundamental Change Repurchase Notice delivered in compliance with the Depository Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

(iii) *Withdrawal of Fundamental Change Repurchase Notice.* A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and

(3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination; *provided, however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depository Procedures (and any such withdrawal notice delivered in compliance with the Depository Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.08**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof (or, if applicable with respect to any Global Note, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Note in accordance with the Depository Procedures).

(G) *Payment of the Fundamental Change Repurchase Price.* Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time proscribed by **Section 3.01(B)**, the Company will cause the Fundamental Change Repurchase Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date (x) such Note is delivered to the Paying Agent (in the case of a Physical Note) or (y) the Depository Procedures relating to the repurchase, and the delivery to the Paying Agent, of such Holder's beneficial interest in such Note to be repurchased are complied with (in the case of a Global Note). For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered or such Depository Procedures are complied with pursuant to the first sentence of this **Section 4.02(G)**.

(H) *Third Party May Conduct Repurchase Offer In Lieu of the Company.* Notwithstanding anything to the contrary in this **Section 4.02**, the Company will be deemed to satisfy its obligations under this **Section 4.02** if (i) one or more third parties conduct any Repurchase Upon Fundamental Change and related offer to repurchase Notes otherwise required by this **Section 4.02** in a manner that would have satisfied the requirements of this **Section 4.02** if conducted directly by the Company and (ii) an owner of a beneficial interest in the Notes would not receive a lesser amount (as a result of taxes, additional expenses or for any other reason) than such owner would have received had the Company repurchased the notes.

(I) *No Requirement to Conduct an Offer to Repurchase Notes if the Fundamental Change Results in the Notes Becoming Convertible into an Amount of Cash Exceeding the Fundamental Change Repurchase Price.* Notwithstanding anything to the contrary in this **Section 4.02**, the Company will not be required to send a Fundamental Change Notice pursuant to **Section 4.02(E)**, or offer to repurchase or repurchase any Notes pursuant to this **Section 4.02**, in connection with a Fundamental Change occurring pursuant to clause (B)(ii) (or pursuant to clause (A) that also constitutes a Fundamental Change occurring pursuant to clause (B)(ii)) of the definition thereof, if (i) such Fundamental Change constitutes a Common Stock Change Event for which the Reference Property consists of cash in U.S. dollars; (ii) immediately after such Fundamental Change, the Notes become convertible, pursuant to **Section 5.09(A)** and, if applicable, **Section 5.07**, into consideration that includes such cash in an amount per \$1,000 aggregate principal amount of Notes that equals or exceeds the Fundamental Change Repurchase Price per \$1,000 aggregate principal amount of Notes (calculated assuming that the same includes accrued interest to, but excluding, the latest possible Fundamental Change Repurchase Date for such Fundamental Change); and (iii) the Company timely sends the notice relating to the Make-Whole Fundamental Change (associated with such Fundamental Change) required pursuant to **Section 5.07(C)**.

(J) *Compliance with Applicable Securities Laws.* The Company will comply in all material respects with all federal and state securities laws in connection with a Repurchase Upon Fundamental Change (including complying with the tender offer rules under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in the Indenture. However, to the extent that the provisions of any securities laws or regulations adopted after the date on which the Notes are first issued conflict with the provisions of the Indenture relating to the Company's obligations to effect a Repurchase Upon Fundamental Change, the Company will comply with such applicable securities laws and regulations and will not be deemed to have breached its obligations under such provisions of the Indenture by virtue of such conflict.

(K) *Repurchase in Part.* Subject to the terms of this **Section 4.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 4.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

Section 4.03. RIGHT OF THE COMPANY TO REDEEM THE NOTES.

(A) *No Right to Redeem Before May 6, 2023.* The Company may not redeem the Notes at its option at any time before May 6, 2023.

(B) *Right to Redeem the Notes on or After May 6, 2023.* Subject to the terms of this **Section 4.03**, the Company has the right, at its election, to redeem all, or any portion in an Authorized Denomination, of the Notes, at any time and from time to time, on a Redemption Date occurring on or after May 6, 2023 and on or before the Scheduled Trading Day immediately before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if the Last Reported Sale Price per share of Common Stock exceeds one hundred and thirty percent (130%) of the Conversion Price on (i) each of at least twenty (20) Trading Days, whether or not consecutive, during the thirty (30) consecutive Trading Days ending on, and including, the Trading Day immediately before the Redemption Notice Date for such Redemption; and (ii) the Trading Day immediately before such Redemption Notice Date.

(C) *Redemption Prohibited in Certain Circumstances.* If the principal amount of the Notes has been accelerated (other than as a result of a failure to make the payment of the related Redemption Price, and any related interest pursuant to the proviso to **Section 4.03(E)**, on such Redemption Date) and such acceleration has not been rescinded on or before the Redemption Date, then (i) the Company may not call for Redemption or otherwise redeem any

Notes pursuant to this **Section 4.03**; and (ii) the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depositary Procedures).

(D) *Redemption Date*. The Redemption Date for any Redemption will be a Business Day of the Company's choosing that is no more than sixty (60), nor less than thirty (30), calendar days after the Redemption Notice Date for such Redemption.

(E) *Redemption Price*. The Redemption Price for any Note called for Redemption is an amount in cash equal to the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Redemption; *provided, however*, that if such Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (ii) the Redemption Price will not include accrued and unpaid interest on such Note to, but excluding, such Redemption Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.04(C)** and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.04(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Redemption Price will include interest on Notes to be redeemed from, and including, such Interest Payment Date.

(F) *Redemption Notice*. To call any Notes for Redemption, the Company must send to each Holder (and to any beneficial owner of a Global Note, if required by applicable law), the Trustee and the Paying Agent a written notice of such Redemption (a "**Redemption Notice**").

Such Redemption Notice must state:

(i) that the Notes have been called for Redemption, briefly describing the Company's Redemption right under the Indenture;

(ii) the Redemption Date for such Redemption;

(iii) the Redemption Price per \$1,000 principal amount of Notes for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.03(E)**);

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

(v) that Notes called for Redemption may be converted at any time before the Close of Business on the Business Day immediately before the Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full);

(vi) the Conversion Rate in effect on the Redemption Notice Date for such Redemption;

(vii) that Notes called for Redemption must be delivered to the Paying Agent (in the case of Physical Notes) or the Depositary Procedures must be complied with (in the case of Global Notes) for the Holder thereof to be entitled to receive the Redemption Price; and

(viii) the CUSIP and ISIN numbers, if any, of the Notes.

On any Redemption Notice Date, the Company will also furnish an Officer's Certificate to the Trustee, which Officer's Certificate will set forth the aggregate principal amount of Notes then outstanding, include a copy of the Redemption Notice delivered by the Company on such Redemption Notice Date, certify that such Redemption is authorized and permitted by the Indenture and complies with the requirements set forth in Section 13.07 of the Base Indenture concerning Officer's Certificates.

(G) If less than all Notes then outstanding are called for Redemption, then:

(i) the Notes to be redeemed will be selected by the Trustee as follows: (1) in the case of Global Notes, in accordance with the Depository Procedures; and (2) in the case of Physical Notes, pro rata, by lot; and

(ii) if only a portion of a Note is subject to Redemption and such Note is converted in part, then the converted portion of such Note will be deemed to be from the portion of such Note that was subject to Redemption.

(H) *Payment of the Redemption Price.* Without limiting the Company's obligation to deposit the Redemption Price by the time proscribed by **Section 3.01(B)**, the Company will cause the Redemption Price for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the later of (i) the applicable Redemption Date; and (ii) the date (x) such Note is delivered to the Paying Agent (in the case of a Physical Note) or (y) the Depository Procedures relating to the Redemption, and the delivery to the Paying Agent, of such Holder's beneficial interest in such Note to be redeemed are complied with (in the case of a Global Note). For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.03(E)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso regardless of whether such Note is delivered or such Depository Procedures are complied with pursuant to the first sentence of this **Section 4.03(H)**.

(I) *[Reserved]*.

Article 5 CONVERSION

Section 5.01. RIGHT TO CONVERT.

(A) *Generally.* Subject to the provisions of this **Article 5**, each Holder may, at its option, convert such Holder's Notes into Conversion Consideration.

(B) *Conversions in Part.* Subject to the terms of the Indenture, Notes may be converted in part, but only in Authorized Denominations. Provisions of this **Article 5** applying to the conversion of a Note in whole will equally apply to conversions of a permitted portion of a Note.

(C) *When Notes May Be Converted.*

(i) *Generally.* Subject to **Section 5.01(C)(ii)**, a Holder may convert its Notes at any time until the Close of Business on the Scheduled Trading Day immediately before the Maturity Date.

(ii) *Limitations and Closed Periods.* Notwithstanding anything to the contrary in the Indenture or the Notes:

(1) Notes may be surrendered for conversion only after the Open of Business and before the Close of Business on a day that is a Business Day;

(2) in no event may any Note be surrendered for conversion after the Close of Business on the Scheduled Trading Day immediately before the Maturity Date;

(3) if the Company calls any Note for Redemption pursuant to **Section 4.03**, then the Holder of such Note may not surrender such Note for conversion after the Close of Business on the Business Day immediately

before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with the Indenture; and

(4) if a Fundamental Change Repurchase Notice is validly delivered pursuant to **Section 4.02(F)** with respect to any Note, then such Note may not be converted, except to the extent (a) such Note is not subject to such notice; or (b) such notice is withdrawn in accordance with **Section 4.02(F)**.

(iii) *Section 382 Limitation on Beneficial Ownership Upon Conversion:*

(1) For so long as the Rights Agreement is in effect, no beneficial owner of Notes shall be entitled to receive shares of Common Stock upon a conversion of its Notes, and any delivery of shares of Common Stock upon conversion of such Notes will be void and of no effect, (i) if such beneficial owner of such Notes is an Acquiring Person or (ii) to the extent (but only to the extent) that such receipt or delivery would cause such beneficial owner to become an Acquiring Person, unless, in either case, such beneficial owner has received prior approval of the Board of Directors (the “**Section 382 Conversion Blocker**”).

(2) If any delivery of shares of Common Stock owed to a beneficial owner upon conversion of Notes is not made, in whole or in part, as a result of the Section 382 Conversion Blocker, the Company’s obligation to make such delivery shall not be extinguished and the Company shall deliver such shares of Common Stock as promptly as practicable after (i) such beneficial owner is not an Acquiring Person and (ii) such delivery would not result in such beneficial owner being an Acquiring Person and such beneficial owner gives notice thereof to the Company.

(3) In providing the notice described above in clause (ii) of **Section 5.01(C)(iii)(2)**, and in exercising its right of conversion, such beneficial owner will be deemed to have represented to the Company that the restrictions described above in clauses (i) and (ii) of **Section 5.01(C)(iii)(2)** do not and will not apply to such beneficial owner as a result of such conversion. For the avoidance of doubt, the Section 382 Conversion Blocker shall apply to any exercise of a conversion right by a Holder of Notes, but in the case of Global Notes, only to the extent that such restrictions apply to the owners of beneficial interests in such Global Notes other than participants of the Depository Trust Company (or its successor) who hold beneficial interests in the Notes on behalf of other persons.

(4) The Board of Directors will have the discretion to approve transfers that would otherwise be restricted by the Section 382 Conversion Blocker.

(iv) Neither the Trustee nor the Conversion Agent has any duty to determine whether and to what extent the Section 382 Conversion Blocker is applicable.

Section 5.02. CONVERSION PROCEDURES.

(A) *Generally.*

(i) *Global Notes.* To convert a beneficial interest in a Global Note that is convertible pursuant to **Section 5.01(C)**, the owner of such beneficial interest must (1) comply with the Depository Procedures for converting such beneficial interest (at which time such conversion will become irrevocable); and (2) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(ii) *Physical Notes.* To convert all or a portion of a Physical Note that is convertible pursuant to **Section 5.01(C)**, the Holder of such Note must (1) complete, manually sign and deliver to the Conversion Agent the conversion notice attached to such Physical Note or a facsimile of such conversion notice; (2) deliver such Physical Note to the Conversion Agent (at which time such conversion will become irrevocable); (3) furnish any endorsements and transfer documents that the Company or the Conversion Agent may require; and (4) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(B) *Effect of Converting a Note.* At the Close of Business on the Conversion Date for a Note (or any portion thereof), such Note (or such portion thereof) will be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the Close of Business on such Conversion Date), except to the extent provided in **Section 5.02(D)**.

(C) *Holder of Record of Conversion Shares.* The Person in whose name any share of Common Stock is issuable upon conversion of any Note will be deemed to become the holder of record of such share as of the Close of Business on the Conversion Date for such conversion.

(D) *Interest Payable upon Conversion in Certain Circumstances.* If the Conversion Date of a Note is after a Regular Record Date and before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date); and (ii) the Holder surrendering such Note for conversion must deliver to the Conversion Agent, at the time of such surrender, an amount of cash equal to the amount of such interest referred to in clause (i) above; *provided, however*, that the Holder surrendering such Note for conversion need not deliver such cash (v) for Notes in respect of which an Interest Make-Whole Payment is payable upon conversion, (w) if the Company has specified a Redemption Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; (x) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (y) if the Company has specified a Fundamental Change Repurchase Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (z) to the extent of any overdue interest or interest that has accrued on any overdue interest. For the avoidance of doubt, as a result of, and without limiting the generality of, the foregoing, if a Note is converted with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, then the Company will pay, as provided above, the interest that would have accrued on such Note to, but excluding, the Maturity Date. For the avoidance of doubt, if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Regular Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this **Section 5.02(D)**.

(E) *Taxes and Duties.* If a Holder converts a Note, the Company will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue of any shares of Common Stock upon such conversion; *provided, however*, that if any tax or duty is due because such Holder requested such shares to be registered in a name other than such Holder's name, then such Holder will pay such tax or duty and, until having received a sum sufficient to pay such tax or duty, the Conversion Agent may refuse to deliver any such shares to be issued in a name other than that of such Holder.

(F) *Conversion Agent to Notify Company of Conversions.* If any Note is submitted for conversion to the Conversion Agent or the Conversion Agent receives any notice of conversion with respect to a Note, then the Conversion Agent will promptly notify the Company and the Trustee of such occurrence, together with any other information reasonably requested by the Company, and will cooperate with the Company to determine the Conversion Date for such Note.

Section 5.03. SETTLEMENT UPON CONVERSION.

(A) *Settlement Method.* Upon the conversion of any Note, the Company will settle such conversion, subject to **Section 5.01(c)(iii)**, by delivering, as applicable and as provided in this **Article 5**, shares of Common Stock, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(ii)**.

(B) *Conversion Consideration.*

(i) *Generally.* Subject to **Section 5.03(B)(ii)** and **Section 5.03(B)(iii)**, the type and amount of consideration (the "**Conversion Consideration**") due in respect of each \$1,000 principal amount of a Note to be

converted will be, subject to **Section 5.03(B)(ii)**, (x) a number of shares of Common Stock equal to the Conversion Rate in effect on the Conversion Date for such conversion, and (y), whether in cash or shares of Common Stock, the Interest Make-Whole Payment, if applicable, set forth in **Section 5.03(B)(iv)**.

(ii) *Cash in Lieu of Fractional Shares.* If the number of shares of Common Stock deliverable pursuant to **Section 5.03(B)(i)(x)** upon such conversion is not a whole number, then such number will be rounded down to the nearest whole number and the Company will deliver, in addition to the other consideration due upon such conversion, cash in lieu of the related fractional share in an amount equal to the product of (1) such fraction and (2) (x) the Last Reported Sale Price of the Common Stock on the Conversion Date, and if the number of shares of Common Stock deliverable pursuant to **Section 5.03(B)(i)(y)**, if any, upon such conversion is not a whole number, then such number will be rounded down to the nearest whole number and the Company will deliver, in addition to the other consideration due upon such conversion, cash in lieu of the related fractional share in an amount equal to the product of (1) such fraction and (2) the simple average of the Daily VWAP for the five VWAP Trading Days immediately preceding the Conversion Date.

(iii) *Conversion of Multiple Notes by a Single Holder.* If a Holder converts more than one (1) Note on a single Conversion Date, then the Conversion Consideration due in respect of such conversion will (in the case of any Global Note, to the extent permitted by, and practicable under, the Depository Procedures) be computed based on the total principal amount of Notes converted on such Conversion Date by such Holder.

(iv) *Interest Make-Whole Payment.*

(1) If the Last Reported Sale Price of the Common Stock for each of the five (5) Trading Days immediately preceding a Conversion Date is greater than or equal to \$10.51 (which price is subject to adjustment in a manner directly inverse to the manner in which, but otherwise at the same time and for the same events for which, the Conversion Rate is required to be adjusted pursuant to **Section 5.05**), the Company will, in addition to the other consideration payable or deliverable in connection with any conversion of Notes, make an interest make-whole payment (an “**Interest Make-Whole Payment**”) to the converting Holder equal to the sum of the present values of the scheduled payments of interest that would have been made on the Notes to be converted had such notes remained outstanding from the conversion date through the earlier of (i) the date that is three years after the Conversion Date and (ii) the Maturity Date if the Notes had not been so converted or otherwise repurchased.

(2) If a Conversion Date occurs after the Close of Business on a Regular Record Date for the payment of interest but prior to the Open of Business on the Interest Payment Date corresponding to such Regular Record Date, the Company will not pay accrued interest to any converting Holder and will instead pay the full amount of the relevant interest payment on such Interest Payment Date to the Holder of record on such Regular Record Date. In such case, the Interest Make-Whole Payment to such converting Holders will equal the present value of all remaining interest payments, starting with the next Interest Payment Date for which interest has not been provided for until the earlier of (i) the date that is three years after the Conversion Date and (ii) the Maturity Date if the Notes had not been so converted or otherwise repurchased.

(3) The present values will be computed using a discount rate equal to 1.0% by a U.S. nationally recognized independent investment banking firm, which may be Stifel, Nicolaus & Company, Incorporated, retained by the Company for this purpose.

(4) The Company will satisfy its obligation to pay any Interest Make-Whole Payment, at its election, in cash or shares of Common Stock (together with cash in lieu of any fractional share as set forth in **Section 5.03(B)(ii)**). The Company initially elects to settle any Interest Make-Whole Payment in shares of Common Stock (together with cash in lieu of any fractional share as set forth in **Section 5.03(B)(ii)**). In order to make an election to pay any Interest Make-Whole Payment in cash or in shares of Common Stock (together with cash in lieu of any fractional share as set forth in **Section 5.03(B)(ii)**), the Company will be permitted to make an election by delivering written notice of the Company’s election to the Holders, the Trustee, the Conversion Agent and the Paying Agent (if not the Trustee) no earlier than 30 Scheduled Trading Days prior to, but no later than fifteen (15) Scheduled Trading Days before, the first Scheduled Trading Day of each calendar quarter that begins on or after July 1, 2020, which election will be effective from the period that begins at the Open of Business on the first Scheduled Trading Day of such calendar quarter and ends immediately prior to the Open of Business on the first Scheduled Trading Day of the

immediately succeeding calendar quarter. If the Company does not make such election, the payment of any Interest Make-Whole Payment shall be in shares of Common Stock (together with cash in lieu of any fractional share as set forth in **Section 5.03(B)(ii)**).

(5) If the Company pays an Interest Make-Whole Payment in shares of Common Stock, then the number of shares of Common Stock (together with cash in lieu of any fractional share as set forth in **Section 5.03(B)(ii)**) a Holder will receive will be that number of shares that have a value equal to the amount of the Interest Make-Whole Payment to be paid to such Holder in shares of Common Stock, divided by the product of the simple average of the Daily VWAP for the five VWAP Trading Days immediately preceding the Conversion Date; *provided*, that in no event will the effective Conversion Price of the Notes, after giving effect to any Interest Make-Whole Payment (whether paid in cash or shares of the Common Stock (together with cash in lieu of any fractional share as set forth in **Section 5.03(B)(ii)**)), be less than \$10.51, which price is subject to adjustment in a manner directly inverse to the manner in which, but otherwise at the same time and for the same events for which, the Conversion Rate is required to be adjusted pursuant to **Section 5.05**.

(6) Notwithstanding the foregoing, if in connection with any conversion the Conversion Rate is adjusted in accordance with Section 5.07 hereof, then such Holder will not receive the Interest Make-Whole Payment with respect to such Note.

(C) *Delivery of the Conversion Consideration*. Except as set forth in **Sections 5.01(C)(ii)**, **5.05(A)**, **5.05(D)** and **5.09**, the Company will pay or deliver, as applicable, the Conversion Consideration (including any Interest Make-Whole Payment) due upon the conversion of any Note to the Holder on or before the second (2nd) Business Day immediately after such Conversion Date.

(D) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Conversion*. If a Holder converts a Note, then the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest (including any Interest Make-Whole Payment) on such Note, and, except as provided in **Section 5.02(D)**, the Company's delivery of the Conversion Consideration due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of, and accrued and unpaid interest (including any Interest Make-Whole Payment), if any, on, such Note. As a result, except as provided in **Section 5.02(D)**, any accrued and unpaid interest (including any Interest Make-Whole Payment) on a converted Note will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, subject to **Section 5.02(D)**, if the Conversion Consideration for a Note consists of both cash and shares of the Common Stock, then accrued and unpaid interest that is deemed to be paid therewith will be deemed to be paid first out of such cash.

Section 5.04. RESERVE AND STATUS OF COMMON STOCK ISSUED UPON CONVERSION.

(A) *Stock Reserve*. At all times when any Notes are outstanding, the Company will reserve, out of its authorized but unissued and unreserved shares of Common Stock, a number of shares of Common Stock sufficient to permit the conversion of all then-outstanding Notes, assuming the Conversion Rate is increased by the maximum amount pursuant to which the Conversion Rate may be increased pursuant to **Section 5.07**.

(B) *Status of Conversion Shares; Listing*. Each Conversion Share, if any, delivered upon conversion of any Note will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of such Note or the Person to whom such Conversion Share will be delivered). If the Common Stock is then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will cause each Conversion Share, when delivered upon conversion of any Note, to be admitted for listing on such exchange or quotation on such system.

Section 5.05. ADJUSTMENTS TO THE CONVERSION RATE.

(A) *Events Requiring an Adjustment to the Conversion Rate*. The Conversion Rate will be adjusted from time to time as follows:

(i) *Stock Dividends, Splits and Combinations*. If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of the Common Stock, or if the Company effects a stock split or a stock combination of the Common Stock (in each case excluding an issuance solely pursuant to a Common Stock Change Event, as to which **Section 5.09** will apply), then the Conversion Rate will be adjusted based on the following formula:

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

where:

- CR_0 = the Conversion Rate in effect immediately before the Close of Business on the record date for such dividend or distribution, or immediately before the Open of Business on the effective date of such stock split or stock combination, as applicable;
- CR_1 = the Conversion Rate in effect immediately after the Close of Business on such record date or the Open of Business on such effective date, as applicable;
- OS_0 = the number of shares of Common Stock outstanding immediately before the Close of Business on such record date or effective date, as applicable, without giving effect to such dividend, distribution, stock split or stock combination; and
- OS_1 = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

Each adjustment to the Conversion Rate made pursuant to the preceding sentence will become effective at the time set forth in the definition of CR_1 in this **Section 5.05(A)(i)**. If any dividend, distribution, stock split or stock combination of the type described in this **Section 5.05(A)(i)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Rate that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(ii) *Rights, Options and Warrants*. If the Company distributes, to all or substantially all holders of Common Stock, rights, options or warrants (other than rights issued pursuant to a stockholder rights plan, to which the provisions set forth in **Sections 5.05(A)(iii)(1)** and **5.05(F)** will apply) entitling such holders, for a period of not more than forty-five (45) calendar days after the record date of such distribution, to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

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

where:

- CR_0 = the Conversion Rate in effect immediately before the Close of Business on the record date for such distribution;
- CR_1 = the Conversion Rate in effect immediately after the Close of Business on such record date;
- OS = the number of shares of Common Stock outstanding immediately before the Close of Business on such record date;
- X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = a number of shares of Common Stock obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

Each adjustment to the Conversion Rate made pursuant to the preceding sentence will become effective at the time set forth in the definition of CR_1 in this **Section 5.05(A)(ii)**. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants. To the extent such rights, options or warrants are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the record date for the distribution of such rights, options or warrants not occurred.

For purposes of this **Section 5.05(A)(ii)**, in determining whether any rights, options or warrants entitle holders of Common Stock to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Company in good faith.

(iii) Spin-Offs and Other Distributed Property.

(1) *Distributions Other than Spin-Offs*. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Common Stock, excluding:

(v) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(i)** or **5.05(A)(ii)**;

(w) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iv)**;

(x) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in **Section 5.05(F)**;

(y) Spin-Offs for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iii)(2)**; and

(z) a distribution solely pursuant to a Common Stock Change Event, as to which **Section 5.09** will apply, then the Conversion Rate will be increased based on the following formula:

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

where:

CR_0 = the Conversion Rate in effect immediately before the Close of Business on the record date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such record date;

SP = the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such record date; and

FMV = the fair market value (as determined by the Company in good faith), as of such record date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per share of Common Stock pursuant to such distribution;

Each adjustment to the Conversion Rate made pursuant to the preceding sentence will become effective at the time set forth in the definition of *CR₁* in this **Section 5.05(A)(iii)(1)**. If *FMV* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each \$1,000 principal amount of Notes held by such Holder on the record date for such distribution, at the same time and on the same terms as holders of Common Stock, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the Conversion Rate in effect on such record date.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(2) *Spin-Offs*. If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Stock (other than solely pursuant to a Common Stock Change Event, as to which **Section 5.09** will apply), and such Capital Stock or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a “**Spin-Off**”), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

CR₀ = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such Spin-Off;

CR₁ = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the “**Spin-Off Valuation Period**”) beginning on, and including, such Ex-Dividend Date (such average to be determined as if references to Common Stock in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Stock or equity interests); and (y) the number of shares or units of such Capital Stock or equity interests distributed per share of Common Stock in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per share of Common Stock for each Trading Day in the Spin-Off Valuation Period.

The adjustment to the Conversion Rate pursuant to this **Section 5.05(A)(iii)(2)** will be calculated as of the Close of Business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the Open of Business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If a Note is converted and the Conversion Date occurs during the Spin-Off Valuation Period, then, notwithstanding anything to the contrary in the Indenture or the Notes, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Spin-Off Valuation Period.

To the extent any dividend or distribution of the type set forth in this **Section 5.05(A)(iii)(2)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(iv) *Cash Dividends or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of Common Stock, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

- CR_0 = the Conversion Rate in effect immediately before the Close of Business on the record date for such dividend or distribution;
- CR_1 = the Conversion Rate in effect immediately after the Close of Business on such record date for such dividend or distribution;
- SP = the Last Reported Sale Price per share of Common Stock on the Trading Day immediately before such record date for such dividend or distribution;
- D = the cash amount distributed per share of Common Stock in such dividend or distribution;

Each adjustment to the Conversion Rate made pursuant to the preceding sentence will become effective at the time set forth in the definition of CR_1 in this **Section 5.05(A)(iv)**. If D is equal to or greater than SP , then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each \$1,000 principal amount of Notes held by such Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Common Stock, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(v) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock that is subject to the then-applicable tender offer rules under the Exchange Act (other than an odd-lot tender offer that satisfies the requirements of Rule 13e-4(h)(5), or any successor rule), and the value (determined as of the Expiration Time by the Company) of the cash and other consideration paid per share of Common Stock in such tender or exchange offer exceeds the average (such average, the “**Reference Price**”) of the Last Reported Sale Prices per share of Common Stock over the 10 consecutive Trading Day period (the “**Tender/Exchange Offer Valuation Period**”) beginning on, and including, the Trading Day immediately after the last date (the “**Expiration Date**”) on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

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

where:

- CR_0 = the Conversion Rate in effect immediately before the time (the “**Expiration Time**”) such tender or exchange offer expires;
- CR_1 = the Conversion Rate in effect immediately after the Expiration Time;

- AC* = the aggregate value (determined as of the Expiration Time by the Company in good faith) of all cash and other consideration paid or payable for shares of Common Stock purchased or exchanged in such tender or exchange offer;
- OS₀* = the number of shares of Common Stock outstanding immediately before the Expiration Time (prior to giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);
- OS₁* = the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and
- SP* = the Reference Price per share of Common Stock;

provided, however, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 5.05(A)(v)**, except to the extent provided in the immediately following paragraph. The adjustment to the Conversion Rate pursuant to this **Section 5.05(A)(v)** will be calculated as of the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If a Note is converted and the Conversion Date occurs on the Expiration Date or during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in the Indenture or the Notes, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Common Stock in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(B) No Adjustments in Certain Cases.

(i) *Where Holders Participate in the Transaction or Event Without Conversion.* Notwithstanding anything to the contrary in **Section 5.05(A)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)** (other than a stock split or combination of the type set forth in **Section 5.05(A)(i)** or a tender or exchange offer of the type set forth in **Section 5.05(A)(v)**) if each Holder participates, at the same time and on the same terms as holders of Common Stock, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of shares of Common Stock equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such date.

(ii) *Certain Events.* The Company will not be required to adjust the Conversion Rate except as provided in **Section 5.05** or **Section 5.07**. Without limiting the foregoing, the Company will not be obligated to adjust the Conversion Rate on account of:

(1) except as otherwise provided in **Section 5.05**, the sale of shares of Common Stock for a purchase price that is less than the market price per share of Common Stock or less than the Conversion Price;

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

(3) the issuance of any shares of Common Stock or options or rights to purchase shares of Common Stock pursuant to any present or future employee, director or consultant benefit or incentive plan or program (including pursuant to any “evergreen” provision thereof) of, or assumed by, the Company or any of its Subsidiaries;

(4) the issuance of any shares of Common Stock pursuant to any option, warrant, right or convertible, exercisable or exchangeable security of the Company outstanding as of the Issue Date;

(5) a third-party tender offer, other than a tender offer that is subject to **Section 5.05(A)(v)**.

(6) the repurchase of any shares of Common Stock pursuant to an open market share purchase program or other buyback transaction, including structured or derivative transactions such as accelerated share repurchase transactions or similar forward derivatives, or other buyback transaction, in each case that is not subject to **Section 5.05(A)(v)**;

(7) a change in the par value (or lack of par value) of the Common Stock; or

(8) accrued and unpaid interest on the Notes.

(C) *Adjustment Deferral*. If an adjustment to the Conversion Rate otherwise required by this **Article 5** would result in a change of less than one percent (1%) to the Conversion Rate, then, notwithstanding anything to the contrary in this **Article 5**, the Company may, at its election, defer and carry forward such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest to occur of the following:

(i) when all such deferred adjustments would result in an aggregate change of at least one percent (1%) to the Conversion Rate; (ii) the Conversion Date of any Note; (iii) the date a Fundamental Change or Make-Whole Fundamental Change occurs; and (iv) the date the Company calls any Notes for Redemption.

(D) *Adjustments Not Yet Effective*. Notwithstanding anything to the contrary in the Indenture or the Notes, if:

(i) *[Reserved]*;

(ii) the record date or effective date for any event that requires an adjustment to the Conversion Rate pursuant to **Section 5.05(A)(i) to (iv)**, inclusive, has occurred on or before the Conversion Date for such conversion, but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date;

(iii) the Conversion Consideration due upon such conversion includes any whole shares of Common Stock; and

(iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise), then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date, and, for the avoidance of doubt, such shares will not be entitled to participate in such event. In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second (2nd) Business Day after such first date.

(E) *[Reserved]*.

(F) *Stockholder Rights Plans*. If any shares of Common Stock are to be issued upon conversion of any Note and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise payable under the Indenture upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the Common Stock at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 5.05(A)(iii)(1)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the

Common Stock, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(G) *Limitation on Effecting Transactions Resulting in Certain Adjustments.* The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted pursuant to **Section 5.05(A)** or **Section 5.07** to an amount that would result in the Conversion Price per share of Common Stock being less than the par value per share of Common Stock.

(H) *Equitable Adjustments to Last Reported Sale Prices.* Whenever any provision of the Indenture requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a span of multiple days (including to calculate the Stock Price or an adjustment to the Conversion Rate), the Company will make proportionate adjustments, if any, to such calculations to account for any adjustment to the Conversion Rate pursuant to **Section 5.05(A)(i)** that becomes effective, or any event requiring such an adjustment to the Conversion Rate where the Ex-Dividend Date, record date or effective date, as applicable, of such event occurs, at any time during the period over which such average is to be calculated.

(I) *Calculation of Number of Outstanding Shares of Common Stock.* For purposes of **Section 5.05(A)**, the number of shares of Common Stock outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock; and (ii) exclude shares of Common Stock held in the Company's treasury (unless the Company pays any dividend or makes any distribution on shares of Common Stock held in its treasury).

(J) *Calculations.* All calculations with respect to the Conversion Rate and adjustments thereto will be made to the nearest 1/10,000th of a share of Common Stock (with 5/100,000ths rounded upward).

(K) *Notice of Conversion Rate Adjustments.* Upon the effectiveness of any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, the Company will promptly send notice to the Holders, the Trustee and the Conversion Agent containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

Section 5.06. VOLUNTARY ADJUSTMENTS.

(A) *Generally.* To the extent permitted by law and applicable stock exchange rules, the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if (i) the Board of Directors determines that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Common Stock or rights to purchase Common Stock as a result of any dividend or distribution of shares (or rights to acquire shares) of Common Stock or any similar event; (ii) such increase is in effect for a period of at least twenty (20) Business Days; and (iii) such increase is irrevocable during such period.

(B) *Notice of Voluntary Increases.* If the Board of Directors determines to increase the Conversion Rate pursuant to this **Section 5.06**, then, on or before the effective date of such increase, the Company will send notice to the Trustee, the Conversion Agent and each Holder of such increase, the amount thereof and the period during which such increase will be in effect.

Section 5.07. ADJUSTMENTS TO THE CONVERSION RATE IN CONNECTION WITH A MAKE-WHOLE FUNDAMENTAL CHANGE.

(A) *Generally.* If a Make-Whole Fundamental Change occurs and the Conversion Date for the conversion of a Note occurs during the related Make-Whole Fundamental Change Conversion Period, then, subject to this **Section 5.07**, the Conversion Rate applicable to such conversion will be increased by a number of shares (the "**Additional Shares**") set forth in the table below corresponding (after interpolation as provided in, and subject to, the provisions below) to the Make-Whole Fundamental Change Effective Date and the Stock Price of such Make-Whole Fundamental Change:

**Make-Whole
Fundamental
Change
Effective Date**

	Stock Price										
	<u>\$10.51</u>	<u>\$11.50</u>	<u>\$12.61</u>	<u>\$14.00</u>	<u>\$16.40</u>	<u>\$19.00</u>	<u>\$22.00</u>	<u>\$25.00</u>	<u>\$30.00</u>	<u>\$40.00</u>	<u>\$50.00</u>
May 12, 2020	15.8578	12.6313	10.0159	7.7350	5.3000	3.7553	2.6309	1.8636	1.0127	0.1710	0.0000
May 1, 2021	15.8578	11.8435	9.0896	6.7893	4.4896	3.1358	2.1918	1.5564	0.8467	0.1338	0.0000
May 1, 2022	15.8578	10.9078	7.9635	5.6429	3.5366	2.4279	1.6991	1.2120	0.6607	0.0950	0.0000
May 1, 2023	15.8578	9.8365	6.5845	4.2421	2.4354	1.6453	1.1618	0.8360	0.4570	0.0600	0.0000
May 1, 2024	15.8578	8.5678	4.7034	2.4143	1.1951	0.8111	0.5836	0.4248	0.2350	0.0245	0.0000
May 1, 2025	15.8578	7.6670	0.0127	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

If such Make-Whole Fundamental Change Effective Date or Stock Price is not set forth in the table above, then:

(i) if such Stock Price is between two Stock Prices in the table above or the Make-Whole Fundamental Change Effective Date is between two Make-Whole Fundamental Change Effective Dates in the table above, then the number of Additional Shares will be determined by a straight-line interpolation between the numbers of Additional Shares set forth for the higher and lower Stock Prices in the table above and/or the earlier and later Make-Whole Fundamental Change Effective Date in the table above, based on a 365- or 366-day year, as applicable; and

(ii) if the Stock Price is greater than \$50.00 (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above are adjusted pursuant to **Section 5.07(B)**), or less than \$10.51 (subject to adjustment in the same manner), per share, then no Additional Shares will be added to the Conversion Rate.

Notwithstanding anything to the contrary in the Indenture or the Notes, in no event will the Conversion Rate be increased to an amount that exceeds 95.1474 shares of Common Stock per \$1,000 principal amount of Notes, which amount is subject to adjustment in the same manner as, and at the same time and for the same events for which, the Conversion Rate is required to be adjusted pursuant to **Section 5.05(A)**.

(B) *Adjustment of Stock Prices and Additional Shares.* The Stock Prices in the first row (*i.e.*, the column headers) of the table set forth in **Section 5.07(A)** will be adjusted at the same time and for the same events for which, the Conversion Rate is adjusted as a result of the operation of **Section 5.05(A)**. The adjusted Stock Prices will equal the Stock Prices immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The numbers of Additional Shares in the table set forth in **Section 5.07(A)** will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Rate is adjusted pursuant to **Section 5.07(A)**.

(C) *Notice of the Occurrence of a Make-Whole Fundamental Change.* The Company will notify the Holders, the Trustee and the Conversion Agent of each Make-Whole Fundamental Change no later than the third (3rd) Business Day after the effective date of such Make-Whole Fundamental Change.

(D) *Settlement of Cash Make-Whole Fundamental Changes.* For the avoidance of doubt, if holders of Common Stock receive solely cash in a Make-Whole Fundamental Change, then, pursuant to **Section 5.09**, conversions of Notes will thereafter be settled no later than the second (2nd) Business Day after the relevant Conversion Date.

Section 5.08. RESERVED.

Section 5.09. EFFECT OF COMMON STOCK CHANGE EVENT.

(A) *Generally.* If there occurs any:

(i) recapitalization, reclassification or change of the Common Stock (other than (x) changes solely resulting from a subdivision or combination of the Common Stock, (y) a change only in par value or from par value to no par value or no par value to par value or (z) stock splits and stock combinations that do not involve the issuance of any other series or class of securities);

(ii) consolidation, merger, combination or binding share exchange involving the Company; or

(iii) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, and, as a result of which, the Common Stock is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a “**Common Stock Change Event**,” and such other securities, cash or property, the “**Reference Property**,” and the amount and kind of Reference Property that a holder of one (1) share of Common Stock would be entitled to receive on account of such Common Stock Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a “**Reference Property Unit**”), then, notwithstanding anything to the contrary in the Indenture or the Notes,

(1) from and after the effective time of such Common Stock Change Event, (I) the Conversion Consideration due upon conversion of any Note and the conditions to any such conversion, will be determined in the same manner as if each reference to any number of shares of Common Stock in this **Article 5** (or in any related definitions) were instead a reference to the same number of Reference Property Units; (II) for purposes of **Section 4.03**, each reference to any number of shares of Common Stock in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (III) for purposes of the definition of “Fundamental Change” and “Make-Whole Fundamental Change,” (x) the terms “Common Stock” and “common equity” will be deemed to mean the common equity, if any, forming part of such Reference Property; and (y) references to the Company will be deemed to be references to the entity that is the issuer of such common equity; and (IV) the Company will settle Interest Make-Whole Payments, if applicable, solely in cash (regardless of whether the Company elected to settle Interest Make-Whole Payments in cash in accordance with **Section 5.03(B)(iv)(4)**);

(2) if such Reference Property Unit consists entirely of cash, then the Company will pay the cash due in respect of all conversions whose Conversion Date occurs on or after the effective date of such Common Stock Change Event in an amount per \$1,000 principal amount of Notes converted equal to the Conversion Rate on the Conversion Date (as may be increased by any Additional Shares pursuant to Section 5.07), multiplied by the price paid per share of the Common Stock in such Common Stock Change Event, together with an Interest Make-Whole Payment, if applicable, which shall be payable solely in cash (regardless of whether the Company elected to settle Interest Make-Whole Payments in cash in accordance with **Section 5.03(B)(iv)(4)**), no later than the second (2nd) Business Day after such Conversion Date; and

(3) for these purposes, the (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of “Daily VWAP,” substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of stockholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per share of Common Stock, by the holders of Common Stock. The Company will notify Holders, the Trustee and the Conversion Agent of such weighted average as soon as practicable after such determination is made.

At or before the effective time of such Common Stock Change Event, the Company and the resulting, surviving or transferee Person (if not the Company) of such Common Stock Change Event (the “**Successor Person**”) will execute and deliver to the Trustee a supplemental indenture pursuant to **Section 8.01(F)**, which supplemental indenture will give effect to the provisions of this **Section 5.09(A)** and contain such other provisions as the

Company reasonably determines are appropriate to preserve the economic interests of the Holders. If such Reference Property includes, in whole or in part, any stock or other securities, then such supplemental indenture will, to the extent applicable, provide for subsequent adjustments to the Conversion Rate in a manner consistent with **Section 5.05**. In addition, if the Reference Property includes, in whole or in part, shares of stock or other securities or assets (other than cash or cash equivalents) of a Person other than the Successor Person, then such other Person will also execute such supplemental indenture and such supplemental indenture will contain such additional provisions the Company reasonably determines are appropriate to preserve the economic interests of the Holders.

(B) *Notice of Common Stock Change Events*. No later than the third (3rd) Business Day after the effective date of each Common Stock Change Event, the Company will notify the Holders, the Trustee and the Conversion Agent of such Common Stock Change Event, including a brief description of such Common Stock Change Event, its effective date and a brief description of the anticipated change in the conversion right of the Notes.

(C) *Compliance Covenant*. The Company will not become a party to any Common Stock Change Event unless its terms are consistent with this **Section 5.09**.

Article 6 SUCCESSORS

This **Article 6** will apply to the Notes in lieu of Article 10 of the Base Indenture, which will be deemed to be replaced with this **Article 6**, *mutatis mutandis*.

Section 6.01. WHEN THE COMPANY MAY MERGE, ETC.

(A) *Generally*. The Company will not consolidate with or merge with or into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise transfer, in one transaction or a series of transactions, all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to another Person (other than any such sale, lease or transfer to one or more of the Company's Wholly Owned Subsidiaries not effected by means of a consolidation or merger) (a "**Business Combination Event**"), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is a corporation (the "**Successor Corporation**") duly organized and existing under the laws of the United States of America, any State thereof or the District of Columbia that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Business Combination Event, a supplemental indenture pursuant to **Section 8.01(E)**) all of the Company's obligations under the Indenture and the Notes; and

(ii) immediately after giving effect to such Business Combination Event, no Default or Event of Default will have occurred and be continuing.

Section 6.02. SUCCESSOR CORPORATION SUBSTITUTED.

At the effective time of any Business Combination Event that complies with **Section 6.01**, the Successor Corporation (if not the Company) will succeed to, and may exercise every right and power of, the Company under the Indenture and the Notes with the same effect as if such Successor Corporation had been named as the Company in the Indenture and the Notes, and, except in the case of a lease, the predecessor Company will be discharged from its obligations under the Indenture and the Notes.

Article 7 DEFAULTS AND REMEDIES

This **Article 7** will apply to the Notes in lieu of Article 6 of the Base Indenture, which will be deemed to be replaced with this **Article 7**, *mutatis mutandis*.

Section 7.01. EVENTS OF DEFAULT.

(A) *Definition of Events of Default.* “**Event of Default**” means the occurrence of any of the following:

- (i) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any Note;
- (ii) a default for thirty (30) days in the payment when due of interest on any Note;
- (iii) the Company’s failure to deliver, when required by the Indenture, a Fundamental Change Notice or notice pursuant to Section 5.07(C);
- (iv) a default in the Company’s obligation to convert a Note in accordance with **Article 5**, including the payment or delivery of any applicable Interest Make-Whole Payment, upon the exercise of the conversion right with respect thereto and such failure continues for three (3) Business Days;
- (v) a default in the Company’s obligations under **Article 6**;
- (vi) a default in any of the Company’s obligations or agreements under the Indenture or the Notes (other than a default set forth in **clause (i), (ii), (iii), (iv) or (v)** of this **Section 7.01(A)**) where such default is not cured or waived within sixty (60) days after notice to the Company by the Trustee, or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then Outstanding, which notice must specify such default, demand that it be remedied and state that the such notice is a “Notice of Default”;
- (vii) a default by the Company or any of its Significant Subsidiaries with respect to any one or more mortgages, agreements or other instruments under which there is outstanding, or by which there is secured or evidenced, any indebtedness for money borrowed of at least twenty million dollars (\$20,000,000) (or its foreign currency equivalent) in the aggregate of the Company or any of its Significant Subsidiaries, whether such indebtedness exists as of the Issue Date or is thereafter created, where such default:
 - (1) constitutes a failure to pay the principal of, premium or interest on, any of such indebtedness when due and payable (after the expiration of all applicable grace periods) at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise; or
 - (2) results in such indebtedness becoming or being declared due and payable before its stated maturity (an “**Acceleration**”), and, in either case, such Acceleration has not been rescinded or annulled or such failure to pay or default is not cured or waived, or such indebtedness is not paid or discharged in full, within sixty (60) days after written notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding;
- (viii) one or more final judgments being rendered against the Company or any of its Significant Subsidiaries for the payment of at least twenty million dollars (\$20,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance), where such judgment is not discharged or stayed within sixty (60) days after (i) the date on which the right to appeal the same has expired, if no such appeal has commenced; or (ii) the date on which all rights to appeal have been extinguished; and
- (ix) the Company or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:
 - (1) commences a voluntary case or proceeding;
 - (2) consents to the entry of an order for relief against it in an involuntary case or proceeding;
 - (3) consents to the appointment of a custodian of it or for any substantial part of its property;

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

(5) takes any comparable action under any foreign Bankruptcy Law; or

(6) generally is not paying its debts as they become due; or

(x) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:

(1) is for relief against Company or any of its Significant Subsidiaries in an involuntary case or proceeding;

(2) appoints a custodian of the Company or any of its Significant Subsidiaries, or for any substantial part of the property of the Company or any of its Significant Subsidiaries;

(3) orders the winding up or liquidation of the Company or any of its Significant Subsidiaries; or

(4) grants any similar relief under any foreign Bankruptcy Law, and, in each case under this **Section 7.01(A)(x)**, such order or decree remains unstayed and in effect for at least sixty (60) days.

(B) *Cause Irrelevant*. Each of the events set forth in **Section 7.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

Section 7.02. ACCELERATION.

(A) *Automatic Acceleration in Certain Circumstances*. If an Event of Default set forth in **Section 7.01(A)(ix)** or **7.01(A)(x)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration*. Subject to **Section 7.03**, if an Event of Default (other than an Event of Default set forth in **Section 7.01(A)(ix)** or **7.01(A)(x)** with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Trustee, by notice to the Company, or Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, by notice to the Company and the Trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding to become due and payable immediately.

(C) *Rescission of Acceleration*. Notwithstanding anything to the contrary in the Indenture or the Notes, the Holders of a majority in aggregate principal amount of the Notes then outstanding, by notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived. No such rescission will affect any subsequent Default or impair any right consequent thereto.

Section 7.03. SOLE REMEDY FOR A FAILURE TO REPORT.

(A) *Generally*. Notwithstanding anything to the contrary in the Indenture or the Notes, the Company may elect that the sole remedy for any Event of Default (a "**Reporting Event of Default**") pursuant to **Section 7.01(A)(vi)** arising from the Company's failure to comply with **Section 3.02** (including the Company's obligations under Section 314(a)(1) of the Trust Indenture Act) will, for each of the first three hundred and sixty (360) calendar days on which a Reporting Event of Default has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then (i) the Notes will be subject to acceleration pursuant to **Section 7.02** on account of the relevant Reporting Event of Default from, and including, the three

hundred and sixty first (361st) calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due; and (ii) Special Interest will cease to accrue on any Notes from, and including, the earlier of (x) the date such Event of Default is cured or waived and (y) such three hundred and sixty first (361st) calendar day (it being understood that interest on any defaulted Special Interest will nonetheless accrue pursuant to **Section 2.04(B)**).

(B) *Amount and Payment of Special Interest.* Any Special Interest that accrues on a Note pursuant to **Section 7.03(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to one quarter of one percent (0.25%) of the principal amount thereof for the first one hundred and eighty (180) days on which Special Interest accrues and, thereafter, at a rate per annum equal to one half of one percent (0.50%) of the principal amount thereof from the one hundred eighty first (181st) day to, and including, the three hundred sixtieth (360th) day on which Special Interest accrues; *provided, however*, that in no event will Special Interest accrue on any day on a Note at a rate per annum that exceeds one half of one percent (0.50%), regardless of the number of events or circumstances giving rise to the accrual of Special Interest. For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note.

(C) *Notice of Election.* To make the election set forth in **Section 7.03(A)**, the Company must send to the Holders, the Trustee and the Paying Agent, before the date on which each Reporting Event of Default first occurs, a notice that (i) briefly describes the report(s) that the Company failed to file with or furnish to the SEC; (ii) states that the Company is electing that the sole remedy for such Reporting Event of Default consist of the accrual of Special Interest; and (iii) briefly describes the periods during which and rate at which Special Interest will accrue and the circumstances under which the Notes will be subject to acceleration on account of such Reporting Event of Default.

(D) *No Effect on Other Events of Default.* No election pursuant to this **Section 7.03** with respect to a Reporting Event of Default will affect the rights of any Holder with respect to any other Event of Default, including with respect to any other Reporting Event of Default.

Section 7.04. OTHER REMEDIES.

(A) *Trustee May Pursue All Remedies.* If an Event of Default occurs and is continuing, then the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of the Indenture or the Notes.

(B) *Procedural Matters.* The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

Section 7.05. WAIVER OF PAST DEFAULTS.

An Event of Default pursuant to **clause (i), (ii), (iv) or (vi) of Section 7.01(A)** (that, in the case of **clause (vi)** only, results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Holders of a majority in aggregate principal amount of the Notes then Outstanding. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured and any Event of Default arising therefrom will be deemed not to occur. However, no such waiver will extend to any subsequent or other Default or Event of Default or impair any right arising therefrom.

Section 7.06. CONTROL BY MAJORITY.

Holders of a majority in aggregate principal amount of the Notes then Outstanding may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law, the Indenture

or the Notes, or that, subject to Section 7.01 of the Base Indenture, the Trustee determines may be unduly prejudicial to the rights of other Holders or may involve the Trustee in liability (it being understood that the Trustee does not have an affirmative obligation to determine whether any direction is prejudicial to any Holder).

Section 7.07. LIMITATION ON SUITS.

No Holder may pursue any remedy with respect to the Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or interest on, any Notes; or (y) the Company's obligations to convert any Notes pursuant to **Article 5**), unless:

(A) such Holder has previously delivered to the Trustee written notice that an Event of Default is continuing;

(B) Holders of at least twenty five percent (25%) in aggregate principal amount of the Notes then outstanding deliver a written request to the Trustee to pursue such remedy;

(C) such Holder or Holders offer and, if requested, provide to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability, claim or expense to the Trustee that may result from the Trustee's following such request;

(D) the Trustee does not comply with such request within sixty (60) calendar days after its receipt of such request and such offer of security or indemnity; and

(E) during such sixty (60) calendar day period, Holders of a majority in aggregate principal amount of the Notes then outstanding do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use the Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of the Indenture complies with the preceding sentence.

Section 7.08. ABSOLUTE RIGHT OF HOLDERS TO INSTITUTE SUIT FOR THE ENFORCEMENT OF THE RIGHT TO RECEIVE PAYMENT AND CONVERSION CONSIDERATION.

Notwithstanding anything to the contrary in the Indenture or the Notes, the right of each Holder of a Note to receive payment or delivery, as applicable, of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the Conversion Consideration due pursuant to **Article 5** upon conversion of, such Note on or after the respective due dates therefor, or to bring suits for the enforcement of any such payment or delivery on or after such respective due dates, provided in the Indenture and the Notes, will not be impaired or affected without the consent of such Holder.

Section 7.09. COLLECTION SUIT BY TRUSTEE.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i), (ii) or (iv) of Section 7.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for the total unpaid or undelivered principal of, or Redemption Price or Fundamental Change Repurchase Price for, or interest on, or Conversion Consideration due pursuant to **Article 5** upon conversion of, the Notes, as applicable, and, to the extent lawful, any Default Interest on any Defaulted Amounts, and such further amounts sufficient to cover the costs and expenses of collection, including all amounts owed to it under Section 7.06 of the Base Indenture.

Section 7.10. TRUSTEE MAY FILE PROOFS OF CLAIM.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in

such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to Section 7.06 of the Base Indenture. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in the Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 7.11. PRIORITIES.

The Trustee will pay or deliver in the following order any money or other property that it collects pursuant to this **Article 7**:

First: to the Trustee and any Note Agent and their respective agents and attorneys for amounts due hereunder, including payment of all fees, compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or any Conversion Consideration due upon conversion of, the Notes, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Third: to the Company or such other Person as a court of competent jurisdiction directs.

The Trustee may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 7.11**, in which case the Trustee will instruct the Company to, and the Company will, deliver, at least fifteen (15) calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

Section 7.12. UNDERTAKING FOR COSTS.

In any suit for the enforcement of any right or remedy under the Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any litigant party in such suit of an undertaking to pay the costs of such suit, and (B) assess reasonable costs (including reasonable attorneys' fees) against any litigant party in such suit, having due regard to the merits and good faith of the claims or defenses made by such litigant party; *provided, however*, that this **Section 7.12** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 7.08** or any suit by one or more Holders of more than ten percent (10%) in aggregate principal amount of the Notes then outstanding.

Article 8 AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 8.01 and **Section 8.02** will apply to the Notes in lieu of Section 9.01 and Section 9.02, respectively, of the Base Indenture, which will be deemed to be replaced with **Section 8.01** and **Section 8.02**, respectively, *mutatis mutandis*.

Section 8.01. WITHOUT THE CONSENT OF HOLDERS.

Notwithstanding anything to the contrary in **Section 8.02**, the Company and the Trustee may amend or supplement the Indenture or the Notes without the consent of any Holder to:

- (A) cure any ambiguity or correct any omission, defect or inconsistency in the Indenture or the Notes;
- (B) add guarantees with respect to the Company's obligations under the Indenture or the Notes;
- (C) secure the Notes;
- (D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;
- (E) provide for the assumption of the Company's obligations under the Indenture and the Notes pursuant to, and in compliance with, **Article 6**;
- (F) enter into supplemental indentures pursuant to, and in accordance with, **Section 5.09** in connection with a Common Stock Change Event;
- (G) irrevocably elect to settle Interest Make-Whole Payments with cash or shares of Common Stock (together with cash in lieu of any fractional share as set forth in **Section 5.03(B)(ii)**); *provided, however*, that no such election or elimination will affect any Interest Make-Whole Payment settlement method theretofore elected (or deemed to be elected) with respect to any Note pursuant to **Section 5.03(B)(iv)(4)**;
- (H) evidence or provide for the acceptance of the appointment, under the Indenture, of a successor trustee, registrar, paying agent or conversion agent or facilitate the administration of the trusts under the Indenture by more than one trustee;
- (I) conform the provisions of the Indenture and the Notes to the "Description of Notes" section of the Company's Preliminary Prospectus Supplement, dated May 7, 2020, as supplemented by the related Pricing Term Sheet, dated May 7, 2020, and filed by the Company as a free writing prospectus with the SEC through the EDGAR system on May 8, 2020;
- (J) provide for or confirm the issuance of additional Notes pursuant to **Section 2.02(B)**;
- (K) increase the Conversion Rate as provided in the Indenture;
- (L) comply with any requirement of the SEC in connection with effecting or maintaining qualification of the Indenture or any supplemental indenture under the Trust Indenture Act, as then in effect;
- (M) provide for any transfer restrictions that apply to any Notes issued under the Indenture (other than the Initial Notes) that, at the time of their original issuance, constitute "restricted securities" within the meaning of Rule 144 under the Securities Act or that are originally issued in reliance upon Regulation S under the Securities Act;
- (N) comply with the rules of the Depository for the Notes in a manner that does not adversely affect the rights of any Holder; or
- (O) make any other change to the Indenture or the Notes that does not, individually or in the aggregate with all other such changes, adversely affect the rights of the Holders, as such, in any material respect.

Section 8.02. WITH THE CONSENT OF HOLDERS.

(A) *Generally*. Subject to **Sections 8.01, 7.05** and **7.08** and the immediately following sentence, the Company and the Trustee may, with the consent of the Holders of a majority in aggregate principal amount of the Notes then Outstanding, amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes. Notwithstanding anything to the contrary in the foregoing sentence, without the consent of each affected Holder, no amendment or supplement to the Indenture or the Notes, or waiver of any provision of the Indenture or the Notes, may:

(i) reduce the principal, or extend the stated maturity, of any Note;

(ii) reduce the Redemption Price or Fundamental Change Repurchase Price for any Note or change the times at which, or the circumstances under which, the Notes may or will be redeemed or repurchased by the Company;

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

(iv) make any change that adversely affects the conversion rights of any Note, including with respect to an Interest Make-Whole Payment;

(v) impair the absolute rights of any Holder set forth in **Section 7.08** (as such section is in effect on the Issue Date);

(vi) change the ranking of the Notes;

(vii) make any Note payable in money, or at a place of payment, other than that stated in the Indenture or the Note;

(viii) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or

(ix) make any direct or indirect change to any amendment, supplement, waiver or modification provision of the Indenture or the Notes that requires the consent of each affected Holder.

For the avoidance of doubt, pursuant to **clauses (i), (ii), (iii) and (iv)** of this **Section 8.02(A)**, no amendment or supplement to the Indenture or the Notes, or waiver of any provision of the Indenture or the Notes, may change the amount or type of consideration due on any Note (whether on an Interest Payment Date, Redemption Date, Fundamental Change Repurchase Date or the Maturity Date or upon conversion, or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

(B) *Holdings Need Not Approve the Particular Form of any Amendment.* A consent of any Holder pursuant to this **Section 8.02** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

Section 8.03. NOTICE OF AMENDMENTS, SUPPLEMENTS AND WAIVERS.

Promptly after any amendment, supplement or waiver pursuant to **Section 8.01** or **8.02** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.04. NOTATIONS AND EXCHANGES.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee or the Company may, in its discretion, require the Holder of such Note to deliver such Note to the Trustee so that the Trustee may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.04 of the Base Indenture, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 8.04** will not impair or affect the validity of such amendment, supplement or waiver.

Article 9
SATISFACTION AND DISCHARGE

This **Article 9** will apply to the Notes in lieu of Article 11 of the Base Indenture, which will be deemed to be replaced with this **Article 9**, *mutatis mutandis*.

Section 9.01. TERMINATION OF COMPANY'S OBLIGATIONS.

The Indenture will be discharged, and will cease to be of further effect as to all Notes issued under the Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to Section 2.07 of the Base Indenture) have (A) been delivered to the Trustee for cancellation; or (B) become due and payable (whether on a Redemption Date, a Fundamental Change Repurchase Date, the Maturity Date, upon conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(B) the Company has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash (or, with respect to Notes to be converted, Conversion Consideration) sufficient to satisfy all amounts or other property due on all Notes then outstanding (other than Notes replaced pursuant to Section 2.07 of the Base Indenture);

(C) the Company has paid all other amounts payable by it under the Indenture; and *provided, however*, that Section 7.06 of the Base Indenture and **Section 10.01** will survive such discharge and, until no Notes remain outstanding, Section 2.08 of the Base Indenture and the obligations of the Trustee, the Paying Agent and the Conversion Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's request, upon the Company's delivery to the Trustee of an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of the Indenture have been satisfied, the Trustee will acknowledge the satisfaction and discharge of the Indenture.

Section 9.02. REPAYMENT TO COMPANY.

Subject to applicable unclaimed property law, the Trustee, the Paying Agent and the Conversion Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash, Conversion Consideration or other property held by any of them for payment or delivery on the Notes that remain unclaimed two (2) years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee, the Paying Agent and the Conversion Agent will have no further liability to any Holder with respect to such cash, Conversion Consideration or other property, and Holders entitled to the payment or delivery of such cash, Conversion Consideration or other property must look to the Company for payment as a general creditor of the Company.

Section 9.03. REINSTATEMENT.

If the Trustee, the Paying Agent or the Conversion Agent is unable to apply any cash or other property deposited with it pursuant to **Section 9.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of the Indenture pursuant to **Section 9.01** will be rescinded; *provided, however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee, the Paying Agent or the Conversion Agent, as applicable.

Article 10
MISCELLANEOUS

Section 10.01. NOTICES.

Any notice or communication by the Company or the Trustee to the other will be deemed to have been duly given if in writing and delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission, electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to the Company:

Inseego Corp.
12600 Deerfield Parkway, Suite 100
Alpharetta, Georgia 30004
Attention: Chief Financial Officer
Facsimile: (858) 408-4345
Copy to: General Counsel

with a copy (which will not constitute notice) to:

Paul Hastings LLP
4747 Executive Drive, Twelfth Floor
San Diego, CA 92121
Attention: Teri O'Brien
Facsimile: (858) 458-3005

If to the Trustee:

Wilmington Trust, National Association
Global Capital Markets
50 South Sixth Street, Suite 1290
Minneapolis, MN 55402
Attention: Inseego Notes Administrator
Facsimile: (612) 217-5651

The Company or the Trustee, by notice to the other, may designate additional or different addresses (including facsimile numbers and electronic addresses) for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt acknowledged, if transmitted by facsimile, electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery; provided that any notice to the Trustee or any Note Agent shall be deemed given upon actual receipt by the Trustee or such Note Agent.

All notices or communications required to be made to a Holder pursuant to the Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register; *provided, however*, that a notice or communication to a Holder of a Global Note may, but need not, instead be sent pursuant to the Depository Procedures (in which case, such notice will be deemed to be duly sent or given in writing). The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If the Trustee is then acting as the Depository's custodian for the Notes, then, at the reasonable request of the Company to the Trustee, the Trustee will cause any notice prepared by the Company to be sent to any Holder(s) pursuant to the Depository Procedures, *provided* such request is evidenced in a Company Order delivered, together with the text of such notice, to the Trustee at least two (2) Business Days before the date such notice is to be so sent. For the avoidance of doubt, such Company Order need not be accompanied by an Officer's Certificate or Opinion of Counsel, except as otherwise provided in Section 4.03. The Trustee will not have any liability relating to the contents of any notice that it sends to any Holder pursuant to any such Company Order.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in the Indenture or the Notes, (A) whenever any provision of the Indenture requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities; and (B) whenever any provision of this Indenture requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

Section 10.02. RULES BY THE TRUSTEE, THE REGISTRAR AND THE PAYING AGENT.

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

Section 10.03. NO PERSONAL LIABILITY OF DIRECTORS, OFFICERS, EMPLOYEES AND STOCKHOLDERS.

No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

Section 10.04. GOVERNING LAW; WAIVER OF JURY TRIAL.

This **Section 10.04** will, with respect to the Notes, supersede Section 13.05 of the Base Indenture in its entirety. THE INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THE INDENTURE OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY, THE TRUSTEE AND THE HOLDERS (BY ACCEPTING THE NOTES) IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THE INDENTURE OR THE NOTES.

Section 10.05. SUBMISSION TO JURISDICTION.

Any legal suit, action or proceeding arising out of or based upon the Indenture or the transactions contemplated by the Indenture may be instituted in the federal courts of the United States of America located in the Borough of Manhattan, City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the "**Specified Courts**"), and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth in **Section 10.01** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company, the Trustee and each Holder (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

Section 10.06. NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS.

Neither the Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret the Indenture or the Notes.

Section 10.07. SUCCESSORS.

All agreements of the Company in the Indenture and the Notes will bind its successors. All agreements of the Trustee in the Indenture will bind its successors.

Section 10.08. FORCE MAJEURE.

The Trustee and each Note Agent will not incur any liability for any failure or delay in the performance of any duty, obligation or responsibility under the Indenture or the Notes by reason of any occurrence beyond its control (including, without limitation, any act or provision of any present or future law or regulation or governmental authority, strikes, work stoppages, accidents, acts of God or war, civil unrest, local or national disturbances or disasters, nuclear or natural catastrophes, acts of terrorism, epidemics, pandemics, interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services, or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility).

Section 10.09. U.S.A. PATRIOT ACT.

The Company acknowledges that, in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee, like all financial institutions, in order to help fight the funding of terrorism and money laundering, is required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The Company agrees to provide the Trustee with such information as it may request to enable the Trustee to comply with the U.S.A. PATRIOT Act.

Section 10.10. CALCULATIONS.

Except as otherwise provided in the Indenture, the Company will be responsible for making all calculations called for under the Indenture or the Notes, including, but not limited to, determinations of the Last Reported Sale Price, accrued interest on the Notes, any Special Interest due on the Notes, any Interest Make-Whole Payment and the Conversion Rate.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent may rely conclusively on the accuracy of the Company's calculations without independent verification. The Company will promptly forward a copy of each such schedule to a Holder upon its written request therefor.

For the avoidance of doubt, neither the Trustee nor the Conversion Agent will have any responsibility to make any calculations called for under the Indenture, nor will the Trustee or the Conversion Agent be charged with knowledge of or have any duties to monitor the Stock Price. The Trustee and the Conversion Agent may rely conclusively on the calculations and information provided to them by the Company as to the Daily VWAP and the Last Reported Sale Price and any other calculations made hereunder.

Section 10.11. SEVERABILITY.

If any provision of the Indenture or the Notes is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of the Indenture or the Notes will not in any way be affected or impaired thereby.

Section 10.12. COUNTERPARTS.

The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Supplemental Indenture by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually or electronically executed counterpart.

Section 10.13. TABLE OF CONTENTS, HEADINGS, ETC.

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

Section 10.14. TAX MATTERS.

Each Holder of a Note agrees that, in the event that it is deemed to have received a distribution that is subject to U.S. federal income tax as a result of an adjustment or the non-occurrence of an adjustment to the Conversion Rate, any resulting withholding taxes (including backup withholding) may be withheld from interest and payments upon conversion, repurchase, redemption, or maturity of the Notes. In addition, each Holder of a Note agrees that if any withholding taxes (including backup withholding) are paid on behalf of such Holder, then those withholding taxes may be set off against payments of cash or the delivery of other Conversion Consideration, if any, in respect of the Notes (or, in some circumstances, any payments on the Common Stock) or sales proceeds received by, or other funds or assets of, such Holder.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

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

INSEEGO CORP.

By: /s/ Stephen Smith

Name: Stephen Smith

Title: Executive Vice President & Chief Financial Officer

[Signature Page to Supplemental Indenture]

WILMINGTON TRUST, NATIONAL ASSOCIATION, as
Trustee

By: /s/ Sarah Vilhauer

Name: Sarah Vilhauer

Title: Banking Officer

[Signature Page to Supplemental Indenture]

FORM OF NOTE

[Insert Global Note Legend, if applicable]

[Insert Restricted Note Legend, if applicable]

INSEEGO CORP.**3.25% Convertible Senior Notes due 2025**

CUSIP No.: [] [Insert for a "restricted" CUSIP number: *]

Certificate No. []

ISIN No.: [] [Insert for a "restricted" ISIN number: *]

Inseego Corp., a Delaware corporation, for value received, promises to pay to [Cede & Co.], or its registered assigns, the principal sum of [] dollars (\$[]) [(as revised by the attached Schedule of Exchanges of Interests in the Global Note)]† on May 1, 2025 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: May 1 and November 1 of each year, commencing on [].

Regular Record Dates: April 15 and October 15.

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

* This Note will be deemed to be identified by CUSIP No. [] and ISIN No. [] from and after such time when the Company delivers, pursuant to Section 2.12(B) of the within-mentioned Indenture, written notice to the Trustee of the deemed removal of the Restricted Note Legend affixed to this Note, accompanied by an Officer's Certificate and, in the case of Global Notes, completion of the Depositary's Procedures.

† Insert bracketed language for Global Notes only.

IN WITNESS WHEREOF, Inseego Corp. has caused this instrument to be duly executed as of the date set forth below.

INSEEGO CORP.

Date: [], 20[]

By: _____
Name:
Title:

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TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Wilmington Trust, National Association, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: [], 20[]

By: _____
Authorized Signatory

3.25% Convertible Senior Notes due 2025

This Note is one of a duly authorized issue of notes of Inseego Corp., a Delaware corporation (the “**Company**”), designated as its 3.25% Convertible Senior Notes due 2025 (the “**Notes**”), all issued or to be issued pursuant to an indenture (the “**Base Indenture**”), dated as of May 12, 2020, between the Company and Wilmington Trust, National Association, as trustee, as supplemented by a Supplemental Indenture (the “**Supplemental Indenture**,” and, such Base Indenture, as supplemented by the First Supplemental Indenture, and as the same may be further amended from time to time with respect to the Notes, the “**Indenture**”), dated as of May 12, 2020, between the Company and Wilmington Trust, National Association, as trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest.** This Note will accrue interest at a rate and in the manner set forth in Section 2.04 of the Supplemental Indenture. Stated Interest on this Note will begin to accrue from, and including, May 12, 2020.
2. **Maturity.** This Note will mature on May 1, 2025, unless earlier repurchased, redeemed or converted.
3. **Method of Payment.** Cash amounts due on this Note will be paid in the manner set forth in Section 2.03 of the Supplemental Indenture.
4. **Persons Deemed Owners.** The Holder of this Note will be treated as the owner of this Note for all purposes.
5. **Denominations; Transfers and Exchanges.** All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.
6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.** If a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 4.02 of the Supplemental Indenture.
7. **Right of the Company to Redeem the Notes.** The Company will have the right to redeem the Notes for cash in the manner, and subject to the terms, set forth in Section 4.03 of the Supplemental Indenture.
8. **Conversion.** The Holder of this Note may convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 5 of the Supplemental Indenture.
9. **When the Company May Merge, Etc.** Article 6 of the Supplemental Indenture places limited restrictions on the Company’s ability to be a party to a Business Combination Event.
10. **Defaults and Remedies.** If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 7 of the Supplemental Indenture.
11. **Amendments, Supplements and Waivers.** The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes in the manner, and subject to the terms, set forth in Article 8 of the Supplemental Indenture.

12. **No Personal Liability of Directors, Officers, Employees and Stockholders.** No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

13. **Authentication.** No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

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

15. **Governing Law.** THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

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To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Inseego Corp.
12600 Deerfield Parkway, Suite 100
Alpharetta, Georgia 30004
Attention: Investor Relations

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CONVERSION NOTICE

INSEGO CORP

3.25% Convertible Senior Notes due 2025

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the undersigned Holder of the Note identified below directs the Company to convert (check one):

- the entire principal amount of
- \$ * aggregate principal amount of

the Note identified by CUSIP No. and Certificate No. .

The undersigned acknowledges that if the Conversion Date of a Note to be converted is after a Regular Record Date and before the next Interest Payment Date, then such Note, when surrendered for conversion, must, in certain circumstances, be accompanied with an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Date: [], 20[]

(Legal Name of Holder)

By: _____

Name:

Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

By: _____

Authorized Signatory

* Must be an Authorized Denomination.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

INSEGO CORP.

3.25% Convertible Senior Notes due 2025

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

- the entire principal amount of
- \$ * aggregate principal amount of the Note identified by CUSIP No. and Certificate No. .

The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date:

(Legal Name of Holder)

By:

Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

By:

Authorized Signatory

* Must be an Authorized Denomination.

ASSIGNMENT FORM

INSEGO CORP.

3.25% Convertible Senior Notes due 2025

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: _____

Address: _____

Social security or tax identification number: _____

the within Note and all rights thereunder irrevocably appoints: _____ as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

Date: _____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

By: _____
Authorized Signatory

TRANSFEROR ACKNOWLEDGEMENT

If the within Note bears a Restricted Note Legend, the undersigned further certifies that (check one):

- 1. Such Transfer is being made to the Company or a Subsidiary of the Company.
- 2. Such Transfer is being made pursuant to, and in accordance with, a registration statement that is effective under the Securities Act at the time of the Transfer.
- 3. Such Transfer is being made pursuant to, and in accordance with, Rule 144A under the Securities Act, and, accordingly, the undersigned further certifies that the within Note is being transferred to a Person that the undersigned reasonably believes is purchasing the within Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act in a transaction meeting the requirements of Rule 144A.
- 4. Such Transfer is being made pursuant to, and in accordance with, any other available exemption from the registration requirements of the Securities Act (including, if available, the exemption provided by Rule 144 under the Securities Act).

Dated:

(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

(Participant in a Recognized Signature
Guarantee Medallion Program)

By: _____
Authorized Signatory

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

INITIAL PRINCIPAL AMOUNT OF THIS GLOBAL NOTE: \$[]

The following exchanges, transfers or cancellations of this Global Note have been made:

Date	Amount of Increase (Decrease) in Principal Amount of this Global Note	Principal Amount of this Global Note After Such Increase (Decrease)	Signature of Authorized Signatory of Trustee

* Insert for Global Notes only.

FORM OF RESTRICTED NOTE LEGEND

THE OFFER AND SALE OF THIS NOTE AND THE SHARES OF COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

- (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF;
- (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT;
- (C) TO A PERSON THAT IS REASONABLY BELIEVED TO BE A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;
- (D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT; OR
- (E) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (D) OR (E) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.*

* This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.12(B) of the within-mentioned Indenture and, in the case of Global Notes, completion of the Depository's Procedures.

FORM OF RESTRICTED STOCK LEGEND

THE OFFER AND SALE OF THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

- (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF;
- (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT;
- (C) TO A PERSON THAT IS REASONABLY BELIEVED TO BE A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;
- (D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT; OR
- (E) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (D) OR (E) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

FORM OF GLOBAL NOTE LEGEND

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

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

TRANSFERS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE HEREINAFTER REFERRED TO.



May 12, 2020

Inseego Corp.
9710 Scranton Road
Suite 200
San Diego, CA 92121

Ladies and Gentlemen:

We have acted as counsel to Inseego Corp., a Delaware corporation (the "**Company**"), in connection with the issuance and sale by the Company of up to \$115,000,000 aggregate principal amount of the Company's 3.25% Convertible Senior Notes due 2025 (the "**Notes**"), which includes up to \$15,000,000 aggregate principal amount of the Notes that may be issued and sold pursuant to the exercise of an over-allotment option, pursuant to an Underwriting Agreement, dated May 7, 2020 (the "**Underwriting Agreement**"), by and between the Company and Stifel, Nicolaus & Company, Incorporated (the "**Underwriter**").

The Notes are registered pursuant to a Registration Statement on Form S-3 (File No. 333-238057) (the "**Registration Statement**"), filed with the Securities and Exchange Commission (the "**Commission**") under the Securities Act of 1933, as amended (the "**Act**").

The Notes will be issued pursuant to the Indenture, dated May 12, 2020 (the "**Base Indenture**"), by and between the Company and Wilmington Trust, National Association (the "**Trustee**"), as supplemented by the First Supplemental Indenture, dated May 12, 2020, by and between the Company and the Trustee (the "**Supplemental Indenture**" and, together with the Base Indenture, the "**Indenture**"). Pursuant to the terms of the Indenture and the Notes, up to 10,941,960 shares (the "**Shares**") of the Company's common stock, par value \$0.001 per share (the "**Common Stock**"), may initially be issuable upon conversion of the Notes.

This opinion letter is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act.

As such counsel and for purposes of our opinions set forth herein, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, resolutions, certificates and other instruments as we have deemed necessary or appropriate as a basis for the opinions set forth herein, including, without limitation:

- (i) the Registration Statement;

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- (ii) the base prospectus, dated May 7, 2020, in the form in which it appears in the Registration Statement at the time the Registration Statement became effective, as supplemented by the prospectus supplement to the base prospectus, as filed by the Company with the Commission on May 11, 2020 pursuant to Rule 424(b) under the Act (together, the "**Prospectus**");
- (iii) the Company's Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware, as amended from time to time (the "**Certificate of Incorporation**");
- (iv) the Company's Amended and Restated Bylaws;
- (v) the Underwriting Agreement;
- (vi) the Indenture;
- (vii) certain resolutions adopted by unanimous written consent of the Board of Directors of the Company on April 29, 2020, certified by an officer of the Company as of the date hereof, and certain resolutions adopted at meetings of the Finance Committee of the Board of Directors of the Company on May 6 and 7, 2020, certified by an officer of the Company as of the date hereof (collectively, the "**Resolutions**"); and
- (viii) a certificate of the Secretary of State of the State of Delaware certifying as to the formation and good standing of the Company under the laws of the State of Delaware as of May 11, 2020 (and subsequent bring-down as of May 12, 2020) (together, the "**Good Standing Certificate**").

In addition to the foregoing, we have made such investigations of law as we have deemed necessary or appropriate as a basis for the opinions set forth herein.

In such examination and in rendering the opinions expressed below, we have assumed, without independent investigation or verification: (i) the genuineness of all signatures on all agreements, instruments, corporate records, certificates and other documents submitted to us; (ii) the legal capacity, competency and authority of all persons or entities executing all agreements, instruments, corporate records, certificates and other documents submitted to us; (iii) the authenticity and completeness of all agreements, instruments, corporate records, certificates and other documents submitted to us as originals; (iv) that all agreements, instruments, corporate records, certificates and other documents submitted to us as certified, electronic, facsimile, conformed, photostatic or other copies conform to the originals thereof, and that such

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originals are authentic and complete; (v) the due authorization, execution and delivery of the Indenture, the Notes and all other agreements, instruments, corporate records, certificates and other documents by all parties thereto (other than the due authorization, execution and delivery of the Indenture and the Notes by the Company); (vi) that no documents submitted to us have been amended or terminated orally or in writing, except as has been disclosed to us in writing; (vii) that the statements contained in the certificates and comparable documents of public officials, officers and representatives of the Company and other persons on which we have relied for the purposes of this opinion letter are true and correct on and as of the date hereof; (viii) that there has not been nor will there be any change in the good standing status of the Company from that reported in the Good Standing Certificate; (ix) that each of the officers and directors of the Company has properly exercised his or her fiduciary duties; (x) that each of the parties (other than the Company) to the Indenture and the Notes is a validly existing entity in the jurisdiction of its organization, in good standing in each applicable jurisdiction and has the power and authority to execute and deliver, and to perform its obligations under, the Indenture and the Notes to the extent a party thereto and that such execution, delivery and performance does not violate any provision of the certificate of incorporation (or equivalent formation document) of each such party (other than the Company); (xi) that the Notes and the Indenture and all other documents are the valid and binding obligations of each of the parties thereto (other than the Company with respect to the Indenture and the Notes), enforceable against such parties (other than the Company with respect to the Indenture and the Notes) in accordance with their respective terms and that no such documents have been amended or terminated orally or in writing except as has been disclosed to us in writing; (xii) that the Trustee has satisfied all regulatory and legal requirements applicable to its activities; (xiii) that the Notes will be duly authenticated by the Trustee; (xiv) that the remedies set forth in the Indenture and the Notes will be exercised in good faith and the Indenture and the Notes were entered into without fraud or duress and for good, valuable and adequate consideration and without intent to hinder, delay or defeat any rights of any creditors or stockholders of the Company and (xv) that upon the issuance of any of the Shares, the total number of shares of Common Stock issued and outstanding will not exceed the total number of shares of Common Stock that the Company is then authorized to issue under the Certificate of Incorporation. As to all questions of fact material to this opinion letter and as to the materiality of any fact or other matter referred to herein, we have relied (without independent investigation or verification) upon representations and certificates or comparable documents of officers and representatives of the Company.

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Based upon the foregoing, and in reliance thereon, and subject to the limitations, qualifications, assumptions and exceptions set forth herein, we are of the following opinions:

1. The issuance of the Notes has been duly authorized by all necessary corporate action on the part of the Company and, when executed, authenticated and issued in accordance with the provisions of the Indenture and delivered to the Underwriter in exchange for the consideration provided for in the Underwriting Agreement, the Notes will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

2. The issuance of the Shares upon conversion of the Notes has been duly authorized by all necessary corporate action on the part of the Company, and, assuming the conditions for conversion have been satisfied, upon issuance and delivery upon the conversion of the Notes in the manner contemplated by the Notes, the Indenture and the Resolutions, the Shares will be validly issued, fully paid and nonassessable.

The opinions expressed herein are subject to the following exceptions, qualifications and limitations:

A. They are limited by the effect of (i) any applicable bankruptcy, insolvency, reorganization, moratorium or similar law and principles affecting creditors' rights generally, including without limitation fraudulent transfer or fraudulent conveyance laws and (ii) general principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing) and the availability of equitable remedies (including, without limitation, specific performance and equitable relief), regardless of whether considered in a proceeding in equity or at law. In addition, we express no opinion as to the validity, binding effect or enforceability of any provision of the Indenture relating to the separability of provisions of the Indenture.

B. No opinion is expressed herein with respect to the validity, binding effect or enforceability of any provision of the Indenture or the Notes insofar as it purports to effect a choice of governing law or choice of forum for the adjudication of disputes or with respect to the acceptance by a federal court located in the State of New York of jurisdiction of a dispute arising under the Indenture or the Notes, other than (a) the enforceability by a New York State court under New York General Obligations Law Section 5-1401 of the choice of New York State law as the governing law of the Indenture or the Notes (subject, however, to the extent limited by the Constitution of the United States and by Section 1-301 of the New York Uniform Commercial Code), and

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(b) the enforceability by a New York State court under New York General Obligations Law Section 5-1402 of New York State courts as a non-exclusive forum for the adjudication of disputes with respect to the Indenture or the Notes.

C. No opinion is expressed herein with respect to the validity, legally binding effect or enforceability of any provision in the Indenture or Notes that requires or relates to adjustments to the conversion rate at a rate or in an amount that a court would determine in the circumstances under applicable law to be commercially unreasonable or a penalty or forfeiture.

Without limiting any of the other limitations, exceptions, assumptions and qualifications stated elsewhere herein, we express no opinion with regard to the applicability or effect of the laws of any jurisdiction other than with respect to the Shares, the General Corporation Law of the State of Delaware and, with respect to the Notes and the Indenture, the internal laws of the State of New York, in each case as in effect on the date hereof.

This opinion letter deals only with the specified legal issues expressly addressed herein, and you should not infer any opinion that is not explicitly stated herein from any matter addressed in this opinion letter. This opinion letter is rendered solely in connection with the offering of the Notes. This opinion letter is rendered as of the date hereof, and we assume no obligation to advise you or any other person with regard to any change after the date hereof in the circumstances or the law that may bear on the matters set forth herein even if the change may affect the legal analysis or a legal conclusion or other matters in this opinion letter.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to a Current Report of the Company on Form 8-K for incorporation by reference in the Registration Statement and to the reference to our firm under the heading "Legal Matters" in the Prospectus. In giving such consent, we do not hereby admit that we are within the category of persons whose consent is required under Section 7 of the Act or the rules or regulations of the Commission thereunder.

Very truly yours,

/s/ Paul Hastings LLP